

ESTTA Tracking number: **ESTTA578755**

Filing date: **12/24/2013**

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	Ludovic Boinnard
Granted to Date of previous extension	12/25/2013
Address	205 16th Street San Diego, CA 92101 UNITED STATES

Attorney information	CRAIG O CORRELL CRAIG O CORRELL, ATTORNEY AT LAW 4245 SUNNYHILL DRIVE CARLSBAD, CA 92008 UNITED STATES zcraig@earthlink.net Phone:760 434 6800
----------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------

### Applicant Information

Application No	79121283	Publication date	08/27/2013
Opposition Filing Date	12/24/2013	Opposition Period Ends	12/25/2013
International Registration No.	1137991	International Registration Date	07/30/2012
Applicant	Franz Harrer Akeleistr. 6 DEX DEX		

### Goods/Services Affected by Opposition

<p>Class 028. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Gymnastic and sporting articles, namely, exercise treadmills, continuous ladder, climbing apparatus, bicycle trainers, steppers, exercise equipment in the nature of arm trainers, cross-trainers as full body trainer, swimming simulation training apparatus, sprint trainers featuring traction support and traction resistance trainers; games and playthings, gymnastic and sporting articles, not included in other classes, namely, exercise machines, rowing machines, basketballs, football goals, fitness apparatus, namely, manually-operated exercise equipment for physical fitness purposes, exercise bands, training bars; electronic, mechanical, hydraulic and pneumatic power training equipment and endurance training equipment, namely, elliptical exercise machines, rowing machines, weight lifting machines; parallel bars for gymnastics</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

The mark is merely descriptive	Trademark Act section 2(e)(1)
--------------------------------	-------------------------------

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4276127	Application Date	04/21/2010
Registration Date	01/15/2013	Foreign Priority Date	NONE
Word Mark	100% SPEEDLAB		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2012/09/15 First Use In Commerce: 2012/09/15 Shirts; T-shirts		

U.S. Application No.	85827359	Application Date	01/18/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	100% SPEEDLAB		
Design Mark			
Description of Mark	The mark consists of the terms "100%" and "SPEEDLAB" superimposed in white over an elongated hexagon filled with red in the top left diagonal portion and filled with blue in the bottom right diagonal portion.		
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Hats; Shirts; T-shirts		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	SPEEDLAB		
Goods/Services	goggles and goggle lenses for sports		

Attachments	85019993#TMSN.jpeg( bytes ) 85827359#TMSN.jpeg( bytes ) OppSPEEDLAB-FINAL24.pdf(374925 bytes )
-------------	------------------------------------------------------------------------------------------------------

### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Signature	/Craig O. Correll/
Name	CRAIG O CORRELL
Date	12/24/2013

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

In the matter of service mark application Serial Number 79121283 published in the Official Gazette-Trademarks on August 27, 2013.

Boinnard, Ludovic	)	
	)	
Opposer,	)	
	)	Opposition No.
v.	)	
	)	
Franz Harrer,	)	
Applicant.	)	
<u>Mark: SPEEDLAB</u>	)	

**NOTICE OF OPPOSITION**

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

Dear Sir:

Opposer, Ludovic Boinnard, a French citizen, doing business at: 205 16th Street, San Diego CA 92101, (hereinafter referred to as "Opposer"), believes he will be damaged by registration of the mark shown in Serial No. 79121283 filed by Franz Harrer, (hereinafter referred to as "Applicant") and therefore opposes the same.

A description of Applicant's mark is as follows:

Mark:	SPEEDLAB
Serial No.:	79121283
Filed:	JULY 30, 2012
Published:	August 27, 2013
Filing Basis:	§66A
Goods:	in international classes 9, 28 and services in class 41

Opposer opposes registration of those goods listed in international class 28, namely:

Class 28: Gymnastic and sporting articles, namely, exercise treadmills, continuous ladder, climbing apparatus, bicycle trainers, steppers, exercise equipment in the nature of arm trainers, cross- trainers as full body trainer, swimming simulation training apparatus, sprint trainers featuring traction support

