

ESTTA Tracking number: **ESTTA424837**

Filing date: **08/12/2011**

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	Superfeet Worldwide, Inc.		
Entity	Corporation	Citizenship	Washington
Address	1820 Scout Place Ferndale, WA 98248 UNITED STATES		

Attorney information	William O. Ferron, Jr. Seed IP Law Group PLLC 701 Fifth Avenue Suite 5400 Seattle, WA 98104 UNITED STATES billf@seedip.com, nathand@seedip.com, litcal@seedip.com Phone:206-622-4900		
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Applicant Information

Application No	85272478	Publication date	08/02/2011
Opposition Filing Date	08/12/2011	Opposition Period Ends	09/01/2011
Applicant	MasterFit Enterprises, Inc. 11 Magnolia Road, Suite 714 Briarcliff Manor, NY 10510 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2011/01/00 First Use In Commerce: 2011/02/00
All goods and services in the class are opposed, namely: shoe insoles

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)
<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		
Word Mark	EASY-FIT		
Goods/Services	orthotics and footwear inserts		

Attachments	Notice of Opposition.pdf (14 pages)(1451972 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	/William O. Ferron, Jr./
Name	William O. Ferron, Jr.
Date	08/12/2011

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

SUPERFEET WORLDWIDE, INC.,)
)
) Opposition No. _____
)
) Opposer,)
)
) Serial No. 85/272478
)
) v.)
)
)
) MASTERFIT ENTERPRISES, INC.,)
)
) Attorney Docket No. 880114.805
)
) Applicant.)
)
 _____)

NOTICE OF OPPOSITION

Opposer Superfeet Worldwide, Inc. (“Superfeet” or “Opposer”), having an address at 1820 Scout Place, Ferndale, Washington 98248, believes that it will be damaged by registration of the mark EZ-FIT shown in U.S. Trademark Application Serial No. 85/272478, filed March 21, 2011 in International Class 25 and published for opposition on August 2, 2011. Superfeet opposes this application on the following grounds:

1. Opposer is a worldwide leader in the design and sale of orthotics, footwear inserts and related products.
2. Opposer has used EASY-FIT in commerce to promote its orthotics and footwear inserts since 2006, prior to the January 2011 first-use date asserted in Applicant’s application. Exhibit 1 filed herewith are true and correct copies of Opposer’s User’s Guide, Referral Form and Product Card for its EASY-FIT products. Exhibit 2 filed herewith are representative retailer advertisements for Opposer’s EASY-FIT products.
3. Opposer has generated and continues to generate substantial revenue from the sale and marketing of EASY-FIT goods in the United States. Additionally, Opposer has

expended and continues to expend substantial sums of money, time, and effort in promoting and popularizing its EASY-FIT products in the United States.

4. As a result of Opposer's use and promotion of EASY-FIT, retailers and consumers in the orthotics and footwear insert marketplace recognize EASY-FIT as identifying Opposer's high-quality goods. EASY-FIT has acquired distinctiveness.

5. Applicant has applied to register the mark EZ·FIT for shoe insoles in International Class 25. Shoe insoles are so closely related to Opposer's EASY-FIT products that confusion is likely to result if Applicant's shoe insoles are marketed and sold under the same or confusingly similar marks.

6. The EZ·FIT mark for shoe insoles is confusingly and deceptively similar to EASY-FIT used for orthotics and footwear inserts, such that the purchasing public is likely to be confused and deceived into believing that Applicant's shoe insoles originate with Opposer, or are otherwise authorized by, sponsored by, licensed by, affiliated with, or associated with Opposer.

7. Applicant promotes its EZ-FIT product as one that "adapts to fit your foot shape" and as being an "auto-adaptable" insole, as seen on the specimen filed in its application.

8. Applicant's alleged EZ-FIT mark describes a feature or aspect of its goods.

9. Applicant's alleged EZ-FIT mark is merely descriptive and has not obtained secondary meaning.

10. Applicant was aware of Opposer's senior use of EASY-FIT in interstate commerce and failed to disclose such use to the USPTO.

11. Applicant's failure to disclose senior use by Opposer constitutes fraud on the USPTO.

12. By reason of the foregoing, Opposer would be damaged by the registration of the EZ·FIT mark to Applicant.

WHEREFORE, Opposer prays that this Opposition be sustained, Applicant's application denied and the mark refused registration.

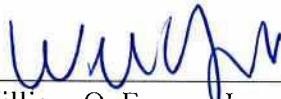
Correspondence Address

Please direct all communications to:

William O. Ferron, Jr.
BillF.docketing@SeedIP.com
LitCal@SeedIP.com
Jared M. Barrett
JaredB@SeedIP.com
SEED IP Law Group PLLC
701 Fifth Avenue, Suite 5400
Seattle, Washington 98104

DATED this 13th day of August, 2011.

