

ESTTA Tracking number: **ESTTA336586**

Filing date: **03/10/2010**

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	Mitsubishi Pencil Co., Ltd.
Granted to Date of previous extension	03/13/2010
Address	5-23-37, Higashi-Ohi Shinagawa-ku, Tokyo, JAPAN

Domestic Representative	Raymond R. Tabandeh CHRISTIE, PARKER & HALE, LLP P.O. Box 7068 Pasadena, CA 91109-7068 UNITED STATES pto@cph.com Phone:626-795-9900
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Applicant Information

Application No	78910344	Publication date	01/12/2010
Opposition Filing Date	03/10/2010	Opposition Period Ends	03/13/2010
Applicant	Nozala, S.A. de C.V. Norte 59, No. 835 Colonia Industrial Vallejo, 02300 MEXICO		

Goods/Services Affected by Opposition

Class 016. First Use: 1984/11/05 First Use In Commerce: 2000/08/21
All goods and services in the class are opposed, namely: Writing instruments

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.	1991977	Application Date	09/21/1994
Registration Date	08/06/1996	Foreign Priority Date	NONE
Word Mark	UNI-BALL VISION		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1994/12/00 First Use In Commerce: 1994/12/00 roller pen		

U.S. Registration No.	2371661	Application Date	09/11/1998
Registration Date	07/25/2000	Foreign Priority Date	NONE
Word Mark	UNI-BALL VISION EXACT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1998/12/30 First Use In Commerce: 1999/03/01 Roller pens		

U.S. Registration No.	2725249	Application Date	03/07/2001
Registration Date	06/10/2003	Foreign Priority Date	NONE
Word Mark	UNI-BALL VISION ELITE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2001/09/01 First Use In Commerce: 2001/09/01 roller pens		

U.S. Application No.	78963217	Application Date	08/29/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	VISION NEEDLE		

Design Mark	VISION NEEDLE
Description of Mark	NONE
Goods/Services	Class 016. First use: WRITING INSTRUMENTS

Attachments	74576564#TMSN.gif (1 page)(bytes) 75550644#TMSN.gif (1 page)(bytes) 76221681#TMSN.gif (1 page)(bytes) 78963217#TMSN.jpeg (1 page)(bytes) A400OPPO.PDF (4 pages)(54512 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	/Raymond R. Tabandeh/
Name	Raymond R. Tabandeh
Date	03/10/2010

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

In the matter of trademark application **Serial No. 78/910,344**
For the mark **VISIÓN**
Published in the Trademark *Official Gazette* on January 12, 2010 (the term for opposition having been extended to March 13, 2010.)

Mitsubishi Pencil Co., Ltd.	Opposer,	Opposition No.
v.		
Nozala, S.A. de C.V.	Applicant.	NOTICE OF OPPOSITION

Mitsubishi Pencil Co., Ltd. ("Opposer"), a corporation whose address is 5-23-37, Higashi-Ohi, Shinagawa-ku, Japan, believes that it will be damaged by registration of the mark shown in application Serial No. 78/910,344 in International Class 016 and hereby opposes its registration.

As grounds for opposition, Opposer alleges that:

1. Applicant Nozala, S.A. de C.V. seeks to register United States Application Serial No. 78/910,344 ("the '344 Application") for VISIÓN for "writing instruments" in International Class 016, claiming first use in commerce as early as August 21, 2000, as evidenced by the publication of said mark in the January 12, 2010 issue of the *Official Gazette*.

2. Opposer owns United States Registration No. 1,991,977 ("the '977 Registration") for UNI-BALL VISION for "roller pen" in International Class 016. The '977 Registration subsists on the Principal Register and issued on August 6, 1996. The '977 Registration is incontestable. Opposer has been using the subject mark of the '977 Registration in commerce

since at least as early as December 1994. Opposer has priority of use in interstate commerce and priority of registration of the UNI-BALL VISION mark over Applicant's VISION mark.

3. Opposer owns United States Registration No. 2,371,661 ("the '661 Registration") for UNI-BALL VISION EXACT for "roller pens" in International Class 016. The '661 Registration subsists on the Principal Register and issued on July 25, 2000. The '661 Registration is incontestable. Opposer has been using the subject mark of the '661 Registration in commerce since at least as early as March 1, 1999. Opposer has priority of use in interstate commerce and priority of registration of the UNI-BALL VISION EXACT mark over Applicant's VISION mark.

4. Opposer owns United States Registration No. 2,725,249 ("the '249 Registration") for UNI-BALL VISION ELITE for "roller pens" in International Class 016. The '249 Registration subsists on the Principal Register and issued on June 10, 2003. The '249 Registration is incontestable. Opposer has been using the subject mark of the '249 Registration in commerce since at least as early as September 1, 2001. Opposer has priority of registration of the UNI-BALL VISION ELITE mark over Applicant's VISION mark, collectively referred to along with the '977 Registration and the '661 Registration as ("the VISION Registrations").

5. Opposer owns United States Application Serial No. 78/963,217 ("the '217 Application") for VISION NEEDLE for "writing instruments" in International Class 016. On or about November 20, 2006, the Patent and Trademark Office issued an Office action indicating that if the '344 Application issued as a registration, there may be a likelihood of confusion with the subject mark of the '217 Application under Section 2(d) of the Trademark Act. Prosecution of the '217 Application has since been suspended pending disposition of the '344 Application.

6. Since before Applicant's priority date, Opposer has continuously and exclusively used in commerce the mark VISION in connection with roller pens ("the VISION mark"). As a result, Opposer has developed common law rights in the VISION mark.

7. Through the widespread use and advertising of Opposer's VISION mark and by virtue of the quality of Opposer's goods sold in connection with the VISION mark, Opposer has

developed a valuable goodwill and reputation in connection with the VISION mark, which would be jeopardized by Applicant's use and registration of VISIÓN.

8. Through the widespread use and advertising of the subject marks of the VISION Registrations and by virtue of the quality of Opposer's goods sold in connection with the subject marks of the VISION Registrations, Opposer has developed a valuable goodwill and reputation in connection with those marks, which would be jeopardized by Applicant's use and registration of VISIÓN.

9. Applicant's goods for which it seeks to register VISIÓN are closely related to the goods of Opposer sold under the VISION mark and under the subject marks of the VISION Registrations.

10. Applicant's applied-for mark so resembles Opposer's VISION mark as to be likely, when applied to the goods of Applicant, to cause confusion or to cause mistake or to deceive.

11. Applicant's applied-for mark so resembles the subject marks of the VISION Registrations as to be likely, when applied to the goods of Applicant, to cause confusion or to cause mistake or to deceive.

WHEREFORE, Opposer prays that application Serial No. 78/910,344 be rejected, and that the mark therein sought for the goods herein specified in International Class 016 be refused registration.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

Date 3/10/2010

By 

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Docket No. A400:110.2*1

CERTIFICATE OF SERVICE

I certify that on March 10, 2010, the foregoing **NOTICE OF OPPOSITION** is being served by mailing a copy thereof by first-class mail addressed to:

NOZALA, S.A. DE C.V.
Norte 59, No. 835
Colonia Industrial Vallejo
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and

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By 
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