

ESTTA Tracking number: **ESTTA379924**

Filing date: **11/22/2010**

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	K-2 Corporation
Granted to Date of previous extension	11/21/2010
Address	4201 6th Avenue S Seattle, WA 98108 UNITED STATES

Attorney information	Cindy L. Caditz Davis Wright Tremaine LLP 1201 Third Avenue, Suite 2200 Seattle, WA 98108 UNITED STATES cindycaditz@dwt.com, sarahduran@dwt.com, ronrutherford@dwt.com Phone:(206) 757-8097
----------------------	---

**Applicant Information**

Application No	77906268	Publication date	05/25/2010
Opposition Filing Date	11/22/2010	Opposition Period Ends	11/21/2010
Applicant	Save The Children Federation, Inc. 54 Wilton Road Westport, CT 06880 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. All goods and services in the class are opposed, namely: Clothing, namely, t-shirts, neckties, jackets; children's playwear, namely, sweaters, pants, shorts, overalls, wind resistant jackets, jumpers and dresses; headgear, namely, baseball caps
--

**Grounds for Opposition**

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

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	781708	Application Date	01/28/1964
Registration Date	12/15/1964	Foreign Priority Date	NONE
Word Mark	K2		

Design Mark	
Description of Mark	NONE
Goods/Services	Class U022 (International Class 028). First use: First Use: 1961/11/10 First Use In Commerce: 1963/11/14 Snow Skis

U.S. Registration No.	1009280	Application Date	03/26/1973
Registration Date	04/22/1975	Foreign Priority Date	NONE
Word Mark	K2		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U003 (International Class 018). First use: First Use: 1970/12/01 First Use In Commerce: 1963/11/01 SKI AND SKI POLE STORAGE AND CARRYING BAGS AND KNAPSACKS		

U.S. Registration No.	1010160	Application Date	03/26/1973
Registration Date	05/06/1975	Foreign Priority Date	NONE
Word Mark	K2		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U039 (International Class 025). First use: First Use: 1971/09/01 First Use In Commerce: 1971/09/01 [ AFTER SKI BOOTS, SHIRTS, ] T-SHIRTS AND SHORTS		

U.S. Registration No.	1190062	Application Date	05/22/1980
Registration Date	02/16/1982	Foreign Priority Date	NONE
Word Mark	K2		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1971/09/01 First Use In Commerce: 1971/09/01 Clothing-Namely, Shirts, Sweaters, Jackets, Shorts, Hats, Gloves, Scarves,		

Aprons [ , and Gaiters ]			
U.S. Registration No.	1973864	Application Date	02/17/1993
Registration Date	05/14/1996	Foreign Priority Date	NONE
Word Mark	K2		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1994/03/00 First Use In Commerce: 1994/03/00 skating helmets</p> <p>Class 025. First use: First Use: 1971/09/01 First Use In Commerce: 1971/09/01 clothing, namely boots, hats, T-shirts, sweatshirts, shirts, sweaters, jackets, coats, pants, [ shorts, ] gloves, [ sweat pants, ] [ headbands, ] ski clothing, ski boot bags</p> <p>Class 028. First use: First Use: 1961/11/10 First Use In Commerce: 1961/11/10 sports equipment, namely skis, ski poles, snowboards, in-line skates, [ golf clubs, ] [ golf bags, ] [ tennis rackets, ] ice skates, ski and ski pole storage and carrying bags, knee pads, wrist pads and elbow pads, all for athletic use, and protective gloves for skating</p>		

U.S. Registration No.	1973187	Application Date	02/17/1993
Registration Date	05/07/1996	Foreign Priority Date	NONE
Word Mark	K2		
Design Mark			
Description of Mark	The mark consists of "K2" and design.		
Goods/Services	<p>Class 009. First use: First Use: 1994/03/00 First Use In Commerce: 1994/03/00 skating helmets</p> <p>Class 025. First use: First Use: 1971/09/01 First Use In Commerce: 1971/09/01 clothing, namely [ boots, ] hat, T-shirts, sweatshirts, shirts, sweaters, jackets, coats, [ pants, shorts, gloves, sweat pants, headbands, ] ski clothing, ski boot bags</p> <p>Class 028. First use: First Use: 1963/11/14 First Use In Commerce: 1963/11/14 sports equipment, namely skis, ski poles, [ snowboards, ] in-line skates, [ golf clubs, golf bags, tennis rackets, ] ice skates, ski and ski pole storage and carrying bags, knee pads, wrist pads, and elbow pads, all for athletic use, and protective gloves for skating</p>		