Respectfully submitted,
SEED IP Law Group PLLC



William O. Ferron, Jr.
Jared M. Barrett
701 Fifth Avenue, Suite 5400
Seattle, Washington 98104
Telephone (206) 622-4900
Facsimile: (206) 682-6031

Attorneys for Opposer
SUPERFEET WORLDWIDE, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of August, 2011, the foregoing **NOTICE OF OPPOSITION** was served upon Applicant's counsel by United States first-class mail, postage-prepaid, addressed as follows:

Cecelia M. Perry, Esq.
McGlew and Tuttle, P.C.
1 Scarborough Station Plaza
Scarborough, New York 10510-9227



Kelly Brennan

Exhibit 1

SUPERfeet
THE PREMIUM INSOLE.

YOU'VE JUST MADE A VERY COMFORTABLE DECISION.
Enjoy Superfeet Premium Insoles in EVERY SHOE. EVERY DAY.

Superfeet Worldwide, Inc.
1419 Whitehorn Street
Ferndale WA 98248
USA

T 800/634 6618
F 800 320 2724
www.superfeet.com
customercare@superfeet.com

**SUPPORT THE FOOT.
ALIGN THE BODY.**

Superfeet Easy-Fit help support and stabilize the feet, making your dress shoes fit better so you can avoid unnecessary discomfort or pain. The slim, lightweight design helps reduce pronation and allows the heel's fat pad to naturally cushion impact.

THE EASY-FIT™ DIFFERENCE
Patented biomechanical shape and design

EASY-FIT 3/4 HIGH HEEL

- Slim support for women's high heels 1" and higher.
- Redistributes body weight off the ball of the foot.
- Improves stability and reduces fatigue, blisters, pump bumps and knee pain.



EASY-FIT WOMEN'S 3/4

- Improves fit for women's dress shoes 1" and lower.
- Lightweight design provides biomechanical support.
- Improves alignment, shock absorption and comfort.



EASY-FIT MEN'S 3/4

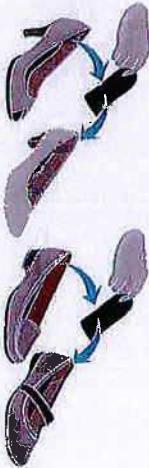
- Improves fit for men's dress and casual shoes.
- Lightweight design provides biomechanical support.
- Improves alignment, shock absorption and comfort.



THE PROPER FIT
The key to a great fit is proper sizing



Check heel width. If the insole is too narrow, go up one size.



It's quick and easy to move your Easy-Fit Insoles from shoe to shoe. Use only Easy-Fit High Heel in your heels!

Insole fit and comfort is influenced by model and size of shoe and insole, sock thickness, and lacing method. Superfeet is not responsible for discomfort or pain caused by improper insole or shoe fit, latent pre-existing medical conditions or non-insole related issues. If foot ailments develop or persist after the break-in period, please consult a healthcare professional.

SUPERfeet REFERRAL FORM 

THE PREMIUM INSOLET

Date: _____

Patient Name: _____

Dr. Signature: _____



TRIM-TO-FIT™ GREEN
MAXIMUM SUPPORT
 Recommended for running, hiking, alpine and industrial footwear. Ideal for medium to high arched feet.



TRIM-TO-FIT™ BLUE
MOST VERSATILE
 Recommended for running, hiking, casual and cleated footwear. Ideal for low to medium arched feet.



TRIM-TO-FIT™ ORANGE
FOREFOOT SHOCKPAD
 Recommended for men's athletic, hiking, court and industrial footwear. Ideal for medium to high arched feet.



TRIM-TO-FIT™ BERRY
FOREFOOT SHOCKPAD
 Recommended for women's athletic, hiking, court and industrial footwear. Ideal for medium to high arched feet.



TRIM-TO-FIT™ REDhot™
COLD-WEATHER COMFORT
 Accommodates men's snowboard, ski and winter sport footwear. Ideal for medium to high arched feet.



TRIM-TO-FIT™ hotPINK™
COLD-WEATHER COMFORT
 Accommodates women's snowboard, ski and winter sport footwear. Ideal for medium to high arched feet.



TRIM-TO-FIT™ BLACK
SLIM SUPPORT
 Recommended for dress, casual, golf and cleated footwear. Ideal for low to medium arched feet, yet accommodates all arch types.



TRIM-TO-FIT™ YELLOW
SHOES WITH AN ELEVATED HEEL
 Recommended for skates, road cycling shoes, and track spikes. Ideal for low to medium arched feet, yet accommodates all arch types.

