

ESTTA Tracking number: **ESTTA475015**

Filing date: **05/29/2012**

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	Osprey Packs, Inc.
Granted to Date of previous extension	05/27/2012
Address	115 W. PROGRESS CIR. Cortez, CO 81321 UNITED STATES
Attorney information	LESLIE P KRAMER FAEGRE BAKER DANIELS LLP 1700 LINCOLN ST 3200 WELLS FARGO CENTER DENVER, CO 80203 UNITED STATES tmdnvr@faegrebd.com, leslie.kramer@faegrebd.com Phone:303-607-3641

Applicant Information

Application No	85038554	Publication date	11/29/2011
Opposition Filing Date	05/29/2012	Opposition Period Ends	05/27/2012
Applicant	Wilton Bradley Limited 8 Wentworth Road, Heathfield, Newton Abbot, Devon, TQ126TL UNITED KINGDOM		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Protective helmets; goggles for sports; protective clothing for sports, sunglasses; masks for snorkeling and diving
Class 012. All goods and services in the class are opposed, namely: Watersports equipments, namely, kayaks; mountain bikes and BMXs
Class 024. All goods and services in the class are opposed, namely: Towels; beach towels; face cloths; textile napkins, travelling rugs
Class 025. All goods and services in the class are opposed, namely: Waterproof clothing, namely, rain jackets, jackets, coats, shorts, swimming costumes, gloves, wetsuits, rash vests, wet suit boots; sports shoes; waterproof shoes; clothing for watersports and sports activities, namely, wetsuits, rash vests, wetsuit boots, shoes and gloves
Class 028. All goods and services in the class are opposed, namely: Sports equipment, namely, skateboards, surfboards, longboards, skimmer boards, mountain boards; watersports equipment, namely,

surfboards, skimmer boards; skateboards, surfboards, long boards, surfboard bags; swimming and scuba flippers; bodyfins, namely, fins, body boards; body boards; knee guards for use with skate boards, longboards and mountain boards; protective padding for playing watersports, skateboarding, surfboarding, longboarding, skimmer boarding, mountain boarding, skiing, ice skating and roller skating; ice skates and roller skates; surf skis; play articles for swimming pools, namely, water toys, beach balls and toy balls; waterskis; knee guards for mountain bikes and BMXs; protective padding for kayaking, mountain biking and BMX riding

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

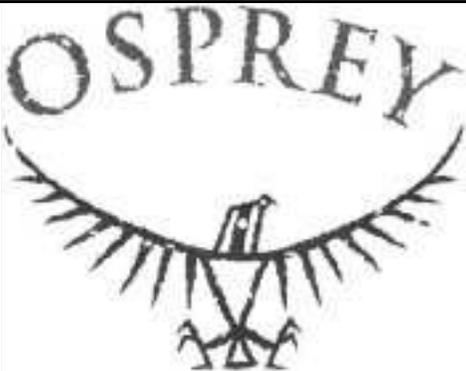
U.S. Registration No.	3054327	Application Date	01/17/2005
Registration Date	01/31/2006	Foreign Priority Date	NONE
Word Mark	OSPREY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1974/10/07 First Use In Commerce: 1974/10/07 Outdoor equipment comprised of backpacks, hydration packs, namely, backpacks for carrying a water storage container, backpack components, namely, harnesses and hip belts, ventilated back panel backpacks, sport packs in the nature of ski packs, snowboard packs and climbing packs, daypacks, messenger and courier bags, sling bags, backpack covers, backpack accessories, namely, back cushion pads, padded belts, pouches, [canvas cases,] and side packet bags, fitted rain covers for backpacks, bird watching packs and bags in the nature of sport packs, fanny packs and bags for bird watching accessories, travel packs, wheeled travel bags and cargo bags in the nature of all-purpose carrying bags and luggage		

U.S. Registration No.	2571330	Application Date	06/18/2001
Registration Date	05/21/2002	Foreign Priority Date	NONE
Word Mark	OSPREY		

