

ESTTA Tracking number: **ESTTA431451**

Filing date: **09/20/2011**

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	LEGO Juris A/S
Granted to Date of previous extension	09/28/2011
Address	Koldingvej 2 Billund, DK-7190 DENMARK

Attorney information	David Ehrlich Fross Zelnick 866 UN Plaza New York, NY 10017 UNITED STATES ehrllich-docket@fzllz.com Phone:212 813-5920
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Applicant Information

Application No	85222042	Publication date	05/31/2011
Opposition Filing Date	09/20/2011	Opposition Period Ends	09/28/2011
Applicants	Haftvani, Andreh Unit 110 400 W. California Ave Glendale, CA 91203 UNITED STATES Araradian, Araz Unit 110 400 W. California Ave Glendale, CA 91203 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2010/09/00 First Use In Commerce: 2010/09/00 All goods and services in the class are opposed, namely: Shirts, sweaters, tank tops, pants, shorts, hats, baseball caps, beanies, sweatshirts, jump suits, flannel shirts, shoes and jeans

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is primarily merely a surname	Trademark Act section 2(e)(4)
<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. Registration	1248936	Application Date	06/14/1982
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No.			
Registration Date	08/23/1983	Foreign Priority Date	NONE
Word Mark	LEGO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1952/00/00 First Use In Commerce: 1979/10/25 Series of Books and Number, Symbol and Letter Blocks for Instructional Use Class 020. First use: First Use: 1962/00/00 First Use In Commerce: 1979/05/04 Storage Cases, Play Tables with Chairs Attached and Including a Storage Box Class 022. First use: First Use: 1976/00/00 First Use In Commerce: 1977/08/10 Storage Bags Made of Cloth Class 025. First use: First Use: 1977/00/00 First Use In Commerce: 1980/09/03 T-Shirts		

Attachments	LEGIO Notice of Opposition (F0881438).PDF (4 pages)(412456 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	/dwe/
Name	David Ehrlich
Date	09/20/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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LEGO Juris A/S,	:	Opposition No.
	:	
Opposer,	:	
	:	
- v. -	:	NOTICE OF OPPOSITION
	:	
Andrej Haftvani and Araz Araradian,	:	
	:	
Applicants.	:	
-----X	:	

Opposer, a Danish corporation, believes that it will be damaged by the issuance of a registration for the mark LEGIO applied for in Application Serial No. 85/222,042 filed January 20, 2011 for shirts, sweaters, tank tops, pants, shorts, hats, baseball caps, beanies, sweatshirts, jump suits, flannel shirts, shoes and jeans in Class 25 and therefore opposes the same. As grounds for the opposition, Opposer, by its attorneys Fross Zelnick Lehrman & Zissu, P.C., alleges as follows:

Count I – Likely Confusion

1. Opposer and its predecessors, through licensees, have used its famous mark LEGO in connection with toys and a wide variety of other products and services in the U.S., including T-shirts and other clothing, since long before the first use date claimed in the opposed application, September, 2010.

2. Opposer is the owner of Federal trademark registration Reg. No. 1248936 for LEGO for goods including “T-shirts.” This registration is valid, subsisting, in full force and effect, and incontestable pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065, and therefore is conclusive proof of Opposer’s exclusive right to use the LEGO mark in commerce on or in

connection with the goods in that registration, as provided by Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b).

3. Applicants' mark is likely to cause confusion or cause mistake or to deceive the purchasing public into mistakenly believing that Applicants' goods originate from, come from, or otherwise are associated with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

4. By reason of the foregoing, Opposer is likely to be harmed by registration of that mark.

Count II – Fraud and Invalidity

5. The only goods offered for sale on Applicants' website, www.legiogear.com, are shirts. On information and belief, although this application is based entirely on Section 1(a) use, the Applicants were not using this mark in commerce for some of the products claimed in the application on the application filing date, January 20, 2011.

6. For this reason, as to all products on which there was no use on the filing date, the application is invalid.

7. On information and belief, the Applicants were aware of the fact that they were not using the mark on all the claimed goods and filed the application for the broad list of goods anyway in order to broaden the coverage.

8. On that basis, the Applicants committed fraud on the USPTO, which makes the application entirely invalid, even if the Applicants, as laymen, were unaware of the legal ramifications of such overclaiming on goods.

Count III – Surname

9. Upon information and belief, the word “Legio” is a surname, shared by a considerable number of persons in the U.S., and has no other meaning which is as well known to the average U.S. consumer.

10. The Latin language, and the translation of the Latin word “legio,” which means “legion,” are unknown to the vast majority of U.S. customers.

11. The mark is primarily merely a surname within the meaning of Section 2(e)(4) of the Lanham Act, 15 U.S.C. §1052(e).

12. By reason of the foregoing, Applicants are not entitled to the registration of the mark sought by their application.

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration sought by Applicant be denied.

Dated: New York, New York
September 20, 2011

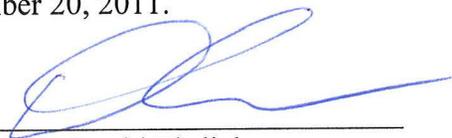
Fross Zelnick Lehrman & Zissu, P.C.

By: 

David Ehrlich
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New York, New York 10017
(212) 813-5900
Opposer’s Ref.: LEGJ 1106099

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by First Class mail upon the Attorney for Applicants, Josh Gerben at Gerben Law Firm, PLLC, Suite 500, 1155 Connecticut Ave NW, Washington DC 20036, on this date, September 20, 2011.



David Ehrlich