U.S. Registration No.	1744540	Application Date	04/30/1991
Registration Date	01/05/1993	Foreign Priority Date	NONE
Word Mark	K2		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use: First Use: 1963/11/01 First Use In Commerce: 1970/12/01 luggage, all purpose sport bags and knapsacks</p> <p>Class 025. First use: First Use: 1971/09/01 First Use In Commerce: 1971/09/01 clothing; namely, coats, jackets, pants, shorts, shirts, sweaters, sweatshirts, sweatpants, T-shirts; ski jackets, ski pants, parkas, [ one-piece ski suits ], caps, hats, headbands, gloves and scarves</p> <p>Class 028. First use: First Use: 1961/11/10 First Use In Commerce: 1963/11/14 snow skis, ski poles, snowboards, and ski and ski pole storage and carrying bags</p>		

U.S. Registration No.	1736575	Application Date	04/30/1991
Registration Date	12/01/1992	Foreign Priority Date	NONE
Word Mark	K2		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use: First Use: 1963/11/01 First Use In Commerce: 1970/12/01 luggage, all purpose sport bags and knapsacks</p> <p>Class 025. First use: First Use: 1971/09/01 First Use In Commerce: 1971/09/01 clothing; namely, coats, jackets, pants, shorts, shirts, sweaters, sweatshirts, sweatpants, T-shirts; ski jackets, ski pants, parkas, one-piece ski suits, caps, hats, [ headbands, ] gloves and scarves</p> <p>Class 028. First use: First Use: 1961/11/10 First Use In Commerce: 1963/11/14 snow skis, ski poles. snow boards, and ski and ski pole storage and carrying bags</p>		

Attachments	<p>73263114#TMSN.gif ( 1 page )( bytes )</p> <p>74359921#TMSN.gif ( 1 page )( bytes )</p> <p>74162443#TMSN.gif ( 1 page )( bytes )</p> <p>NOO - 77906268.pdf ( 7 pages )(110481 bytes )</p>
-------------	---

---

---

## 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	/Cindy L. Caditz/
Name	Cindy L. Caditz
Date	11/22/2010



1           1.       On information and belief, Save The Children Federation, Inc. is a corporation of  
2 Connecticut, having a place of business at 54 Wilton Road Westport Connecticut 06880  
3 (hereinafter "Applicant").

4           2.       Continuously, since long prior to any date upon which Applicant can rely,  
5 Opposer has used the trademark K2 in association with sporting products, clothing, bags and a  
6 wide variety of related goods, and the trade names K-2 Corporation and K2 in association with  
7 the conduct of business.

8           3.       Opposer is the owner of U.S. Trademark Registration No. 781,708 for the mark  
9 K2 for snow skis in International Class 28. Said registration issued December 15, 1964, sets  
10 forth a date of first use of November 10, 1961, and is currently valid, subsisting and  
11 incontestable.

12           4.       Opposer is the owner of U.S. Trademark Registration No. 1,009,280 for the mark  
13 K2 for ski and ski pole storage and carrying bags and knapsacks in International Class 18. Said  
14 registration issued April 22, 1975, sets forth a date of first use of November 1, 1963, and is  
15 currently valid, subsisting and incontestable.

16           5.       Opposer is the owner of U.S. Trademark Registration No. 1,010,160 for the mark  
17 K2 for T-shirts and shorts in International Class 25. Said registration issued May 6, 1975, sets  
18 forth a date of first use of September 1, 1971 in International Class 25, and is currently valid,  
19 subsisting and incontestable.

20           6.       Opposer is the owner of U.S. Trademark Registration No. 1,190,062 for the mark  
21 K2 and Design for clothing, namely, shirts, sweaters, jackets, shorts, hats, gloves, scarves, and  
22 aprons in International Class 25. Said registration issued February 16, 1982, sets forth a date of  
23 first use of September 1, 1971 in International Class 25, and is currently valid, subsisting and  
24 incontestable.

