

ESTTA Tracking number: **ESTTA370655**

Filing date: **09/28/2010**

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	Kilim Mobilya Kanepe Sanayi Ve Ticaret A.S.
Granted to Date of previous extension	10/02/2010
Address	1 OSB 43, Caddde No. 27 Kayseri, 38070 TURKEY

Attorney information	Barbaros Karaahmet Karaahmet Luz & Greenberg LLP 370 Lexington Avenue - 24th Floor New York, NY 10017 UNITED STATES bkara@karalaw.com,rsbroder@optonline.net Phone:212.681.8313
----------------------	--

Applicant Information

Application No	77808819	Publication date	08/03/2010
Opposition Filing Date	09/28/2010	Opposition Period Ends	10/02/2010
Applicant	KILIM FURNITURE INTERNATIONAL LLC 791 PAULISON AVE CLIFTON, NJ 07011 UNITED STATES		

Goods/Services Affected by Opposition

Class 020. First Use: 2006/06/16 First Use In Commerce: 2006/06/16 All goods and services in the class are opposed, namely: Baby walkers; Bassinets; Bedroom furniture; Beds, mattresses, pillows and bolsters; Bone carvings; Cabinets; Chair beds; Chests of drawers; Clothes hangers; Coat hangers; Coat stands; Computer furniture; Corks; Cupboards; Curtain rails; Curtain rods; Dining chairs; Dining room tables; Divans; Entertainment centers; Free-standing drawer unit for organizing items used in braiding shops, barber shops, and styling shops; Furniture; Furniture chests; Furniture frames; Furniture moldings; Furniture partitions; picture frames; High chairs; Living room furniture; Mirrors; Office furniture; Shelves; Stools; Tables; Television stands
--

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
-----------------------------------	------	------------------	------

Registration Date	NONE
Design Mark	
Goods/Services	Furniture, namely, sofas, sofa sets, sofa beds, sitting groups, armchairs, knock down furniture and mattresses and futons.

Attachments	KilimFurnitureLrg.jpg Kilim Notice of Opposition4a1X.pdf (8 pages)(701577 bytes)
-------------	--

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	/bmk/
Name	Barbaros Karaahmet
Date	09/28/2010

3. Opposer KMKS, is the owner of the mark KILIM FURNITURE and KILIM FURNITURE and Design (collectively opposer's "Kilim Furniture" marks). Opposer's Kilim Furniture design mark appears as follows:



4. Opposer KMKS has been using the KILIM FURNITURE marks in Interstate commerce within the United States, in connection with the sale of furniture, since at least as early as February 22, 2006.

5. Opposer has extensively advertised and sold its goods under the KILIM FURNITURE marks throughout the United States since early 2006.

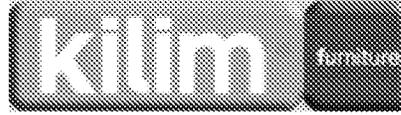
6. As a result of its extensive sales and marketing efforts and advertising and promotion and use of the the KILIM FURNITURE marks, Opposer marks have become a valuable asset of Opposer and the trade and purchasing public have come to recognize Opposer's marks as signifying Opposer and as identifying Opposer as the source of the goods bearing the KILIM FURNITURE marks.

7. In or around June 16, 2006, Opposer established Applicant's business as a United States subsidiary of Opposer's business.

8. Pursuant to the parties Operating agreement Opposer owns 80% of equity of Applicant business.

9. Since 2006 Opposer has sold approximately \$2,000,000.00 worth of furniture to Applicant bearing Opposer's KILIM FURNITURE mark.

10. On August 20, 2009, Applicant filed an application to register the mark KILIM FURNITURE and Design.



11. Applicant's KILIM FURNITURE and Design mark is virtually identical to Opposer's KILIM FURNITURE and Design mark, as shown in Paragraph 3 above.

12. Applicant's application was filed without Opposer's knowledge, consent or permission.

13. Said application was filed in bad faith as Applicant was well aware of Opposer's senior rights in and to Opposer's KILIM FURNITURE marks.

14. Said application was filed in bad faith as Applicant was well aware that Opposer's created the KILIM FURNITURE marks.

15. The specimen of use submitted by Applicant in support of its application cites, *inter alia*, Opposer's website, www.kilimmobilya.com/tr, which identifies Opposer as owner of the KILIM FURNITURE marks and further demonstrates Applicant's bad faith filing. Opposer has attached Applicant's specimen of use (see attached Exhibit 1 hereto and made part of the record hereof).

16. Said Application claims first use of Applicant's KILIM FURNITURE and Design mark in the United States from June 16, 2006.

17. Opposer's first use of the KILIM FURNITURE marks, since at least as early as February 22, 2006, is senior to Applicant's claimed date of first use.

18. Said application was accorded Serial Number 77808819, and was published for opposition in the Official Gazette of August 3, 2010 at page TM 734, identifying the goods as follows:

Baby walkers; Bassinets; Bedroom furniture; Beds, mattresses, pillows and bolsters; Bone carvings; Cabinets; Chair beds; Chests of drawers; Clothes hangers; Coat hangers; Coat stands; Computer furniture; Corks; Cupboards; Curtain rails; Curtain rods; Dining chairs; Dining room tables; Divans; Entertainment centers; Free-standing drawer unit for organizing items used in braiding shops, barber shops, and styling shops; Furniture; Furniture chests; Furniture frames; Furniture moldings; Furniture partitions; picture frames; High chairs; Living room furniture; Mirrors; Office furniture; Shelves; Stools; Tables; Television stands – in International Class 20.

