

ESTTA Tracking number: **ESTTA428912**

Filing date: **09/06/2011**

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	No Fear USA Limited
Granted to Date of previous extension	09/24/2011
Address	Unit A, Brook Park East Shirebrook, NG20 8RY UNITED KINGDOM
Attorney information	James L. Scott Warner Norcross & Judd LLP 111 Lyon Street NW 900 Fifth Third Center Grand Rapids, MI 49503 UNITED STATES trademarks@wnj.com, jscott@wnj.com

Applicant Information

Application No	85258708	Publication date	07/26/2011
Opposition Filing Date	09/06/2011	Opposition Period Ends	09/24/2011
Applicant	Fear Is No Option 210-03 41st street Bayside, NY 11361 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Hats; Sweat shirts; T-shirts

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1855031	Application Date	10/19/1992
Registration Date	09/20/1994	Foreign Priority Date	NONE
Word Mark	NO FEAR		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 014. First use: First Use: 1986/04/01 First Use In Commerce: 1990/06/01 jewelry; namely, watches, bracelets, earrings and anklets Class 025. First use: First Use: 1986/04/01 First Use In Commerce: 1990/06/01 clothing and footwear; namely, pants, shirts, shorts, T-shirts, bathing suits, jackets, sweat shirts, visors, sandals and shoes

U.S. Registration No.	1842402	Application Date	03/27/1992
Registration Date	06/28/1994	Foreign Priority Date	NONE
Word Mark	NO FEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1992/10/15 First Use In Commerce: 1992/10/15 footwear; namely, shoes, sandals, thongs		

U.S. Registration No.	2055158	Application Date	05/20/1996
Registration Date	04/22/1997	Foreign Priority Date	NONE
Word Mark	NO FEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1996/05/16 First Use In Commerce: 1996/05/16 wearing apparel, namely, shirts, T-shirts, shorts, pants, sweatshirts, sweatpants, hats, visors, shoes and belts		

Attachments	74259836#TMSN.gif (1 page)(bytes) 75107086#TMSN.gif (1 page)(bytes) Notice of Opposition.pdf (10 pages)(296678 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	/J Scott/
Name	James L. Scott
Date	09/06/2011

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

In the matter of application Serial No. 85258708
Published in the Official Gazette on July 26, 2011

No Fear USA Limited)	
)	
Opposer,)	
)	
v.)	Opposition No.
)	
Fear Is No Option)	
)	
)	
Applicant.)	
)	
_____)	

NOTICE OF OPPOSITION

No Fear USA Limited, a company of the United Kingdom, having its principal place of business at Unit A, Brook Part East, Shirebrook, United Kingdom NG20 8RY, believes that it will be damaged by registration of the mark shown in intent-to-use application Serial No. 85258708 (the “**Application**”), published in the Official Gazette of July 26, 2011. And No Fear USA Limited hereby opposes registration of the mark by Fear Is No Option, a limited liability company with an address of 210-03 41st Street, Bayside, NY 11361.

The grounds for opposition are as follows:

1. Opposer is and has through its predecessors been for many years engaged in the manufacture, advertising and retail sale of a variety of goods, including clothing. In connection with these goods, Opposer has used the Trademarks (defined below) in interstate commerce since prior to the filing date of the Application.

Opposer is the owner of record of U.S. Reg. Nos. 1855031, 1842402, 2055158, and others, for the mark NO FEAR for use with clothing (collective the “No Fear Trademarks”). Printouts of each application and registration from the TARR database are attached hereto.

2. Opposer’s clothing products bearing the Trademarks have been extensively and continuously offered to the public through various channels of trade. Opposer has also widely advertised its clothing products under the No Fear Trademarks throughout the United States and the world.

3. Through Opposer’s advertising and distribution of clothing products bearing the No Fear Trademarks, the public has come to recognize each of the marks as signifying Opposer and its clothing products, and Opposer has built up extensive and valuable goodwill in connection with the sale of clothing products under its No Fear Trademarks.

4. On information and belief, Applicant filed an application on March 4, 2011 based on an intent-to-use the mark  (the “Fear Is No Option Mark”) for “hats; sweat shirts; t-shirts” in Class 25 (“**Applicant’s Goods**”). The Application was assigned Serial No. 85258708, and the mark was published for opposition in the Official Gazette of July 26, 2011.

5. There is no issue of priority. The date of the Application is later than use of and filing of applications to register the No Fear Trademarks.

6. The Fear Is No Option Mark is highly similar to Opposer’s Trademarks. The Fear Is No Option Mark creates an overall commercial impression and connotation that is confusingly similar with that created by Opposer’s Trademarks.

