

ESTTA Tracking number: **ESTTA335576**

Filing date: **03/04/2010**

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 SA		
Entity	Corporation	Citizenship	Luxembourg
Address	29 Avenue Monterey Luxembourg, LUXEMBOURG		

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

Application No	77699053	Publication date	02/02/2010
Opposition Filing Date	03/04/2010	Opposition Period Ends	03/04/2010
Applicant	Limpus, Christine M PO BOX 1338 OCEANSIDE, CA 92051 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Bottoms; Hats; Shirts; Tops
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### Grounds for Opposition

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

U.S. Registration No.	2574094	Application Date	12/08/1998
Registration Date	05/28/2002	Foreign Priority Date	NONE

Word Mark	KILLAH
Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1999/08/23 First Use In Commerce: 1999/08/23 Dress coats, Trousers, Mantles, Jeans, Blouses, Jumpers, Cardigans, Sport shirts, Polo shirts, Suits, Skirts, Overcoats, Jackets, Blazers, Shorts, Sweaters, Shirts, T-shirts, Socks, Belts, Hats and Caps, Shoes, Boots, Slippers and Sandals

Attachments	77457894#TMSN.jpeg ( 1 page )( bytes ) 75601468#TMSN.gif ( 1 page )( bytes ) Opposition.pdf ( 3 pages )(57239 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	03/04/2010

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

In the matter of trademark application serial no.: 77/699,053  
For the mark: Z KILLAR WEAR  
Application filing date: March 25, 2009

UPCOMING TM S.A.

v.

CHRISTINE LIMPUS

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: Christine Limpus a living individual with a mailing address of PO Box 1338, Oceanside, CA 92051.

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 nos. 3,614,923 and 2,574,094 for the mark KILLAH and the proposed mark, Z KILLAR WEAR, is likely to cause confusion under Section 2 (d) and 15 U.S.C. 1052(d).
2. Opposer’s marks, KILLAH and the KILLAR part of the subject mark differ in only the “R”. The marks are strikingly visually similar in sight and pronunciation.
3. The goods for the marks are related. Opposer’s registrations recite the following goods: (Reg. No. 2,574,094) Dress coats, Trousers, Mantles, Jeans, Blouses, Jumpers, Cardigans, Sport shirts, Polo shirts, Suits, Skirts, Overcoats, Jackets, Blazers, Shorts, Sweaters, Shirts, T-shirts, Socks, Belts, Hats and Caps, Shoes, Boots, Slippers and Sandals and (Reg. No. 3,614,923) 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's application recites use with "bottoms, hats, shirts and tops".

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, Z KILLAR WEAR and the Opposer's registrations for KILLAH.
6. Opposer has priority bases on its ownership of registration nos. 3,614,923 and 2,584,094, which remain in force.

For at least the above reasons, Opposer opposes registration of the trademark application serial no. 77/699,053.

Dated this 4<sup>th</sup> day of March 2010.

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 the attorney for applicant at his known address of record by First Class Mail on this date:

Xavier Morales  
Law Office of Xavier Morales  
PO Box 2987  
New York, NY 10008

Reine H. Glanz  
/ reine h. glanz/