

ESTTA Tracking number: **ESTTA635431**

Filing date: **10/28/2014**

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	Tristar Products, Inc.
Granted to Date of previous extension	10/29/2014
Address	492 Route 46 East Fairfield, NJ 07004 UNITED STATES

Attorney information	Daniel J. Holmander Barlow, Josephs & Holmes Ltd. 101 Dyer Street, 5th floor Providence, RI 02903 UNITED STATES djh@barjos.com, cac@barjos.com Phone:401-273-4446
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Applicant Information

Application No	86232781	Publication date	07/01/2014
Opposition Filing Date	10/28/2014	Opposition Period Ends	10/29/2014
Applicant	Telebrands Corp. 79 Two Bridges Road Fairfield, NJ 07004 UNITED STATES		

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: copper-infused compression gloves
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Undisclaimed portion of the mark is merely descriptive

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85826741	Application Date	01/18/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	COPPER WEAR		

Design Mark	
Description of Mark	The mark consists of the wording "COPPER WEAR" in grey, with a copper-colored paintbrush-style stroke at the diagonal between the two words.
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 clothing, namely, socks, shirts, tights, sleeves, undershorts, shorts, and gloves, all the foregoing goods featuring copper-infused fabric

Attachments	85826741#TMSN.png(bytes) notice of opposition.pdf(1507824 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	/cac/
Name	Cheryl A Clarkin
Date	10/28/2014

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

Tristar Products, Inc.)	
)	
Opposer,)	Opposition No. _____
)	
v.)	Application Serial No.
)	86/232781
)	
Telebrands Corp.,)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Opposer, Tristar Products, Inc. a corporation organized under the laws of Pennsylvania and located at 492 Route 46 East, Fairfield, NJ 07004, believes that it will be damaged by registration of COPPER HANDS (“Mark”), which Mark is the subject of U.S. Federal Trademark Application Serial No. 86/232781 (“Application”) filed by Telebrands Corp., a New Jersey corporation, having an address at 79 Two Bridges Road, Fairfield, New Jersey 07004 and which Mark was published for opposition in the *Official Gazette* on July 1, 2014. An extension of time was granted by the Trademark Office for Opposer to file an Opposition by October 29, 2014.

The grounds for the opposition are as follows:

COUNT I - Section 2(d) of the Trademark Act –Likelihood of Confusion

1. Applicant seeks to register COPPER HANDS for copper-infused compression gloves, in International Class 25.
2. The opposed Application was filed on March 26, 2014 under Section 1(b) of the Trademark Act.
3. Opposer is the owner of U.S. Trademark Application Serial No. 85/826741 for the mark COPPER WEAR for clothing, namely, socks, shirts, tights, sleeves, undershorts, shorts, and gloves, all the foregoing goods featuring copper-infused fabric, in International Class 25. A current printout of information from the electronic database records of the USPTO showing the current status and title of the application accompanies this Notice of Opposition.
4. Opposer filed U.S. Trademark Application Serial No. 85/826741 on January 18, 2013 under Section 1(b) of the Trademark Act.
5. Opposer's filing date of January 18, 2013 is prior to Applicant's filing date of March 26, 2014.

6. Opposer's clothing, namely, socks, shirts, tights, sleeves, undershorts, shorts, and gloves, all the foregoing goods featuring copper-infused fabric in connection with its trademark for COPPER WEAR is highly related and identical to the copper-infused compression gloves identified in Application Serial No. 86/232781 for the mark COPPER HANDS. On information and belief, Opposer's goods and Applicant's goods are offered to the same classes of customers through the same channels of trade.

7. Applicant's Mark, COPPER HANDS, is confusingly similar to Opposer's COPPER WEAR mark, and is likely to cause confusion.

8. Applicant's Mark, COPPER HANDS, is listed in the identical International Class 025 as the Opposer's trademark COPPER WEAR.

