

ESTTA Tracking number: **ESTTA738336**

Filing date: **04/06/2016**

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	Daniel Cooper
Granted to Date of previous extension	04/06/2016
Address	96 Linwood PlazaNo. 166 Ft. Lee, NJ 07024 UNITED STATES

Attorney information	ALI R LATIFI TUCKER & LATIFI LLP 160 EAST 84TH STREET, SUITE 5E NEW YORK, NY 10028 UNITED STATES arlatifi@tuckerlatifi.com Phone:212-472-6262
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Applicant Information

Application No	85488876	Publication date	12/08/2015
Opposition Filing Date	04/06/2016	Opposition Period Ends	04/06/2016
Applicant	9249-2230 QUEBEC INC. 302 Cardinal-Taschereau Quebec, G1K1G9 CANADA		

Goods/Services Affected by Opposition

<p>Class 025. First Use: 2010/01/01 First Use In Commerce: 2010/06/01 All goods and services in the class are opposed, namely: (Based on Use in Commerce) Baseball caps; Baseball caps and hats; Beanies; Bermuda shorts; Button down shirts; Cap peaks; Cap visors; Cargo pants; Collared shirts; Crop pants; Denim jackets; Denims; Dress pants; Dress shirts; Dress suits; Dresses; Fleece pullovers; Fleece shorts; Fleece vests; Hat bands; Hats; Hooded pullovers; Hooded sweat shirts; Jackets; Jeans; Jogging pants; Knit bottoms; Knit dresses; Knit jackets; Knit shirts; Knit skirts; Knit tops; Knitted caps; Leather hats; Leather jackets; Long jackets; Long sleeve pullovers; Long sleeved vests; Long-sleeved shirts; Men's and women's jackets, coats, trousers, vests; Outer jackets; Over shirts; Pants; Pique shirts; Polo knit tops; Polo shirts; Pullovers; Shirt yokes; Shirts; Shirts and short-sleeved shirts; Short trousers; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Shorts; Shoulder scarves; Skirts and dresses; Sleeved or sleeveless jackets; Socks; Sports caps and hats; Sports vests; Sweat jackets; Sweat pants; Sweat shirts; Sweat shorts; T-shirts; Tank tops; Tank-tops; Tee shirts; Vests; Walking shorts; Wind coats; Wind vests; Women's clothing, namely, shirts, dresses, skirts, blouses; (Based on Intentto Use) Bandanas; Board shorts; Boots; Boots for sport; Boxer shorts; Camouflage shirts; Camouflage vests; Fur jackets; Gloves; Gloves as clothing; Gloves for apparel; Golf shorts; Head scarves; Heavy jackets; Knitted gloves; Knitted underwear; Leather coats; Leather shirts; Leather shoes; Leather vests; Open-necked shirts; Outdoor gloves; Rain boots; Rain coats; Rain hats; Rain jackets; Rainproof jackets; Reversible jack-</p>
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ets; Rugby shorts; Scarves; Shell jackets; Shoes; Ski boot bags; Ski boots; Ski gloves; Ski jackets; Ski pants; Snow boots; Snow pants; Snowboard boots; Snowboard gloves; Snowboard jackets; Snowboard pants; Snowboard trousers; Sport coats; Sports jackets; Sports pants; Suede jackets; Suit coats; Trench coats; Trousers; Turtle neck shirts; Turtle neck pullovers; Underwear, namely, boy shorts; Woven or knitted underwear

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	PROTOCOL Higher Ground plus Design		
Goods/Services	apparel		

Attachments	Protocol Opposition.pdf(5292745 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	/Ali R. Latifi/
Name	ALI R LATIFI
Date	04/06/2016

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

In the matter of Application Serial No. 85/488,876
Trademark: PROTOCOL plus Design
Published: December 8, 2015

Daniel Cooper

Opposition No.

Opposer,

-against-

9249-2230 Quebec Inc. d/b/a Protocol Outlook

Applicant.

