

ESTTA Tracking number: **ESTTA291709**

Filing date: **06/24/2009**

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	Barbara Garduno
Granted to Date of previous extension	08/26/2009
Address	3289 Carse Drive Los Angeles, CA 90068 UNITED STATES
Party who filed Extension of time to oppose	BarbaraGarduno
Relationship to party who filed Extension of time to oppose	The party filing this Notice of Opposition, Barbara Garduno, is the same party that filed the previous request for extension of time to oppose. Due to a typographical error, opposer's name was spelled incorrectly in the TTAB system.

Attorney information	David Grace & Melanie Howard LOEB & LOEB LLP 10100 Santa Monica Blvd.Suite 2200 Los Angeles, CA 90067 UNITED STATES dgrace@loeb.com, mhoward@loeb.com
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Applicant Information

Application No	77646063	Publication date	04/28/2009
Opposition Filing Date	06/24/2009	Opposition Period Ends	08/26/2009
Applicant	David Assuied 3113 S. Grand Avenue Los Angeles, CA 90007 UNITED STATES		

Goods/Services Affected by Opposition

Class 012. All goods and services in the class are opposed, namely: Scooters

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2925845	Application Date	01/14/2003
Registration Date	02/08/2005	Foreign Priority Date	NONE
Word Mark	FREE CITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use: First Use: 2002/01/01 First Use In Commerce: 2002/01/01 Purses, handbags, backpacks, fanny packs, tote bags, cosmetic cases sold empty, toiletry cases sold empty, coin purses and wallets</p> <p>Class 025. First use: First Use: 2002/01/01 First Use In Commerce: 2002/01/01 Clothing, namely jackets, sweaters, vests, sweat shirts, sweat pants, shirts, blouses, t-shirts, pants, jeans, shorts, skirts, dresses, swimwear, cover-ups, headwear, and footwear</p>		

U.S. Registration No.	3064253	Application Date	04/18/2003
Registration Date	02/28/2006	Foreign Priority Date	NONE
Word Mark	FREE CITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/01/00 First Use In Commerce: 2002/01/00 RETAIL STORE SERVICES FEATURING CLOTHING AND ACCESSORIES		

U.S. Application No.	77695576	Application Date	03/20/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FREE CITY LET'S GO		
Design Mark	 <p>The design mark consists of the text "FREE CITY LET'S GO" in a large, bold, serif font, centered within a rectangular border.</p>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2002/03/01 First Use In Commerce: 2002/03/01 Clothing, namely jackets, sweaters, vests, sweat shirts, sweat pants, shirts, blouses, pants, jeans, shorts, cover-ups, headwear, and footwear		

Attachments	77695576#TMSN.jpeg (1 page)(bytes) Notice of Opposition FREE CITY.pdf (5 pages)(59411 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	/melaniehoward/
Name	David Grace & Melanie Howard
Date	06/24/2009

1. Opposer believes that it will be damaged by the registration of the mark shown in the above-identified application and hereby opposes the same.

2. Opposer uses “FREE CITY”, “FREE CITY LET’S GO” and other marks and slogans incorporating the term “FREE CITY” in conjunction with the sale of a variety of products as well as in connection with retail store services.

3. Opposer owns trade name, service mark, and trademark rights that predate the filing of the opposed application, which was filed based upon Applicant’s stated intent-to-use the mark in commerce.

4. Opposer is the owner of the following U.S. registrations, in addition to others:

Mark	Reg. No.	Reg. Date	First Use
FREE CITY	2925845	2/8/2005	1/2002
FREE CITY	3064253	2/28/2006	1/2002

5. Opposer is the owner of the following U.S. applications, in addition to others:

Mark	Serial No.	App. Date
FREE CITY LET’S GO	77/695,576	3/20/2009

6. In addition to the above-referenced registrations and applications, Opposer owns common law trademark rights in “FREE CITY” and “FREE

CITY LET'S GO" for use in connection with the retail sale of bicycles, among other goods and services.

7. Due to Opposer's extensive use and marketing of the "FREE CITY" and "FREE CITY LET'S GO" marks, these marks have become famous.

8. Registration of "Free City" as mark for "scooters" is likely to cause injury to Opposer and to injure Opposer's rights in its name and marks.

9. Registration and use of the mark "Free City" by Applicant in connection with "scooters" would be likely to cause confusion, mistake, and/or deception as to source, affiliation, and/or sponsorship between Opposer and its goods and services, on the one hand, and Applicant and its goods and services, on the other.

10. In addition, registration and use of the mark "Free City" by Applicant would dilute the distinctiveness of the Opposer's FREE CITY marks.

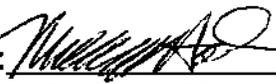
WHEREFORE, Opposer respectfully requests that the above-referenced application be rejected and that this opposition be sustained.

The filing fee is being submitted with this opposition. Please charge any deficiency or credit any overpayment to Deposit Account 12-1820.

Dated: June 24, 2009

Respectfully submitted,

DAVID W. GRACE
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By: 
Melanie Howard
Attorneys for Opposer Barbara Garduno

CERTIFICATE OF SERVICE AND MAILING

It is hereby certified that a true and correct copy of the foregoing NOTICE OF OPPOSITION is being served upon Applicant by depositing a copy of the same in the U.S. mail, first class postage prepaid, in an envelope addressed to:

Todd E. Chvat
BEITCHMAN & ZEKIAN, P.C.
16130 Ventura Blvd., Suite 570
Encino CA 91436

Executed this 24th day of June 2009, at Los Angeles, California.



Candace Medina