

ESTTA Tracking number: **ESTTA429079**

Filing date: **09/07/2011**

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	Checker Leather Limited
Granted to Date of previous extension	09/21/2011
Address	The Station, Crosshouse Road Kilmaurs Ayrshire, KA3 2TU UNITED KINGDOM

Attorney information	Josh Gerben, Esq. Gerben Law Firm, PLLC 1155 Connecticut Ave NW Suite 500 Washington, DC 20036 UNITED STATES trademark@gerbenlaw.com Phone:2022942287
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Applicant Information

Application No	85206192	Publication date	05/24/2011
Opposition Filing Date	09/07/2011	Opposition Period Ends	09/21/2011
Applicant	Mchugh, Kathleen 41 217 Lumbee Circle Pawley's Island, SC 29585 UNITED STATES		

Goods/Services Affected by Opposition

Class 014. First Use: 2003/01/01 First Use In Commerce: 2003/04/10 All goods and services in the class are opposed, namely: Leather jewelry and accessory boxes
Class 018. First Use: 2003/01/01 First Use In Commerce: 2003/04/10 All goods and services in the class are opposed, namely: Handbags; Leather cases; Leather pouches; Luggage; Wallets

Grounds for Opposition

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Other	Breach of contract

Attachments	R ROWALLAN OF SCOTLAND_NoticeOfOpposition_09072011.pdf (4 pages) (183295 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	/Josh Gerben/
Name	Josh Gerben, Esq.
Date	09/07/2011

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

Checker Leather Limited,	§	
a United Kingdom company,	§	
	§	
Opposer,	§	
	§	
v.	§	Opposition No. _____
	§	
Kathleen McHugh	§	
an individual,	§	Mark: R ROWALLAN OF
	§	SCOTLAND
	§	
Applicant.	§	
	§	Serial Nos. 85206192

Notice of Opposition

Opposer, Checker Leather Limited (hereinafter referred to as “Opposer”), a United Kingdom company, believes it will be damaged by the registration of the mark shown in Application Serial No. 85206192 filed by Kathleen McHugh (hereinafter referred to as “Applicant”) and hereby opposes the same.

As grounds for the opposition, Opposer alleges as follows:

1. Opposer was the owner of assets of a United States business which included the “ROWALLAN” registered trademark for the United States.
2. Opposer entered into a Head of Terms on January 10, 2008 (“Contract”) with Applicant to sell the United States business, along with the rights in the ROWALLAN trademark, to Applicant in exchange for a total of \$718,846.00.
3. Opposer currently owns the trademark “ROWALLAN” in the United Kingdom and previously owned the trademark “ROWALLAN” in the United States (Registration No. 2874557).

4. Opposer fulfilled its obligations under the Contract but Applicant never completed payments of the \$718,846.00 due under the Contract, thus breaching the terms of the Contract.

5. Applicant now seeks to register the design plus words mark “R ROWALLAN OF SCOTLAND” as a mark for the following goods: “Leather jewelry and accessory boxes” in International Class 014 and “Leather bags and wallets; Luggage” in International Class 018.

6. Applicant filed its application for the mark “R ROWALLAN OF SCOTLAND,” Serial No. 85206192 on December 27, 2010.

7. Applicant breached the Contract and by reason of said breach Applicant no longer owns the rights in the United States trademarks. Due to Applicant’s breach, all rights in the United States trademarks of “ROWALLAN” revert to Opposer.

8. Upon information and belief, Applicant’s application is a fraudulent attempt to gain a federal trademark registration on a trademark of which the Applicant knows is owned by the Opposer. The Applicant’s application is fraudulent because she induced the Opposer into letting its previous registration lapse by entering into the Contract and promising to pay Opposer for the rights to the ROWALLAN trademark in the United States.

9. If Applicant is granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its mark. Such registration would be a source of damage and injury to Opposer, the rightful owner of the mark “ROWALLAN” based on the Applicant’s breach of the Contract.

10. In view of the above, Applicant is not entitled to federal registration of its alleged mark “R ROWALLAN OF SCOTLAND” as Opposer has priority of use of the “ROWALLAN” mark due to its ownership of the mark in both the United Kingdom the United States, due to Applicant’s breach of the Contract.

11. By reason of all the foregoing, Opposer will be gravely damaged by the registration of Applicant’s mark.

WHEREFORE, by his undersigned attorney, Opposer, Checker Leather Limited, respectfully requests that this Notice of Opposition be sustained and that registration of the mark “R ROWALLAN OF SCOTLAND”, Serial No. 85206192, be refused.

Respectfully submitted,



Dated: September 7, 2011

Josh Gerben, Esq.
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Washington, DC 20036
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CERTIFICATE OF SERVICE

I hereby certify that on September 7, 2011, a true and correct copy of the foregoing Notice of Opposition is being served by certified mail, return receipt requested on Applicant as shown in the correspondence record in the Office, as follows:

Kathleen McHugh
No. 41
217 Lumbee Circle
Pawleys Island, SC 29585

Dated: September 7, 2011

A handwritten signature in black ink, appearing to read "J. Gerben", with a stylized flourish at the end.

Josh Gerben, Esq.