9. If Applicant uses the mark COPPER HANDS with the copper-infused compression gloves identified in Application Serial No. 86/232781, such use would be likely to cause confusion, mistake, and/or deception of the relevant trade and public. Customers and potential customers are likely to believe that Applicant's goods offered under the Mark emanate from, or are licensed or approved by, Opposer, when that is not the case. Such confusion, mistake, and/or deception would be a source of damage to Opposer.

10. If Applicant is granted the registration herein opposed, it would thereby obtain a prima facie right to use the mark COPPER HANDS which is confusingly similar to the Opposer's mark, which would be a further source of damage to Opposer.

11. Applicant's mark, COPPER HANDS, is likely to cause confusion with Opposer's trademark COPPER WEAR, and therefore Applicant's Mark should be refused registration, rendered unenforceable, and/or restricted under Section 2(d) of the Trademark Act.

COUNT II – Undisclaimed Portion of the Mark is Merely Descriptive

12. Opposer hereby incorporates by reference the allegations of paragraphs 1-11 above.

13. Applicant seeks to register COPPER HANDS as a trademark for copper-infused compression gloves.

14. Applicant's mark contains the term HANDS which, when applied to Applicant's gloves, is merely descriptive and should have been disclaimed. See Kellogg Company v. Pack'em Enterprises, Inc., 14 U.S.P.Q.2d 1545.

WHEREFORE, Opposer believes that it will be damaged by registration of said Mark, COPPER HANDS, and prays that this Opposition be sustained in favor of Opposer, that Application Serial No. 86/232781 be refused registration, rendered unenforceable, disclaimed in part or whole and/or restricted based upon at the least the

grounds set forth above.

The Applicant reserves the right to add additional counts beyond those recited above.

Opposer hereby appoints Barlow, Josephs & Holmes Ltd., a law firm composed of Daniel J. Holmander, Stephen J. Holmes, Cheryl A. Clarkin, David R. Josephs, Robert Lichter, and Joshua A. Stockwell, to act as attorneys for Opposer herein, with full power to prosecute said Opposition, to transact all relevant business with the Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this Opposition.

Respectfully submitted,

Tristar Products, Inc. (Opposer)

/cheryl a. clarkin/

Cheryl A. Clarkin, Esq.

Daniel J. Holmander, Esq.

Counsel for Opposer

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Email: cac@barjos.com

Dated: October 28, 2014

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** has been served on Applicant's counsel and Applicant, at the following addresses of record, by first class mail, postage prepaid, this 28th day of October 2014:

Applicant

TELEBRANDS CORP.
79 TWO BRIDGES ROAD
FAIRFIELD, NEW JERSEY 07004

Applicant's Counsel

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/cheryl a. clarkin/

Cheryl A. Clarkin, Esq.
Counsel for Opposer



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Word Mark	COPPER WEAR
Goods and Services	IC 025. US 022 039. G & S: clothing, namely, socks, shirts, tights, sleeves, undershorts, shorts, and gloves, all the foregoing goods featuring copper-infused fabric
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	26.17.01 - Bands, straight; Bars, straight; Lines, straight; Straight line(s), band(s) or bar(s) 26.17.06 - Bands, diagonal; Bars, diagonal; Diagonal line(s), band(s) or bar(s); Lines, diagonal
Serial Number	85826741
Filing Date	January 18, 2013
Current Basis	1B
Original Filing Basis	NO FILING BASIS
Published for Opposition	November 26, 2013
Owner	(APPLICANT) Tristar Products, Inc. CORPORATION PENNSYLVANIA 492 Route 46 East Fairfield NEW JERSEY 07004
Attorney of Record	Daniel J. Holmander
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COPPER WEAR" APART FROM THE MARK AS SHOWN

Description of Mark The color(s) copper and grey is/are claimed as a feature of the mark. The mark consists of the wording "COPPER WEAR" in grey, with a copper-colored paintbrush-style stroke at the diagonal between the two words.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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