

ESTTA Tracking number: **ESTTA311896**

Filing date: **10/16/2009**

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	Mr.JoseA.CopinJr.
Granted to Date of previous extension	10/21/2009
Address	138 Greymon Dr. West Palm Beach, FL 33405 UNITED STATES

Attorney information	Amy C. Kelly Shook, Hardy & Bacon, LLP 2555 Grand Blvd. Kansas City, MO 64108 UNITED STATES akelly@shb.com, cterrebonne@shb.com, jglidewell@shb.com Phone:816-474-6550
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Applicant Information

Application No	77569857	Publication date	06/23/2009
Opposition Filing Date	10/16/2009	Opposition Period Ends	10/21/2009
Applicant	TROIKA domovari GmbH Nisterfeld 11 Muschenbach, 57629 GERMANY		

Goods/Services Affected by Opposition

Class 014. All goods and services in the class are opposed, namely: Precious metals and their alloys
Class 016. All goods and services in the class are opposed, namely: Paper, cardboard and stationery
Class 018. All goods and services in the class are opposed, namely: Leather and imitation leather

Applicant Information

Application No	77450485	Publication date	09/22/2009
Opposition Filing Date	10/16/2009	Opposition Period Ends	10/22/2009
Applicant	TROIKA domovari GmbH Nisterfeld 11 Muschenbach, 57629 GERMANY		

Goods/Services Affected by Opposition

Class 018.

All goods and services in the class are opposed, namely: unfitted vanity cases, key cases, diaper bags, athletic bags for climbers, name card cases, back packs, Boston bags, purses, beach bags, brief cases, suitcases, document cases, namely, ticket cases, card cases, namely, credit card cases and business card cases, traveling bags, traveling trunks, leather binders for travel purposes, leather bags for merchandise packaging, school bags, hand bags, boxes of leather for writing utensils, boxes of vulcanized fiber for writing utensils, bags of leather for packaging, leather leashes for animals

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.	2256787	Application Date	02/04/1998
Registration Date	06/29/1999	Foreign Priority Date	NONE
Word Mark	TROIKA		
Design Mark			
Description of Mark	The mark consists, in part , of a stylized letter "A" in the word "TROIKA."		
Goods/Services	Class 021. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 SHAVING BRUSHES, COMPACT SOLD EMPTY, ATOMIZERS SOLD EMPTY, FLASKS, CHAMPAGNE BUCKETS, NAPKIN RINGS NOT OF PRECIOUS METAL, CORK SCREWS, BOTTLE OPENERS, PEPPER MILLS AND SHOE HORNS		

U.S. Registration No.	2256788	Application Date	02/05/1998
Registration Date	06/29/1999	Foreign Priority Date	NONE
Word Mark	TROIKA		

Design Mark			
Description of Mark	The mark consists of a stylized letter "A" in the word "TROIKA".		
Goods/Services	Class 016. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 MEMO PADS, LETTER OPENERS, BOOKMARKS, PENS, and PAPERWEIGHTS		

U.S. Registration No.	2256789	Application Date	02/05/1998
Registration Date	06/29/1999	Foreign Priority Date	NONE

Word Mark	TROIKA
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Design Mark			
Description of Mark	The mark consists, in part, of a stylized letter "A" in the word "TROIKA."		
Goods/Services	Class 006. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 MONEY CLIPS, METAL LOCKS, METAL LOCKS AND KEYS THEREFOR, KEY FOBS, KEY RINGS, JEWELRY BOXES, and MONEY BOXES; ALL MADE OF METAL		

U.S. Registration No.	2266575	Application Date	02/05/1998
Registration Date	08/03/1999	Foreign Priority Date	NONE

Word Mark	TROIKA
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Design Mark			
Description of Mark	The mark consists, in part, of a stylized letter "A" in the word "TROIKA."		
Goods/Services	Class 014. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 WATCHES, CLOCKS, CUFF LINKS; CIGARETTE CASES and CIGARETTE LIGHTERS OF PRECIOUS METAL		

U.S. Registration No.	2268514	Application Date	02/05/1998
Registration Date	08/10/1999	Foreign Priority Date	NONE

Word Mark	TROIKA
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Design Mark			
Description of Mark	The mark consists, in part, of a stylized letter "A" in the word "TROIKA."		
Goods/Services	Class 008. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 POCKET KNIVES, NUT CRACKERS NOT OF PRECIOUS METAL, MANICURE SETS, NON-ELECTRIC RAZORS, CASES, and RAZOR BLADES		

U.S. Registration No.	2268515	Application Date	02/05/1998
Registration Date	08/10/1999	Foreign Priority Date	NONE

Word Mark	TROIKA
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Design Mark	
Description of Mark	The mark consists, in part, of a stylized letter "A" in the word "TROIKA".
Goods/Services	Class 009. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 THERMOMETERS NOT FOR MEDICAL USE, MONOCULARS, TELESCOPES, EYEGGLASS CASES, MAGNIFYING GLASSES AND PORTABLE TRAFFIC BEACON LIGHTS

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	TROIKA		
Goods/Services	Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.		