To locate your nearest Superfeet retailer, please visit www.superfeet.com

SUPERfeet

THE PREMIUM INSOLE



EASY-FIT™ MEN'S 3/4 LIGHTWEIGHT SUPPORT
Improved fit and comfort for men's dress and casual shoes. Accommodates all arch types.



BLACK DMP® COMFORTS SENSITIVE FEET
Unique 3 layer foam adds molded comfort to most athletic, casual and everyday footwear without heat. Accommodates all arch types.



EASY-FIT™ WOMEN'S 3/4 LIGHTWEIGHT SUPPORT
Improved fit and comfort for women's dress and casual shoes 1" and lower. Accommodates all arch types.



COPPER DMP® VERSATILE MOLDED COMFORT
Unique 3 layer foam adds molded comfort to golf and walking shoes, boots for light hiking and most casual footwear without heat. Accommodates all arch types.



EASY-FIT™ 3/4 HIGH HEEL SLIM HEEL SUPPORT
Improved fit and comfort for high heeled shoes, boots and stilettos 1" and higher. Accommodates all arch types.



Every Superfeet product reflects our founders' 45+ years of knowledge and experience as leaders in the podiatric field.

THE PROPER FIT

The key to a great fit is proper sizing.



(TOO SHORT)

If this is how you selected, it is too tight. go up one size.



(CORRECT)



(TOO NARROW)

Correct heel width. If this is how you selected, go up one size.



(CORRECT)

Assess arch height with foot suspended off the floor in a non-weighted position. Arch support may initially feel too far back, please allow at least one week to adjust.

SUPERFEET SIZING CHART										
	J	A	B	C	D	E	F	G	H	I
MEN'S				5.5-7	7.5-9	9.5-11	11.5-13	13.5-15	15.5-17	
WOMEN'S			4.5-6	6.5-8	8.5-10	10.5-12				
JUNIOR	11.5-13	13.5-2	2.5-4							

Some sizes available in select models only.



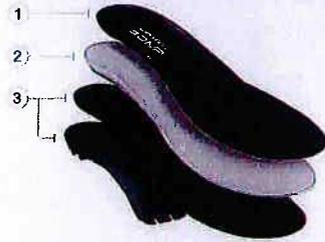
SUPERfeet | THE PREMIUM INSOLE®

Easy-Fit™ | Unique biomechanical shape and design add comfort and support to tighter-fitting footwear.

Lightweight, 3/4-length Easy-Fit insoles help center the foot, reduce pronation, and naturally cushion heel impact for all arch types. No trimming required.

EASY-FIT 3/4 HIGH HEEL	Women's 4.5-12 Superfeet: A-E
	<ul style="list-style-type: none"> ▪ Slim heel support for women's high heels 1" and higher. ▪ Helps redistribute body weight from the ball of the foot. ▪ Improves stability and helps reduce fatigue, blisters, pump bumps and knee pain.
EASY-FIT WOMEN'S 3/4	Women's 4.5-12 Superfeet: B-E
	<ul style="list-style-type: none"> ▪ Improves fit for women's dress and casual shoes 1" and lower. ▪ Lightweight design provides biomechanical support for women. ▪ Improves alignment and shock absorption for everyday comfort.
EASY-FIT MEN'S 3/4	Men's 5.5-15 Superfeet: B-G
	<ul style="list-style-type: none"> ▪ Improves fit for men's dress and casual shoes. ▪ Lightweight design provides biomechanical support for men. ▪ Improves alignment and shock absorption for everyday comfort.

Dynamic-Fit™ | Personalized fit offers comfort and support without the need for heat.



- 1 Highly impressionable memory foam top layer cradles and 'remembers' the shape of the foot.
- 2 Interactive PU foam middle layer provides comfort without compromising stability.
- 3 Proprietary 'D-Foam' bottom layer and polypropylene stabilizer cap maintain shape and support.

COPPER DMP®	Men's 5.5-15 Women's 4.5-12 Junior 2.5-4 Superfeet: B-G
	<ul style="list-style-type: none"> ▪ Unique 3-layer foam molds to the foot without heat. ▪ Adds molded comfort to golf and walking shoes, boots for light hiking and most casual footwear with removable insoles. ▪ Accommodates all arch types.
BLACK DMP®	Men's 5.5-15 Women's 4.5-12 Junior 2.5-4 Superfeet: B-G
	<ul style="list-style-type: none"> ▪ Unique 3-layer foam system comforts sensitive feet. ▪ Adds molded comfort to most athletic, casual and everyday footwear with removable insoles. ▪ Ideal for low to medium arched feet, yet accommodates all arch types.
BLACK DMP® is available exclusively through healthcare professionals and qualified Superfeet dealers who are part of our Dealer Network Referral Program. Contact us for a location in your area.	

