

ESTTA Tracking number: **ESTTA402786**

Filing date: **04/08/2011**

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	Muddy Outdoors, L.L.C.
Granted to Date of previous extension	04/09/2011
Address	166 Jackson St. Camden, MO 65020 UNITED STATES

Attorney information	David W. Nelmark Belin McCormick, PC 666 Walnut St., Suite 2000 Des Moines, IA 50309 UNITED STATES dwnelmark@belinmccormick.com Phone:515-283-4671
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**Applicant Information**

Application No	85079717	Publication date	02/08/2011
Opposition Filing Date	04/08/2011	Opposition Period Ends	04/09/2011
Applicant	Muddy Water Camo, LLC 448 Greenwood Lane Ridgeland, MS 39157 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 028. All goods and services in the class are opposed, namely: Camouflage netting used in hunting; Camouflage screens; Camouflage screens for hunting purposes; Camouflage tape used in hunting; Hunters' scent camouflage; Hunting camouflage used as hunting blinds
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**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.	3516052	Application Date	03/17/2008
Registration Date	10/14/2008	Foreign Priority Date	NONE
Word Mark	MUDDY OUTDOORS		

Design Mark	<b>MUDDY OUTDOORS</b>
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2008/01/01 First Use In Commerce: 2008/02/01 On-line retail store services featuring shirts, hats, rain gear, hunting bags, hunting vests, tree stands, harnesses, camera arms and accessories; ; Retail shops featuring hunting equipment and accessories; Retail stores featuring sporting goods

U.S. Registration No.	3617214	Application Date	03/17/2008
Registration Date	05/05/2009	Foreign Priority Date	NONE

Word Mark	MUDDY OUTDOORS
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Design Mark	<b>MUDDY OUTDOORS</b>
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Description of Mark	NONE
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Goods/Services	Class 018. First use: First Use: 2008/01/01 First Use In Commerce: 2008/02/01 Harnesses Class 025. First use: First Use: 2008/01/01 First Use In Commerce: 2008/02/01 Hats; Shirts; Sweat shirts Class 028. First use: First Use: 2008/01/01 First Use In Commerce: 2008/02/01 Hunting stands; Tree stands for hunting
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Attachments	77423637#TMSN.jpeg ( 1 page )( bytes ) 77423626#TMSN.jpeg ( 1 page )( bytes ) 2011 04 08 Notice of Opposition Muddy Water logo (00973620).PDF ( 13 pages )(436162 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	/David W. Nelmark/
Name	David W. Nelmark
Date	04/08/2011

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

**MUDDY OUTDOORS, LLC,** :  
 :  
 **Opposer,** :  
 v. : **Opposition No. \_\_\_\_\_**  
 :  
 **MUDDY WATER CAMO, LLC.** :  
 :  
 **Applicant.** :

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Re: U.S. Trademark Application Serial No. 85079717 (MUDDY WATER)

**NOTICE OF OPPOSITION**

Opposer, Muddy Outdoors, LLC, a Missouri limited liability company having its principal place of business at 166 Jackson St., Camdenton, MO 66020 (“Opposer” or “Muddy Outdoors”) believes it will be damaged by the allowance and subsequent registration of the mark and serial number referenced above (hereinafter the “Proposed Mark”).

This Notice of Opposition is timely filed as Opposer sought and was granted an extension of time to file a Notice of Opposition until April 9, 2011.

Opposer hereby opposes registration of the Proposed Mark pursuant to Section 13 of the 1946 Trademark Act (15 U.S.C. § 1063), alleging as grounds for opposition that:

1. Opposer currently uses the trademark “Muddy Outdoors” on or in connection with numerous goods including hunting equipment and accessories and clothing such as shirts and hats.
2. Opposer is the owner of U.S. trademark registration number 3516052 for “Muddy Outdoors” in Class 035. (A copy of the registration from the USPTO TARR database is attached as Exhibit A and made of record in this proceeding pursuant to Trademark Rule 2.122(d).)

