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

Proceeding	91221338
Party	Defendant POLOGEAR LLC, POLO GEAR LLC
Correspondence Address	DANIEL J. BARSKY SHUTTS & BOWEN LLP 200 E BROWARD BLVD STE 2100 FORT LAUDERDALE, FL 33301-1972 ptomail@shutts.com
Submission	Answer
Filer's Name	Daniel J. Barsky
Filer's e-mail	dbarsky@shutts.com, jmariani@shutts.com, ptomail@shutts.com
Signature	/daniel j. barsky/
Date	05/12/2015
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PRL USA HOLDINGS, INC.,

Opposer,

v.

POLO GEAR, LLC.,

Applicant.

Opposition Number: 91221338
App. Nos.: 86412883, 86412886, 86488070
Filed: Oct. 2, 2014 and Dec. 22, 2014
Published: March 3, 2015

Trademark:
POLOGEAR, POLOGEAR & DESIGN:



, and POLOGEAR

ANSWER TO NOTICE OF OPPOSITION

Applicant, Polo Gear, LLC (“Applicant”), by and through its undersigned counsel, hereby answers the Notice of Opposition, filed April 2, 2014 by opposer, PRL USA Holdings, Inc. (“Opposer”), as follows:

FACTS

Applicant

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Denied, as the application speaks for itself and Opposer’s characterization omits

large portions of Application Serial Number 85/458,112.

Opposer

7. Without knowledge to admit or deny and therefore denied.
8. Without knowledge to admit or deny and therefore denied.
9. Without knowledge to admit or deny and therefore denied.
10. Without knowledge to admit or deny and therefore denied.
11. Admitted only that Opposer has used the word 'Polo' on some of its goods, denied in all other respects and otherwise denied.
12. Admitted only that Opposer has used a particular logo on some of its goods, denied in all other respects and otherwise denied.
13. Without knowledge to admit or deny and therefore denied.
14. Without knowledge to admit or deny and therefore denied.
15. Without knowledge to admit or deny and therefore denied.
16. Admitted only that RL and/or related companies own some trademark registrations on the Principal Register with the USPTO, denied in all other respects and otherwise denied.
17. Denied as Exhibit B speaks for itself.
18. Without knowledge to admit or deny and therefore denied.
19. Without knowledge to admit or deny and therefore denied.
20. Denied.
21. Without knowledge to admit or deny and therefore denied.
22. Denied.
23. Denied.
24. Denied.

25. Answered and averred as set forth hereinabove.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

30. Denied. The image adopted by Applicant was not “designed to be almost identical to the Polo Player Symbol used and registered by RL”; it is a fanciful representation of a famous photograph taken of Applicant’s founder playing the sport of polo atop his favorite horse.

31. Denied. Applicant’s Marks have been in use in numerous classes of goods and services, including the same classes of goods and services in which Opposer’s alleged marks are registered, for more than twenty years without a single instance of confusion between Applicant’s Marks and Opposer’s alleged marks. In fact, Opposer uses goods that carry Applicant’s mark in conjunction with the sale of its (Opposer’s) goods and services. Opposer has known of this use for more than fifteen years yet has not attempted to enforce its alleged trademark rights against Applicant.

32. Answered and averred as set forth hereinabove.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

DEFENSES

First Defense

1. Opposer has failed to state a claim upon which relief can be granted.

Second Defense

2. There is no likelihood of confusion between Applicant's Marks and Opposer's Marks.

(a) There are numerous registrations, and applications to register marks, that are currently in use in the classes in which Applicant seeks registration, and in which Opposer has already registered, that use the silhouette of a mounted polo player in their designs. There are also several registrations, and applications to register marks, that are currently in use consisting of the term "POLO" in the subject classes. A search of TESS as of May 12, 2015 shows 1,177 records for the word "polo." It is impractical list all those records here as it would make this defense exceedingly long. However, Applicant intends to rely on each and every of those records in defense of this Opposition and will provide samples of some of the relevant records in this defense. A sample of registered marks is summarized in Table 1. A sample registered word marks having the term "POLO" is summarized in Table 2. A sample of pending applications having the term "POLO" in the description of their mark is summarized in Table 3. These numerous registrations reveal the weakness of the polo player design and the term "POLO" in Opposer's Marks. Opposer's trademark rights, if any, extend no further than to the entirety of the specific marks it has registered, which are neither the same nor confusingly similar to the Applicant's Mark whether in terms of connection, appearance, pronunciation, or overall commercial impression. Thus, there is no likelihood of confusion between the marks. And, in spite of multiple decades of coexistence, there has not been a single instance of confusion between Applicant's Marks and Opposer's Marks. As such, Opposer misrepresents its case for opposition in order to use the Trademark Trial and Appeal Board process to overreach the scope of protection granted under the Lanham Act.