19. The KILIM FURNITURE and Design mark sought to be registered by Applicant is identical and confusingly similar to Opposer's prior and aforesaid KILIM FURNITURE marks.

20. On information and belief, the goods set forth in the application opposed herein are identical, similar and/or related to, the goods sold and distributed under KMKS's KILIM FURNITURE mark and (which are set forth in Opposer's application) and on information and belief the goods set forth in the opposed application is and/or will be sold through the same and/or similar channels of trade, and/or to the same general class of purchasers, in and to which Opposer' goods under the KILIM FURNITURE marks are and/or will be marketed and/or sold.

21. The KILIM FURNITURE and design mark, as set forth in the opposed application, is likely to cause confusion, mistake, and/or deceive as to the origin, sponsorship, and/or association of Applicant's goods sought to be registered by Applicant vis-à-vis Opposer and/or Opposer's KILIM FURNITURE marks, and/or to mislead purchasers of Applicant's and/or Opposer's goods and/or the public in general, into believing that Applicant's goods are sold by, emanate from, and/or in some way, directly or indirectly, are associated with Opposer

KMKS, and/or Opposer's KILIM FURNITURE mark, or vice versa, to the damage and detriment of Opposer KMKS.

22. Applicant's and Opposer's furniture goods are identical and are sold in the same channels of trade and encountered by the same end users.

23. By virtue of the foregoing, Opposer KMKS believes it will be damaged by the registration by Applicant of the KILIM FURNITURE and design mark, as set forth in the application therefore, Serial Number 77808819.

24. If Applicant is granted the registration opposed herein, and Applicant obtains such rights as conferred under the Principal Register of the Trademark Act, Applicant will obtain unlawful gain and advantage to which it is not entitled under the Trademark Act, to the detriment of Opposer.

WHEREFORE, Opposer, Kilim Mobilya Kanepe Sanayi ve Ticaret A.S., believes and alleges that it will be damaged by registration of Applicant's KILIM FURNITURE and design mark of Application Serial Number 77808819, as aforesaid, and prays that:

- A. judgment in the present opposition be entered in favor of Opposer;
- B. the present opposition be sustained;
- C. registration of Application Serial Number 77808819 be rejected and refused.

Respectfully submitted,

September 27, 2010

Karahmet Luz & Greenberg LLP

By



Barbaros Karahmet

370 Lexington Avenue, 24th Floor

New York, NY 10017

Phone: 212.681.8313

Attorneys for Opposer, Kilim Mobilya

Kanepe Sanayi ve Ticaret A.S.

EXHIBIT 1

kilim furniture

Bi'kilim yeter sevgilim!

**İNANILMAZ
FİYATLAR**

Tel: 973 955 2306

<http://www.kilimfurnitureusa.com>

Fax: 973 928 27 26

KANEPELER

MAKSİ TAKIMLAR

KOLTUK TAKIMLARI

OTURMA GRUPLARI

KOŞE TAKIMLARI

YATAK ODASI TAKIMLARI

YEMEK ODASI TAKIMLARI

GENÇ ODASI TAKIMLARI

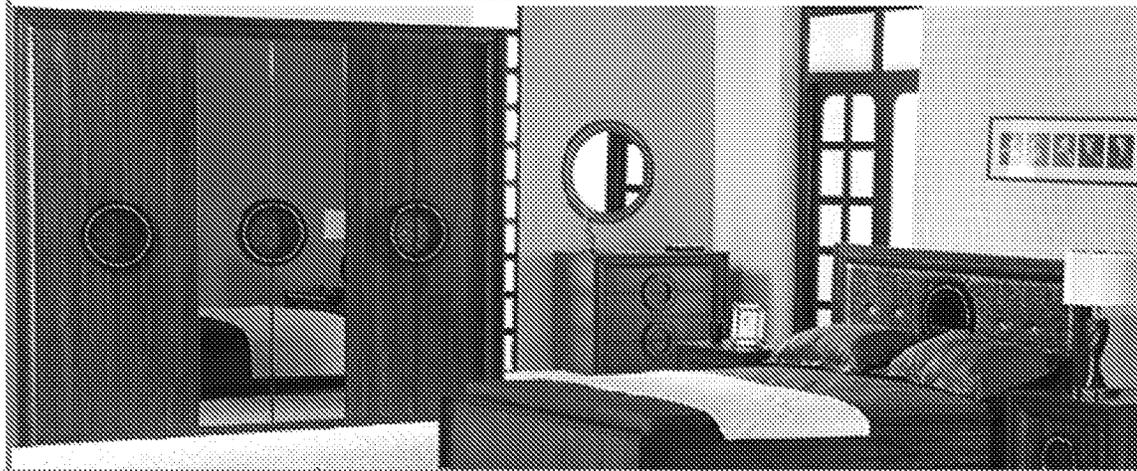
TEKİL ÜRÜNLER

YATAKLAR

BAZALAR

BASLIKLAR

EV TEKSTİLİ



RT 46 EAST 509 WESTMINSTER PL, LODI NJ 07644

<http://www.kilimmobilya.com.tr>

INVENTORY CLEARANCE SALE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September ²⁸, 2010 on behalf of Opposer, he served the foregoing Notice of Opposition on the Applicant by depositing a true copy of same in a sealed envelope, postage prepaid, by First-Class, U.S. mail, addressed to Applicant as follows:

KILIM FURNITURE INTERNATIONAL LLC
791 PAULISON AVE
CLIFTON, NJ 07011-3608


Barbaros Karahmet
Counsel for Opposer