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Filing date: **11/07/2011**

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

Proceeding	91201517
Party	Plaintiff Excelled Sheepskin & Leather Coat Corp.
Correspondence Address	Michael A. Grow Arent Fox LLP 1050 Connecticut Avenue, NW Washington, DC 20036 UNITED STATES grow.michael@arentfox.com, henrye@arentfox.com, TMDocket@arentfox.com
Submission	Motion to Extend
Filer's Name	Michael A. Grow
Filer's e-mail	grow.michael@arentfox.com, henrye@arentfox.com
Signature	/Michael A. Grow/
Date	11/07/2011
Attachments	Rogue Design motion.pdf (14 pages)(610495 bytes)

Attached as Exhibit C is a copy of the envelope in which the aforementioned pleadings were received. The postmark on the envelope indicates that the documents were mailed on November 2, 2011.

Because there is no certificate of mailing attached to the pleadings, they should not be deemed to have been timely filed, and it is unclear whether they have been filed at all. Moreover, because the documents were not received until November 4, 2011, Opposer should not be required to answer within twenty (20) days of the date listed in the certificate of service. Opposer's motion for judgment should be granted. However, in the event the Board accepts Applicant's answer and motion, and declines to grant Opposer's motion for judgment, Opposer requests that the time within which it may respond to Applicant's motion be extended thirty (30) days from the date of the Board's decision.

EXCELLED SHEEPSKIN & LEATHER COAT CORP.

By


Michael A. Grow
Alec P. Rosenberg
Arent Fox LLP
1050 Connecticut Avenue, NW
Washington, DC 20036
(202) 857-6000
Attorney for Opposer

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing is being served upon Applicant's counsel Victor K. Sapphire of Connolly Bove Lodge & Hutz LLP at Suite 2300, 333 South Grand Avenue, Los Angeles, California 90071, by first class mail, postage prepaid, on November 7, 2011.

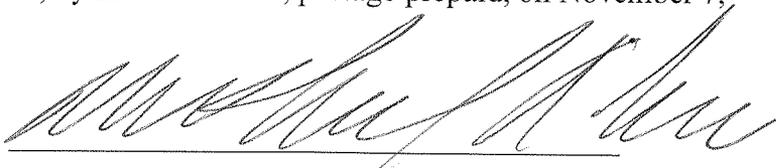


EXHIBIT A

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

Excelled Sheepskin & Leather
Coat Corp.

Opposer,

v.

Rogue Design, LLC

Applicant

Opposition No. 91201517

Mark: ROGUEDESIGN

App. No. 85/058,446

Mark: ROGUEDZN

App. No. 85/058,472

Commissioner of Trademarks
PO Box 1451
Alexandria, Virginia 22313-1451

APPLICANT'S ANSWER

1. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 1 and therefore denies same.
2. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 2 and therefore denies same.
3. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 3 and therefore denies same.
4. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 4 and therefore denies that Opposer had exclusive right. However, Applicant admits that the '559, '074 and '985 Registrations have been issued to Opposer in connection with apparel goods in Class 25.
5. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 5 and therefore denies same.
6. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 6 and therefore denies same.

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7. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 7 and therefore denies same.
8. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 8 and therefore denies same.
9. Applicant denies Paragraph 9. None of Registrant's registrations were cited by the Trademark Office as the basis of refusal of registration under Section 2(d) for a potential likelihood of confusion in either of the subject Applications during their prosecution. Applicant had never heard of Registrant, nor its trademarks, before being served with Notice of the instant Opposition. Moreover, in light of the accompanying Express Withdrawal of Class 25 from the Opposed Applications, there is no longer any reasonable basis for alleging a likelihood of confusion.
10. Applicant denies Paragraph 10. Applicant had never heard of Registrant, nor its trademarks, before being served with Notice of the instant Opposition.
11. Applicant denies Paragraph 11. In light of the accompanying Express Withdrawal of Class 25 from the Opposed Applications, there is no reasonable basis for alleging a likelihood of confusion.
12. Applicant denies Paragraph 12.
13. Applicant denies Paragraph 13. In light of the accompanying Express Withdrawal of Class 25 from the Opposed Applications, the allegations in Paragraph 13 are moot.
14. Applicant denies Paragraph 14. Applicant had never heard of Registrant, nor its trademarks, before being served with Notice of the instant Opposition.
15. Applicant admits Paragraph 15.
16. Applicant admits Paragraph 16. However, Applicant denies that Opposer has rights in Class 42 that would require Applicant to obtain Opposer's permission to offer Applicant's proposed Class 42 services.
17. Applicant denies Paragraph 17.
18. Applicant denies Paragraph 18.
19. Applicant has insufficient information or knowledge to form a belief as to the truth or accuracy of the allegations set forth in Paragraph 19 and therefore denies same.
20. Applicant denies Paragraph 20.