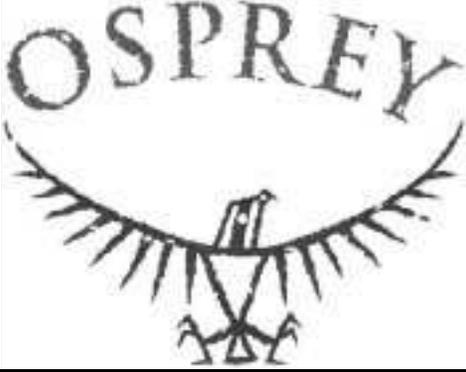
Design Mark	
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 2000/08/01 First Use In Commerce: 2000/08/01 Backpacks

U.S. Registration No.	4097780	Application Date	05/28/2010
Registration Date	02/14/2012	Foreign Priority Date	NONE
Word Mark	OSPREY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 2009/07/10 First Use In Commerce: 2009/07/10 Reservoirs, namely, personal beverage storage containers for use with backpacks; personal hydration systems comprising a drinking reservoir, a drinking tube, and a mouthpiece		

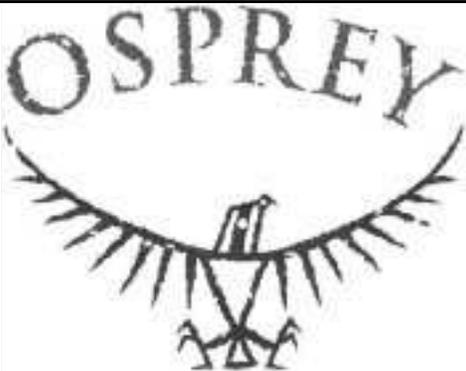
U.S. Registration No.	4089675	Application Date	05/28/2010
Registration Date	01/24/2012	Foreign Priority Date	NONE
Word Mark	OSPREY		

Design Mark	
Description of Mark	The mark consists of the word "OSPREY" and a stylized drawing of an "osprey" with outstretched wings below the word.
Goods/Services	Class 021. First use: First Use: 2009/07/10 First Use In Commerce: 2009/07/10 RESERVOIRS, NAMELY, PERSONAL BEVERAGE STORAGE CONTAINERS FOR USE WITH BACKPACKS; PERSONAL HYDRATION SYSTEMS COMPRISING A DRINKING RESERVOIR, A DRINKING TUBE, AND A MOUTHPIECE; BACKPACK ACCESSORIES, NAMELY, PLASTIC WATER BOTTLE HOLDERS

U.S. Registration No.	4119126	Application Date	05/28/2010
Registration Date	03/27/2012	Foreign Priority Date	NONE

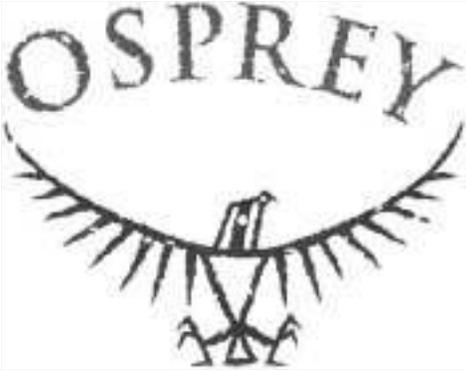
Word Mark	OSPREY
Design Mark	
Description of Mark	The mark consists of the word "OSPREY" and a stylized drawing of an osprey with outstretched wings below the word.
Goods/Services	Class 018. First use: First Use: 2011/06/00 First Use In Commerce: 2011/06/00 Back frames for carrying children

U.S. Registration No.	4130421	Application Date	05/28/2010
Registration Date	04/24/2012	Foreign Priority Date	NONE
Word Mark	OSPREY		

