

ESTTA Tracking number: **ESTTA760990**

Filing date: **07/27/2016**

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	Jockey International, Inc.
Granted to Date of previous extension	07/27/2016
Address	2300 60th Street Kenosha, WI 53141-1417 UNITED STATES

Attorney information	Lori S. Meddings Michael Best & Friedrich LLP 1 S. Pinckney Street, Ste. 700 Madison, WI 53703 UNITED STATES mkeipdocket@michaelbest.com, lsmeddings@michaelbest.com, nim-ita.parekh@jockey.com, connie.frederking@jockey.com, trademark.legal@jockey.com Phone:608-283-0128
----------------------	---

Applicant Information

Application No	85934700	Publication date	03/29/2016
Opposition Filing Date	07/27/2016	Opposition Period Ends	07/27/2016
Applicant	Bauer Hockey, Inc. 100 Domain Drive Exeter, NH 03833 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 specifically designed for the practice of sports, namely, shirts, t-shirts, sweatshirts, jerseys, turtlenecks, dickeys, pants, shorts, socks, sweatbands, jackets, underwear, compression shirts, compression shorts, compression pants, compression socks, gloves, cross-country ski gloves, suspenders, garter belts, pant belts, flag belts, garters; headwear, namely, baseball caps, knitted caps, and beanies; footwear specifically designed for the practice of sports, namely, shoes, sandals, boots

Grounds for Opposition

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

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4478433	Application Date	03/15/2011
-----------------------	---------	------------------	------------

Registration Date	02/04/2014	Foreign Priority Date	NONE
Word Mark	COOPERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2011/02/25 First Use In Commerce: 2011/02/25 Underwear tops and bottoms		

U.S. Registration No.	4130166	Application Date	04/13/2005
Registration Date	04/24/2012	Foreign Priority Date	NONE
Word Mark	COOPERS		
Design Mark			
Description of Mark	The mark consists of the word "COOPERS" appearing in stylized font.		
Goods/Services	Class 025. First use: First Use: 2011/02/25 First Use In Commerce: 2011/02/25 UNDERWEAR TOPS AND BOTTOMS		

Attachments	85267240#TMSN.png(bytes) 78607660#TMSN.png(bytes) 19420815_Notice_of_Opposition--COOPER_BY_BAUER_with_Exh._A.PDF(201579 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	/lori s. meddings/
Name	Lori S. Meddings
Date	07/27/2016

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

JOCKEY INTERNATIONAL, INC.,)	
)	
Opposer,)	Opposition No. _____
)	Serial No. 85/934,700
v.)	
)	
BAUER HOCKEY, INC.,)	
)	
_____ Applicant.)	

NOTICE OF OPPOSITION

Jockey International, Inc. (“Opposer”), a Wisconsin corporation, located at 2300 60th Street, Kenosha, Wisconsin, 53140, hereby opposes Application Serial No. 85/934,700 for the mark “COOPER” (the “Application” or “Applicant’s Mark”) in Class 25, filed by Bauer Hockey, Inc. (“Applicant”), a corporation organized under the laws of Vermont, and published in the Official Gazette March 29, 2016. Opposer believes it will be damaged by the registration of this Application and therefore opposes the same.

As grounds for the opposition, Opposer alleges as follows:

1. Opposer is a highly successful fashion retailer, and a leading provider of underwear, intimates, sport and comfort apparel, among others. Indeed, Opposer has become one of the most beloved and recognized brands for underwear apparel with distribution around the globe in over 120 countries.

2. Opposer uses the COOPERS trademarks (the “COOPERS Marks”) in connection with clothing items in Class 25, such as underwear tops and bottoms.

3. Opposer owns the following U.S. registrations for its COOPERS Marks:

Reg.No.	Mark	Reg. Date	First Use Date	Class 25 Goods
4,478,433	COOPERS	Feb. 4, 2014	Feb. 25, 2011	Underwear tops and bottoms
4,130,166		April 24, 2012	Feb. 25, 2011	Underwear tops and bottoms

Copies of the registration certificates are attached hereto as Exhibit A.

4. Since the late 1800s, the word COOPER has long been associated with Opposer’s business and clothing apparel. More recently, Opposer has continuously used the COOPERS Marks in interstate commerce since at least as early as 2011 in connection with various clothing items. In addition to the above registrations, Opposer previously owned a registration for the COOPERS Mark dating back to at least as early as 1915 (Reg. No. 525,193 for COOPERS stylized), which inadvertently lapsed prior to the filing of the current registrations.

