

ESTTA Tracking number: **ESTTA525293**

Filing date: **03/06/2013**

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	Keen, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	926 NW 13th Ave., Suite 210 Portland, OR 97209 UNITED STATES		

Attorney information	B. Anna McCoy Alleman Hall McCoy Russell & Tuttle LLP 806 SW Broadway Portland, OR 97205 UNITED STATES mccoy@ahmrt.com, billa@ahmrt.com, penfield@ahmrt.com, karl@ahmrt.com Phone:503 459 4141
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Applicant Information

Application No	85715027	Publication date	02/05/2013
Opposition Filing Date	03/06/2013	Opposition Period Ends	03/07/2013
Applicants	<p>Tolouee, Mohamad 1801 Chastain Pkwy Pacific Palisades, CA 90272 UNITED STATES</p> <p>Tolouee, Shadi 1801 Chastain Pkwy Pacific Palisades, CA 90272 UNITED STATES</p> <p>Parvinjah, Masoud 1801 Chastain Pkwy Pacific Palisades, CA 90272 UNITED STATES</p> <p>Tanham, Stacy 1801 Chastain Pkwy Pacific Palisades, CA 90272 UNITED STATES</p>		

Goods/Services Affected by Opposition

Class 025.

All goods and services in the class are opposed, namely: Jackets; Pants; Shirts; Shoes

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.	2916603	Application Date	10/04/2002
Registration Date	01/04/2005	Foreign Priority Date	NONE
Word Mark	KEEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2003/03/01 First Use In Commerce: 2004/01/01 Footwear		

U.S. Registration No.	3545458	Application Date	03/17/2005
Registration Date	12/09/2008	Foreign Priority Date	NONE
Word Mark	KEEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2007/01/01 First Use In Commerce: 2007/01/01 Bags, namely, all purpose sport bags, all purpose carrying bags, and book bags; backpacks; luggage		

U.S. Registration No.	3454495	Application Date	12/15/2006
Registration Date	06/24/2008	Foreign Priority Date	NONE
Word Mark	KEEN		

Design Mark	<h1>KEEN</h1>		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2008/04/01 First Use In Commerce: 2008/04/01 Charitable fundraising; providing grants to charitable organizations; financial services, namely, charitable services in the field of monetary donations		

U.S. Registration No.	4032365	Application Date	03/17/2005
Registration Date	09/27/2011	Foreign Priority Date	NONE
Word Mark	KEEN		
Design Mark	<h1>KEEN</h1>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2003/03/01 First Use In Commerce: 2003/03/01 Socks, shoes, boots, sandals, and slippers		

U.S. Registration No.	4209855	Application Date	02/16/2012
Registration Date	09/18/2012	Foreign Priority Date	NONE
Word Mark	KEEN		
Design Mark	<h1>KEEN</h1>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2008/12/00 First Use In Commerce: 2010/12/00 Retail store services and online retail store services featuring footwear, shoes, boots, sandals, slippers, bags, all purpose carrying bags, book bags, backpacks,		

	luggage, socks
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Attachments	76456829#TMSN.gif (1 page)(bytes) 78980746#TMSN.jpeg (1 page)(bytes) 77065753#TMSN.jpeg (1 page)(bytes) 78980008#TMSN.jpeg (1 page)(bytes) 85545336#TMSN.jpeg (1 page)(bytes) Notice of Opposition (KEEN & CAGE)_06MAR13.pdf (5 pages)(296081 bytes) United States - 2,916,603 (Registration Certificate).pdf (1 page)(18862 bytes) United States - 3,454,495 (Registration Certificate).pdf (1 page)(76648 bytes) United States - 3,545,458 (Registration Certificate).pdf (1 page)(81611 bytes) United States - 4,032,365 (Registration Certificate).pdf (2 pages)(102416 bytes)) United States - 4,209,855 (Registration Certificate).pdf (2 pages)(235944 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	/B. Anna McCoy/
Name	B. Anna McCoy
Date	03/06/2013

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

Keen, Inc.,)	
)	
Opposer,)	Serial No. 85/715,027
)	
v.)	Opposition No. _____
)	
Stacy Tanham, Individual)	
Masoud Parvinjah, Individual)	
Shadi Tolouee, Individual)	
Mohamad Tolouee)	
)	
Applicants.)	
_____)	

Commissioner for Trademarks
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3514

NOTICE OF OPPOSITION

In the matter of the application of Stacy Tanham, Masoud Parvinjah, Shadi Tolouee, and Mohamad Tolouee (“Applicants”), for registration of the mark KEEN & CAGE, application Serial No. 85/715,027, published in the Official Gazette on February 5, 2013, Keen, Inc. (“Opposer”), a corporation organized under the laws of Delaware, with its principal place of business at 926 NW 13th Ave., Suite 210, Portland, Oregon 97209, believes that it will be damaged by registration of the mark shown in Serial No. 85/715,027 and hereby opposes registration.