25           7.       Opposer is the owner of U.S. Trademark Registration No. 1,973,864 for the mark  
26 K2 for skating helmets in International Class 9; clothing, namely boots, hats, T-shirts,  
27

1 sweatshirts, shirts, sweaters, jackets, coats, pants, gloves, ski clothing, and ski boot bags in  
2 International Class 25; sports equipment, namely skis, ski poles, snowboards, in-line skates, ice  
3 skates, ski and ski pole storage and carrying bags, knee pads, wrist pads, and elbow pads, all for  
4 athletic use, and protective gloves for skating in International Class 28. Said registration issued  
5 May 14, 1996, sets forth a date of first use of March 1994 in International Class 9; a date of first  
6 use of September 1, 1971 in International Class 25; and a date of first use of November 10, 1961  
7 in International Class 28, and is currently valid, subsisting and incontestable.

8 8. Opposer is the owner of U.S. Trademark Registration No. 1,973,187 for the mark  
9 K2 and Design for skating helmets in International Class 9; clothing, namely hats, T-Shirts,  
10 sweatshirts, shirts, sweaters, jackets, coats, ski clothing, and ski boot bags in International Class  
11 25; sports equipment, namely skis, ski poles, in-line skates, ice skates, ski and ski pole storage  
12 and carrying bags, knee pads, wrist pads, and elbow pads, all for athletic use, and protective  
13 gloves for skating in International Class 28. Said registration issued May 7, 1996, sets forth a  
14 date of first use of March 1994 in International Class 9; a date of first use of September 1, 1971  
15 in International Class 25; and a date of first use of November 14, 1963 in International Class 28,  
16 and is currently valid, subsisting and incontestable.

17 9. Opposer is the owner of U.S. Trademark Registration No. 1,744,540 for the mark  
18 K2 for luggage, all-purpose sport bags and knapsacks in International Class 18; clothing, namely  
19 coats, jackets, pants, shorts, shirts, sweaters, sweatshirts, sweatpants, T-shirts; ski jackets, ski  
20 pants, parkas, caps, hats, headbands, gloves and scarves in International Class 25, snow skis, ski  
21 poles, snowboards, and ski and ski pole storage and carrying bags in International Class 28. Said  
22 registration issued January 5, 1993, sets forth a date of first use of November 1, 1963 in  
23 International Class 18; a date of first use of September 1, 1971 in International Class 25, and a  
24 date of first use of November 10, 1961 in International Class 28, and is currently valid, subsisting  
25 and incontestable.

1           10.     Opposer is the owner of U.S. Trademark Registration No. 1,736,575 for the mark  
2 K2 and Design for luggage, all-purpose sport bags and knapsacks in International Class 18;  
3 clothing, namely, coats, jackets, pants, shorts, shirts, sweaters, sweatshirts, sweatpants, T-shirts;  
4 ski jackets, ski pants, parkas, one-piece ski suits, caps, hats, gloves and scarves in International  
5 Class 25; snow skis, ski poles, snowboards, and ski and ski pole storage and carrying bags in  
6 International Class 28. Said registration issued December 1, 1992, sets forth a date of first use of  
7 November 1, 1963 in International Class 18; a date of first use of September 1, 1971 in  
8 International Class 25 and a date of first use of November 10, 1961 in International Class 28, and  
9 is currently valid, subsisting and incontestable.

10           11.     Opposer will be damaged by the registration sought by Applicant insofar as the  
11 registration will be prima facie evidence of the validity of the registration, Applicant's ownership  
12 of the mark K2K USA.ORG AND DESIGN, and Applicant's exclusive right to use the mark  
13 K2K USA.ORG AND DESIGN in association with the goods claimed by Application Serial No.  
14 77/906,268 when, in fact, Applicant is not entitled to such rights by virtue of Opposer's prior and  
15 continuous use of the mark K2 in association with the sale of sporting goods, clothing, bags, and  
16 related products, and the names K2 and K-2 Corporation in the same channels of trade in which  
17 the goods claimed by Application Serial No. 77/906,268, would be sold.

