

ESTTA Tracking number: **ESTTA544816**

Filing date: **06/24/2013**

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	Forged Threadworks, Inc.
Granted to Date of previous extension	06/26/2013
Address	10625 Scripps Ranch Blvd., Suite D San Diego, CA 92131 UNITED STATES

Attorney information	Ben T. Lila Mandour & Associates, APC 16870 West Bernardo Drive, Suite 400 San Diego, CA 92127 UNITED STATES jmandour@mandourlaw.com, blila@mandourlaw.com, paralegal@mandourlaw.com
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**Applicant Information**

Application No	85721792	Publication date	02/26/2013
Opposition Filing Date	06/24/2013	Opposition Period Ends	06/26/2013
Applicant	Shively, Adam 96002 Grey Heron Ct Yulee, FL 32097 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. All goods and services in the class are opposed, namely: Shirts
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Lack of bona fide intent to use

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	3709273	Application Date	09/25/2007
Registration Date	11/10/2009	Foreign Priority Date	NONE
Word Mark	FORGED		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2008/02/08 First Use In Commerce: 2008/06/11 Bandanas; Caps; Denims; Footwear; Hats; Jackets; Pants; Shirts; Shorts; Sweat pants; Sweat shirts; T-shirts; Tank tops

U.S. Registration No.	3732401	Application Date	09/08/2008
Registration Date	12/29/2009	Foreign Priority Date	NONE
Word Mark	FORGED THREADWORKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2008/04/07 First Use In Commerce: 2008/04/17 Apparel, namely, bandanas; caps; denims; footwear; hats; jackets; pants; shirts; shorts; sweat pants; sweat shirts; T-shirts; and tank tops		

Attachments	Notice of Opposition FORGED BY IRON _+Design_ 06-21-12.pdf(13436 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	/Ben T. Lila/
Name	Ben T. Lila
Date	06/24/2013

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

In the matter of Trademark Application Serial No. 85/721,792  
Published in the Official Gazette (Trademarks) on February 26, 2013  
Trademark: FORGED BY IRON (+Design)

Forged Threadworks, Inc.	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
Adam Shivley,	)	
	)	
Applicant.	)	
_____	)	

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

Forged Threadworks, Inc, a corporation of California having an address of 10625 Scripps Ranch Blvd., Suite D, San Diego, CA 92131 (hereinafter “Opposer”), believes it will be damaged by the registration of the trademark registration shown in Application Serial No. 85/721,792 for the identified goods and hereby opposed that application under the provisions of 15 U.S.C. § 1063.

Application Serial No. 85/721,792 was filed on September 6, 2012 on an Intent to Use basis for the trademark “FORGED BY IRON (+Design)” in connection with “Shirts” in International Class 025, and published in the Trademark Official Gazette on February 26, 2013. Having been granted time to oppose up to and including June 26, 2013, Opposer opposes registration of the above-referenced trademark application and alleges:

1. Since as early as February 8, 2008, Opposer began using the trademark FORGED

for clothing and apparel.

2. Opposer is the owner of U.S. Trademark Registration No. 3,709,273 for FORGED for a “Bandanas; Caps; Denims; Footwear; Hats; Jackets; Pants; Shirts; Shorts; Sweat pants; Sweat shirts; T-shirts; Tank tops” in International Class 025.

3. Opposer’s FORGED trademark has been clearly and prominently displayed on Opposer’s products. Through Opposer’s extensive sales of its FORGED product, consumers have come to recognize Opposer’s FORGED trademark as denoting a unique standard of high quality. As a result, Opposer’s FORGED trademark has acquired a wide and favorable reputation, symbolizing the goodwill that Opposer has created throughout the United States in connection with the sale of its products

4. Applicant is seeking to obtain registration on the Principal Register of the trademark FORGED BY IRON (+Design) for “Shirts” in International Class 025.

5. Applicant has not yet claimed a date of first use of its trademark. Opposer’s date of first use in interstate commerce is at least as early as February 8, 2008. Opposer’s use of its trademark has been valid and continuous since said date of first use and has not been abandoned. Accordingly, Opposer has rights of priority in the FORGED trademark superior to those of Applicant.

6. The goods set forth in Applicant’s application are related to those offered by Opposer, and are also within the natural zone of expansion of Opposer’s goods.

7. The applied-for trademark FORGED BY IRON (+Design) is confusingly similar to the Opposer’s FORGED trademark in terms of its appearance, sound, meaning, and overall commercial impression and it is likely to cause confusion, mistake, and deception as to an affiliation, connection, or association between Opposer and Applicant, or as to the origin,

sponsorship, or approval of Applicant's goods, all to Opposer's detriment, thereby causing Opposer damage. Potential consumers are likely to believe that Applicant's goods originate from, or are sponsored or approved by Opposer, when such is not the case.

8. Applicant is not affiliated with or connected in any way to Opposer and Opposer has not consented to Applicant's use of Opposer's FORGED trademark.

9. By reason of the foregoing, Opposer believes that it will be damaged by registration of said trademark, and prays that this Opposition be sustained, that Application Serial No. 85/721,792 be rejected, and that the trademark applied for therein be refused registration.

10. Opposer alleges that Applicant did not have a *bona fide* intent to use the FORGED BY IRON (+Design) trademark at the time of filing the trademark application. Opposer alleges that Applicant had no intention of producing all the goods and services claimed on the FORGED BY IRON (+Design) application. Opposer alleges that to date Applicant has not sold in interstate commerce all the goods alleged in Applicant's application. Opposer alleges that Applicant lacked the ability and willingness to use the FORGED BY IRON (+Design) trademark in the United States to identify all the goods listed in the application at the time of the filing of the application.

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Opposer has appointed Joseph A. Mandour and Ben T. Lila, Mandour & Associates, APC, 16870 West Bernardo Drive, Suite 400, San Diego, CA 92127, members of the bar of the State of California, as agents and attorneys in the matter of the opposition above-identified, to prosecute said opposition, to transact all business in the United States Patent & Trademark Office and in the United States courts in connection with this opposition, to sign his name to all papers which may hereinafter be filed in connection therewith, and to receive all communications relating to the same.

Respectfully submitted,

Date: June 24, 2013

By:     /Ben T. Lila/      
Ben T. Lila, Esq.  
MANDOUR & ASSOCIATES, APC  
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(858) 487-9300  
blila@mandourlaw.com  
Attorneys for Opposer  
Forged Threadworks, Inc.

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the below date a true and correct copy of the foregoing

**NOTICE OF OPPOSITION** was served via first class mail, postage prepaid on Applicant at:

Scott E. Scioli  
PINNACLE IP STRATEGIES, LLC  
PO Box 2498  
Cinnaminson, NJ 08077

Adam Shivley  
96002 Grey Heron Ct.  
Yulee, FL 32097

Date: June 24, 2013

/Julia Robertson/  
Julia Robertson