The grounds for opposition are as follows:

1. Opposer is a corporation, doing business as Keen, Inc, organized under the laws of Delaware, with its principal place of business at 926 NW 13th Ave., Suite 210, Portland, Oregon 97209.
2. Opposer has been and continues to be engaged in the business of designing, marketing and selling footwear, clothing, bags and other goods and related services for adults and children in the United States.

3. Since at least March 2003, Opposer has used continuously in interstate commerce marks consisting solely of, or including, the word KEEN (the "Keen Marks"), including but not limited to KEEN and , to identify products originating from the Opposer.

4. Opposer has common law rights and trademark registrations for its Keen Marks, including the following United States trademark registrations for some of its Keen Marks:

Registration Number	Registration Date	International Class
2,916,603	Jan. 4, 2005	25
3,545,458	Dec. 9, 2008	18
3,454,495	June 24, 2008	36
4,032,365	Sept. 27, 2011	25
4,209,855	Sept. 18, 2012	35

5. Keen further has established common law rights for KEEN for retail services and online retail services for children and adult products, including children and adult footwear.

6. In addition to the Keen Marks, Opposer has applied for or may have common law rights for additional marks, for use in connection with clothing, footwear, accessories and related services for adults and children, including but not limited to KEEN.DRY, KEEN.WARM, KEEN.CORK, KEEN GARAGE and EVERY SEASON IS KEEN SEASON.

7. Opposer has used and continues to use the Keen Marks, and the goods in connection therewith have been popular and the subject of significant advertising and promotional activities.

8. The use of Opposer's Keen Marks has been valid and continuous since the date of first use and Opposer has not abandoned the Keen Marks. Opposer's Keen Marks are symbolic of extensive goodwill and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion. Opposer's Keen Marks identify and distinguish Opposer's goods and service from the goods and services of others, and identify the source and origin thereof to both the trade and the public.

9. Notwithstanding Opposer's rights in and to its Keen Marks, Applicant, on August 28, 2012, filed an application for registration of the mark KEEN & CAGE. Applicant's application was

given Serial No. 85/715,027 and was published for opposition in the Official Gazette on February 5, 2013.

10. Applicant's mark KEEN & CAGE copies Opposer's company name and mark (KEEN) exactly within its mark, thus making it highly likely that consumers will be confused as to the source of the goods and services and/or whether a relationship exists between Applicant's goods and Opposer.

11. The published application for the KEEN & CAGE mark recites the following goods and services in class 25:

Jackets; Pants; Shirts; Shoes

12. Applicant's recited goods and services are closely related to the goods and services offered by Opposer for the Keen Marks and consumers may be confused as to source of the goods and services. Applicant's goods and services, namely clothing and footwear are closely related to the products offered by Keen under the Keen marks.

13. Applicant's application filing date is after Opposer's first use date.

14. Applicant's KEEN & CAGE mark, when used in connection with the goods and services set forth in its application, is confusingly similar to Opposer's use of its Keen marks. Registration of Applicant's mark and use by it for its goods and services in the U.S. is likely to cause confusion, mistake and deception among consumers. Registration of Applicant's mark may damage the goodwill and consumer recognition that Opposer has built up in its KEEN mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's mark, and prays that registration be denied.

Opposer authorizes the Commissioner for Trademarks to charge the fee for filing this Notice of Opposition, or any other additional fees that may be due, to Deposit Account 503397.

DATED this 6th day of March, 2013.

Respectfully submitted,

Alleman Hall McCoy Russell & Tuttle LLP

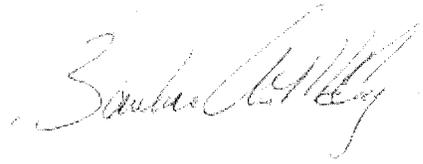


B. Anna McCoy
Oregon Bar Member
Attorney for Opposer
806 S.W. Broadway, Suite 600
Portland, Oregon 97204
Telephone: (503) 459-4141
Facsimile: (503) 459-4142

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served by First Class Mail upon Applicants Stacy Tanham, Masoud Parvinjah, Shadi Tolouee, and Mohamad Tolouee at the address of record below on this 6th day of March, 2013:

1801 Chastain Pkwy
Pacific Palisades, CA 90272

A handwritten signature in cursive script, appearing to read "B. Anna McCoy".

