

ESTTA Tracking number: **ESTTA401988**

Filing date: **04/05/2011**

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	ZOOMP S/A
Granted to Date of previous extension	04/06/2011
Address	Av.Tucunare, 222, bairro Tambore Barueri/Sao Paulo, CEP 06.460-020 BRAZIL

Attorney information	Justin R. Young Dineff Trademark Law Limited 160 N. Wacker Drive Chicago, IL 60607 UNITED STATES jyoung@dineff.com Phone:3123381000
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Applicant Information

Application No	85032266	Publication date	12/07/2010
Opposition Filing Date	04/05/2011	Opposition Period Ends	04/06/2011
Applicant	PGF Miami Corporation 12221 SW 132 Court Miami, FL 33186 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2009/09/20 First Use In Commerce: 2009/09/20 All goods and services in the class are opposed, namely: (Based on Use in Commerce) Briefs (Based on Intent to Use) Beach shoes; Belts; Blouses; Boat shoes; Bras; Clothing, namely, khakis; Corsets; Hoods; Jackets; Jerseys; Ladies' underwear; Leather belts; Leather shoes; Leg shapers; Leggings; Men's underwear; Panties, shorts and briefs; Rubber shoes; Running shoes; Sandals and beach shoes; Shapewear, namely, girdle, pantyhose, panties, shorts, leggings; Shoes; Socks; Socks and stockings; Ties; Tops; Underwear; Underwear, namely, boy shorts; Women's shoes; Women's underwear; Work shoes and boots; Woven or knitted underwear
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Grounds for Opposition

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

Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
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Registration Date	NONE
Word Mark	ZOOMP
Goods/Services	Clothing

Attachments	Opposition ZOOMP 85-032266 - 4-5-11.pdf (5 pages)(18404 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	/justinryoung/
Name	Justin R. Young
Date	04/05/2011

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

In the matter of Application Serial No. **85/032266**
For the mark **ZOOMP**
Published in the "Official Gazette" of **December 7, 2010**

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Opposer,)	
)	
v.)	Opposition No.
)	
PGF Miami Corporation)	
)	
Applicant,)	
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Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

NOTICE OF OPPOSITION

ZOOMP S/A, ("Opposer"), a corporation organized under the laws of Brazil, having its principal place of business at Av. Tucunare, 222, bairro Tambore, Barueri / Sao Paulo, CEP 06.460-020, Brazil, believes that it will be damaged by the registration of the mark "ZOOMP", shown in Serial Number 85/032266 in Class 25, and hereby opposes same in accordance with 15 U.S.C. § 1063 and 37 C.F.R. § 2.101.

As grounds for the opposition, Opposer alleges as follows:

1. Commencing long prior to Applicant's filing date, Opposer has engaged, and is now engaged in the manufacture, distribution, sale, advertising and promotion in interstate commerce of a wide variety of products and services related to the clothing industry.

2. Commencing long prior to Applicant's filing date, Opposer has used, and Opposer is now using Opposer's mark "ZOOMP" in connection with the sale, advertising and promotion of said clothing products distributed and sold by Opposer in commerce.

3. Opposer has extensive common law rights in the mark "ZOOMP" for goods and services related to the clothing industry.

4. Since the initial adoption and use of Opposer's mark "ZOOMP", Opposer has engaged in extensive advertising and generated significant sales of its goods and services under its mark "ZOOMP".

5. By virtue of the aforesaid extensive use, advertising, sale and promotion, consumers have come to recognize and associate Opposer's mark "ZOOMP" with Opposer and its products and services. As a result, Opposer has acquired substantial and valuable goodwill in the mark "ZOOMP", and the mark has become a distinctive indicator of the origin of Opposer's goods and services, prior to the filing date of the opposed application, and prior to any priority date that can be relied upon by Applicant.

