

ESTTA Tracking number: **ESTTA572216**

Filing date: **11/21/2013**

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	Western Glove Works
Granted to Date of previous extension	11/23/2013
Address	555 Logan Avenue Winnipeg, R3A 0S4 CANADA

Attorney information	Teresa C. Tucker Grossman Tucker Perreault & Pflieger PLLC 55 South Commercial Street Manchester, NH 03101 UNITED STATES ttucker@gtp.com Phone:603.668.6560
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Applicant Information

Application No	85847407	Publication date	09/24/2013
Opposition Filing Date	11/21/2013	Opposition Period Ends	11/23/2013
International Registration No.	NONE	International Registration Date	NONE
Applicant	MARQUESINA, S.A. 2nd Street, La Loceria, Accounting Bld Local 3, Panama City, PAX PAX		

Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: CLOTHING FOR MEN WOMEN AND CHILDREN, NAMELY, TOPS, SKIRTS, PANTS, HATS, FOOTWEAR, SLEEPWEAR, SWIMWEAR AND OUTERWEAR, NAMELY, JACKETS, PARKAS, ANORAKS, COATS, VESTS, SCARVES, HATS, GLOVES AND MITTENS

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.	2399553	Application Date	06/07/1999
Registration Date	10/31/2000	Foreign Priority	NONE

		Date	
Word Mark	SILVER		
Design Mark	SILVER		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1980/00/00 First Use In Commerce: 1983/00/00 Clothing, namely, pants, trousers, jeans, shorts, jackets, vests, shirts, sweatshirts, T-shirts[, caps and hats]		

U.S. Registration No.	3197044	Application Date	06/07/1999
Registration Date	01/09/2007	Foreign Priority Date	05/14/1999
Word Mark	SILVER JEANS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1995/00/00 First Use In Commerce: 1995/00/00 (Based on Section 44(e)) Clothing, namely, pants, jeans, shorts, jackets, shirts, sweat shirts, T-shirts, ((caps, hats, and swimwear))		

Attachments	75723231#TMSN.gif(bytes) A.G.SILVER.Opposition.pdf(75851 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	/tct/
Name	Teresa C. Tucker
Date	11/21/2013

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

In Re Trademark Appln.)
Serial No. 85847407)
Filed: February 12, 2013)
Published in the Official Gazette)
of September 24, 2013)
Mark: A.G. SILVER)
Class: INT. 25)

WESTERN GLOVE WORKS)
Opposer) Opposition No.
v.)
MARQUESINA, S.A.)
Applicant)
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NOTICE OF OPPOSITION

Western Glove Works, a partnership registered under the laws of Canada, with an address of 555 Logan Avenue, Winnipeg, R3A 0S4, Canada, believes it will be damaged by the registration of the mark “A.G. SILVER” shown in Application Serial No. 85847407 filed on February 12, 2013 in the name of Marquesina, S.A., and hereby opposes the same.

The grounds for opposition against said application are as follows:

OPPOSER’S MARKS AND REGISTRATIONS

1. Opposer is the owner of the marks “SILVER” for clothing, namely, pants, trousers, jeans, shorts, jackets, vests, shirts, sweatshirts, T-shirts, caps and hats in Class 25 as shown in Federal Trademark Registration No. 2399553, and “SILVER JEANS” for clothing,

namely, pants, jeans, shorts, jackets, shirts, sweatshirts, and T-shirts, as shown in Federal Trademark Registration No. 3197044.

2. The above referenced registrations, owned by Opposer, constitute prima facie evidence of Opposer's ownership of the marks "SILVER" and "SILVER JEANS" (hereinafter referred to collectively as the "SILVER marks") and Opposer's rights in said Registrations are incontestable under 15 U.S.C. §1065.

3. Opposer heavily relies on the SILVER marks in its business, including without limitation, in its advertising and other marketing efforts, and has built up a significant amount of goodwill in its SILVER marks through its many years of continuous use in the U.S. and elsewhere.

4. Opposer has used the "SILVER" mark shown in Registration No. 2399553 in the U.S. since at least as early as 1983 in connection with the goods identified in said registration and has used the "SILVER JEANS" mark as shown in Registration No. 3197044 in the U.S. since at least as early as 1995 in connection with the goods identified in said registration.

APPLICANT'S APPLICATION

5. On information and belief, on February 12, 2013 Applicant, Marquesina S.A., filed an application with the United States Patent and Trademark Office for "A.G. SILVER," assigned Serial No. 85847407 in Class 25 for "clothing for men women and children, namely, tops, skirts, pants, hats, footwear, sleepwear, swimwear and outerwear, namely, jackets, parkas, anoraks, coats, vests, scarves, hats, gloves and mittens" which goods are identical and/or essentially identical and/or closely related to Opposer's goods.

6. Applicant's application indicates a filing date for Applicant's proposed mark of February 12, 2013 and is based on Applicant's intent to use the mark. Accordingly, Opposer's

filing dates and first use dates precede Applicant's filing date and use. Thus, Opposer is the senior user.

LIKELIHOOD OF CONFUSION

7. Opposer alleges there is a likelihood of confusion between Opposer's SILVER marks and Applicant's proposed "A.G. SILVER" mark, given the similarities in the sight, sound, and overall commercial impressions of the marks, and consumers are likely to be confused or misled into believing that Applicant's "A.G. SILVER" goods originate from or are sponsored or authorized by Opposer.

8. The "A.G. SILVER" mark proposed for registration by Applicant is similar in meaning and thus maintains the same overall commercial impression as Opposer's SILVER marks. Both parties' marks comprise the term "SILVER." Thus, the overall commercial impression conveyed by Applicant's mark is essentially identical in meaning to Opposer's marks and Applicant's mark creates the impression that it is a formative of Opposer's SILVER marks.

9. Furthermore, the Applicant's proposed "A.G. SILVER" mark is so similar in sound and appearance to Opposer's SILVER marks, the ordinary consumer viewing these marks would not likely focus on the slight distinctions in the marks because they sound and appear so similar.

10. The likelihood of confusion between Opposer's SILVER marks and Applicant's proposed "A.G. SILVER" mark is furthered by the common identity of the parties' goods. Applicant's application identifies items of apparel which are identical and/or closely similar and/or closely related to the goods in Opposer's registrations.

11. The likelihood of confusion between Opposer's SILVER marks and Applicant's proposed "A.G. SILVER" mark is furthered by the similarity between the parties' respective

