

ESTTA Tracking number: **ESTTA306753**

Filing date: **09/17/2009**

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	Genfoot Inc.		
Entity	Corporation	Citizenship	Canada
Address	554 Montee de Liesse Montreal, Que H4T 1P1 CANADA		

Attorney information	Mary Catherine Merz Merz & Associates, P.C. 1010 Lake Street, Suite 400 Oak Park, IL 60301 UNITED STATES docket@merz-law.com Phone:(708) 383-8801		
----------------------	--	--	--

### Applicant Information

Application No	77707690	Publication date	08/18/2009
Opposition Filing Date	09/17/2009	Opposition Period Ends	09/17/2009
Applicant	Suarez-Ramos, Angel Luis P O BOX 441 Fajardo, 00738 PR		

### Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Clothing, namely, shirts, T-shirts, belts, socks, short-sleeved shirts, skirts, men's and women's underwear, dresses, jeans, men's and women's footwear, men's and women's pants, hats, men's and women's bath suits and shoes
---

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1080431	Application Date	08/26/1976
Registration Date	12/27/1977	Foreign Priority Date	NONE
Word Mark	KAMIK		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 025. First use: First Use: 1976/00/00 First Use In Commerce: 1976/03/04 BOOTS
----------------	--

U.S. Registration No.	2229864	Application Date	09/06/1996
Registration Date	03/09/1999	Foreign Priority Date	NONE
Word Mark	KAMIK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: men's, women's and children's clothing and apparel, namely, coats, [sportcoats, parkas, blazers,] jackets, [ski suits, ski jackets, ski pants, suits,] pants, shirts, [dresses,] sweaters, [vests,] hats, gloves, [scarves, ties, belts, swimsuits, beach coverups, skirt, blouses, blazers, slacks, shawls, jumpers, sunsuits, beachsuits,] snowsuits, [playsuits, overalls,] raincoats, rainjackets, [rain suits, rain pants; bath robes, pyjamas, nightgowns, dusters, sleep shirts, dressing-gowns; underwear, negligees, slips, brassieres; stockings, leggings,] socks, [pantyhose, knee highs, tights, leotards, body suits; jeans,] T-shirts, [tank tops, jogging suits, caps, sweat suits,] sweat tops[, sweat pants, shorts]		

Attachments	scan0042.pdf ( 4 pages )(118102 bytes )
-------------	---

### 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	/Mary Catherine Merz/
Name	Mary Catherine Merz
Date	09/17/2009



and hereby opposes the same, in accordance with Section 13 of The Trademark (Lanham) Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, Opposer alleges as follows:

1. On information and belief, applicant is an individual and citizen of the United States whose principal address is P.O. Box 441, Fajardo, Puerto Rico 07738.

2. Applicant filed Serial No. 77/707,690 on April 6, 2009, seeking registration of KIMIK for "Clothing, namely, shirts, T-shirts, belts, socks, short-sleeved shirts, skirts, men's and women's underwear, dresses, jeans, men's and women's footwear, men's and women's pants, hats, men's and women's bath suits and shoes," in International Class 25 claiming an intent to use the mark.

3. Opposer is the owner of incontestable U.S. Trademark Registration No. 1,080,431 for KAMIK for "boots;" and incontestable U.S. Trademark Registration No. 2,229,864 for "men's, women's and children's clothing and apparel, namely, coats, jackets, pants, shirts, sweaters, hats, gloves, snowsuits, raincoats, rainjackets, socks, T-shirts, sweat tops." These registrations are valid, subsisting, uncanceled and conclusive evidence of opposer's exclusive right to use KAMIK in commerce on or in connection with the goods specified in the registrations.

4. Since at least twenty-three years prior to applicant's filing date for Serial No. 77/707,690, opposer adopted and has continuously used its KAMIK mark in connection with boots. Opposer has since expanded its KAMIK goods to cover a variety of clothing items for men, women and children.

5. Opposer has invested substantial amounts of time, effort and money in developing, marketing, promoting and protecting its KAMIK trademark throughout the United States in the field of footwear and clothing. As such, in addition to the protection afforded opposer by its federal trademark registration of KAMIK mark, opposer has extensive, non-registered statutory and common law rights in and to KAMIK.

6. Applicant has no license, consent or permission from opposer to use or register KIMIK.

7. Applicant's mark so resembles opposer's KAMIK mark that it is likely to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of The Trademark (Lanham) Act of 1946, 15 U.S.C. § 1052(d); and more particularly, applicant's mark and use thereof are likely to cause confusion in, or to cause mistake by, or to deceive the trade and purchasing public into believing that the goods in Serial No. 77/707,690 originate or are affiliated with opposer, or otherwise are authorized, licensed or sponsored by opposer.

9. By reason of the foregoing, opposer will be gravely damaged by the registration of KIMIK for the goods in Serial No. 77/707,690, because registration of that mark would be in violation of opposer' trademark rights.

WHEREFORE, opposer Genfoot Inc. prays that this Notice of Opposition be sustained in favor of opposer and that Serial No. 77/707,690 be denied registration. Included herewith is payment of the \$300 filing fee, as required by 37 C.F.R. §2.6(a)(17).

Respectfully submitted,

GENFOOT INC.

Date: September 17, 2009 By: Mary Catherine Merz

Mary Catherine Merz, Esq.  
Bruce Haraguchi, Esq.  
MERZ & ASSOCIATES, P.C.  
1010 Lake Street, Suite 400  
Oak Park, Illinois 60301  
(708) 383-8801 (phone)  
(708) 383-8897 (fax)

Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Opposition was served on applicant by First Class Mail on September 17, 2009, addressed to:

CRISTINA ARENAS-SOLIS  
FERRAIUOLI TORRES MARCHAND & ROVIRA, PSC  
#221 PONCE DE LEON AVENUE  
PLAZA BUILDINGS, SUITE 403  
SAN JUAN, PR 00917

By: Mary Catherine Merz  
Mary Catherine Merz