21. Applicant denies Paragraph 21.
22. Applicant denies Paragraph 22.
23. Applicant denies Paragraph 23.

AFFIRMATIVE DEFENSES

24. Applicant's marks, ROGUEDESIGN and ROGUEDZN, evoke a substantially different commercial impression than the Opposer's marks ROGUE, ROGUE LEATHER BY REILLY OLMES, and REILLY OLMES ROGUE LEATHER.
25. Opposer does not have the exclusive right to use and register marks containing the term ROGUE for industrial design services.
26. Opposer does not have the exclusive right to use and register ROGUEDESIGN or ROGUEDZN for any goods and/or services.
27. Upon information and belief, Petitioner's mark is weak in the field of apparel and entitled to only a narrow scope of protection, if any, outside of the field of apparel.
28. None of Registrant's registrations were cited by the Trademark Office as the basis of refusal of registration under Section 2(d) for a potential likelihood of confusion in either of the subject Applications during their prosecution.
29. In light of the accompanying Express Withdrawal of Class 25 from the Opposed Applications, there is no longer any reasonable basis for alleging a likelihood of confusion.
30. Because Opposition has no rights in Class 42, Opposer's Opposition is moot and without basis.
31. Applicant is entitled to registration in Classes 14, 20, and 42 in the '446 Application.
32. Applicant is entitled to registration in Classes 14 and 20 in the "472 Application.

WHEREFORE, it is respectfully requested that this Opposition be dismissed with prejudice.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'V. K. Sapphire', written over a horizontal line.

VICTOR K. SAPHIRE

CONNOLLY BOVE LODGE & HUTZ LLP
333 S. Grand Avenue, Suite 2300
Los Angeles, California 90071
213-787-2523

Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing APPLICANT'S ANSWER was filed by first class mail, postage prepaid, this 17th day of October, 2011 upon the following:

Michael A. Grow
Arent Fox LLP
1050 Connecticut Avenue NW
Washington DC 20036

A handwritten signature in black ink, appearing to be "MG", is written over a horizontal line.

EXHIBIT B

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

Excelled Sheepskin & Leather
Coat Corp.

Opposer.

v.

Rogue Design, LLC

Applicant

Opposition No. 91201517

Mark: ROGUEDESIGN

App. No. 85/058,446

Mark: ROGUEDZN

App. No. 85/058,472



**MOTION FOR EXPRESS WITHDRAWAL OF
CLASS 25 IN SUBJECT APPLICATIONS AND DISMISSAL OF THE
OPPOSITION WITH RESPECT TO THE '472 APPLICATION**

1. Applicant, Rogue Design, LLC, hereby expressly withdraws the entirety of CLASS 25 goods ONLY from the subject applications of the instant Opposition No. 91201517, namely, Appls. Ser. Nos. 85/058,446 and 85/058,472.
2. In light of the foregoing, Applicant requests that:
 - (a) the '446 Application proceed in Classes 14, 20, and 42; and
 - (b) the '472 Application proceed in Classes 14 and 20.
3. Applicant submits that granting the instant Motion will moot the '1517 Opposition with regard to the '472 Application.
4. Applicant requests that the Opposition therefore be dismissed with prejudice with regard to the '472 Application.

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5. Applicant submits that the pending Opposition will thus continue only with respect to the Class 42 Services identified in the '446 Application.

Dated: October 17, 2011

By:


Victor K. Sapphire, Esq.
Connolly Bove Lodge & Hutz LLP
333 S Grand Avenue, Suite 2300
Los Angeles CA 90071
(213) 787-2523

ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

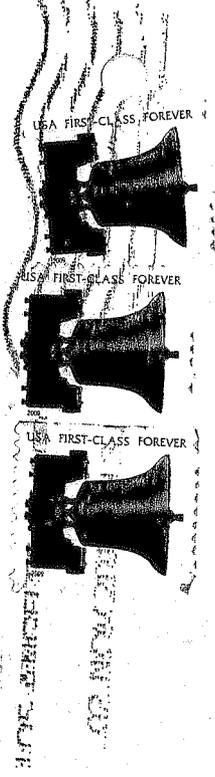
I hereby certify that a true copy of the foregoing MOTION FOR EXPRESS WITHDRAWAL OF CLASS 25 IN SUBJECT APPLICATIONS AND DISMISSAL OF THE OPPOSITION WITH RESPECT TO THE '472 APPLICATION was filed by first class mail, postage prepaid, this 17th day of October, 2011 upon the following:

Michael A. Grow
Arent Fox LLP
1050 Connecticut Avenue NW
Washington DC 20036

A handwritten signature in black ink, appearing to read "M. A. Grow", is written over a horizontal line.

EXHIBIT C


CONNOLLY BOYE LODGE & HUTZ LLP
ATTORNEYS AT LAW



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