Opp. SPEEDLAB

Dec. 24, 2013

and traction resistance trainers; games and playthings, gymnastic and sporting articles, not included in other classes, namely, exercise machines, rowing machines, basketballs, football goals, fitness apparatus, namely, manually-operated exercise equipment for physical fitness purposes, exercise bands, training bars; electronic, mechanical, hydraulic and pneumatic power training equipment and endurance training equipment, namely, elliptical exercise machines, rowing machines, weight lifting machines; parallel bars for gymnastics

As grounds of opposition, it is alleged:

1. The likelihood of confusion, mistaken association and other mischief is palpable and must be avoided.

2. Opposer's application, Serial Number 85/019993, for the "100% SPEEDLAB" brand and mark was filed on April 21, 2010, and has been continuously in use since approximately September of 2012, for clothing manufactured by Opposer.

3. Opposer was granted registration number 4276127, for such trademark on January 15, 2013. Additionally, Opposer claims common law rights to its "100% SPEEDLAB" mark for other items not set forth in such registration, including but not limited to: goggles and goggle lenses for sports. A true and correct copy of the U.S. Patent & Trademark Office records for such registration from the TESS database is attached hereto as Exhibit A.

4. Opposer's use in interstate commerce of the mark has been valid and continuous and has not been abandoned. Said mark of Opposer is symbolic of goodwill and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion. In view of the similarity of the respective marks in spelling, sound and connotation, and the similarity of the nature of the goods of the respective parties, it is alleged that Applicant's mark so resembles Opposer's "100% SPEEDLAB" mark previously used in the United States, and not abandoned, as to be

likely to cause confusion, or to cause mistake or to deceive. Furthermore, Applicant's use of the mark "SPEEDLAB" for any sports related products and activities will be perceived by the trade and public as derived from Opposer's "100% SPEEDLAB" mark, and therefore, the public will be confused as to the source of the services.

5. The registration of Applicant's mark "SPEEDLAB" would be further damaging to Opposer by reason of the similarity of the channels of trade in which the goods are advertised and/or distributed. Specifically, and without limitation, the goods under the conflicting marks in the marketplace and the sports and sporting goods industry in particular, would confuse the public into believing that Applicant's goods were those of Opposer, that the Applicant's goods were a part of Opposer's goods, or that Applicant was somehow authorized by Opposer or vice versa. Further, any fault or defect in the Applicant's services under the mark "SPEEDLAB" would reflect adversely upon Opposer and would seriously injure the reputation and goodwill that Opposer has carefully built and established for its services under the "100% SPEEDLAB" mark, resulting in damage to Opposer.

6. Opposer's application and constructive use of the mark, "100% SPEEDLAB" pre-dates Applicant's filing of its International Registration Number 1137991 and/or request for extension of such International Registration to the United States of America. A true and correct copy of the U.S. Patent & Trademark Office records for such application Serial Number 79121283, from the TESS database is attached hereto as Exhibit B. In view of the similarity of the respective marks and the related nature of the services and markets of the respective parties, it is alleged that Applicant's mark so

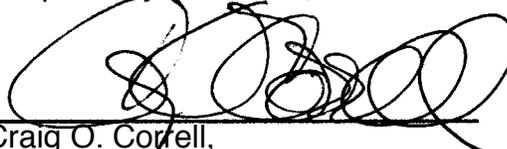
resembles Opposer's mark as to be likely to cause confusion or to cause mistake or to deceive.

7. The use of Applicant's mark will inexorably and unavoidably have an adverse effect upon the value of Opposer's marks. If this Opposition is not sustained, Opposer's mark will eventually be deprived of its distinctiveness, since the Applicant's use of the confusing "SPEEDLAB" mark for similar and related goods will blur customers' recognition of Opposer's "100% SPEEDLAB" mark, for clothing and/or sports related goods and will therefore tarnish the good identification and associations which Opposer's mark has come to represent or convey.

WHEREFORE, Opposer prays that Application Serial No. 79121283, be rejected and stricken, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer. Pursuant to 37 CFR 2.6 (e), submitted herewith is payment of \$300.00 for the requisite fee for filing this Notice of Opposition.