Table 1

MARK	OWNER	REG. NO.	REG. DATE	CLASS 025 GOODS/SERVICES
	<p>BHPC ASSOCIATES LLC</p>	<p>1429311</p>	<p>Feb. 17, 1987</p>	<p>Clothing for men, women and children—namely shirts, sweatshirts, sweat suits, sweaters, t-shirts, pants, underwear, caps, jackets, [leotards, dresses, ponchos].</p>
	<p>BHPC ASSOCIATES LLC</p>	<p>1751058</p>	<p>Feb. 9, 1993</p>	<p>Clothing for men, women and children; namely, shirts, sweatshirts, sweaters, tee shirts, pants, caps, hats, jackets, dresses, socks, hosiery, raincoats and outerwear; namely, coats and jackets, and belts.</p>
	<p>BHPC ASSOCIATES LLC</p>	<p>2214846</p>	<p>Dec. 29, 1998</p>	<p>Footwear, namely shoes, boots, slippers, athletic shoes, and golf shoes.</p>
	<p>Alexander G. Webbe</p>	<p>3996180</p>	<p>July 19, 2011</p>	<p>Clothing, namely, polo shirts and t-shirts.</p>
	<p>Polo Club</p>	<p>3312709</p>	<p>October 16, 2007</p>	<p>Ready-made clothing for men, women and children, namely, knitwear, namely, t-shirts, pullovers, polo shirts, sweaters and vests, hosiery, lingerie, underwear, pyjamas, dressing gowns, peignoirs, sweaters,</p>

MARK	OWNER	REG. NO.	REG. DATE	CLASS 025 GOODS/SERVICES
				skirts, dresses, briefs, trousers, jackets, coats, furs, Halloween costumes, shirts, layettes, ties, shawls, foulards, stoles, scarves, belts, gloves, wooly hats, headwear, caps, socks, stockings, tights, footwear not including orthopedic footwear, boot liners, slippers, boots, swimming costumes, shorts and waterproof jackets and pants.
	United States Polo Association	2629444	October 1, 2002	Clothing, namely shirts.
	Michael G. Moertl	4194907	August 21, 2012	Clothing for use in connection with or promotion of the equestrian sport of polo, namely, caps, jerseys, t-shirts, sweat shirts, jackets, and polo pants.
	Fabian Claudio Olemberg	4042469	October 18, 2011	Coats; Footwear for men; Hats; Jackets; Men's suits; Pants; Rain coats; Shirts; Shorts; Socks; Sport shirts; Sweat shirts; Sweaters; T-shirts; Ties; Trousers; Vests.
	United States Polo Association	4053447	Nov. 8, 2011	Clothing, namely, polo shirts and T-shirts.

MARK	OWNER	REG. NO.	REG. DATE	CLASS 025 GOODS/SERVICES
	United States Polo Association	4049675	Nov. 1, 2011	Shirts.
	Sean Tyler Keys	3556027	Jan. 6, 2009	Ready-made clothing for men, women, and children, namely, t-shirts, pullovers, polo shirts, sweaters and vests, jackets, shirts, and headwear.
	North America Polo League, LLC	3481504	Aug. 5, 2008	Belts; Golf shirts; Pajamas; Shirts; T-shirts; Jackets; Pants; Footwear; Shorts; Socks; Sweat pants; Sweat shirts; Sweat shorts; Sweaters; Ties; Scarves; Vests; Suspenders; Gloves; Headgear, namely, caps; hats; headbands.
	Royal County of Berkshire Polo Club	2525322	Jan. 1, 2002	Clothing, footwear and headgear, namely, T-shirt, sleep wear, shirts, hats, shorts, sweat bands, sweat pants, sweat shirts, sweat shorts, sweat suits, socks and sweaters, belts.
	Santa Barbara Polo & Racquet Club	1743296	Dec. 29, 1992	Clothing; namely, shirts, sweatshirts, hats, neckties, and shoes.
	United States Polo Association, Inc.	3370932	Jan. 15, 2008	Clothing for ladies and children, namely, polo shirts, t-shirts, outerwear, namely, coats, and jackets, socks, sweaters, blouses and shirts; footwear.

MARK	OWNER	REG. NO.	REG. DATE	CLASS 025 GOODS/SERVICES
	OS Asset, Inc.	2822105	March 16, 2004	IC 025: clothing and headgear; namely, shirts, jerseys, tank tops, sweaters, sweatshirts, jackets, coats, raincoats, parkas, ponchos, pants, shorts, sweatpants, knickers, visors, caps, hats and polo attire.

Table 2

MARK	OWNER	REG. NO.	REG. DATE	CLASS 025 GOODS/SERVICES
POLO	Polo Fashions Inc.	1363459	Oct. 1, 1985	Clothing-Namely, Suits, Slacks, Trousers, Shorts, Wind Resistant Jackets, Jackets, Blazers, Dress Shirts, Sweatshirts, Sweaters, Hats, Belts, Socks, Blouses, Skirts, Coats, and Dresses.
POLO	Polo Fashions, Inc.	1468420	Dec. 8, 1987	Men's, women's, children's and athletic shoes.
POLO SPORT	Polo Ralph Lauren, L.P.	1951601	Jan. 23, 1996	Wearing apparel, namely pants, shorts, jackets, T-shirts, sport shirts, knit shirts, sweatshirts, hats, socks and footwear.
JON POLO	Idlewild Stables, Inc.	3292597	Sept. 18, 2007	Clothing for wear in equestrian activities, namely, pants, shorts, shirts, underwear, socks, belts, suspenders, gloves, hats, and caps; and clothing for wear in sports activities, namely, pants, shorts, shirts, underwear, socks, belts, suspenders, gloves, hats and caps.
HIDDEN CREEK POLO	Sean Tyler Keys	3526576	Nov. 4, 2008	Ready-made clothing for men, women, and children, namely, t-shirts, pullovers, polo shirts, sweaters and vests, jackets, shirts, and headwear.