3. Opposer is the owner of U.S. trademark registration number 3617214 for “Muddy Outdoors” in International Classes 018, 025, and 028. The goods listed in Class 028 are hunting stands and tree stands for hunting. (A copy of the registration from the USPTO TARR database is attached as Exhibit B and made of record in this proceeding pursuant to Trademark Rule 2.122(d).)

4. Opposer has used the mark “Muddy Outdoors” on hunting stands and other hunting supplies at least as early as 2008.

5. Opposer has also acquired common law trademark rights to the terms “Muddy” and “Go Muddy” on hunting supplies and accessories.

6. Opposer has an active website at the URL <http://www.gomuddy.com>. The domain name associated with the website was registered on November 19, 2007. (A copy of the registry information from FasterWhoIs.com is attached as Exhibit C.)

7. The records of the USPTO indicate that Muddy Water Camo, LLC (“Applicant” or “Muddy Water”) is a Mississippi limited liability company with its principal place of business at 448 Greenwood Lane, Ridgeland, MS 39157.

8. Applicant has filed an “intent to use” application for a logo bearing the words “Muddy Water.” Applicant seeks to register the mark for use on the following goods: “Camouflage netting used in hunting; Camouflage screens; Camouflage screens for hunting purposes; Camouflage tape used in hunting; Hunters’ scent camouflage; Hunting camouflage used as hunting blinds.”

9. Opposer’s rights in the registered trademark “Muddy Outdoors” and the common law trademarks “Muddy” and “Go Muddy” all predate Applicant’s filing date of July 7, 2010.

10. Opposer has invested substantial resources in building brand recognition and goodwill in the aforementioned trademarks.

11. The goods referenced in the opposed application for “Muddy Water” are in the same International Trademark Class and the same industry as those goods sold by Opposer under its “Muddy Water” trademark.

12. Many of the goods of Opposer and the proposed goods of Applicant are highly related, in particular “hunting stands” as compared to “hunting camouflage used as hunting blinds.”

13. In view of the similarities between Opposer’s marks and Applicant’s proposed mark, and the related nature of the parties’ goods, there is a strong likelihood that Applicant’s products are likely to be seen as being sponsored by or affiliated with Opposer.

14. Applicant’s proposed mark so resembles Opposer’s marks as to be likely to cause confusion, or to cause mistake, or to deceive as to the source of the identified goods within the meaning of Section 2(d) of the Lanham Act.

15. The use and registration of Applicant’s mark will damage Opposer in the selling of its goods by causing a likelihood of confusion.

WHEREFORE, Opposer prays that the Trademark Trial and Appeal Board deny registration to U.S. Trademark Application Serial No. 85079717 (MUDDY WATER) and otherwise sustain this opposition.

The required payment for opposition is submitted with this Notice of Opposition.

April 8, 2011

**MUDDY OUTDOORS, LLC**



David W. Nelmark  
S. Christian Nelson  
BELIN McCORMICK, PC  
Des Moines, IA 50309  
Tel: (515) 283-4671  
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Email: [dwnelmark@belinmccormick.com](mailto:dwnelmark@belinmccormick.com)  
[scnelson@belinmccormick.com](mailto:scnelson@belinmccormick.com)

ATTORNEYS FOR OPPOSER

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2011-04-08 15:44:13 ET**

**Serial Number:** 77423637 Assignment Information      Trademark Document Retrieval

**Registration Number:** 3516052

**Mark**

**MUDDY OUTDOORS**

**(words only):** MUDDY OUTDOORS

**Standard Character claim:** Yes

**Current Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Date of Status:** 2008-10-14

**Filing Date:** 2008-03-17

**Filed as TEAS Plus Application:** Yes

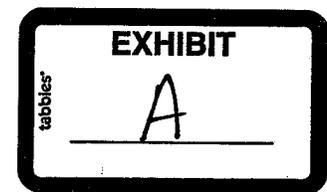
**Currently TEAS Plus Application:** Yes

**Transformed into a National Application:** No

**Registration Date:** 2008-10-14

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 108



**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location:** 650 -Publication And Issue Section

**Date In Location:** 2008-10-14

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

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1. MUDDY OUTDOORS, LLC.