Design Mark	
Description of Mark	The mark consists of the word "OSPREY" and a stylized drawing of an osprey with outstretched wings below the word.
Goods/Services	Class 018. First use: First Use: 2000/08/01 First Use In Commerce: 2000/08/01 BACKPACKS; HYDRATION PACKS, NAMELY, BACKPACKS FOR CARRYING A LIQUID STORAGE CONTAINER; BACKPACK COMPONENTS, NAMELY, HARNESSSES AND HIP BELTS; SPORT PACKS IN THE NATURE OF SKI PACKS, SNOWBOARD PACKS, AND CLIMBING PACKS; DAYPACKS; MESSENGER AND COURIER BAGS; SLING BAGS; BACKPACK COVERS; BACKPACK ACCESSORIES, NAMELY, POUCHES SOLD EMPTY FOR ATTACHMENT TO BACKPACKS AND CARRYING CASES FOR MAPS; FITTED RAIN COVERS FOR BACKPACKS; FANNY PACKS; TRAVEL PACKS; WHEELED TRAVEL BAGS AND CARGO BAGS IN THE NATURE OF ALL-PURPOSE CARRYING BAGS AND LUGGAGE; BACKPACKS, TRAVEL PACKS, DUFFLE BAGS, SHOULDER BAGS, WHEELED BAGS, COURIER BAGS, AND TRAVEL BAGS, ALL WITH INTEGRAL ORGANIZER COMPARTMENTS; DUFFEL BAGS; SHOULDER BAGS; COMMUTER PACKS FOR BICYCLISTS IN THE NATURE OF BACKPACKS

U.S. Application No.	85504797	Application Date	12/28/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OSPREY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2000/08/01 First Use In Commerce: 2000/08/01 Sports bags; Travel bags		

U.S. Application No.	85050727	Application Date	05/28/2010
Registration Date	NONE	Foreign Priority	NONE

		Date	
Word Mark	OSPREY		
Design Mark			
Description of Mark	The mark consists of the word "OSPREY" and a stylized drawing of an osprey with outstretched wings below the word.		
Goods/Services	Class 012. First use: Frames, for luggage carriers, for bicycles; front and rear bicycle rack packs; pannier bags for bicycles; saddlebags for bicycles		

U.S. Application No.	85050635	Application Date	05/28/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OSPREY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: Frames, for luggage carriers, for bicycles; front and rear bicycle rack packs; pannier bags for bicycles; saddlebags for bicycles Class 018. First use: Commuter packs for bicyclists in the nature of backpacks		

Attachments	78548889#TMSN.jpeg (1 page)(bytes) 76272861#TMSN.gif (1 page)(bytes) 85050614#TMSN.jpeg (1 page)(bytes) 85050708#TMSN.jpeg (1 page)(bytes) 85050719#TMSN.jpeg (1 page)(bytes) 85050701#TMSN.jpeg (1 page)(bytes) 85504797#TMSN.jpeg (1 page)(bytes) 85050727#TMSN.jpeg (1 page)(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	/Leslie P. Kramer/
Name	LESLIE P KRAMER
Date	05/29/2012

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

Osprey Packs, Inc., Opposer, v. Wilton Bradley Limited, Applicant.	Opposition No. _____ Mark: OSPREY Serial No.: 85/038554 Filing Date: May 14, 2010 Publication Date: November 29, 2011
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NOTICE OF OPPOSITION

Osprey Packs, Inc., a Colorado corporation, whose address is 115 W. Progress Circle, Cortez, CO 81321 (“Opposer”), believes it will be damaged by the registration of the mark **OSPREY**, as depicted in Application Serial No. 85/038554 (“Applicant’s Mark”), and hereby opposes that application under the provisions of 15 U.S.C. § 1063.

The grounds for the opposition are as follows:

1. As is evidenced by the publication of the mark OSPREY in the Official Gazette on November 29, 2011, Applicant seeks to register OSPREY as a mark for goods in classes 9, 12, 24, 25, and 28. Applicant’s application Serial No. 85/038554 was filed on May 14, 2010.
2. On December 2, 2011, and March 25, 2012, Opposer requested, and was granted, extensions of time in which to oppose Applicant’s Mark, to May 27, 2012. As May 27, 2012, was a Sunday, and May 28, 2012, was a National Holiday, this Notice of Opposition is timely filed.
3. Beginning at least as early as August 1, 2000, Opposer adopted and began to use marks consisting of or incorporating the word OSPREY and has used such marks continuously

from that time until the present in connection with such goods. In addition to these common law rights, Opposer is the registered owner of federal service mark applications and registrations for marks consisting of or incorporating the word OSPREY.