MARK	OWNER	REG. NO.	REG. DATE	CLASS 025 GOODS/SERVICES
U.S. POLO ASSN. DENIM	United States Polo Association	4240202	Nov. 13, 2012	Goods made in whole or substantial part from denim, namely, jeans
CHEVAL POLO	Cheval Polo Inc.	4148877	May 29, 2012	Athletic apparel for use in the sport of polo and equestrian disciplines, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms.
NO POLO SHIRT	Duluth Holdings, Inc.	2911660	June 24, 2003	Clothes, namely shirts sold exclusively through applicant's catalog, internet website, and e-mail newsletter.

Table 3

MARK	SER. NO.	FILING DATE	CLASS GOODS/SERVICES
POLO	86389829	September 9, 2014	<p>IC 040. US 100 103 106. G & S: Custom manufacturing of products and related consultation services for others, namely manufacturing services in the nature of sewing, cutting of fabrics, films and fabric/film laminates, lamination, radio frequency welding, ultrasonic welding, heat welding, assembly, pressing, thermoforming, compression forming, vacuum forming and molding; assembly and packaging; distribution of products for others. FIRST USE: 19471231. FIRST USE IN COMMERCE: 19471231</p> <p>IC 042. US 100 101. G & S: Engineering, product development and design services for others for products in the original equipment manufacturer (OEM), safety, medical, industrial, government and military markets and related consultation services for others. FIRST USE: 19471231. FIRST USE IN COMMERCE: 19471231</p>

MARK	SER. NO.	FILING DATE	CLASS GOODS/SERVICES
 <p>(APPLICANT) Marco, Peter DBA LIVE RAW INC MARCOART INDIVIDUAL UNITED STATES PO BOX 1134 KNICKERBOCKER STATION NEW YORK CITY NEW YORK 10002</p>	86490596	December 25, 2014	IC 025. US 022 039. G & S: Ankle socks; Apparel for dancers, namely, tee shirts, sweatshirts, pants, leggings, shorts and jackets; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Athletic shirts; Babies' pants; Balloon pants; Baseball caps and hats; Bathing suits; Belts; Body shirts; Body stockings; Boxer briefs; Boxer shorts; Business wear, namely, suits, jackets, trousers, blazers, blouses, shirts, skirts, dresses and footwear; Button down shirts; Button-front aloha shirts; Camouflage pants; Camouflage shirts; Camp shirts; Clothing for athletic use, namely, padded shirts; Clothing for babies, toddlers and children, treated with fire and heat retardants, namely, pajamas, jackets, shirts, pants, jumpers; Clothing shields, namely, pads applied to the underarms of shirts, blouses and sweaters; Collared shirts; Denims; Dress pants; Dress shirts; Dresses; Fishing shirts; Flood pants; Gloves; Golf pants, shirts and skirts; Golf shirts; Graphic T-shirts; Hats; Hooded sweat shirts; Hunting shirts; Jackets; Jackets and socks; Knee-high stockings; Knit shirts; Ladies' underwear; Leather shirts; Leg-warmers; Leggings; Long underwear; Long-sleeved shirts; Men's dress socks; Men's socks; Men's underwear; Moisture-wicking sports shirts; Night shirts; Open-necked shirts; Over shirts; Pajamas; Pants; Pique shirts; Polo shirts; Ramie shirts; Rugby shirts; Shirts; Shirts and short-sleeved shirts; Shirts and slippers; Shirts for

MARK	SER. NO.	FILING DATE	CLASS GOODS/SERVICES
			infants, babies, toddlers and children; Shirts for suits; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Sleeves worn separate and apart from blouses, shirts and other tops; Snap crotch shirts for infants and toddlers; Socks; Sport shirts; Sports shirts; Sports shirts with short sleeves; Stockings; Sweat shirts; T-shirts; Tee shirts; Ties; Tops; Turtle neck shirts; Underwear. Wearable garments and clothing, namely, shirts; Wind shirts; Yoga shirts. FIRST USE: 20141212. FIRST USE IN COMMERCE: 20141215
 <p>(APPLICANT) Skywind Enterprises Limited LIMITED LIABILITY COMPANY HONG KONG Flat 1-4, 8/F, Kwai Wu Industrial Bldg, 85-89 Ta Chuen Ping Street Kwai Chung HONG KONG</p>	86396001	September 16, 2014	IC 018. US 001 002 003 022 041. G & S: Leather; Leatherboard; Handbags; Leather cases; Leather briefcases; Wallets; Leather bags; Leather pouches; Leather cloth; Polyurethane leather; imitation Leather; Synthetic leather; Leather laces; Leather cords; Purses; Unworked leather; Leather boxes; Tanned leather; Leather and imitation leather; Leather straps; Leather leads; Leather leashes; Leather twist; Leather thongs; Stirrup leathers; Briefcases; Leatherboard boxes; Cases, of leather or leatherboard; Studs of leather; Leather shoulder straps; Leather shoulder belts; Saddlery; Pouches of leather; Leather key cases; Leather for harnesses; Travelling bags; Luggage tags; Travelling sets; Leather credit card holders; Leather credit card cases; Handbags made of leather; All-purpose carry bags made of leather; Travelling cases of leather; hat boxes of leather; Harness made from leather; Chin straps, of