Attachments	75429079#TMSN.gif (1 page)(bytes) 75429080#TMSN.gif (1 page)(bytes) 75429296#TMSN.gif (1 page)(bytes) 75429078#TMSN.gif (1 page)(bytes) 75429076#TMSN.gif (1 page)(bytes) 75429077#TMSN.gif (1 page)(bytes) Notice of Opposition - HEROIKA and TROIKA Serial Nos. 77569857 and 77450485.pdf (7 pages)(45902 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	/amyckelly/
Name	Amy C. Kelly
Date	10/16/2009

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

In re Applications of: TROIKA domovari GmbH

Serial No.: **77/569857**

Mark: HEROIKA

Serial No.: **77/450,485**

Mark: TROIKA

JOSE A. COPIN, JR.,
Opposer,

v.

TROIKA DOMOVARI GMBH,
Applicant.

Opposition No.: _____

NOTICE OF OPPOSITION

Jose A. Copin, Jr., an individual having his primary residence at 138 Greymon Drive, West Palm Beach, Florida 33405 (“Opposer”), believes he will be damaged by the registration of the marks identified below in this Notice of Opposition and hereby opposes the same:

Mark: HEROIKA

Serial No.: 77/569,857

Owner: TROIKA domovari GmbH (“Applicant”)
Nisterfeld 11
Muschenbach 57629
Fed. Rep. Germany

Int’l Class & Goods: Class 14 – Precious metal and their alloys.
Class 16 – Paper, cardboard and stationery.
Class 18 – Leather and imitation leather.

Filing Date: September 15, 2008

Filing Basis: Section 1(b)

Publication Date: June 23, 2009

Mark: TROIKA
 Serial No.: 77/450,485
 Owner: TROIKA domovari GmbH (“Applicant”)
 Nisterfeld 11
 Muschenbach 57629
 Fed. Rep. Germany

Int’l Class & Goods: Class 18 – Unfitted vanity cases, key cases, diaper bags, athletic bags for climbers, name card cases, back packs, Boston bags, purses, beach bags, brief cases, suitcases, document cases, namely, ticket cases, card cases, namely, credit card cases and business card cases, traveling bags, traveling trunks, leather binders for travel purposes, leather bags for merchandise packaging, school bags, hand bags, boxes of leather for writing utensils, boxes of vulcanized fiber for writing utensils, bags of leather for packaging, leather leashes for animals.

Filing Date: April 17, 2008
 Filing Basis: Section 1(b)
 Publication Date: September 22, 2009

The grounds for opposition are as follows:

1. For several years prior to the filing of applicant’s intent-to-use applications for the HEROIKA and TROIKA marks, opposer has been in the business of the retail and wholesale sale of designer giftware under the TROIKA brand.
2. Opposer is the owner of, and will rely upon herein, the following U.S. trademark registrations covering the TROIKA (design) marks:

Reg. No.	Issue Date	Int’l Class	Goods
2,256,787	June 29, 1999	Class 21	Shaving brushes, compact sold empty, atomizers sold empty, flasks, champagne buckets, napkins rings not of precious metal, cork screws, bottle openers, pepper mills and shoe horns
2,256,788	June 29, 1999	Class 16	Memo pads, letter openers, bookmarks, pens, and paperweights

2,256,789	June 29, 1999	Class 06	money clips, metal locks, metal locks and keys therefore, key fobs, key rings, jewelry boxes, and money boxes; all made of metal
2,266,575	August 3, 1999	Class 14	Watches, clocks, cuff links; cigarette cases and cigarette lighters of precious metal
2,268,514	August 10, 1999	Class 08	Pocket knives, nut crackers not of precious metal, manicure sets, non-electric razors, cases, and razor blades
2,268,515	August 10, 1999	Class 09	Thermometers not for medical use, monoculars, telescopes, eyeglass cases, magnifying glasses and portable traffic beacon lights

These registrations operate as *prima facie* evidence of opposer's ownership of the TROIKA marks and exclusive right to use the same in connection with the goods listed under those registrations. *See* 15 U.S.C. § 1115.

3. Since their adoption in 1990, nearly 20 years prior to the filing of applicant's intent-to-use applications for HEROIKA and TROIKA, opposer's aforementioned TROIKA marks, both in word and design formats, have been in actual and continuous use in conjunction with their corresponding goods in interstate and intrastate commerce up to the present time. Furthermore, opposer is now using and will continue to use the TROIKA marks in conjunction with the identified goods.