**Address:**

MUDDY OUTDOORS, LLC.  
166 JACKSON ST  
Camdenton, MO 65020  
United States

**Legal Entity Type:** Limited Liability Company**State or Country Where Organized:** Missouri**Phone Number:** 573-346-4747

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**GOODS AND/OR SERVICES**

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**International Class:** 035**Class Status:** Active

On-line retail store services featuring shirts, hats, rain gear, hunting bags, hunting vests, tree stands, harnesses, camera arms and accessories;; Retail shops featuring hunting equipment and accessories;  
Retail stores featuring sporting goods

**Basis:** 1(a)**First Use Date:** 2008-01-01**First Use in Commerce Date:** 2008-02-01

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**ADDITIONAL INFORMATION**

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**Disclaimer:** "OUTDOORS"

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2008-10-14 - Registered - Principal Register

2008-07-29 - Published for opposition

2008-07-09 - Notice of publication

2008-06-24 - Law Office Publication Review Completed

2008-06-23 - Assigned To LIE

2008-06-23 - Assigned To LIE

2008-06-23 - Approved for Pub - Principal Register (Initial exam)

2008-06-23 - Examiner's Amendment Entered

2008-06-23 - Notification Of Examiners Amendment E-Mailed

2008-06-23 - Examiners amendment e-mailed

2008-06-23 - Examiners Amendment -Written

2008-06-23 - Assigned To Examiner

2008-03-20 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

Jay R. Hamilton

**Correspondent**

JAY R. HAMILTON

LAW OFFICE OF JAY R. HAMILTON, PLC.

331 W. 3RD

NVC SUITE 120

DAVENPORT, IA 52801

Phone Number: 563-441-0207

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**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2011-04-08 15:44:56 ET**

**Serial Number:** 77423626 Assignment Information      Trademark Document Retrieval

**Registration Number:** 3617214

**Mark**

**MUDDY OUTDOORS**

**(words only):** MUDDY OUTDOORS

**Standard Character claim:** Yes

**Current Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Date of Status:** 2009-05-05

**Filing Date:** 2008-03-17

**Filed as TEAS Plus Application:** Yes

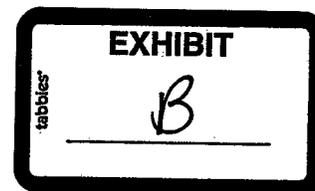
**Currently TEAS Plus Application:** Yes

**Transformed into a National Application:** No

**Registration Date:** 2009-05-05

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 108



**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location:** 650 -Publication And Issue Section

**Date In Location:** 2009-03-30

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

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1. Muddy Outdoors, LLC.

**Address:**

Muddy Outdoors, LLC.  
166 Jackson Street  
Camdenton, MO 65020  
United States

**Legal Entity Type:** Limited Liability Company**State or Country Where Organized:** Missouri**Phone Number:** 573-346-4747

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**GOODS AND/OR SERVICES**

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**International Class:** 018**Class Status:** Active

Harnesses

**Basis:** 1(a)**First Use Date:** 2008-01-01**First Use in Commerce Date:** 2008-02-01**International Class:** 025**Class Status:** Active

Hats; Shirts; Sweat shirts

**Basis:** 1(a)**First Use Date:** 2008-01-01**First Use in Commerce Date:** 2008-02-01**International Class:** 028**Class Status:** Active

Hunting stands; Tree stands for hunting

**Basis:** 1(a)**First Use Date:** 2008-01-01**First Use in Commerce Date:** 2008-02-01

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**ADDITIONAL INFORMATION**

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**Disclaimer:** "OUTDOORS"

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2009-05-05 - Registered - Principal Register

2009-03-30 - Law Office Registration Review Completed

2009-03-27 - Allowed for Registration - Principal Register (SOU accepted)

2009-03-02 - Statement Of Use Processing Complete

2009-02-11 - Use Amendment Filed

2009-03-02 - Case Assigned To Intent To Use Paralegal

2009-02-11 - TEAS Statement of Use Received

2008-10-21 - NOA Mailed - SOU Required From Applicant

2008-07-29 - Published for opposition

2008-07-09 - Notice of publication

2008-06-24 - Law Office Publication Review Completed

2008-06-23 - Assigned To LIE

2008-06-23 - Approved For Pub - Principal Register

2008-06-23 - Examiner's Amendment Entered

2008-06-23 - Notification Of Examiners Amendment E-Mailed

2008-06-23 - Examiners amendment e-mailed

2008-06-23 - Examiners Amendment -Written

2008-06-23 - Assigned To Examiner

2008-03-20 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

JAY R. HAMILTON

**Correspondent**

JAY R. HAMILTON

Hamilton IP Law, PC.