MARK	SER. NO.	FILING DATE	CLASS GOODS/SERVICES
			leather; Attache cases made of leather; Leather, unwrought or semi-wrought; Handbags made of imitation leather; Straps made of imitation leather; All-purpose carry bags made of imitation leather; Travelling bags made of leather; Leather, unworked or semi-worked; Shoulder belts being straps of leather; Leather being pelts and hides; Credit card holders made of leather; Attache cases made of imitation leather; Casings, of leather, for plate springs; Travelling bags made of imitation leather; Garment bags for travel made of leather; Credit card holders made of imitation leather; Worked or semi-worked hides and other leather; Canes and walking sticks; umbrellas; parasols; whips; harnesses
 <p>(APPLICANT) Royal Clothing Corp. sociedad anonima (sa) PANAMA Calle 60 Obarrio Edif Pavillion piso 1 Panama City PANAMA</p>	86126913	November 22, 2013	IC 025. US 022 039. G & S: Clothing for men, women and children, namely, socks, stockings, panties, tops, vests, undershirts, underpants, pajamas, swimwear, trousers, pants, skirts, slacks, blouses, shirts, t-shirts, sweaters, waistcoats, shawls, pullovers, cardigans, jerseys, jackets, suits, ties, overcoats, coats, track suits, raincoats, gloves, suspenders, belts, stoles, shorts, wind resistant jackets, jackets, blazers, dress shirts, knit shirts, sweatshirts, sweaters, hats, belts, socks, blouses, skirts, coats, dresses, ponchos, denims, jeans; footwear; headgear, namely, hats, scarves, caps

MARK	SER. NO.	FILING DATE	CLASS GOODS/SERVICES
 <p>CNK BIKE POLO APPLICANT) FreshSide Ltd AKA CHUNK; CHUNK CLOTHING CO; CNK LIMITED LIABILITY COMPANY UNITED KINGDOM Trevor Callaghan/Legal 1-3 North Rd, #1, Hanover Trading Est. London UNITED KINGDOM N79HD</p>	86144756	December 16, 2013	IC 025. US 022 039. G & S: Ankle socks; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Athletic pants; Athletic shirts; Athletic tops and bottoms for Bike Polo; Baseball caps and hats; Belts; Body shirts; Bottoms; Clothing for athletic use, namely, padded elbow compression sleeves being part of an athletic garment; Clothing for athletic use, namely, padded pants; Clothing for athletic use, namely, padded shirts; Clothing for athletic use, namely, padded shorts; Clothing, namely, arm warmers; Clothing, namely, athletic sleeves; Clothing, namely, base layers; Collared shirts; Denims; Dress shirts; Footwear; Gloves as clothing; Golf pants, shirts and skirts; Hats; Headbands for clothing; Headgear, namely, Hats, Caps; Hooded sweat shirts; Horse-riding pants; Jackets; Jerseys; Jogging pants; Pants; Polo shirts; Rugby shirts; Shirts; Shirts and short-sleeved shirts; Short sets; Shorts; Socks; Socks and stockings; Sports caps and hats; Sports pants; Sports shirts; Sweat shirts; T-shirts; Tops; Trousers. FIRST USE: 20091110. FIRST USE IN COMMERCE: 20091201
 <p>Wellington Polo Club</p> <p>(APPLICANT) ADLER, MAURICIO DAVID INDIVIDUAL ARGENTINA</p>	86030936	August 7, 2013	IC 025. US 022 039. G & S: Belts; Blazers; Cardigans; Coats; Dresses; Gloves; Headgear, namely, hats and caps; Jackets; Neckties; Pants; Polo shirts; Raincoats; Scarfs; Shirts; Short-sleeved shirts; Socks; Stockings; Sweaters; Swimwear; T-shirts; Turtle neck shirts; Underwear; V-neck sweaters; Vests; Waistcoats