7. Applicant’s Goods are identical to those sold by Opposer under the No Fear Trademarks.

8. The Fear Is No Option Mark is confusingly similar to Opposer's No Fear Trademarks, and its registration and use by Applicant on identical and closely related goods is likely to cause confusion, deception, and mistake as to the origin of Applicant's products and to confuse, mislead and deceive members of the public into believing that Applicant's goods originate from, or are sponsored, approved or licensed by Opposer, or are in some way connected to Opposer.

9. Opposer's No Fear Trademarks are famous. Applicant's use of the Fear Is No Option Mark will cause dilution of the distinctive quality of Opposer's No Fear Trademarks thereby injuring Opposer.

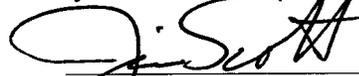
10. If Applicant were granted the registration herein opposed, it would thereby obtain at least a prima facie exclusive right to use the Fear Is No Option Mark. Such registration would be a source of damage and injury to Opposer.

Opposer believes that it will be damaged by registration of the mark in the Application and requests that the Application be rejected and registration of the mark denied.

Respectfully submitted,

NO FEAR USA LIMITED

By: Warner Norcross & Judd LLP



James L. Scott
900 Fifth Third Center
111 Lyon Street N.W.
Grand Rapids, MI 49503
(616) 752-2469
Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true copy of this Notice of Opposition is being sent by regular U.S. mail, first class, postage prepaid to Applicant, Fear Is No Option, 41st Street #210-3, Bayside, NY 11361 on September 6, 2011.


James L. Scott



Trademarks > Trademark Electronic Search System (TESS)

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Typed Drawing

Word Mark NO FEAR
Goods and Services IC 014. US 027 028. G & S: jewelry; namely, watches, bracelets, earrings and anklets. FIRST USE: 19860401. FIRST USE IN COMMERCE: 19900601
 IC 025. US 039. G & S: clothing and footwear; namely, pants, shirts, shorts, T-shirts, bathing suits, jackets, sweat shirts, visors, sandals and shoes. FIRST USE: 19860401. FIRST USE IN COMMERCE: 19900601
Mark Drawing Code (1) TYPED DRAWING
Serial Number 74323845
Filing Date October 19, 1992
Current Filing Basis 1A
Original Filing Basis 1B
Published for Opposition April 6, 1993
Registration Number 1855031
Registration Date September 20, 1994
Owner (REGISTRANT) NO FEAR, INC. CORPORATION CALIFORNIA 2251 FARADAY AVENUE Carlsbad CALIFORNIA 92008

(LAST LISTED OWNER) NO FEAR USA LIMITED COMPANY UNITED KINGDOM UNIT A, BROOK
PARK EAST SHIREBROOK UNITED KINGDOM NG20 8RY

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record James L. Scott
Prior Registrations 1737420
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20040918.
Renewal 1ST RENEWAL 20040918
Live/Dead Indicator LIVE

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NO FEAR

Word Mark NO FEAR
Goods and Services IC 025. US 039. G & S: footwear; namely, shoes, sandals, thongs. FIRST USE: 19921015. FIRST USE IN COMMERCE: 19921015
Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number 74259836
Filing Date March 27, 1992
Current Filing Basis 1A
Original Filing Basis 1B
Published for Opposition August 25, 1992
Registration Number 1842402
Registration Date June 28, 1994
Owner (REGISTRANT) NO FEAR, INC. CORPORATION CALIFORNIA 2251 FARADAY AVENUE Carlsbad CALIFORNIA 92008

(LAST LISTED OWNER) NO FEAR USA LIMITED COMPANY UNITED KINGDOM UNIT A, BROOK PARK EAST SHIREBROOK UNITED KINGDOM NG20 8RY

Assignment Recorded Attorney of Record ASSIGNMENT RECORDED
James L. Scott
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20040311.
Renewal 1ST RENEWAL 20040311
Live/Dead Indicator LIVE

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Word Mark NO FEAR
Goods and Services IC 025. US 022 039. G & S: wearing apparel, namely, shirts, T-shirts, shorts, pants, sweatshirts, sweatpants, hats, visors, shoes and belts. FIRST USE: 19960516. FIRST USE IN COMMERCE: 19960516
Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number 75107086
Filing Date May 20, 1996
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition January 28, 1997
Registration Number 2055158
Registration Date April 22, 1997
Owner (REGISTRANT) No Fear, Inc. CORPORATION CALIFORNIA 2251 Faraday Avenue Carlsbad

CALIFORNIA 92008

(LAST LISTED OWNER) NO FEAR USA LIMITED COMPANY UNITED KINGDOM UNIT A, BROOK
PARK EAST SHIREBROOK UNITED KINGDOM NG20 8RY

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record James L. Scott
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070322.
Renewal 1ST RENEWAL 20070322
Live/Dead Indicator LIVE

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