

ESTTA Tracking number: **ESTTA375233**

Filing date: **10/26/2010**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Vail Valley Foundation
Granted to Date of previous extension	10/27/2010
Address	P.O. Box 309 Vail, CO 81658 UNITED STATES

Name	Vail Trademarks, Inc.
Granted to Date of previous extension	10/27/2010
Address	390 Interlocken Crescent Suite 1000 Broomfield, CO 80021 UNITED STATES

Attorney information	Marc C. Levy FAEGRE & BENSON LLP 1700 Lincoln Street 3200 Wells Fargo Center Denver, CO 80203-4532 UNITED STATES trademarkdnvr@faegre.com, mlevy@faegre.com Phone:303-607-3500
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Applicant Information

Application No	77930069	Publication date	06/29/2010
Opposition Filing Date	10/26/2010	Opposition Period Ends	10/27/2010
Applicant	Scudder, Stephanie F P.O. Box 4993 Vail, CO 81658 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 025. All goods and services in the class are opposed, namely: Apparel for dancers, namely, tee shirts, sweatshirts, pants, leggings, shorts and jackets; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Bottoms; Crew neck sweaters; Cross-country gloves; Fabric sold as an integral component of finished clothing items, namely, clothing, namely, shirts, jackets, sweaters, gloves, pants and hats, snow ski boots; Gift packages sold as a unit consisting primarily of a sweatshirt and also including a photo frame, a coffee mug, and a tote bag; Mock turtle-neck sweaters; Shell jackets; Short-sleeved or long-sleeved t-shirts; Ski jackets; Sports jackets; Sweat jackets; Sweaters; T-shirts; Track jackets; Travel clothing contained in a package comprising</p>

reversible jackets, pants, skirts, tops and a belt or scarf; Turtleneck sweaters; V-neck sweaters; Waterproof jackets and pants; Wind resistant jackets; Wind-jackets

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1521276	Application Date	02/24/1987
Registration Date	01/17/1989	Foreign Priority Date	NONE
Word Mark	VAIL		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 041. First use: First Use: 1962/10/30 First Use In Commerce: 1962/10/30 RECREATIONAL SERVICES, NAMELY DOWNHILL SKIING FACILITIES, ICE SKATING FACILITIES, CROSS-COUNTRY SKI TRAILS AND EXPEDITIONS, HIKING AND BACK PACKING TRAILS, AND HORSEBACK RIDING; AND EDUCATIONAL SERVICES, NAMELY CLASSES IN THE FIELDS OF DOWNHILL SKIING AND CROSS-COUNTRY SKIING</p> <p>Class 042. First use: First Use: 1962/10/30 First Use In Commerce: 1962/10/30 RESORT HOTEL AND RESTAURANT SERVICES, AND RETAIL STORE SERVICES IN THE FIELD OF RECREATIONAL EQUIPMENT</p>		

U.S. Registration No.	2720899	Application Date	04/11/2002
Registration Date	06/03/2003	Foreign Priority Date	NONE
Word Mark	BEAVER CREEK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 041. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 Ski resorts</p> <p>Class 043. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 Ski resort services, namely, providing resort lodging services</p>		

U.S. Registration No.	1139021	Application Date	08/23/1978
Registration Date	08/26/1980	Foreign Priority Date	NONE