NOTICE OF OPPOSITION

Opposer, Daniel Cooper ("Opposer"), believes that it will be damaged by the registration of Application Serial No. 85/488,879 for the mark PROTOCOL plus Design (hereinafter "the Infringing Mark") and hereby opposes registration of the marks to 9249-2230 Quebec Inc. d/b/a Protocol Outlook ("Applicant").

As grounds for opposition, it is alleged that:

1. Opposer is a U.S. individual with an office and place of business located in Englewood, New Jersey
2. Opposer has been manufacturing, distributing and offering for sale a line of apparel, namely, sweatshirts and jackets under the mark PROTOCOL Higher Ground

plus Design as early as October 2009 and has obtained nationwide press with emphasis on high end quality apparel. Although Opposer's line of apparel is advertised and sold under the PROTOCOL Higher Ground plus Design name, Opposer refers to itself and to its products in all of its promotional materials as simply PROTOCOL. In addition, customers frequently refer to Opposer's products as just "PROTOCOL".

3. As a result of the continuous unsolicited media coverage Opposer has been receiving over the past six and a half years for its PROTOCOL line of apparel, consumers readily identify the Protocol Mark with Opposer's line of apparel sold by Opposer under its mark.

4. Opposer's line of apparel have gained tremendous nationwide fame and notoriety and have become known as high quality line of apparel.

5. In or about early 2016, Opposer was alerted to applicant's application of the Infringing Mark. Applicant seeks to register the Infringing Mark (PROTOCOL plus Design) for "apparel" in International Class 25. Separate and apart from the fact that through its uninterrupted and continuous use of the Protocol Mark in connection with apparel, Opposer has made the Protocol Mark famous, thus making the mark readily identifiable by the purchasing public with Opposer, Opposer has also been distributing and selling a line of high end apparel under the Protocol Mark since at least as early as October 2009 for competing goods for which Applicant is seeking registration. Attached and hereinafter identified as *Exhibit A* are sample photographs of Opposer's line of apparel sold under the Protocol Mark.

6. As a result of the tremendous unsolicited press for the **Protocol** line of apparel, there is no doubt that consumers will be led to the mistaken belief that

Applicant's line of apparel originate from Opposer, or that these products are somehow sponsored, authorized or approved by Opposer, all to the detriment of Opposer.

7. The registration by Applicant of the Infringing Mark will dilute and impair Opposer's right in its **PROTOCOL** mark, which it has spent almost 7 years cultivating, promoting and making famous. If Applicant is permitted to register its Infringing Mark, such registrations will eventually result in the inability of Opposer's **PROTOCOL Higher Ground plus Design** mark to function as an indicator of origin of its goods and will also create confusion in the marketplace as to the source of goods and services.

WHEREFORE, Opposer respectfully prays that this Notice of Opposition be sustained and that the registration of Application Serial Nos. 85/488,876 be rejected, and that the registration of the trademark therein sought, for the goods therein specified, be denied and refused.

Dated: New York, New York
April 6, 2016

Respectfully submitted,



Ali R. Latifi, Esq.
Tucker & Latifi, LLP
Attorneys for Opposer
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New York, NY 10028
(212) 472-6262
Alatifi@tuckerlatifi.com

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Notice of Opposition was served by first class mail, postage prepaid, upon Applicant, this 6th day of April, 2016, as follows:

9249-2230 Quebec Inc. DBA Protocol Outlook
302 Cardinal-Taschereau
Quebec G1K1G9
Canada



Ali R. Latifi

REG.

TMK.