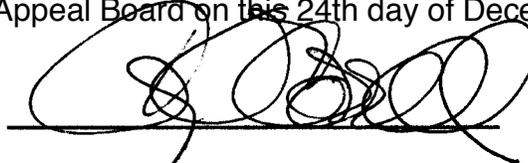
Dated: December 24, 2013

Respectfully submitted,



Craig O. Correll,  
Attorney for Opposer, Ludovic Boinnard  
4245 Sunnyhill Drive  
Carlsbad, CA 92008  
Phone: (760) 434-6800; Fax: (760) 434-0808  
email: zcraig@earthlink.net

I hereby certify that this paper is being filed via ESTTA with the United States Patent & Trademark Office, Trademark Trial and Appeal Board on this 24th day of December, 2013



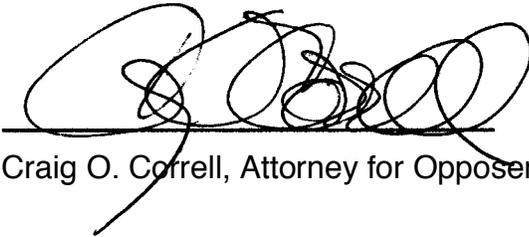
Craig O. Correll  
Attorney for Opposer, Ludovic Boinnard

**Service on the Director Under 37 CFR §2.119(d) and 37 CFR §2.24**

I, so certify that --

Whereas, Applicant for application No. 79121283, is not represented by an attorney and has no address in the United States and has not designated a domestic representative, notice is hereby given to the Director and it is understood that the Director shall notify the Applicant.

Dated: December 24, 2013



Craig O. Correll, Attorney for Opposer

# EXHIBIT A

Print-out of TESS record for U.S. Reg. No.: 4276127



## Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Mon Dec 23 03:20:38 EST 2013

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#) [PREV LIST](#) [CURR LIST](#) [NEXT LIST](#)

[FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) List At: [            ] OR [Jump](#) to record: [            ] **Record 2 out of 2**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) *( Use the "Back" button of the Internet Browser to return to TESS)*

# 100% SPEEDLAB

<b>Word Mark</b>	100% SPEEDLAB
<b>Goods and Services</b>	IC 025. US 022 039. G & S: Shirts; T-shirts. FIRST USE: 20120915. FIRST USE IN COMMERCE: 20120915
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85019993
<b>Filing Date</b>	April 21, 2010
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	September 21, 2010
<b>Registration Number</b>	4276127
<b>Registration Date</b>	January 15, 2013
<b>Owner</b>	(REGISTRANT) Boinnard, Ludovic INDIVIDUAL FRANCE 818 Nantasket Court San Diego CALIFORNIA 92109
<b>Attorney of Record</b>	Craig O. Correll
<b>Prior Registrations</b>	1554593
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [TOP](#) [HELP](#) [PREV LIST](#) [CURR LIST](#) [NEXT LIST](#)

# EXHIBIT B

Print-out of TESS record for application Serial Number 79121283



## Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Sep 10 03:11:22 EDT 2013

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG BOTTOM HELP PREV LIST CURR LIST NEXT LIST  
FIRST DOC PREV DOC NEXT DOC LAST DOC

Logout Please logout when you are done to release system resources allocated for you.

Start List At: | OR Jump to record: | Record 3 out of 10

TSDR ASSIGN Status TTAB Status ( Use the "Back" button of the Internet Browser to return to TESS)

# SpeedLab

Word Mark SPEEDLAB

Translations The English translation of "SpeedLab" in the mark is "Speed Laboratory".

