

ESTTA Tracking number: **ESTTA561472**

Filing date: **09/26/2013**

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	LEGEND INTERNATIONAL LTD
Granted to Date of previous extension	09/28/2013
Address	42 BULLESCROFT ROAD EDGWARE, HA8 8RW UNITED KINGDOM
Correspondence information	NICHOLAS J ALLSOPP MR MSM LTD THE SATURN CENTRE SPRING ROAD ETTINGSHALL WOLVERHAMPTON, WV4 UNITED KINGDOM msmnick@hotmail.com Phone:44 01902 408878

Applicant Information

Application No	85873857	Publication date	07/30/2013
Opposition Filing Date	09/26/2013	Opposition Period Ends	09/28/2013
Applicant	Perfect Pick Ups Inc. 3G 235 West End Ave. New York, NY 10023 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 025. All goods and services in the class are opposed, namely: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Footwear for men and women; Headbands for clothing; Pants; Shirts; Shorts; Socks; Women's clothing, namely, shirts, dresses, skirts, blouses</p>
<p>Class 028. All goods and services in the class are opposed, namely: Sport balls; Sporting goods, namely, carriers specially adapted for sport balls; Sports equipment, namely, telescoping caddy for bucket for carrying, storing and transporting tennis balls and other sports equipment; Table tennis balls; Tennis ball retrievers; Tennis balls</p>
<p>Class 035. All goods and services in the class are opposed, namely: On-line retail store services featuring tennis equipment, athletic equipment, clothing, accessories, training equipment, footwear, sport balls, ball retrievers, gift mugs, office items, coaching material</p>

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is deceptively misdescriptive	Trademark Act section 2(e)(1)
Dilution	Trademark Act section 43(c)
Other	That the defendant is not and was not at the time of filing its application the rightful owner of the mark it seeks to register as its own (Anheuser - Busch Inc v The Florists Association of Greater Cleveland Inc, 29 USPQ2d 1146 (TTAB 1993))

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	86038785	Application Date	08/15/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	T TENN		
Design Mark			
Description of Mark	The mark consists of the word " TENN " in a stylized form with an additional letter T at the front in black script in a white circle on a white background.		
Goods/Services	<p>Class 025. First use: First Use: 1995/01/01 First Use In Commerce: 1995/01/01 bicycle cyclists apparel namely footwear, hats, caps, headgear (including helmets and protective headgear), shirts, base layers, jackets, capes, shorts, overshoes, jerseys, shirts, shoes, socks, tights, warmers, gloves, gilets and arm and leg warmers for both men and women : sports bras and skirts for women</p> <p>Class 035. First use: First Use: 1995/01/01 First Use In Commerce: 1995/01/01 online retail and retail store services for cyclists, sporting goods, equipment, clothing, accessories, safety equipment, footwear, headgear, tools and manuals</p> <p>Class 039. First use: First Use: 1995/01/01 First Use In Commerce: 1995/01/01 Importation, storage, packaging, repackaging and distribution of cyclists sporting goods, equipment, clothing, footwear, headgear, safety equipment, tools and manuals</p>		

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Attachments	TENN OPPOSITION GROUNDS OF OPPOSITION 85873857.pdf(214974 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	/nicholas allsopp/
Name	NICHOLAS J ALLSOPP
Date	09/26/2013

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

In the matter of trademark application Serial No : 85873857

For the proposed mark “ Tenn “

Published in the Official Gazette on July 30th, 2013.

LEGEND INTERNATIONAL LIMITED

V

PERFECT PICK UPS INC

NOTICE OF OPPOSITION

1. Legend International Limited is a Private Limited Company (hereafter “ the Opposer “) incorporated in the legal jurisdiction of England & Wales under the Companies Act, 1985 & 1989 with registered Number 03226312 at 42, Bullescroft Road, Edgware, Middlesex HA8 8RW the main business of which is the importation, export, manufacture, modification and distribution of sporting good products for cyclists under the trade mark and brand identity of “ TENN “.

2. The above identified opposer believes that it will be damaged by registration of the proposed trade mark as shown in the above identified application in classes 25, 28 and 35 and hereby opposes the same. The grounds for opposition are as follows and apply to each class of the application : -

(1) THAT the defendant’s proposed trade mark resembles and is near identical to a mark and trade name brand previously used and continued to be used in the United States by the Opposer on its sporting goods imported, marketed and sold in the United States since 1st January, 1995) so as to be likely when used on or in connection with the goods or services of the defendant, to cause confusion, the likelihood of confusion, or and to cause mistake and / or otherwise to deceive any purchaser of those goods.

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(2) THAT the defendant's proposed mark falsely suggests a connection with the Plaintiff's name, identity and goodwill which has become established over the period of time (18 years) that the Plaintiff has been importing, marketing and distributing its sporting goods into the United States.

(3) THAT the defendant is not (and was not at the time of the filing of its application for that registration) and has never been the rightful owner of the mark it now seeks to register as its own.

(4) THAT the defendant's mark would dilute the distinctive quality of the famous mark belonging to and owned by the Plaintiff.

(5) THAT the defendant's use of its mark would misrepresent the source of its goods or services.

BY *N.J. Allsopp*

NAME NICHOLAS JAMES ALLSOPP

POSITION CHARTERED COMPANY SECRETARY

DULY AUTHORISED SIGNATORY FOR AND ON BEHALF
OF LEGEND INTERNATIONAL LIMITED OF : -
ADDRESS : 42, BULLESCROFT ROAD, EDGWARE,
MIDDLESEX, UNITED KINGDOM HA8 8RW.

Dated : 25th September, 2013.