Word Mark	BEAVER CREEK
Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 035. First use: First Use: 1978/01/03 First Use In Commerce: 1978/05/00 [MANAGEMENT AND OPERATION OF RECREATIONAL FACILITIES IN THE NATURE OF SKI TRAILS, HIKING TRAILS, PICNIC AREAS, LIFTS FOR SKIERS AND SIGHTSEERS, FIRST AID AND FOOD SERVICE FACILITIES, AND EQUIPMENT REPAIR AND RENTAL SERVICES FOR THE PUBLIC ON FEDERAL LAND]</p> <p>Class 037. First use: First Use: 1978/01/03 First Use In Commerce: 1978/05/00 [CONSTRUCTION, REPAIR AND MAINTENANCE OF ACCESS ROADS AND RECREATIONAL FACILITIES IN THE NATURE OF SKI TRAILS, HIKING TRAILS, PICNIC AREAS, LIFTS FOR SKIERS AND SIGHTSEERS, FIRST AID AND FOOD SERVICE FACILITIES, AND EQUIPMENT REPAIR AND RENTAL SERVICES FOR THE PUBLIC ON FEDERAL LAND]</p> <p>Class 039. First use: First Use: 1978/01/03 First Use In Commerce: 1978/05/00 VISITORS INFORMATION SERVICES, TRAVEL AGENCY SERVICES, GUIDE SERVICES AND TOURS OF RECREATION AREAS FOR THE PUBLIC ON FEDERAL LAND AND FEE LAND CONTIGUOUS THERETO</p> <p>Class 041. First use: First Use: 1978/01/03 First Use In Commerce: 1978/05/00 INSTRUCTION OF THE PUBLIC IN BOTH DOWNHILL SKING AND SKI TOURING, [PLANT AND WILD LIFE IDENTIFICATION, BACKPACKING, SURVIVAL, FIRST AID AND SELECTION OF EQUIPMENT] TO INCREASE THEIR ENJOYMENT FO RECREATION FACILITIES ON FEDERAL LAND AND FEE LAND CONTIGUOUS THERETO</p>

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	VAIL		
Goods/Services	All types of apparel, including without limitation, t-shirts, sweatshirts, pants, jackets, hats, sweaters, gloves and footwear as well as gifts and souvenirs.		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BEAVER CREEK		
Goods/Services	All types of apparel, including without limitation, t-shirts, sweatshirts, pants, jackets, hats, sweaters, gloves and footwear as well as gifts and souvenirs.		

Attachments	76394212#TMSN.gif (1 page)(bytes) 77930069 Notice of Opposition.pdf (8 pages)(27681 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	/Marc C. Levy/
Name	Marc C. Levy
Date	10/26/2010

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

VAIL TRADEMARKS, INC. and
VAIL VALLEY FOUNDATION

Opposers,

v.

STEPHANIE SCUDDER

Applicant.

Opposition No. _____

Mark: **2015 WORLD ALPINE SKI
CHAMPIONSHIPS VAIL/BEAVER CRE
COLORADO USA (AND DESIGN)**

Serial No.: 77/930,069

Filing Date: February 8, 2010

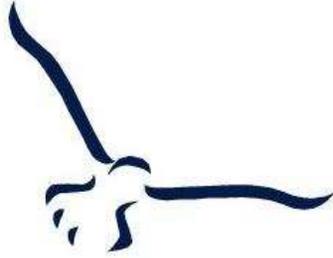
Publication Date: June 29, 2010

NOTICE OF OPPOSITION

Vail Trademarks, Inc., a Colorado corporation (“Vail Trademarks”) whose address is 390 Interlocken Crescent, Suite 390, Broomfield, Colorado 80021 and Vail Valley Foundation (“VVF”), a Colorado not for profit corporation whose address is P.O. Box 309, Vail, Colorado 81658, believe that they will be damaged by registration of the mark 2015 WORLD ALPINE SKI CHAMPIONSHIPS VAIL/BEAVER CREEK, COLORADO USA (AND DESIGN) (the “Mark”), which is the subject of Application Serial No. 77/930,069, owned by Ms. Stephanie Scudder (“Applicant”). The application was published for Opposition in the Official Gazette of June 29, 2010.

The grounds for this opposition are as follows:

1. Applicant seeks to register the following design mark (the “Mark”):



2015 WORLD ALPINE SKI CHAMPIONSHIPS
VAIL/BEAVER CREEK, COLORADO USA

2. Applicant seeks to register the Mark for the following goods in International Class 25: “APPAREL FOR DANCERS, NAMELY, TEE SHIRTS, SWEATSHIRTS, PANTS, LEGGINGS, SHORTS AND JACKETS; ATHLETIC APPAREL, NAMELY, SHIRTS, PANTS, JACKETS, FOOTWEAR, HATS AND CAPS, ATHLETIC UNIFORMS; BOTTOMS; CREW NECK SWEATERS; CROSS-COUNTRY GLOVES; FABRIC SOLD AS AN INTEGRAL COMPONENT OF FINISHED CLOTHING ITEMS, NAMELY, CLOTHING, NAMELY, SHIRTS, JACKETS, SWEATERS, GLOVES, PANTS AND HATS, SNOW SKI BOOTS; GIFT PACKAGES SOLD AS A UNIT CONSISTING PRIMARILY OF A SWEATSHIRT AND ALSO INCLUDING A PHOTO FRAME, A COFFEE MUG, AND A TOTE BAG; MOCK TURTLE-NECK SWEATERS; SHELL JACKETS; SHORT-SLEEVED OR LONG-SLEEVED T-SHIRTS; SKI JACKETS; SPORTS JACKETS; SWEAT JACKETS; SWEATERS; T-SHIRTS; TRACK JACKETS; TRAVEL CLOTHING CONTAINED IN A PACKAGE COMPRISING REVERSIBLE JACKETS, PANTS, SKIRTS, TOPS AND A BELT OR SCARF; TURTLENECK SWEATERS; V-NECK SWEATERS; WATERPROOF JACKETS AND PANTS; WIND RESISTANT JACKETS; WIND-JACKETS.”

3. The opposed Application was filed on February 8, 2010, based on an alleged intent to use the Mark in commerce.

4. Opposer Vail Trademarks is the owner of United States Trademark Registration No. 1521276 (issued on January 17, 1989) for VAIL for “RECREATIONAL SERVICES, NAMELY DOWNHILL SKIING FACILITIES, ICE SKATING FACILITIES, CROSS-COUNTRY SKI TRAILS AND EXPEDITIONS, HIKING AND BACK PACKING TRAILS, AND HORSEBACK RIDING; AND EDUCATIONAL SERVICES, NAMELY CLASSES IN THE FIELDS OF DOWNHILL SKIING AND CROSS-COUNTRY SKIING” in International Class 41 and for RESORT HOTEL AND RESTAURANT SERVICES, AND RETAIL STORE SERVICES IN THE FIELD OF RECREATIONAL EQUIPMENT in International Class 42.

5. Opposer Vail Trademarks is the owner of United States Trademark Registration No. 2720899 (issued on June 3, 2003) for BEAVER CREEK for “SKI RESORTS” in International Class 41 and “SKI RESORT SERVICES, NAMELY, PROVIDING RESORT LODGING SERVICES” in International Class 43.

6. Opposer Vail Trademarks is the owner of United States Trademark Registration No. 1139021 (issued on August 26, 1980) for BEAVER CREEK for “VISITORS INFORMATION SERVICES, TRAVEL AGENCY SERVICES, GUIDE SERVICES AND TOURS OF RECREATION AREAS FOR THE PUBLIC ON FEDERAL LAND AND FEE LAND CONTIGUOUS THERETO” in International Class 39 and “INSTRUCTION OF THE PUBLIC IN BOTH DOWNHILL SKING AND SKI TOURING, TO INCREASE THEIR ENJOYMENT FO RECREATION FACILITIES ON FEDERAL LAND AND FEE LAND CONTIGUOUS THERETO” in International Class 41.

7. Vail Trademarks, through its licensees and related companies, has used the VAIL and BEAVER CREEK trademarks on all types of apparel, including without limitation, t-shirts, sweatshirts, pants, jackets, hats, sweaters, gloves and footwear as well as gifts and souvenirs.

8. Beginning in 1962, long before Applicant's filing date, and continuing without interruption, Opposer Vail Trademarks including its predecessors and related companies have used the VAIL mark in connection with the services identified in Registration No. 1521276 as well as the goods identified in paragraph 7 above.

9. Beginning in 1978, long before Applicant's filing date, and continuing without interruption, Opposer Vail Trademarks including its predecessors and related companies have used the BEAVER CREEK mark in connection with the services identified in Registration Nos. 1139021 and 2720899 as well as the goods identified in paragraph 7 above.

10. Opposer VVF is a not for profit corporation committed to providing leadership in athletic, cultural, educational and community-based endeavors to enhance and sustain the quality of life in the Vail Valley for its residents and guests.