MARK	SER. NO.	FILING DATE	CLASS GOODS/SERVICES
Loyola 599, Esq. Acevedo 1414 Buenos Aires ARGENTINA			
 <p>(APPLICANT) Royal Clothing Corp. sociedad anonima (sa) PANAMA Calle 60 Obarrio Edif Pavillion piso 1 Panama City PANAMA</p>	86126922	November 22, 2013	IC 025. US 022 039. G & S: Clothing for men, women and children, namely, socks, stockings, panties, tops, vests, undershirts, underpants, pajamas, swimwear, trousers, pants, skirts, slacks, blouses, shirts, t-shirts, sweaters, waistcoats, shawls, pullovers, cardigans, jerseys, jackets, suits, ties, overcoats, coats, track suits, raincoats, gloves, suspenders, belts, stoles, shorts, wind resistant jackets, jackets, blazers, dress shirts, knit shirts, sweatshirts, sweaters, hats, belts, socks, blouses, skirts, coats, dresses, ponchos, denims, jeans; footwear; headgear, namely, hats, scarves, caps
<p>CHUNK</p>  <p>CLOTHING CO.</p> <p>(APPLICANT) FreshSide Ltd AKA CHUNK; CHUNK CLOTHING CO; CNK LIMITED LIABILITY COMPANY UNITED KINGDOM Trevor Callaghan/Legal #1, Hanover Trading Est., 1-3 North Rd, London UNITED KINGDOM N79HD</p>	86144622	December 16, 2013	IC 025. US 022 039. G & S: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Athletic pants; Athletic shirts; Baseball caps and hats; Belts; Body shirts; Boots for sport; Clothing for athletic use, namely, padded elbow compression sleeves being part of an athletic garment; Clothing for athletic use, namely, padded pants; Clothing for athletic use, namely, padded shirts; Clothing for athletic use, namely, padded shorts; Clothing, namely, arm warmers; Clothing, namely, base layers; Footwear; Footwear not for sports; Hats; Headbands for clothing; Hoods; Jackets; Jerseys; Long-sleeved shirts; Pants; Polo shirts; Shirts; Shorts; Socks; Sport coats; Sport shirts; Sport stockings; Sports bra; Sports bras; Sports caps and hats; Sports jackets; Sports

MARK	SER. NO.	FILING DATE	CLASS GOODS/SERVICES
			jerseys; Sports jerseys and breeches for sports; Sports over uniforms; Sports overuniforms; Sports pants; Sports shirts; Sports shirts with short sleeves; Sports shoes; Sports vests; Sweat shirts; T-shirts; Tops; Wearable garments and clothing, namely, shirts. FIRST USE: 20091110. FIRST USE IN COMMERCE: 20091201
 <p>(APPLICANT) SANTA BARBARA POLO CLUB CORPORATION CALIFORNIA 301 NORTH LAKE AVENUE, NO. 900 PASADENA CALIFORNIA 91101</p>	86448598	November 7, 2014	IC 033. US 047 049. G & S: WINE IC 034. US 002 008 009 017. G & S: CIGARS
 <p>(APPLICANT) Harrow Street, Ltd. corporation HONG KONG Central Plaza 18 Harbour Road Suite 5704-5, 57th Floor Wanchai HONG KONG</p>	86441280	October 31, 2014	IC 025. US 022 039. G & S: Clothing, including shorts, shirts, pants, bathing suits, jackets
 <p><i>Santa Fe Polo</i></p>	86440138	October 30, 2014	IC 025. US 022 039. G & S: Men's and boys' apparel, namely, polo shirts, shirts, sport shirts, T-shirts, sweatshirts, sweaters, shorts, tops, jackets; underwear, including boxers, socks; pants, jeans, Bermuda shorts, swimming trunks,

MARK	SER. NO.	FILING DATE	CLASS GOODS/SERVICES
<p>(APPLICANT) Olemborg, Fabian Claudio INDIVIDUAL ARGENTINA San Martin Yapeyú 1777 (B1650BHC) Pcia. de Buenos Aires ARGENTINA</p>			<p>raincoats, suits, vests and footwear; headgear, namely, hats and caps</p>
 <p>(APPLICANT) GREEN FIELDS DEVELOPMENT, LLC LIMITED LIABILITY COMPANY NEW YORK 511 BROADWAY SARATOGA SPRINGS NEW YORK 12866</p>	86426980	October 17, 2014	<p>IC 025. US 022 039. G & S: Baseball caps; Collared shirts; Golf caps; T-shirts. FIRST USE: 20120504. USED IN ANOTHER FORM The mark was first used anywhere in a different form other than that sought to be registered at least as early as 08/31/1979. FIRST USE IN COMMERCE: 20120505</p> <p>IC 041. US 100 101 107. G & S: Polo club services. FIRST USE: 20120504. USED IN ANOTHER FORM The mark was first used anywhere in a different form other than that sought to be registered at least as early as 08/31/1979. FIRST USE IN COMMERCE: 20120505</p>
 <p>(APPLICANT) Polo Industria E Comercio Ltda. sociedade por quotas de responsabilidade limitada (Ltda) BRAZIL cj 81-A Av. Pres.Juscelino Kubtschek 1726 São Paulo BRAZIL 04543- 00</p>	86068176	September 18, 2013	<p>IC 016. US 002 005 022 023 029 037 038 050. G & S: Plastic film for packaging; Polypropylene foil for packing</p>

