

ESTTA Tracking number: **ESTTA321238**

Filing date: **12/10/2009**

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	UPCOMING TM S.A.		
Entity	Corporation	Citizenship	Luxembourg
Address	29 Avenue Monterey Luxembourg, LUXEMBOURG		

Attorney information	H. John Campaign Graham Campaign, P.C. 36 West 44th St. New York, NY 10036 UNITED STATES ip@grahamcampaign.com Phone:212-354-5650
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Applicant Information

Application No	77744193	Publication date	11/10/2009
Opposition Filing Date	12/10/2009	Opposition Period Ends	12/10/2009
Applicant	Beauchamp, Chris 1965 Lake Markham Preserve Trail Sanford, FL 32771 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Clothing, namely, t-shirts, sweatshirts, shirts, underwear, G-strings, hats and caps, beanies, skull caps, shorts, tank tops, jerseys, briefs, thong underwear, wristbands, belts and jackets
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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. Registration No.	3614923	Application Date	04/25/2008
Registration Date	05/05/2009	Foreign Priority Date	NONE
Word Mark	KILLAH		

Design Mark	<h1>KILLAH</h1>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2002/10/24 First Use In Commerce: 2002/10/24 Men's, women's and children's clothing, footwear and headgear, namely, shirts, shorts, slacks, trousers, pants, suits, sweaters, blazers, jackets, belts, boxer shorts, briefs, sports coats, dungarees, fishing vests, jogging suits, gloves, mittens, neckerchiefs, sweat pants, sweat shirts, polo shirts, rain coats, robes, bathing suits, trunks, T-shirts, warmup suits, wrist bands, wet suits, blouses, skirts, culottes, dresses, gauchos, halters, undergarments, unitards, body stockings, pantyhose, leotards and scarves, shoes, athletic shoes, boots, slippers, socks, stockings and innersoles, hats, caps, rain hats and sun visors

Attachments	77457894#TMSN.jpeg (1 page)(bytes) Notice_of_Opp_KILLYA.doc.pdf (3 pages)(17698 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	/h. john campaign/
Name	H. John Campaign
Date	12/10/2009

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

In the matter of trademark Application Serial No.: 77/744,193
For the mark: KILLYA
Application filing date: May 26, 2009

UPCOMING TM S.A.

v.

CHRIS BEAUCHAMP

Opposition No.: _____

NOTICE OF OPPOSITION

Opposer, Upcoming TM S.A. is a Luxembourg corporation located at 29 Avenue Monterey Luxembourg (“Opposer”).

To the best of Opposer’s knowledge the name and address of the current owner of the Opposed Mark is: Chris Beauchamp an individual living at 1965 Lake Markham Preserve Trail, Sanford Florida 32771.

The above-identified Opposer believes that it will be damaged by registration of the above-identified application, and hereby opposes registration of the same.

The grounds for opposition are as follows:

1. Opposer will be damaged by registration of the above-identified application because it is the owner of U.S. trademark registration number 3,614,923 for the mark KILLAH and the proposed mark, KILLYA, is likely to cause confusion under Section 2(d) and 15 U.S.C. 1052(d).
2. Opposer’s mark, KILLAH and the subject mark KILLYA differ in only the letters “H” and “Y”. The marks are strikingly visually similar in sight and pronunciation.
3. The goods for the marks are related. Opposer’s registered mark is KILLAH, and the registration recites use with “Men's, women's and children's clothing, footwear and headgear, namely, shirts, shorts, slacks, trousers, pants, suits, sweaters, blazers, jackets, belts, boxer shorts, briefs, sports coats, dungarees, fishing vests, jogging suits, gloves, mittens, neckerchiefs, sweat pants, sweat

shirts, polo shirts, rain coats, robes, bathing suits, trunks, T-shirts, warmup suits, wrist bands, wet suits, blouses, skirts, culottes, dresses, gauchos, halters, undergarments, unitards, body stockings, pantyhose, leotards and scarves, shoes, athletic shoes, boots, slippers, socks, stockings and innersoles, hats, caps, rain hats and sun visors.” The proposed mark is KILLYA, and the application recites use with “Clothing, namely, t-shirts, sweatshirts, shirts, underwear, G-strings, hats and caps, beanies, skull caps, shorts, tank tops, jerseys, briefs, thong underwear, wristbands, belts and jackets.”

4. Opposer believes that the goods of the respective marks will be in similar channels of trade and are likely to be seen by various consumers in the clothing markets.
5. In light of these facts, Opposer believes there is a likelihood of confusion between the proposed mark, KILLYA, and the Opposer’s registration, KILLAH.
6. Opposer has priority based on its ownership of registration number 3,614,923 for the mark KILLAH, which remains in force.

For at least the above reasons, Opposer opposes registration of trademark application serial no. 77/714,830.

Dated this 10th day of December 2009.

Respectfully submitted,

/s. John Campaign/
H. John Campaign
Attorney for Opposer

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CERTIFICATE OF SERVICE

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

Reine H. Glanz
/reine h. glanz/