11. In furtherance of its mission, VVF has been the official host of a number of major international sporting events taking place in the Vail Valley. These events have included numerous events sanctioned by the Federation Internationale de Ski ("FIS"), the international governing body of alpine ski racing. These events have included the 1989 FIS World Alpine Ski Championships, the 1999 FIS World Alpine Ski Championships and since 1997, the annual Birds of Prey World Cup Downhill race.

12. On June 3, 2010, FIS announced that it awarded to VVF the privilege of hosting the 2015 FIS World Alpine Ski Championships. The event is planned to take place at the Vail and Beaver Creek ski resorts owned and operated by related companies and licensees of Vail Trademarks. VVF submitted its bid to host the event by May 1, 2009, and VVF's bid was then widely publicized in the media.

13. Since at least as early as May, 2009, VVF has used the mark 2015 FIS WORLD ALPINE SKI CHAMPIONSHIPS in connection with promoting, sponsoring and administering the 2015 FIS World Alpine Ski Championships event.

14. On February 8, 2010, Applicant filed its application for the Mark on an intent-to-use basis under 15 U.S.C. § 1051(b). Applicant has no connection with VVF, FIS or the 2015 FIS World Alpine Ski Championships event.

First Ground for Opposition – Likelihood of Confusion
15 U.S.C. § 1052(d)
(Vail Trademarks & VVF)

15. Applicant's Mark should be refused registration because Applicant's use of the Mark for the goods identified in Application Serial No. 77/930,069 is likely to cause confusion, mistake, or deception as to the source of Applicant's goods and services, all to Vail Trademarks' damage. Relevant consumers are likely to believe that Applicant's goods are sponsored or approved by or affiliated with Vail Trademarks (including its related companies) or authorized goods when that is not the case. Any dissatisfaction with Applicant's goods will reflect upon and damage the goodwill and reputation embodied in Vail Trademarks' VAIL and BEAVER CREEK marks.

16. Applicant's Mark should be refused registration because Applicant's use of the Mark for the goods identified in Application Serial No. 77/930,069 is likely to cause confusion, mistake, or deception as to the source of Applicant's goods and services, all to VVF's damage. Furthermore, relevant consumers are likely to believe that Applicant's goods are sponsored or approved by or affiliated with VVF or its 2015 FIS World Alpine Ski Championships event. Any dissatisfaction with Applicant's goods will reflect upon and damage the goodwill and reputation embodied in VVF's 2015 FIS WORLD ALPINE SKI CHAMPIONSHIPS mark.

Second Ground for Opposition – False Suggestion of Connection
15 U.S.C. § 1052(a)
(Vail Valley Foundation)

17. Applicant's Mark should be refused registration because it falsely suggests a connection with FIS, VVF and the institution of the official FIS sanctioned event, namely, the 2015 FIS World Alpine Ski Championships, awarded to VVF. Because the Mark incorporates the entity FIS and the name of the event, the Mark points uniquely and unmistakably to FIS, the official host of the event, VVF, and the event itself.

* * *

WHEREFORE, Opposers believe that they will be damaged by registration of the Mark and pray that this Opposition be sustained, that Application Serial No. 77/930,069 be rejected, and that the Mark applied for therein be refused registration.

The required opposition fee of \$600.00 accompanies this Notice. If the filing fee is deficient or excessive in any way, the Commissioner is granted authority to credit or debit Deposit Account Number 06-0029.

Dated: October 26, 2010

Respectfully submitted,

By: /Marc C. Levy/

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Attorneys for Opposers

VAIL TRADEMARKS INC. and VAIL VALLEY
FOUNDATION

Filed Electronically via ESSTA.

CERTIFICATE OF SERVICE

I do hereby certify that on this 26th day of October, 2010, a true and correct copy of the above and foregoing **NOTICE OF OPPOSITION** was sent via first class mail and electronic mail delivery, to:

Stephanie F. Scudder
Suite 3
324 South Upper Street
Lexington KY 40508
s.s@uky.edu

/s/ Joshua A. Smith

Joshua A. Smith, Senior Paralegal