MARK	SER. NO.	FILING DATE	CLASS GOODS/SERVICES
 <p>(APPLICANT) MURATOR S.A. spółka akcyjna (sa) POLAND ul. Wyzwolenia 14 Warsaw POLAND 00-570</p>	86043021	August 20, 2013	<p>IC 035. US 100 101 102. G & S: Advertisement and publicity services by television, radio, mail; advertising services of a radio and television advertising agency, all related to Polish language programming marketed to Polish speaking consumers. FIRST USE: 20140609. FIRST USE IN COMMERCE: 20140609</p> <p>IC 038. US 100 101 104. G & S: Broadcasting of television programmes; broadcasting of television and cable television programs; cable television broadcasting services; electronic transmission of voice, data and images by television and video broadcasting; satellite television broadcasting; subscription television broadcasting; television broadcasting; television programme broadcasting; television programme broadcasting via cable, all related to Polish language programming marketed to Polish speaking consumers. FIRST USE: 20140609. FIRST USE IN COMMERCE: 20140609</p>
 <p>(APPLICANT) SANTA BARBARA POLO CLUB CORPORATION CALIFORNIA 301 NORTH LAKE AVENUE, NO. 900 PASADENA CALIFORNIA 91101</p>	86167983	January 16, 2014	<p>IC 024. US 042 050. G & S: Textile goods, namely, sheet sets, bed sheets, fitted bed sheet covers, bed flat sheets, and pillow cases used in bedding</p>

MARK	SER. NO.	FILING DATE	CLASS GOODS/SERVICES
 <p>(APPLICANT) Mokuleia Polo Farm, LLC AKA Hawaii Polo Club LIMITED LIABILITY COMPANY HAWAII 68-411 Farrington Hwy. Waiialua HAWAII 96791</p>	86211141	March 4, 2014	IC 041. US 100 101 107. G & S: Polo club services
 <p>(APPLICANT) Spaith, Cassie INDIVIDUAL CANADA 1878 Wisteria Street Wellington FLORIDA 33414</p>	86209253	March 3, 2014	IC 016. US 002 005 022 023 029 037 038 050. G & S: Printed materials, namely decals, to promote polo, for use on any surface. FIRST USE: 20140111. FIRST USE IN COMMERCE: 20140111
 <p>(APPLICANT) Park Polo Florida LLC LIMITED LIABILITY COMPANY FLORIDA 7950 NW 53rd Street, Suite 337 Miami FLORIDA 33166</p>	85670697	July 6, 2012	<p>IC 018. US 001 002 003 022 041. G & S: Athletic bags; Bags for sports; Duffle bags; Gym bags; Leather and imitation leather sport bags and general purpose trolley bags; Leather bags and wallets; Leather purses; Wallets made of leather or other materials</p> <p>IC 025. US 022 039. G & S: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Athletic footwear; Belts; Belts made from imitation leather; Belts made of leather; Belts of textile; Cargo pants; Children's and infant's apparel, namely, jumpers, overall sleepwear, pajamas, rompers and one-piece garments; Coats for men and women; Collared shirts; Dress shirts; Footwear; Footwear for men and women; Infant and toddler one piece clothing; Jackets; Leather belts; Long-sleeved shirts; Men's</p>

MARK	SER. NO.	FILING DATE	CLASS GOODS/SERVICES
			and women's jackets, coats, trousers, vests; Pants; Polo shirts; Shirts; Shirts and short-sleeved shirts; Slippers; Sports pants; Sports shirts; Sweat pants; Waist belts; Women's clothing, namely, shirts, dresses, skirts, blouses
 <p>(APPLICANT) Olemberg, Fabian Claudio INDIVIDUAL ARGENTINA San Martin Yapeyú 1777 (B1650BHC) Pcia. de Buenos Aires ARGENTINA</p>	85794463	December 4, 2012	IC 025. US 022 039. G & S: Men's and boys' apparel, namely, jackets; underwear, including boxers, socks; pants, jeans, Bermuda shorts, swimming trunks, raincoats, suits, vests and footwear; headgear, namely, hats and caps
	85527923	January 28, 2012	<p>IC 036. US 100 101 102. G & S: Real estate management services; building management; real estate services, namely, property management services for condominium associations, homeowner associations and apartment buildings</p> <p>IC 037. US 100 103 106. G & S: Real estate development and construction of commercial, residential and hotel property</p> <p>IC 038. US 100 101 104. G & S: Electronic transmission and streaming of digital media content for others via global and local computer networks; electronic, electric, and digital transmission of voice, data, images, signals, and messages; transmission of sound, picture and data signals; mobile media services in the nature of electronic transmission of</p>

