

ESTTA Tracking number: **ESTTA478977**

Filing date: **06/20/2012**

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	Pony, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	860 South Los Angeles Street Suite 817 Los Angeles, CA 90014 UNITED STATES		

Attorney information	Andrew D. Skale Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, P.C. 3580 Carmel Mountain Road Ste 300 San Diego, CA 92130 UNITED STATES adskale@mintz.com, jddib@mintz.com Phone:858-314-1506
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Applicant Information

Application No	85542168	Publication date	05/22/2012
Opposition Filing Date	06/20/2012	Opposition Period Ends	06/21/2012
Applicant	Pony Sock, LLC 236 Brightwood Ave. Westfield, NJ 07090 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Hats; Hats for infants, babies, toddlers and children; Sports caps and hats; Veils; Women's hats and hoods; Woolly hats
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2666380	Application Date	03/01/2002
Registration Date	12/24/2002	Foreign Priority Date	NONE
Word Mark	PONY		

Design Mark	PONY		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1973/00/00 First Use In Commerce: 1973/00/00 shirts, t-shirts, tank tops, jerseys, sweatshirts, sweatpants, hooded pullovers, shorts, pants, caps, hats, visors, headbands, wristbands, jackets, athletic and casual footwear		

U.S. Registration No.	2741220	Application Date	03/01/2002
Registration Date	07/29/2003	Foreign Priority Date	NONE

Word Mark	PONY		
Design Mark	PONY		
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1973/00/00 First Use In Commerce: 1973/00/00 Bags, namely all purpose sports bags and wallets		

U.S. Registration No.	2668890	Application Date	03/01/2002
Registration Date	12/31/2002	Foreign Priority Date	NONE
Word Mark	PONY		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 shirts, t-shirts, tank tops, jerseys, sweatshirts, sweatpants, hooded pullovers, shorts, pants, caps, hats, visors, headbands, wristbands, jackets, athletic and casual footwear		

U.S. Registration No.	2746335	Application Date	03/01/2002
Registration Date	08/05/2003	Foreign Priority Date	NONE

Word Mark	PONY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 Bags, namely, all purpose sports bags [and wallets]		

U.S. Registration No.	1040116	Application Date	01/17/1974
Registration Date	05/25/1976	Foreign Priority Date	NONE
Word Mark	PONY		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 1973/09/00 First Use In Commerce: 1973/11/00 [TOTE BAGS] Class 025. First use: First Use: 1973/01/00 First Use In Commerce: 1973/05/00 WEARING APPAREL-NAMELY, [TRACK SUITS, T-SHIRTS AND] SPORTS FOOTWEAR

U.S. Registration No.	2878297	Application Date	03/01/2002
Registration Date	08/31/2004	Foreign Priority Date	NONE

Word Mark	PONY
Design Mark	
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 1973/00/00 First Use In Commerce: 1973/00/00 Bags, namely all purpose sports bags and wallets

U.S. Registration No.	3687538	Application Date	09/16/2005
Registration Date	09/22/2009	Foreign Priority Date	NONE
Word Mark	PONY		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2007/12/00 First Use In Commerce: 2007/12/00 Electronic catalog services featuring footwear, clothing and accessories, namely, clothing and footwear accessories; retail stores featuring footwear, clothing and accessories, namely, clothing and footwear accessories

U.S. Registration No.	2666379	Application Date	03/01/2002
Registration Date	12/24/2002	Foreign Priority Date	NONE

Word Mark	PONY
Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1973/00/00 First Use In Commerce: 1973/00/00 shirts, t-shirts, tank tops, jerseys, sweatshirts, sweatpants, hooded pullovers, shorts, pants, caps, hats, visors, headbands, wristbands, jackets, athletic and casual footwear

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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	/Andrew D. Skale/
Name	Andrew D. Skale
Date	06/20/2012

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

In the matter of Application Serial No. 85/542168 for the mark: PONY SOCK
Published in the *Official Gazette* May 22, 2012

Pony, Inc.

Opposer,

v.

Pony Sock, LLC

Applicant.

Opposition No. _____

Trademark Assistance Center
Madison East, Concourse Level Room C 55
600 Dulany Street
Alexandria, Virginia 22314

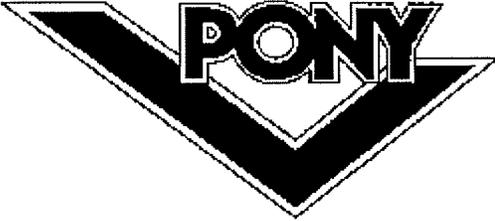
NOTICE OF OPPOSITION

Pony, Inc. ("Opposer"), a Delaware corporation, located and doing business at 860 South Los Angeles Street, Suite 817, Los Angeles, California 90014, believes that it will be damaged by registration of U.S. Application Serial No. 85/542168 for the mark PONY SOCK and hereby opposes the same. The goods for the mark are outlined in Schedule A, attached hereto.