4. At least as early as 2003, opposer has also used, is now using, and will continue to use his TROIKA mark, both in word and design formats, in interstate and intrastate commerce on various items in International Class 18, including, but not limited to, business card cases, cosmetic carrying cases, document cases, jewelry organizers for travel, luggage tags, and various leather items such as card cases, travel cases and kits, jewelry cases, toiletry cases, office items, bookmarks, wallets and money clips. Through such use, opposer has acquired ownership of and

the attendant rights to the TROIKA mark in connection with various items in International Class 18. *See In re ECCS, Inc.*, 94 F.3d 1578, 1579 (Fed. Cir. 1996).

5. Opposer has invested substantial money, time and effort in promoting, advertising and popularizing his TROIKA marks. Since opposer's initial use of his TROIKA marks, opposer has continuously used, advertised, promoted, and offered his goods under the TROIKA marks to the public through various channels of trade in interstate commerce. Consequently, opposer has developed substantial and exclusive goodwill in connection with the use his TROIKA marks, and his customers have come to know and recognize opposer's TROIKA marks and to associate the same with opposer and/or the goods advertised, marketed, distributed, and/or sold to purchasers on behalf of opposer.

6. Opposer has not granted applicant any permissions or license in connection with the use of his TROIKA marks.

7. On information and belief, on September 15, 2008, applicant filed an application for registration of the mark HEROIKA. The application was assigned Serial No. 77/569,857, and was published for opposition in the Official Gazette on June 23, 2009, identifying the goods as "Precious metals and their alloys," "Paper, cardboard and stationery," and "Leather and imitation leather," in International Classes 14, 16, and 18, respectively.

8. On information and belief, on April 17, 2008, applicant filed an application for registration of the mark TROIKA. The application was assigned Serial No. 77/450,485, and was published for opposition in the Official Gazette on September 22, 2009, identifying the goods as "Unfitted vanity cases, key cases, diaper bags, athletic bags for climbers, name card cases, back packs, Boston bags, purses, beach bags, brief cases, suitcases, document cases, namely, ticket cases, card cases, namely, credit card cases and business card cases, traveling bags, traveling

trunks, leather binders for travel purposes, leather bags for merchandise packaging, school bags, hand bags, boxes of leather for writing utensils, boxes of vulcanized fiber for writing utensils, bags of leather for packaging, leather leashes for animals,” in International Class 18.

9. On information and belief, applicant’s goods, in connection with which it intends to use the HEROIKA and TROIKA marks, are so closely related to opposer’s goods that they are and/or will be advertised, promoted and sold through the same and/or similar channels of trade and to the same general class of users and purchasers as opposer’s goods are offered and sold under opposer’s TROIKA marks.

10. Applicant’s HEROIKA and TROIKA marks so closely resembles opposer’s TROIKA marks used in connection with designer giftware that the registration of HEROIKA and/or TROIKA by applicant, when applied as intended to applicant’s goods, is likely to cause confusion, mistake, and deception with the meaning of Section 2(d) of the Trademark Act of 1946 (15 U.S.C. § 1052(d)) and will result in irreparable damage and injury to opposer.

11. Applicant’s HEROIKA and TROIKA marks so closely resembles opposer’s TROIKA marks that the registration and use of HEROIKA and/or TROIKA by applicant will falsely suggest a connection with opposer in violation of Section 2(a) of the Trademark Act of 1946 (15 U.S.C. § 1052(a)) and will result in irreparable damage and injury to opposer.

12. Opposer believes that he will be damaged by the registration the HEROIKA and/or TROIKA marks, as set forth in applicant’s application Serial Nos. 77/569,857 and 77/450,485, and that if registration of the opposed applications are granted and the presumptions accorded to such registrations are conferred under the Trademark Act of 1946, as amended, applicant will receive benefits to which it is not entitled, to the damage and detriment of opposer, his TROIKA marks, and his business.

13. By reason of the foregoing, opposer believes that he will be irreparably damaged by the issuance to applicant of registrations of the alleged trademarks.

WHEREFORE, opposer prays that this Notice of Opposition be sustained and that the Serial Nos. 77/569,857 and 77/450,485 for the HEROIKA and TROIKA marks, respectively, be refused registration on the U.S. Registry.

Respectfully submitted,

SHOOK, HARDY & BACON L.L.P.

Dated: October 16, 2009

/amyckelly/
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ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a true and correct copy of the foregoing **Notice of Opposition** was served by first class United States Mail, postage prepaid, on this 16th day of October 2009, on the following Applicant/Owner of Record:

TROIKA DOMOVARI GMBH
NISTERFELD 11
MUSCHENBACH 57629
FED REP GERMANY

and on the following Attorney of Record and Domestic Representative:

JEFF ROTHENBERG
HESLIN ROTHENBERG FARLEY & MESITI P.C.
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/amyckelly/
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