PROTOCOL®

XL

MADE IN CHINA

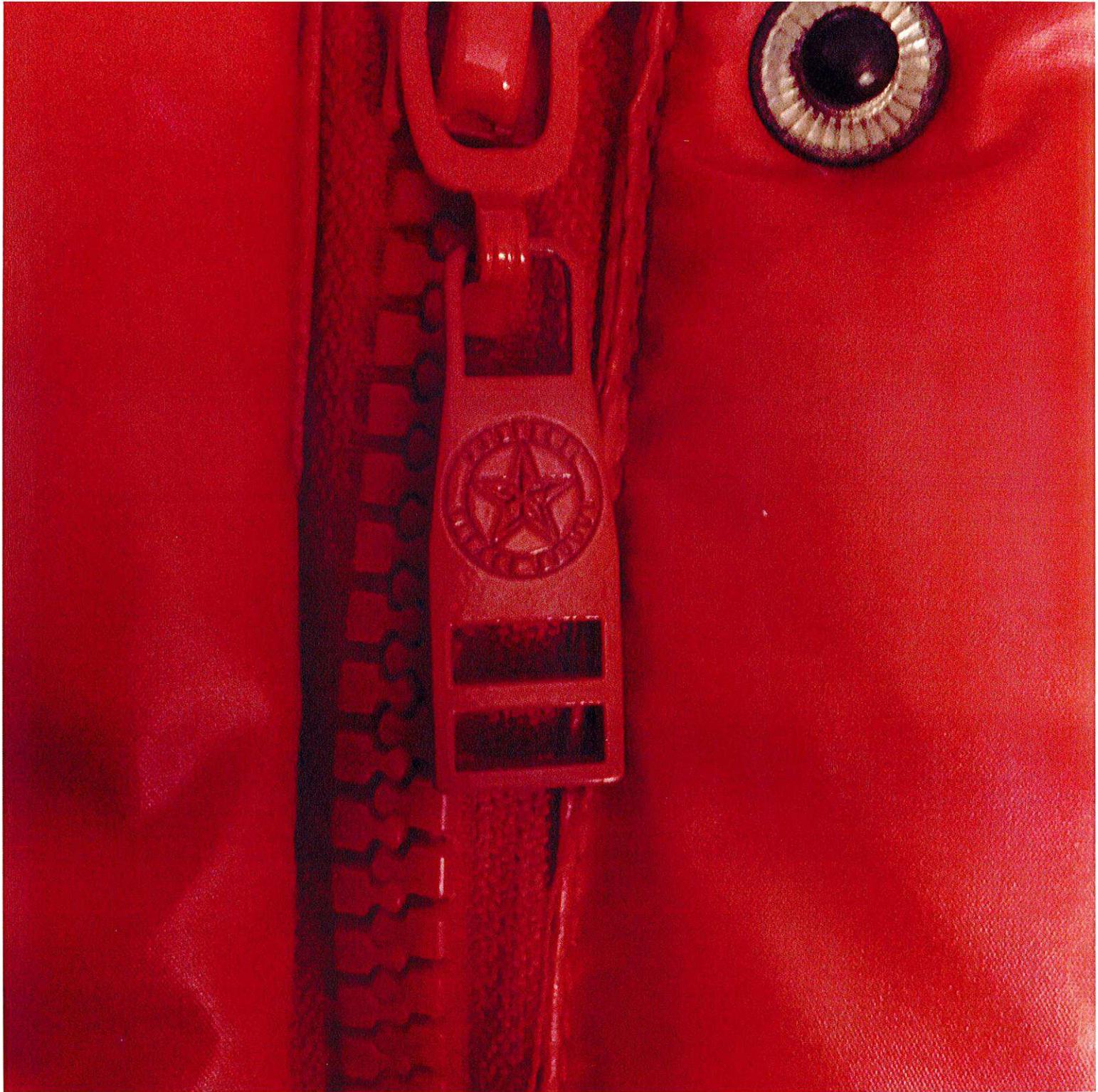
DESIGNED IN THE U.S.A

A PARISH NATION COLLABORATION

Exhibit A



A REGISTERED
TRADEMARK
E. 1976



REG.

TMK.



PROTOCOL®

2XL

MADE IN CHINA

DESIGNED IN THE U.S.A

A PARISH NATION COLLABORATION

REG.

TM.



PROTOCOL®

XL

MADE IN CHINA
DESIGNED IN THE U.S.A

REGISTERED NO. 119972



PROTOCOL76



302 posts

26.5k followers

469 following

Edit Profile

Protocol Higher Ground

Official Instagram of Protocol Higher Ground

#FollowProtocol

www.protocol76.com