18           12.     The mark K2K USA.ORG AND DESIGN shown by Application Serial No.  
19 77/906,268, when used in association with the goods claimed by said application, so resembles  
20 Opposer's mark K2 and Opposer's names K2 and K-2 Corporation as to be likely to cause  
21 confusion, or to cause mistake, or to deceive within the meaning of Section 2(d) of the Lanham  
22 Act 15 U.S.C. § 1052(d).

23           13.     As a result of Opposer's long-term, substantial and widespread use of the mark  
24 K2 shown by the registrations identified by Paragraphs 3-9 herein, the mark K2 has become  
25 famous, and is thus a valuable symbol that serves to identify Opposer as the source of all goods  
26 and services identified by or promoted with the mark.

1           14.    The mark K2 previously used by Opposer and shown by the registrations  
2 identified by Paragraphs 3-9 herein became famous prior to any date upon which Applicant can  
3 show use of the mark K2K USA.ORG AND DESIGN shown by Application Serial No.  
4 77/906,268.

5           15.    The mark shown by Application Serial No. 77/906,268 so resembles Opposer's  
6 famous mark K2 previously used and registered by Opposer and shown by the registrations  
7 identified by Paragraph 3-9 herein, and Opposer's names K2 and K-2 Corporation as to be likely  
8 to falsely suggest a connection between Opposer and Applicant in violation of Section 2(a) of the  
9 Lanham Act, 15 U.S.C. § 1052(a).

10          16.    The mark shown by Application Serial No. 77/906,268 so resembles Opposer's  
11 famous mark K2 as to be likely to cause dilution of the distinctive quality of Opposer's mark K2  
12 in violation of 15 U.S.C. § 1125(c).

13          17.    Based upon the foregoing, registration of the mark K2K USA.ORG AND  
14 DESIGN shown by Application Serial No. 77/906,268, filed January 6, 2010, is likely to cause  
15 injury and damage to Opposer.

16          WHEREFORE, Opposer respectfully requests that the registration of the mark K2K  
17 USA.ORG AND DESIGN as requested by Application Serial No. 77/906,268 be denied pursuant  
18 to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), Section 2(a) of the Lanham Act, 15  
19 U.S.C. § 1052(a) and 15 U.S.C. § 1125(c), and that this opposition be sustained.

20          Opposer submits herewith the required fee in the amount of \$300 and requests that any  
21 additional fees be charged to Deposit Account No. 04-0258 or any overpayment be issued as a  
22 credit to Deposit Account No. 04-0258.

1 Please direct all correspondence to Cindy L. Caditz of Davis Wright Tremaine LLP at the  
2 following address:

3 Cindy L. Caditz, Esq.  
4 Davis Wright Tremaine LLP  
5 1201 Third Avenue, Suite 2200  
6 Seattle, Washington 98101

7 Please direct all telephone calls to Cindy L. Caditz at 206-757-8097.

8 DATED this 22nd day of November, 2010.

9 Davis Wright Tremaine LLP  
10 Attorneys for K-2 Corporation

11 By \_\_\_\_\_s/Cindy L. Caditz

12 Cindy L. Caditz  
13 1201 Third Avenue, Suite 2200  
14 Seattle, WA 98101-3045  
15 Tel: 206-757-8097  
16 Fax: 206-757-7097  
17 Email: [cindycaditz@dwt.com](mailto:cindycaditz@dwt.com)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**CERTIFICATE OF FILING**

I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application Serial No. 77/906,268 for the mark K2K USA.ORG AND DESIGN is being filed with the Trademark Trial and Appeal Board using the ESTTA filing system of the U.S. Patent and Trademark Office on the below date.

Date: November 22, 2010 s/Cindy L. Caditz

**CERTIFICATE OF SERVICE**

I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application Serial No. 77/906,268 for the mark K2K USA.ORG AND DESIGN is being duly served upon the Applicant and Applicant's Attorney of Record by mailing a copy thereof via the U.S. Postal Service in sealed envelopes as first-class mail with postage thereupon fully prepaid and addressed to each of the following:

Save The Children Federation, Inc.  
54 Wilton Road  
Westport, CT 06880

And to:

Lynda M. Braun  
Weil, Gotshal & Manges LLP  
767 5<sup>th</sup> Ave. Fl. Conc1  
New York, NY 10153-0119

Date: November 22, 2010 s/Ron Rutherford