MARK	SER. NO.	FILING DATE	CLASS GOODS/SERVICES
			entertainment media content IC 041. US 100 101 107. G & S: Organization of sports competitions; polo club services; golf club services
MARCO POLO (APPLICANT) MAIRDUMONT GmbH & Co. KG CORPORATION FED REP GERMANY Marco-Polo-Strasse 1 Ostfildern FED REP GERMANY D-73760	85242266	February 15, 2011	IC 009. US 021 023 026 036 038. G & S: prerecorded image and sound recording carriers, namely, compact discs, CD-ROMs, DVDs, image recording discs, all relating to the subject matters of recreation, entertainment, travel, leisure and lifestyle; computer software, namely, software that provides information about recreation, entertainment, travel, leisure and lifestyle IC 039. US 100 105. G & S: providing an online computer database in the fields of travel, tourism and geographic points of interest IC 041. US 100 101 107. G & S: providing an online computer database in the field of sports; providing an online computer database in the fields of leisure and lifestyle, namely, recreation and entertainment; publication of geographical maps and atlases, travel books and travel guides, books and periodicals in the field of travel, leisure and lifestyle, each in printed and electronic form IC 042. US 100 101. G & S: providing an online computer database in the field of cartography; computer services, namely, design, development and updating of software

MARK	SER. NO.	FILING DATE	CLASS GOODS/SERVICES
 <p>(APPLICANT) Grand Champions Polo Club of Palm Beach, Inc. CORPORATION FLORIDA 3629 Aiken Court Wellington FLORIDA 33414</p>	85802236	December 13, 2012	IC 028. US 022 023 038 050. G & S: Sporting equipment, namely, polo balls, arena balls, polo mallets, knee guards for athletic use and polo gloves; bags specially adapted for polo equipment
 <p>(APPLICANT) Grand Champions Polo Club of Palm Beach, Inc. CORPORATION FLORIDA 3629 Aiken Court Wellington FLORIDA 33414</p>	85802210	December 13, 2012	<p>IC 014. US 002 027 028 050. G & S: Cuff links; Jewelry; Tie pins</p> <p>IC 018. US 001 002 003 022 041. G & S: Backpacks; Harnesses and saddlery; Leather cases; Leather purses; Traveling bags; Trunks; Umbrellas and parasols; Walking sticks; Wallets; Whips</p> <p>IC 024. US 042 050. G & S: Towels</p> <p>IC 025. US 022 039. G & S: Collared shirts; Dress shirts; Footwear; Headwear; Hooded sweatshirts; Jeans; Pajamas; Pants; Socks; Sweaters; Sweatpants; Sweatshirts; T-shirts; Underwear</p>
 <p>(APPLICANT) United States Polo Association CORPORATION ILLINOIS 771 Corporate Drive, Suite 430 Lexington KENTUCKY 40503</p>	85695059	August 3, 2012	IC 009. US 021 023 026 036 038. G & S: Eyewear, specifically ophthalmic eyewear frames, reading glasses, sunglasses, eyeglass cases and covers, and sun clip

MARK	SER. NO.	FILING DATE	CLASS GOODS/SERVICES
 <p>(APPLICANT) United States Polo Association CORPORATION ILLINOIS Suite 430 771 Corporate Drive Lexington KENTUCKY 40503</p>	85975574	June 18, 2010	<p>IC 024. US 042 050. G & S: Fabrics, namely, bed sheets, pillow cases, duvet covers, bed blankets and throws. FIRST USE: 20100115. FIRST USE IN COMMERCE: 20100115</p> <p>IC 027. US 019 020 037 042 050. G & S: Floor coverings, namely, towels and mats. FIRST USE: 20100122. FIRST USE IN COMMERCE: 20100122</p>

Many registrations within the last six months contain the word “POLO” as part of the mark, such as “POLO STAYS” (Registration Number 4718424 in IC 26, registered April 7, 2015), “IPOLO” (Registration Number 4698478 in IC 24, registered March 10, 2015), “PERFECT POLO” (Registration Number 4705580 in IC 25, registered March 17, 2015), and “POLOSTAR” (Registration Number 4638035 in IC 25, registered November 11, 2014).

(b) The presence of the letters “GEAR” in the term POLOGEAR in Applicant’s Mark suffices to enable purchasers to distinguish between the sources of the goods and services rendered under the marks. This supports the conclusion that there is no likelihood of confusion between the marks.

(c) The Applicant’s Mark creates a commercial impression distinct from Opposer’s Marks. Opposer’s Marks are clearly distinct from Applicant’s Mark. Applicant’s Mark consists of a single compound term POLOGEAR set in a black framed circle with three (3) stars on either side of the term POLOGEAR. In the center of the circle is a horse with a rider facing forward with the term POLOGEAR in over the horse and rider. The rider is holding the mallet towards the ground.

(i) Opposer's Marks (Reg. Nos. 3914529, 3199839, 3076806, 1448580, 3812741, 2823094, 2052315, 2013947, 2085471, 1485359, 1212060 and 276855) consist of the image of the silhouette of a horse and rider. The rider is holding a polo mallet up in the air and behind his head.

(ii) Opposer's Marks (Reg. Nos. 1363459, 1468420, 1532557, 3684457, 1446173 and 2083276) consist of the single word POLO.

(iii) Opposer's Marks (Reg. Nos. 3306101, 3733341 and 3305655) consist of the three distinct words POLO RALPH LAUREN.

(iv) Opposer's Marks (Reg. Nos. 3306101 and 2077082) consist of the three words POLO RALPH LAUREN with the silhouette of a horse and rider between the words POLO and RALPH.