4. Opposer is the owner of the following United States trademark applications now pending before the United States Patent & Trademark Office:

<u>Mark</u>	<u>App No</u>	<u>App Date</u>	<u>Goods/Services</u>
OSPREY	85/050,635	5/28/2010	FRAMES, FOR LUGGAGE CARRIERS, FOR BICYCLES; FRONT AND REAR BICYCLE RACK PACKS; PANNIER BAGS FOR BICYCLES; SADDLEBAGS FOR BICYCLES in Int. Class 012
OSPREY & Bird Design	85/050,701	5/28/2010	BACKPACKS; HYDRATION PACKS, NAMELY, BACKPACKS FOR CARRYING A LIQUID STORAGE CONTAINER; BACKPACK COMPONENTS, NAMELY, HARNESSSES AND HIP BELTS; SPORT PACKS IN THE NATURE OF SKI PACKS, SNOWBOARD PACKS, AND CLIMBING PACKS; DAYPACKS; MESSENGER AND COURIER BAGS; SLING BAGS; BACKPACK COVERS; BACKPACK ACCESSORIES, NAMELY, POUCHES SOLD EMPTY FOR ATTACHMENT TO BACKPACKS AND CARRYING CASES FOR MAPS; FITTED RAIN COVERS FOR BACKPACKS; FANNY PACKS; TRAVEL PACKS; WHEELED TRAVEL BAGS AND CARGO BAGS IN THE NATURE OF ALL-PURPOSE CARRYING BAGS AND LUGGAGE; BACKPACKS, TRAVEL PACKS, DUFFLE BAGS, SHOULDER BAGS, WHEELED BAGS, COURIER BAGS, AND TRAVEL BAGS, ALL WITH INTEGRAL ORGANIZER COMPARTMENTS; DUFFEL BAGS; SHOULDER BAGS; COMMUTER PACKS FOR BICYCLISTS IN THE NATURE OF BACKPACKS in Int. Class 018
OSPREY & Bird Design	85/050,727	5/28/2010	FRAMES, FOR LUGGAGE CARRIERS, FOR BICYCLES; FRONT AND REAR BICYCLE RACK PACKS; PANNIER BAGS FOR BICYCLES; SADDLEBAGS FOR BICYCLES in Int. Class 012
OSPREY	85/504797	12/28/2011	SPORTS BAGS, TRAVEL BAGS in Int. Class 018

5. Opposer is the owner of the following United States Trademark Registrations, among others:

<u>Mark</u>	<u>App No</u>	<u>App Date</u>	<u>Reg No</u>	<u>Reg Date</u>	<u>Goods/Services</u>
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OSPREY	78/548,889	1/14/2005	3,054,327	1/31/2006	OUTDOOR EQUIPMENT COMPRISED OF BACKPACKS, HYDRATION PACKS, NAMELY, BACKPACKS FOR CARRYING A WATER STORAGE CONTAINER, BACKPACK COMPONENTS, NAMELY, HARNESES AND HIP BELTS, VENTILATED BACK PANEL BACKPACKS, SPORT PACKS IN THE NATURE OF SKI PACKS, SNOWBOARD PACKS AND CLIMBING PACKS, DAYPACKS, MESSENGER AND COURIER BAGS, SLING BAGS, BACKPACK COVERS, BACKPACK ACCESSORIES, NAMELY, BACK CUSHION PADS, PADDED BELTS, POUCHES, CANVAS CASES, AND SIDE PACKET BAGS, FITTED RAIN COVERS FOR BACKPACKS, BIRD WATCHING PACKS AND BAGS IN THE NATURE OF SPORT PACKS, FANNY PACKS AND BAGS FOR BIRD WATCHING ACCESSORIES, TRAVEL PACKS, WHEELED TRAVEL BAGS AND CARGO BAGS IN THE NATURE OF ALL-PURPOSE CARRYING BAGS AND LUGGAGE in Int. Class 018
OSPREY	85/050,614	5/28/2010	4097780	2/14/2012	RESERVOIRS, NAMELY, PERSONAL BEVERAGE STORAGE CONTAINERS FOR USE WITH BACKPACKS; PERSONAL HYDRATION SYSTEMS COMPRISING A DRINKING RESERVOIR, A DRINKING TUBE, AND A MOUTHPIECE in Int. Class 021
OSPREY & Bird Design	76/272,861	6/18/2001	2,571,330	5/21/2002	BACKPACKS in Int. Class 018
OSPREY & Bird Design	85/050,708	5/28/2010	4089675	1/24/2012	RESERVOIRS, NAMELY, PERSONAL BEVERAGE STORAGE CONTAINERS FOR USE WITH BACKPACKS; PERSONAL HYDRATION SYSTEMS COMPRISING A DRINKING RESERVOIR, A DRINKING TUBE, AND A MOUTHPIECE; BACKPACK ACCESSORIES, NAMELY, PLASTIC WATER BOTTLE HOLDERS in Int. Class 021
OSPREY & Bird Design	85/050,719	5/28/2010	4119126	3/27/2012	BACK FRAMES FOR CARRYING CHILDREN in Int. Class 018

