

ESTTA Tracking number: **ESTTA702272**

Filing date: **10/14/2015**

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	Barco Uniforms, Inc.
Granted to Date of previous extension	10/14/2015
Address	350 W. Rosecrans Avenue Gardena, CA 90248 UNITED STATES

Attorney information	Jeffrey H. Kaufman Oblon, McClelland, Maier & Neustadt, LLP 1940 Duke Street Alexandria, VA 22314 UNITED STATES tmdocket@oblon.com,jkaufman@oblon.com Phone:703-413-3000
----------------------	---

Applicant Information

Application No	86213719	Publication date	06/16/2015
Opposition Filing Date	10/14/2015	Opposition Period Ends	10/14/2015
Applicant	Igal benhamou 513 N. Sierra drive Beverly Hills, CA 90210 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: Clothing, namely, men's, women's, missy's, juniors', children's and infants' jeans, pants, trousers, capris, leggings, shorts, skorts, overalls, shortalls, skirts, dresses, tops, t-shirts, sweatshirts, blouses, shirts, jackets, coats, sweaters, vests, cardigans, scarves, socks, bandanas, neckties, belts, boots, sandals, footwear, hats, caps, headwear, underwear and swimwear

Grounds for Opposition

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

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ICU		

Goods/Services	articles of clothing; and medical uniforms
----------------	--

Attachments	Notice of Opposition.pdf(151666 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 First Class Mail on this date.

Signature	/Jeffrey H. Kaufman/
Name	Jeffrey H. Kaufman
Date	10/14/2015

2. Prior to Applicant's filing date, Opposer engaged and is now engaged in the manufacture, distribution, sale, advertising, and promotion in interstate commerce of the mark ICU.

3. Prior to Applicant's filing date, Opposer used, and is now using Opposer's ICU mark (hereinafter sometimes referred to as "Opposer's Mark") in connection with articles of clothing; and medical uniforms distributed and sold by Opposer in commerce.

4. Since its initial use of the ICU mark, Opposer has made investments in advertising and promoting its goods and/or services under its mark. Opposer has used, advertised, promoted and offered Opposer's goods and/or services bearing the mark to the public through various channels of trade in commerce, with the result that Opposer's customers and the relevant purchasing public in general have come to know and recognize Opposer's Mark and associate same with Opposer and/or goods and/or services sold by Opposer. Opposer has established goodwill in connection with the sales of products and/or services under its mark.

5. Upon information and belief, on March 6, 2014, Applicant filed an application for registration of the alleged ICU trademark for "Clothing, namely, men's, women's, missy's, juniors', children's and infants' jeans, pants, trousers, capris, leggings, shorts, skorts, overalls, shortalls, skirts, dresses, tops, t-shirts, sweatshirts, blouses, shirts, jackets, coats, sweaters, vests, cardigans, scarves, socks, bandanas, neckties, belts, boots, sandals, footwear, hats, caps, headwear, underwear and swimwear, in Class 25." Said application was assigned Serial No. 86/213,719, and was published for Opposition in the *Official Gazette* of June 16, 2015.

6. Applicant's ICU mark is a simulation and colorable imitation of, and so resembles Opposer's Mark as to be likely, when applied to the proposed goods and/or services of Applicant, to cause confusion or mistake or to deceive the relevant consuming public resulting in damage and detriment to Opposer and its reputation, in violation of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

7. Upon information and belief, Opposer's and Applicant's goods and/or services will be sold to, purchased and consumed by the same general class of purchasers.

8. Upon information and belief, the *bona fides* of Applicant's intent-to-use its mark is not apparent from materials of record in the subject application, and Opposer therefore challenges same and leaves Applicant to its proofs with regard to the nature and sufficiency of its intent to use at the time of filing Application Serial No. 86/213,719, or at any time thereafter.

9. Opposer, upon information and belief, avers that members of the relevant consuming public are likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant's proposed goods and/or services to be marketed under Applicant's alleged ICU mark and misled into believing that such goods and/or services are produced by, emanate from, or are in some way associated with Opposer, to the damage and detriment of Opposer and its reputation.

10. Opposer, upon information and belief, avers that it will be damaged by the registration by Applicant of the alleged ICU mark, as set forth in Applicant's Trademark Application Serial No. 86/213,719, in that the mark is confusingly similar to Opposer's trademark and common law rights and will be used in connection with goods and/or services identical and/or related to the goods and/or services offered by Opposer.

WHEREFORE, Opposer, BARCO UNIFORMS, INC., believes and avers that it is being and will continue to be damaged by registration of the ICU mark as aforesaid, and requests that said Application Serial No. 86/213,719 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

Opposer has appointed JEFFREY H. KAUFMAN, a member of the law firm of OBLON, McCLELLAND, MAIER & NEUSTADT, L.L.P., a member of the Bar of the Commonwealth of Virginia, to prosecute this opposition proceeding and to transact all business in and before the

United States Patent and Trademark Office in connection herewith. Please address all correspondence to:

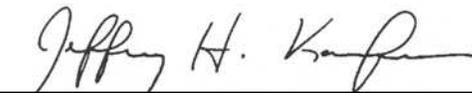
Jeffrey H. Kaufman
OBLON, McCLELLAND,
MAIER & NEUSTADT, L.L.P.
1940 Duke Street
Alexandria, Virginia 22314

The Commissioner is hereby authorized to charge the required filing fee, and any additional fees which may be required, or credit any overpayment, to Deposit Account No. 50-2014.

Respectfully submitted,

BARCO UNIFORMS, INC.

By:



Jeffrey H. Kaufman
OBLON, MCCLELLAND,
MAIER & NEUSTADT, L.L.P.
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
fax (703) 413-2220
e-mail: tmdocket@oblon.com
Counsel for Opposer

Dated: October 14, 2015

JHK/klk {13219532_2.DOCX}

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **NOTICE OF OPPOSITION** was served on Applicant as identified by the records of the U.S. Patent and Trademark Office this 14th day of October, 2015, by sending same, via First Class mail, postage prepaid, to:

**Igal Benhamou
513 N. Sierra Drive
Beverly Hills, California 90210**