(v) Opposer's Mark (Reg. No. 1742330) consists of five separate words POLO BEAR BY RALPH LAUREN.

(vi) Opposer's Mark (Reg. No. 2686291) consists of two separate words POLO GOLF.

(vii) Opposer's Marks (Reg. Nos. 1951601, 2083277, 28577837 and 77615743) consists of two separate words POLO SPORT.

(viii) Opposer's Mark (Reg. No. 77693573) consists of the two words POLO USA.

These distinctions further support the conclusion that there is no likelihood of confusion between the marks. In essence, Opposer is attempting to claim ownership of the word "polo," in spite of the fact that term describes the sport of polo, which predates the existence of the Opposer by many centuries. Opposer does not, and cannot, own the word "polo."

(d) Applicant's products and the products offered by the Opposer move in different channels of trade to different classes of consumers. Applicant's goods are specifically related to equestrian activities and marketed to polo players and enthusiasts of real polo and a polo way of life. In addition to equestrian apparel products (such as game jerseys and replica game jerseys, similar to those sold by the NFL, MLB, NHL, NBA, etc.) and apparel products used everyday in the polo way of life, Applicant sells saddles, bridles, mallets, helmets, protective equipment, reins, leads, bits, stirrup leathers, and various types of horse tack, and has been selling apparel, linens, bedding, jewelry, optical products, and other products to polo players and enthusiasts of real polo for decades. Further, Applicant has had a long-standing reputation and involvement in the actual sport of polo and is well recognized amongst polo players and within the polo community. Indeed, the design that is the subject of this opposition is a fanciful representation of a famous photograph of the founder of Applicant playing polo atop his favorite horse. In contrast, Opposer has nothing to do with the sport of polo. To the extent Opposer presents any suggestion of affiliation with the sport of polo, that affiliation has been created through Opposers's use of Applicant's products and marks in a variety of applications, including, without limitation, in its advertising and promotional materials and for the "Black Watch" polo team sponsored by Opposer.

Opposer's goods consist of casual clothes for men, women and children, as well as accessories, footwear, fragrances, body lotion, home (bedding, towels) and housewares, all of which are not directed to polo players or enthusiasts of real polo. Opposer does not produce or sell equipment used in or for the actual sport of polo. In fact, other than the occasional sponsorship, Opposer has no affiliation or connection to the sport of polo. This further supports the conclusion that there is no likelihood of confusion between the marks.

Third Defense

3. Upon information and belief, the parties have thus far coexisted in their use of their respective Marks, on their respective goods, as outlined in their trademark applications and/or registrations, since at least as early as December 31, 1995, without a single instance of consumer or other confusion. Opposer has purchased and used, and continues to purchase and use, the Applicant's products, which clearly display the Mark or derivations thereof, for use in the promotion and sales of Opposer's products. Opposer actively and willingly displays Applicant's Marks, and derivations thereof, alongside Opposer's own marks in an attempt to sell Opposer's products. Confusion does not exist, is not likely to arise in the future, and to the extent there is any confusion or dilution of Opposer's marks, which there is none, that confusion or dilution is being caused by Opposer's use of Applicant's Marks and derivations thereof alongside Opposer's own marks.

Fourth Defense

4. Applicant's mark and Opposer's Marks have and create distinct commercial impressions.

Fifth Defense

5. Opposer has failed to adequately maintain, police, or enforce any trademark or property rights it may have in its Opposer's Marks. As such, Opposer cannot oppose Applicant's application based on Opposer's Marks.

Sixth Defense

6. Opposer's claims are barred by laches because Opposer has unreasonably delayed efforts to enforce its rights, if any, in spite of its full awareness of Applicant's Marks and their widespread use.

Seventh Defense

7. Opposer's claims are barred by estoppel because Opposer has been using the Mark, and

derivations thereof, to sell Opposer's own products. Opposer has willfully displayed, and continues to willfully display, Applicant's Marks, and derivations thereof, at Opposer's stores and alongside Opposer's own marks.

Reservation of Rights

8. Applicant reserves the right to add additional affirmative defenses as they become known through discovery.

WHEREFORE, Applicant respectfully requests the Board to reject and dismiss the Opposition, permit the registration of Applicant's proposed marks in the challenged applications, and grant such other and further relief to the Applicant as the Board deems just and appropriate.

Dated this 12th day of May, 2015,

Respectfully submitted,

/Daniel J. Barsky/

Daniel J. Barsky, Esq.

John F. Mariani, Esq.

SHUTTS & BOWEN LLP

1100 CityPlace Tower

525 Okeechobee Boulevard

West Palm Beach, FL 33401

Phone: (561) 650-8518

Fax: (561) 822-5527

dbarsky@shutts.com

jmariani@shutts.com

ptomail@shutts.com

ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of May, 2015, the foregoing Answer to Opposition was served by delivering a copy via email and First Class Mail to:

Daniel I. Schloss, Esq.
Melissa B. Berger, Esq.
Greenberg Traurig, LLP
Attorneys for Opposer
200 Park Avenue
New York, New York 10166

 /s/ Daniel J. Barsky
Daniel J. Barsky, Esq.