All footwear is sized and fits differently depending upon the manufacturer's specifications. All Superfeet products are identified by letters based on footwear industry standards for Men's, Women's and Junior sizes. Sizing pertains to length only. Some adjustments may be necessary to accommodate irregular heel width.

SUPERFEET SIZING CHART									
	J	A	B	C	D	E	F	G	H
MEN'S				5 1/2 - 7	7 1/2 - 9	9 1/2 - 11	11 1/2 - 13	13 1/2 - 15	15 1/2 - 17
WOMEN'S			4 1/2 - 6	6 1/2 - 8	8 1/2 - 10	10 1/2 - 12			
JUNIOR	11 1/2 - 13	13 1/2 - 2	2 1/2 - 4						

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Exhibit 2



Shoes, Clothing, Bags, etc. SEARCH

365 Day Return Policy In other words, 1 full year!

FREE Shipping Both Ways It's always on the house!



SEARCH BY: Size, Narrow Shoes, Wide Shoes, Popular Searches

SHOES CLOTHING BAGS & HANDBAGS HOUSEWARES BEAUTY WHAT'S NEW? BRANDS WOMEN'S MEN'S KIDS' ALL DEPARTMENTS

ALPHABETICAL BRAND INDEX A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

Home > Insoles > Comfort > Superfeet > EasyFit Men's 3/4

SUPERFEET EASYFIT MEN'S 3/4

★★★★★ (based on 4 customer reviews)

SKU: #7659702



\$19.95

COLOR: Black
MEN'S SIZE: Select a size
MEN'S WIDTH: One Size

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SHARE

LARGER IMAGE & ADDITIONAL VIEWS

Don't See the One You Want?

CUSTOMER FEEDBACK

This product currently has 4 reviews Overall Rating:



WRITE A REVIEW OF THIS PRODUCT

IT'S TRUE! We Are Totally Serious About FREE SHIPPING BOTH WAYS Let Us Pay For Your Shipping. Learn More.

Like Be the first of your friends to like this.

PRODUCT INFORMATION:

- View the Video Description for this product! (Please note that the color shown in the video may no longer be available.)
- Recommended footwear: Loafers, face-ups and casuals shoes without removable insoles.

CUSTOMERS WHO BOUGHT THIS ITEM ALSO BOUGHT



UGG Ugg Insole Replacements (Men's) \$14.00



Allen-Edmonds Presidio \$285.00



Robert Wayne Fresh \$109.95

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HOME SUPERFEET, EASY FIT 3/4 (M'S)



Click on image to zoom

Superfeet, Easy Fit 3/4 (M's)

BE THE FIRST TO REVIEW THIS PRODUCT

\$19.99 (In Stock)

OVERVIEW FEATURES & SPECS

Lightweight, durable 3/4 design provides the same biomechanical support as Superfeet's Trim-to-Fit insoles, but fits easily into tighter-fitting dress shoes.

* Superfeet Sizing
Choose an Option...

Qty:

ADD TO CART

+ ADD TO COMPARE
♥ ADD TO WISHLIST

FREE SHIPPING ON \$50 & UP
FREE RETURN SHIPPING
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SUPERFEET MEN'S EASY FIT INSOLES

Item: 3660357 [Product Description](#)

Price: \$20.00

Free Shipping on orders \$125 or more! [Get Details](#)

This item is eligible for FREE 2-Day Shipping [learn more](#)



1 SIZE: Please select

7.5/9 D 9.5/11 E 5.5/7 C 11.5/13 F

2 COLOR: Black

3 QUANTITY:

PICK UP IN-STORE? [Check Availability](#)

Product Rating



(1 Rating)

[Write a Review](#)

[Read 1 Review](#)

Other Products in this Category



Superfeet DMP Copper Insoles \$60.00



SUPERFEET Blue Premium Insoles \$35.00

ITEM IN STOCK



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Men's Accessories Shop > Men's Superfeet > Men's Superfeet Casual > Men's Superfeet Men's 3/4 Insole

Men's Superfeet

Superfeet Men's 3/4 Insole Black

Item # 129203 Email this to a friend

\$19.95

★★★★★ Read 3 Reviews Write a Review

Keep comfort underwraps with the Easy Fit 3/4 Insole from Superfeet. Shaped to balance and evenly support the foot. Slim and lightweight, the insert should fit in all your dress shoes. MORE DETAILS



Click on image to toggle zoom.



Color: Black
Size: Please select available...
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Shipping & Processing time: Select an available size to see processing time



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About Superfeet

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Your Cart is empty.
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Superfeet Men's 3/4 Insole \$19.95 Remove Item
Remove All View All (1)

If you like this you may also like



Superfeet Green Premium Insole
★★★★★
Price: \$34.95



Superfeet Black Dress Insole
★★★★★
Price: \$34.95