NVC SUITE 120

331 W. 3RD  
DAVENPORT IA 52801  
Phone Number: 563-441-0207

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### **Who took GOMUDDY.COM?**

The data contained in GoDaddy.com, Inc.'s WhoIs database, while believed by the company to be reliable, is provided "as is" with no guarantee or warranties regarding its accuracy. This information is provided for the sole purpose of assisting you in obtaining information about domain name registration records. Any use of this data for any other purpose is expressly forbidden without the prior written permission of GoDaddy.com, Inc. By submitting an inquiry, you agree to these terms of usage and limitations of warranty. In particular, you agree not to use this data to allow, enable, or otherwise make possible, dissemination or collection of this data, in part or in its entirety, for any purpose, such as the transmission of unsolicited advertising and solicitations of any kind, including spam. You further agree not to use this data to enable high volume, automated or robotic electronic processes designed to collect or compile this data for any purpose, including mining this data for your own personal or commercial purposes.

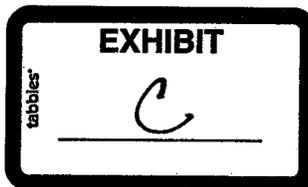
Please note: the registrant of the domain name is specified in the "registrant" field. In most cases, GoDaddy.com, Inc. is not the registrant of domain names listed in this database.

Registrant:  
Larry Kendall  
1417 Silver Springs Dr  
Camdenton, Missouri 65020  
United States

Registered through: GoDaddy.com, Inc. (<http://www.godaddy.com>)  
Domain Name: GOMUDDY.COM  
Created on: 19-Nov-07  
Expires on: 19-Nov-14  
Last Updated on: 07-Aug-10

Administrative Contact:  
Kendall, Larry [ldkendall@gmail.com](mailto:ldkendall@gmail.com)  
1417 Silver Springs Dr  
Camdenton, Missouri 65020  
United States  
(573) 347-2350 Fax -- (573) 347-2481

Technical Contact:  
Kendall, Larry [ldkendall@gmail.com](mailto:ldkendall@gmail.com)



### **Register Your Available Domain at One of Our Affiliated Sites**

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- [Domain Names for Beginners](#)
- [Speedy Registration](#)
- [Instant Domain](#)
- [Instant Domain Name](#)
- [Express-Domain](#)
- [DomainName Registration](#)
- [Business Domain Name Registration](#)
- [123-Free-Domain-Name-Search](#)
- [Free Domain name Search](#)
- [Easy Domain Name Registration](#)
- [Domain Names Registration Center](#)

1417 Silver Springs Dr  
Camdenton, Missouri 65020  
United States  
(573) 347-2350 Fax -- (573) 347-2481

- [Domain Names Expert](#)
- [AZC, Inc.](#)

Domain servers in listed order:  
NS10.DNSMADEEASY.COM  
NS11.DNSMADEEASY.COM  
NS12.DNSMADEEASY.COM  
NS13.DNSMADEEASY.COM

**This search took 0.522 seconds.**

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Have a look at:      [GOMUDDY.NET](#)      [GOMUDDY.ORG](#)

Enter your domain name ...

.com  

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[Contact](#) | [Home](#)



**CERTIFICATE OF SERVICE**

This is to certify that a true copy of the foregoing **NOTICE OF OPPOSITION** was served by first class mail, postage prepaid on the Correspondent for the Applicant as follows:

Sean Collin  
IPWatch Corporation  
401 East Tuscaloosa St.  
Florence, AL 35630

4/8/11  
Date

  
David Nelmark

(00950922)