Goods and Services IC 009. US 021 023 026 036 038. G & S: Software for the documentation, visualisation, calculation and analysis of the blood lactate values and performance status of test persons and patients with integrated functions for training control and the evaluation of sports medical parameters, and for the control of ergometers; software for the documentation, visualisation, calculation and analysis of body movements, power trend curves, velocity trend curves, angular velocities, as well as ground reaction forces and the performance status of test persons and patients with integrated functions for training control and the evaluation of sports medical parameters, and for the control of ergometers; software for ergometric apparatus for cardio-respiratory diagnostics and cardiovascular training; electronic apparatus for data management for medical use, namely, computers for data management, data processors, electronic data loggers; electronic apparatus for measuring and improving reaction time, namely, optical sensors and contact mats in conjunction with software and optical and acoustic signals and biofeedback apparatus; software for the documentation and control of rehabilitative and sports medical activities; control software for all the aforesaid instruments and apparatus, and for peripheral devices therefor; scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking supervision, life-saving and teaching apparatus and instruments, namely, cameras, ground reaction force plates, force sensors, pressure sensors, pressure distribution sensors, electronic display boards; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, namely, electricity conduits, keyboards, electronic remote control switches, electric transformers; calculating machines and data processing equipment. computer hardware and software for medical imaging apparatus, medical diagnostic apparatus, sports diagnostic apparatus and processing digital music files and parts therefor, included in this class; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers prerecorded with sports and medical teaching data and education films; digital memories, namely, secure digital memory cards; calculating machines; electronic display boards; remote control apparatus for fitness and rehabilitation and medical diagnostic apparatus, treadmills, ergometers and ergometry apparatus; downloadable electronic publications in the nature of magazines, newspapers, books, newsletters, scientific reports, whitepapers, operation manuals, application manuals in the field of neurology, biomechanics, sports science, sports medicine, medicine, rehabilitation, sports and fitness; pedometers in the nature of step counters; blank electronic chip cards; chip card readers; blank magnetic stripe cards and readers therefor; equipment, apparatus and instruments for the registering, storage, verification and application of biometric data, namely, biometric fingerprint identification and safety lock, biometric identification apparatus; dialog computer systems and installations composed primarily of database servers and computer workstations and computer network components; electric and electronic communications and telecommunications apparatus and instruments, including installed in other objects, namely, mobile phones and tablet computers and software therefor; apparatus for recording, reproduction, and processing of data, namely, electronic equipment and apparatus for the optical and magnetic recording and processing of data relating to movement processes; interfaces for computers. interface cards for data processing equipment in the form of printed circuits. interface converters

and interface data protocols for all the aforesaid instruments and apparatus, and for peripheral devices therefor, namely, for treadmills, ergometers, ergometry apparatus, body exercise apparatus, fitness and medical diagnostic apparatus; electronic apparatus for testing strength, weighing machines; pressure-measuring apparatus, namely, pressure sensors, pressure indicators, and pressure gauges; solar installations for power Generation, namely, solar panels for the production of electricity, solar batteries; photovoltaic installation apparatus, namely, solar modules for production of electricity; lactometers; ergometers not for medical purposes; physiological power meters not for medical purposes; dynamometers; electrical power supply, namely, energy storage units comprising ultracapacitors for use in portable power applications; apparatus for Navigation, namely, GPS navigation device, loran navigation machines, satellite-aided navigation systems; control software for all the aforesaid instruments and apparatus, and for peripheral devices therefor

IC 028. US 022 023 038 050. G & S: Gymnastic and sporting articles, namely, exercise treadmills, continuous ladder, climbing apparatus, bicycle trainers, steppers, exercise equipment in the nature of arm trainers, cross-trainers as full body trainer, swimming simulation training apparatus, sprint trainers featuring traction support and traction resistance trainers; games and playthings, gymnastic and sporting articles, not included in other classes, namely, exercise machines, rowing machines, basketballs, football goals, fitness apparatus, namely, manually-operated exercise equipment for physical fitness purposes, exercise bands, training bars; electronic, mechanical, hydraulic and pneumatic power training equipment and endurance training equipment, namely, elliptical exercise machines, rowing machines, weight lifting machines; parallel bars for gymnastics

IC 041. US 100 101 107. G & S: Educational and entertainment services, namely, organizing community sporting and cultural activities; providing physical fitness exercise training in the nature of speed training, power training, condition training and coordination training for fitness, sports, medical purposes, rehabilitation and science

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 79121283

**Filing Date** July 30, 2012

**Current Basis** 66A

**Original Filing Basis** 66A

**Published for Opposition** August 27, 2013

**International Registration Number** 1137991

**Owner** (APPLICANT) Franz Harrer INDIVIDUAL FED REP GERMANY Akeleistr. 6 83346 Bergen FED REP GERMANY

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

---

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [TOP](#) [HELP](#) [PREV LIST](#) [CURR LIST](#) [NEXT LIST](#)  
[FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)