B. Anna McCoy
Attorney for Opposer

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 2,916,603

Registered Jan. 4, 2005

**TRADEMARK
PRINCIPAL REGISTER**



KEEN LLC (CALIFORNIA CORPORATION)
550 SANTA CRUZ AVENUE
MENLO PARK, CA 94025

FIRST USE 3-1-2003; IN COMMERCE 1-1-2004.

SN 76-456,829, FILED 10-4-2002.

FOR: FOOTWEAR, IN CLASS 25 (U.S. CLS. 22 AND
39).

DOUGLAS LEE, EXAMINING ATTORNEY

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 3,454,495

Registered June 24, 2008

**SERVICE MARK
PRINCIPAL REGISTER**

KEEN

KEEN, INC. (DELAWARE CORPORATION)
926 NW 13TH AVENUE, SUITE 210
PORTLAND, OR 97209

FOR: CHARITABLE FUNDRAISING; PROVID-
ING GRANTS TO CHARITABLE ORGANIZATIONS;
FINANCIAL SERVICES, NAMELY, CHARITABLE
SERVICES IN THE FIELD OF MONETARY DONA-
TIONS, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 4-1-2008; IN COMMERCE 4-1-2008.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

SN 77-065,753, FILED 12-15-2006.

VERNA BETH RIRIE, EXAMINING ATTORNEY

Int. Cl.: 18

Prior U.S. Cls.: 1, 2, 3, 22, and 41

United States Patent and Trademark Office

Reg. No. 3,545,458

Registered Dec. 9, 2008

**TRADEMARK
PRINCIPAL REGISTER**

KEEN

KEEN INC (DELAWARE CORPORATION)
926 NW 13TH AVENUE, SUITE 210
PORTLAND, OR 97209

FOR: BAGS, NAMELY, ALL PURPOSE SPORT
BAGS, ALL PURPOSE CARRYING BAGS, AND
BOOK BAGS; BACKPACKS; LUGGAGE, IN CLASS
18 (U.S. CLS. 1, 2, 3, 22 AND 41).

FIRST USE 1-1-2007; IN COMMERCE 1-1-2007.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 2,916,603.

SN 78-980,746, FILED 3-17-2005.

ELI HELLMAN, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

KEEN

Reg. No. 4,032,365

KEEN INC (DELAWARE CORPORATION)

Registered Sep. 27, 2011

926 NW 13TH AVENUE, SUITE 210
PORTLAND, OR 97209

Int. Cl.: 25

FOR: SOCKS, SHOES, BOOTS, SANDALS, AND SLIPPERS, IN CLASS 25 (U.S. CLS. 22 AND 39).

TRADEMARK

FIRST USE 3-1-2003; IN COMMERCE 3-1-2003.

PRINCIPAL REGISTER

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 2,916,603.

SN 78-980,008, FILED 3-17-2005.

ELI HELLMAN, EXAMINING ATTORNEY



David J. Kyffers

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

United States of America

United States Patent and Trademark Office

KEEN

Reg. No. 4,209,855

Registered Sep. 18, 2012

Int. Cl.: 35

SERVICE MARK

PRINCIPAL REGISTER

KEEN, INC. (DELAWARE CORPORATION)
SUITE 210
926 NW 13TH AVENUE
PORTLAND, OR 97209

FOR: RETAIL STORE SERVICES AND ONLINE RETAIL STORE SERVICES FEATURING FOOTWEAR, SHOES, BOOTS, SANDALS, SLIPPERS, BAGS, ALL PURPOSE CARRYING BAGS, BOOK BAGS, BACKPACKS, LUGGAGE, SOCKS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

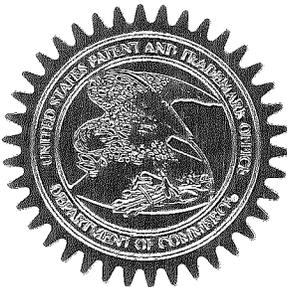
FIRST USE 12-0-2008; IN COMMERCE 12-0-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,916,603, 4,032,365 AND OTHERS.

SER. NO. 85-545,336, FILED 2-16-2012.

DAVID COLLIER, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

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