These registrations are valid and subsisting, unrevoked and uncanceled. Opposer's above-listed applications and registrations are referred to herein as the "Opposer's Marks."

6. The above applications and registrations are valid and subsisting and are *prima facie* evidence of Opposer's exclusive right to use the OSPREY mark in commerce on the goods specified therein. There is no issue as to priority. Opposer commenced its use of its OSPREY marks prior to the filing date of Applicant's Mark, which is the subject of this proceeding. Further, Opposer's U.S. Reg. Nos. 3,054,327 and 2,571,330 were filed and matured to registration prior to the filing date of the Applicant's Mark.

7. By virtue of extensive advertising and sales of its goods thereunder, Opposer's Marks have become well and favorably known to the public and have become valuable symbols of Opposer's business and the goodwill appurtenant thereto.

8. In view of the identity of the respective marks and the related nature of the goods of the respective marks and the related nature of the goods of the respective parties, it is alleged that Applicant's OSPREY mark so resembles Opposer's Marks previously used in the United States, and not abandoned, as to be likely to cause confusion or mistake or to deceive, and to dilute the distinctive quality of Opposer's Marks, and to falsely suggest a connection with Opposer, thereby causing loss, damage, and injury to Opposer and consumers.

9. Opposer and Applicant are presently negotiating a settlement agreement, and expect to complete these negotiations in the near future.

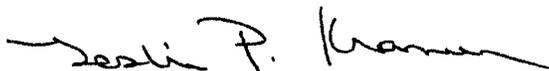
10. Opposer believes that the registration of Applicant's Mark on the Principal Register in connection with the opposed goods and services would be inconsistent with Opposer's rights under the aforementioned registrations, the common law, and the Trademark Act, and Opposer believes that such registration would be damaging to Opposer in its negotiations with Applicant.

WHEREFORE, Opposer respectfully prays that this opposition be sustained in favor of Opposer, that application serial number 85/038554 be rejected, and that Applicant be denied registration of OSPREY as a mark for the goods as specified in that application.

The required opposition fee of \$1500.00 accompanies this Notice. If the filing fee is determined to be incorrect, the Commissioner may charge any additional fees or credit any overpayment to Deposit Account Number 06-0029.

Dated: May 29, 2012

Respectfully submitted,



By: _____

Leslie P. Kramer, Esq.
Faegre Baker Daniels LLP
3200 Wells Fargo Center
1700 Lincoln Street
Denver, Colorado 80203-4532

Attorneys for Opposer Osprey Packs, Inc.

Filed Electronically via ESTTA.

CERTIFICATE OF SERVICE

This certifies that a copy of Opposer's Notice of Opposition was mailed this 29th day of May, 2012, by first class mail, postage prepaid, to Applicant and to counsel for Applicant:

Wilton Bradley
8 Wentworth Road, Heathfield
Newton Abbot, Devon TQ126TL
United Kingdom

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Pearl Cohen Zedek Latzer LLP
1500 Broadway, 12th Floor
New York, NY 10036-4068
trademarks@pczlaw.com

May 29, 2012



Leslie P. Kramer, Esq.