Pursuant to 15 U.S.C. §§ 1052, 1063 and 1125 of the Lanham Act, and 37 C.F.R. §§ 2.101 and 2.104, and predicated upon the following grounds, Opposer alleges the following:

1. Opposer manufactures and sells athletic and casual footwear; clothing; headgear; all purpose sports bags, backpacks and wallets.

2. Opposer owns the following U.S. registrations (among others) for its family of PONY marks:

Registration No.	Mark	Goods
Reg. No. 2,666,380 Issued: Dec. 24, 2002	PONY	Class 25: shirts, t-shirts, tank tops, jerseys, sweatshirts, sweatpants, hooded pullovers, shorts, pants, caps, hats, visors, headbands, wristbands, jackets, athletic and casual footwear.
Reg. No. 2,741,220 Issued: Jul. 29, 2003	PONY	Class 18: Bags, namely all purpose sports bags and wallets.
Reg. No. 2,668,890 Issued: Dec. 31, 2002		Class 25: shirts, t-shirts, tank tops, jerseys, sweatshirts, sweatpants, hooded pullovers, shorts, pants, caps, hats, visors, headbands, wristbands, jackets, athletic and casual footwear.
Reg. No. 2,746,335 Issued: Aug. 5, 2003		Class 18: Bags, namely, all purpose sports bags [and wallets].
Reg. No. 2,666,379 Issued: December 24, 2002		Class 25: wearing apparel, namely, track suits, t-shirts and sports footwear.

<p>Reg. No. 1,040,116 Issued: May 25, 1976</p>		<p>Class 25: wearing apparel, namely, track suits, t-shirts and sports footwear.</p>
<p>Reg. No. 2,878,297 Issued: August 31, 2004</p>		<p>Class 18: Bags, namely all purpose sports bags and wallets.</p>
<p>Reg. No. 3,687,538 Issued: Sep.22, 2009</p>	<p>PONY</p>	<p>Class 35: Electronic catalog services featuring footwear, clothing and accessories, namely clothing and footwear accessories; retail stores featuring footwear, clothing and accessories, namely clothing and footwear accessories.</p>

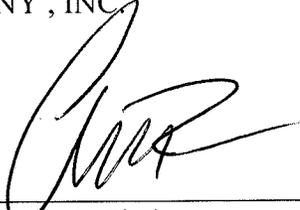
3. Upon information and belief, Pony Sock, LLC (“Applicant”) is a New Jersey Limited Liability Company with an address at 236 Brightwood Ave. Westfield NEW JERSEY 07090. Applicant seeks to register the mark PONY SOCK (the “Mark”) for “athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; hats; hats for infants, babies, toddlers and children; sports caps and hats; veils; women's hats and hoods; woolly hats.” in Class 25, pursuant to an intent-to-use-based application filed February 14, 2012.
4. Opposer’s rights in its family of PONY marks predate the February 14, 2012 filing date of Applicant’s application. Therefore, Opposer has prior and superior rights in this matter.

5. Applicant's mark for PONY SOCK is confusingly similar to Opposer's family of PONY marks and is used or intended to be used on products identical to or likely to be confused with Opposer's products and services. When used on the goods set forth in Applicant's application, Applicant's mark PONY SOCK is likely to cause confusion and mistake and to deceive purchasers and potential purchasers of Applicant's goods and Opposer's goods and services into erroneously believing that there is a relationship between Opposer and Applicant, or that Opposer has authorized, sponsored, or licensed Applicant's use of the mark PONY SOCK, in violation of 15 U.S.C. § 1052(d).
6. Registration of Applicant's mark will damage Opposer since such registration will give color of exclusive statutory rights to Applicant in the mark PONY SOCK in derogation and violation of the prior and superior rights of Opposer.
7. WHEREFORE, Opposer believes that it will be damaged by the registration of Applicant's Mark and requests that judgment be entered in its favor and against Applicant on all counts and that Application Serial No. 85/542168 for the mark PONY SOCK be denied registration.

Respectfully submitted,

PONY, INC

By: _____



Andrew D. Skale
Mintz, Levin, Cohn, Ferris, Glovsky, and
Popeo, P.C.
3580 Carmel Mountain Road
Ste 300
San Diego, CA. 92130
Tel: 858-314-1506
Fax: 858-314-1501
E-mail: adskale@mintz.com
Attorneys for Opposer
Pony, Inc.

Dated: June 20, 2012

SCHEDULE A

Pony, Inc. v. Pony Sock, LLC

Opposition No.

Applicant's Mark and Applied for Goods

Serial No.	Mark	Goods
85/542168	PONY SOCK	IC 25: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; hats; hats for infants, babies, toddlers and children; sports caps and hats; veils; women's hats and hoods; woolly hats.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was served by U.S. mail, first class, postage prepaid, on this 20th day of June, 2012 on the Applicant at the address listed in the current U.S. Trademark Office Records as follows:

JOHN R. KETTLE, III, ESQ. TMCP-RUT
RUTGERS COMMUNITY LAW CLINIC
123 WASHINGTON ST
NEWARK, NJ 07102-3026

/Shannon Thrash/
Shannon Thrash