6. Notwithstanding Opposer's prior established rights in the mark "ZOOMP", Applicant has filed Application No. 85/032266 with the United States Patent and Trademark Office on May 6, 2010 for registration of the mark "ZOOMP" for "*Briefs; Beach shoes; Belts; Blouses; Boat shoes; Bras; Clothing, namely, khakis; Corsets; Hoods; Jackets; Jerseys; Ladies' underwear; Leather belts; Leather shoes; Leg shapers; Leggings; Men's underwear; Panties, shorts and briefs; Rubber shoes; Running shoes; Sandals and beach shoes; Shapewear, namely, girdle, pantyhose, panties, shorts, leggings; Shoes; Socks; Socks and stockings; Ties; Tops; Underwear; Underwear, namely, boy shorts; Women's shoes; Women's underwear; Work shoes and boots; Woven or knitted underwear*" in International

Class 25, as evidenced by the publication of said mark in the *Official Gazette* of the December 7, 2010 issue.

7. Upon information and belief, Applicant made no use of its alleged mark prior to the filing date of its application in connection with “*beach shoes; Belts; Blouses; Boat shoes; Bras; Clothing, namely, khakis; Corsets; Hoods; Jackets; Jerseys; Ladies' underwear; Leather belts; Leather shoes; Leg shapers; Leggings; Men's underwear; Panties, shorts and briefs; Rubber shoes; Running shoes; Sandals and beach shoes; Shapewear, namely, girdle, pantyhose, panties, shorts, leggings; Shoes; Socks; Socks and stockings; Ties; Tops; Underwear; Underwear, namely, boy shorts; Women's shoes; Women's underwear; Work shoes and boots; Woven or knitted underwear.*”

8. Upon information and belief, Applicant made no use of its alleged mark prior to the filing date of its application in connection with “*briefs.*”

9. Applicant’s application to register the mark “ZOOMP” is without Opposer’s consent or permission.

10. There is no issue as to priority. The filing date of Applicant’s mark is subsequent to the first use date of Opposer’s mark “ZOOMP” and subsequent to the introduction and use of Opposer’s mark “ZOOMP” to the marketplace and the purchasing public.

11. The mark “ZOOMP” that Applicant seeks to register is identical to Opposer’s mark “ZOOMP” in appearance, sound, and meaning and, thus, the use and registration thereof is likely to create the same overall impression on consumers and to cause confusion, mistake, and deception as to the source or origin of Applicant’s goods and will injure and damage Opposer and the goodwill and reputation symbolized by its mark “ZOOMP”.

12. Applicant’s goods are identical or so closely related to Opposer’s goods that the public is likely to be confused, to be deceived, and to assume erroneously that Applicant’s

goods are those of Opposer, or that Applicant is in some way connected or affiliated with, or sponsored by Opposer, all to Opposer's irreparable damage.

13. Likelihood of confusion in this case is enhanced by the fact that consumers associate the mark "ZOOMP" with goods sold, approved, or endorsed by Opposer; furthermore, purchasers of Applicant's goods are prospective purchasers of Opposer's goods and services, and vice-versa.

14. Applicant's mark "ZOOMP" will be marketed and sold to the same consumers and through the same trade channels than Opposer's "ZOOMP" mark, therefore, is likely to cause confusion or mistake, or to deceive, within the meaning of Section §2(d) of the Trademark Act.

15. Applicant's mark "ZOOMP" so closely resembles Opposer's "ZOOMP" mark that it is deceptive in that it falsely suggests a connection with or approval by Opposer, in violation of Section §2(a) of the Trademark Act. Indeed, Applicant's mark points uniquely to Opposer, and purchasers will assume that goods offered under Applicant's alleged mark are connected with or approved by Opposer.

16. If Applicant is permitted to use and register its marks for its goods, as specified in the application herein opposed, confusion resulting in damage and injury to Opposer will likely occur.

17. If Applicant were granted the registration herein opposed it would thereby obtain at least a *prima facie* exclusive right to its mark and the use thereof. Such registration will be a source of damage and injury to Opposer.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that Application Serial No. 85/032266 be refused, and for such other and further relief as the

Commissioner of Patents and Trademarks shall deem proper and required by the Principals of Equity and Good Conscience.

ZOOMP Spain, S.A.
By and through its attorney



Dated: April 5, 2011

Justin R. Young
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Chicago, Illinois 60606
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NOTICE OF OPPOSITION was served on this date April 5, 2011 upon Applicant at its address of record by First-Class mail, postage prepaid, as follows:

PGF MIAMI CORPORATION
12221 SW 132ND CT
MIAMI, FL 33186-6480
Phone Number: 3052518004



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