

ESTTA Tracking number: **ESTTA288178**

Filing date: **06/05/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Eska Lederhandschuhfabrik Gesellschaft M.B.H. & CO. KG
Granted to Date of previous extension	06/10/2009
Address	AM Thalbach 2 Thalheim Bei Wels, A 4600 AUSTRIA

Domestic Representative	Stewart J Bellus COLLARD AND ROE 1077 Northern Blvd Roslyn, NY 11576 UNITED STATES sbellus@collardroe.com Phone:5163659802
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Applicant Information

Application No	77476753	Publication date	02/10/2009
Opposition Filing Date	06/05/2009	Opposition Period Ends	06/10/2009
Applicant	Munio, Sandy, N. 3542 Feller Ave. San Jose, CA 95127 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2007/00/00 First Use In Commerce: 2007/00/00
All goods and services in the class are opposed, namely: Fabric sold as an integral component of finished clothing items, namely, shirts, pants, hats, scarves, shawls, jackets, sweaters, suits

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3589795	Application Date	11/02/2007
Registration Date	03/17/2009	Foreign Priority Date	05/11/2007
Word Mark	ESKA		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: ASBESTOS GLOVES FOR PROTECTION AGAINST ACCIDENTS; GLOVES FOR PROTECTION AGAINST X-RAYS FOR COMMERCIAL PURPOSES; GLOVES FOR DIVERS; GLOVES FOR PROTECTION AGAINST ACCIDENTS</p> <p>Class 021. First use: HOUSEHOLD AND KITCHEN UTENSILS AND CONTAINERS, NAMELY, DISPOSABLE GLOVES FOR HOME USE, HOUSEHOLD GLOVES FOR GENERAL USE AND HOUSEHOLD PLASTIC GLOVES; GARDENING GLOVES; GLOVES FOR HOUSEHOLD PURPOSES; POLISHING GLOVES; GLOVE STRETCHERS</p> <p>Class 025. First use: CLOTHING, NAMELY, BICYCLING GLOVES, CROSS-COUNTRY GLOVES, GLOVES FOR PERSONAL HAND CONDITIONING USE, GLOVES INCLUDING THOSE MADE OF SKIN, HIDE OR FUR, LIGHT-REFLECTING COATS AND JACKETS, MOTORCYCLE GLOVES, NECK TUBES, OUTDOOR GLOVES, OVERSHOES, RIDING GLOVES, SKI GLOVES, SNOWBOARD GLOVES, UNIFORMS, WET SUIT GLOVES; GLOVES; MITTENS</p> <p>Class 028. First use: GYMNASTIC AND SPORTING ARTICLES, NAMELY, BATTING GLOVES, BOWLING GLOVES, GAUNTLETS, GOALKEEPERS' GLOVES, HANDBALL GLOVES, HOCKEY GLOVES, KARATE GLOVES, RACQUET BALL GLOVES, SKI DIVING GLOVES, SOFTBALL GLOVES, SWIMMING GLOVES, WATERSKI GLOVES, WEIGHT LIFTING GLOVES, WINDSURFING GLOVES AND WORK-OUT GLOVES, BASEBALL, BOXING, FENCING AND GOLFING GLOVES; RACKET HAND GLOVES</p>

Attachments	77319744#TMSN.jpeg (1 page)(bytes) eska.pdf (4 pages)(99272 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/sjb/
Name	Stewart J Bellus
Date	06/05/2009

3. Opposer's ESKA mark, has been used and promoted extensively, and as a result, is well-known in the trade and among relevant consumers.

4. Opposer has created wide-spread good will under its ESKA mark. As a result, the trade and the relevant purchasing public have come to recognize goods and services bearing the ESKA mark as emanating from Opposer.

5. Notwithstanding Opposer's prior rights, Applicant filed an application seeking registration of a trademark consisting of the word ESCA (assigned Serial Number 77/476,753), a mark that is nearly identical to the term ESKA.

6. The commercial impression of Applicant's mark ESCA is nearly identical to Opposer's mark ESKA.

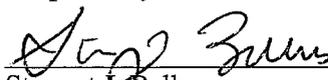
7. Applicant's goods, as described in Application Serial Number 77/476,753, are closely related commercially to the goods and services sold under Opposer's ESKA mark.

8. Due to similarities between Opposer's and Applicant's marks and the related nature of the goods and services upon which those marks are used, there is a likelihood that the purchasing public will be confused, mistaken and/or deceived into believing that Applicant's goods and services emanate from, or in some way are associated or connected with, or sponsored, authorized or warranted by Opposer, all to the detriment of Opposer, and Opposer will be damaged if a registration is granted to Applicant.

WHEREFORE, Opposer requests that this opposition be sustained and that the requested registration of Applicant's mark in Application Serial Number 77/476,753 be denied.

Dated: June 5, 2009

Respectfully submitted,



Stewart J. Bellus

Aimee L. Kaplan

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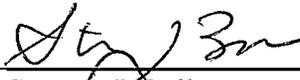
ESKA Lederhandschuhfabrik Gesellschaft

m.b.H. & Co. KG

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing BRIEF OF REGISTRANT/APPLICANT has this *5th* day of *June* 2009, been sent by First Class Mail to:

Sandy N. Munio
3542 Feller Avenue
San Jose, CA 95127



Stewart J. Bellus

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