

ESTTA Tracking number: **ESTTA311592**

Filing date: **10/15/2009**

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	Marker Volkl International GmbH		
Entity	GmbH	Citizenship	Switzerland
Address	Ruessenstrasse 6 Baar, CH-6341 SWITZERLAND		

Attorney information	Benjamin E. Leace RatnerPrestia 1007 Orange Street, Suite 1100 P.O. Box 1596 Wilmington, DE 19899 UNITED STATES tmde@ratnerprestia.com, jwmcglynn@ratnerprestia.com, beleace@ratnerprestia.com Phone:302-778-2500
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**Applicant Information**

Application No	79060773	Publication date	09/15/2009
Opposition Filing Date	10/15/2009	Opposition Period Ends	10/15/2009
International Registration No.	0981765	International Registration Date	10/08/2008
Applicant	Karhu Holding B.V. Karel Doormanstraat 32 NL-3012 GJ Rotterdam NETHERLANDS		

**Goods/Services Affected by Opposition**

Class 025. All goods and services in the class are opposed, namely: Clothing, namely, T-shirts, polo shirts, underwear, long sleeved shirts, short sleeved shirts, sweatshirts, sweat pants, tracksuits, suits, jackets, overalls, pants, pullovers, sweaters; rainwear; footwear, headwear; hats; caps; ski hats, sporting suits, ski gloves, sports shoes, jogging shoes, running shoes, hiking boots, ski shoes and boots, winter shoes and boots, golf shoes
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**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. Application No.	77155753	Application Date	04/12/2007
Registration Date	NONE	Foreign Priority	NONE

		Date	
Word Mark	M		
Design Mark			
Description of Mark	The mark consists of the letter "M"inside an oval.		
Goods/Services	Class 009. First use: ski helmets, snowboard helmets, ski goggles and snow goggles Class 025. First use: Clothing, namely, ski wear, jackets, vests, pants, pants with suspenders, socks, thermal jackets, thermal shirts, thermal vests, thermal pants, thermal socks, sweaters, belts, scarves, ski bibs, sport coats, skiing and snowboarding mittens, winter sport gloves; headgear, namely, headwear, hats, caps, ski caps, ear muffs, stocking caps, ski masks; footwear, after-ski boots, boots, ski boot bags, ski and snowboard shoes and parts thereof		

Attachments	77155753#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition M Oval Design.pdf ( 4 pages )(58121 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 Overnight Courier on this date.

Signature	/jwm/
Name	John W. McGlynn
Date	10/15/2009

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

In the Matter of Application Serial No. 79/060,773

Mark: 

Filed: October 8, 2008

Published in the *Official Gazette*: September 15, 2009

Marker Völkl International GmbH

Opposer,

v.

Karhu Holding B.V.

Applicant.

**Opposition No.** \_\_\_\_\_

**NOTICE OF OPPOSITION**

Marker Völkl International GmbH (“Opposer”) believes that it will be damaged by the registration of U.S. App. Serial No. 79/060,773 for M Design and hereby opposes the same. As grounds for this Opposition, Opposer respectfully alleges as follows:

1. Opposer is a Swiss company having a place of business at Ruessenstrasse 6, Baar CH-6341, Switzerland.

2. Opposer is the owner of the pending U.S. App. Serial No. 77/155,753 for  (“M Oval Design”), filed April 12, 2007, for “ski helmets, snowboard helmets, ski goggles and snow goggles” and “clothing, namely, ski wear, jackets, vests, pants, pants with suspenders, thermal jackets, thermal shirts, thermal vests, thermal pants, sweaters, belts, scarves, ski bibs, sport coats, skiing and snowboarding mittens, winter sport gloves; headgear, namely, headwear, hats, caps, ski caps, stocking caps, ski boot bags.”

3. Since at least January 2008, Opposer and its affiliates have been providing outerwear in interstate commerce in the United States under the M Oval Design mark.

4. Through extensive use and promotional and marketing activities, the M Oval Design mark has come to be recognized throughout the United States as identifying outerwear emanating from or associated with Opposer. As a result, Opposer has developed a valuable reputation and acquired extensive goodwill in connection with the M Oval Design mark.

5. Applicant seeks to register  (“M Design”), described by Applicant as “a zig-zag line that forms a stylized letter M,” as a trademark in connection with “clothing, namely, T-shirts, polo shirts, underwear, long sleeved shirts, short sleeved shirts, sweatshirts, sweat pants, tracksuits, suits, jackets, overalls, pants, pullovers, sweaters; rainwear; footwear, headwear; hats; caps; ski hats, sporting suits, ski gloves, sports shoes, jogging shoes, running shoes, hiking boots, ski shoes and boots, winter shoes and boots, golf shoes.”

6. Opposer’s use and Opposer’s application filing date predate Applicant’s filing date and priority claim. Accordingly, Opposer’s rights are senior to Applicant’s rights.

7. Applicant’s M Design is almost identical to the M in Opposer’s M Oval Design mark. The clothing items identified in the Applicant’s application are identical to or closely related to the goods in Opposer’s application. In the normal course of trade, Opposer’s goods and Applicant’s goods would be purchased by the same consumers in the same channels of trade and would be marketed and promoted in the same channels. Accordingly, Opposer’s customers and the general public are likely to be confused, mistaken and/or deceived as to the origin and sponsorship of goods offered under Applicant’s mark and misled into believing that such goods are provided by, or are in some other way directly or indirectly associated or affiliated with, Opposer, resulting in damage to Opposer and its reputation.

8. Opposer has no control over the nature and quality of the goods on which Applicant uses M Design. In the event of false association with Opposer, any defects, objections or faults found with any goods offered under M Design could inflict serious injury upon Opposer and its reputation.

9. If Applicant’s application matures to registration, Applicant will acquire the *prima facie* exclusive right to use M Design on and in connection with the goods set forth in such registration throughout the United States. This will damage Opposer in that there will be a likelihood of confusion and, in all likelihood, actual confusion by and among consumers and in the trade as to the true source or origin of the goods provided by Applicant in connection with M Design. Such confusion will inevitably damage Opposer and result in irreparable harm to Opposer.

WHEREFORE, Opposer requests that registration of U.S. Application Serial No. 79/060,773 for M Design be refused and that this Opposition be sustained in favor of Opposer.

The Commissioner is hereby authorized at any time to charge any fees required, or credit any overpayment, to Deposit Account No. 18-0350.

Respectfully submitted,

RatnerPrestia

By: /Benjamin E. Leace/  
Benjamin E. Leace  
John W. McGlynn

RatnerPrestia  
1007 Orange St., Suite 1100  
P.O. Box 1596  
Wilmington, DE 19899  
Phone: 302-778-2500

Attorneys for Opposer

Dated: October 15, 2009

**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the document identified below was served on October 15, 2009 by Federal Express to the correspondence address of record in the USPTO:

Title of Document:                   NOTICE OF OPPOSITION

Names of Parties Served:       Mark Tidman  
  Baker & Hostetler  
  Suite 1100  
  1050 Connecticut Avenue, N.W.  
  Washington DC 20036

By:     /Christine M. Corrigan/  
          Christine M. Corrigan