5. Opposer has used the COOPERS Marks in successful advertising and promotional campaigns, and as a result, has enjoyed substantial sales of such goods and services.

6. On May 16, 2013, Applicant filed the Application for the nearly identical mark COOPER, on an intent-to-use basis in connection with underwear and a variety of other clothing items, namely “[c]lothing specifically designed for the practice of sports, namely, shirts, t-shirts, sweatshirts, jerseys, turtlenecks, dickeys, pants, shorts, socks, sweatbands, jackets, underwear, compression shirts, compression shorts, compression pants, compression socks, gloves, cross-country ski gloves, suspenders, garter belts, pant belts, flag belts, garters; headwear, namely, baseball caps, knitted caps, and beanies; footwear specifically designed for the practice of sports, namely, shoes, sandals, boots” in Class 25.

7. Opposer’s use of the COOPERS Marks long predate Applicant’s May 16, 2013 filing date.

8. Upon information and belief, Applicant was well aware of Opposer and Opposer's longstanding use of its COOPERS Marks prior to May 16, 2013.

9. Applicant's nearly identical COOPER Mark is confusingly similar to Opposer's COOPERS Marks.

10. Due to the nearly identical marks and goods involved, and other factors, confusion is likely as between Opposer's COOPERS Marks and Applicant's Mark, pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

11. Registration of Applicant's Mark is likely to cause confusion, mistake, or deception as to whether Applicant's goods are Opposer's, or are endorsed or sponsored by, or otherwise affiliated or connected with Opposer, all to the damage and injury of Opposer and the relevant public.

12. In view of the above, the grant of a registration for Applicant's Mark, as sought in the Application, should be denied.

WHEREFORE, by its undersigned attorneys, Opposer respectfully requests that this Notice of Opposition be sustained and that registration of Application Serial No. 85/934,700 in Class 25 be refused.

Respectfully submitted,

JOCKEY INTERNATIONAL, INC.

By its Attorneys,

Date: July 27, 2016

/Lori S. Meddings /
Lori S. Meddings
MICHAEL BEST & FRIEDRICH LLP
One South Pinckney Street, Suite 700
Madison, WI 53703
Phone: (608) 257-3501
Fax: (608) 283-2275

Nimita L. Parekh
JOCKEY INTERNATIONAL, INC.
2300 60th Street
Kenosha, Wisconsin 53140

Attorneys for Opposer

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that the attached NOTICE OF OPPOSITION was filed electronically with the Trademark Trial and Appeal Board on July 27, 2016.

Date: July 27, 2016

/Lori S. Meddings /
Lori S. Meddings

CERTIFICATE OF SERVICE

I hereby certify that a copy of this NOTICE OF OPPOSITION was served by First Class Mail to the following address on July 27, 2016, such being the Applicant's correspondence address listed in the TSDR system as of this date:

Christie Baty Hudgins
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
901 New York Avenue, N.W.
Washington, DC 20001-4432

Date: July 27, 2016

/Lori S. Meddings /
Lori S. Meddings

EXHIBIT A

United States of America
United States Patent and Trademark Office

COOPERS

Reg. No. 4,478,433

Registered Feb. 4, 2014

Int. Cl.: 25

TRADEMARK

PRINCIPAL REGISTER

JOCKEY INTERNATIONAL, INC. (WISCONSIN CORPORATION)
2300 60TH STREET
KENOSHA, WI 53140

FOR: UNDERWEAR TOPS AND BOTTOMS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 2-25-2011; IN COMMERCE 2-25-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 85-267,240, FILED 3-15-2011.

CIMMERIAN COLEMAN, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

United States of America
United States Patent and Trademark Office

Coopers

Reg. No. 4,130,166

Registered Apr. 24, 2012

Int. Cl.: 25

TRADEMARK

PRINCIPAL REGISTER

JOCKEY INTERNATIONAL, INC. (WISCONSIN CORPORATION)
2300 60TH STREET
KENOSHA, WI 53140

FOR: UNDERWEAR TOPS AND BOTTOMS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 2-25-2011; IN COMMERCE 2-25-2011.

THE MARK CONSISTS OF THE WORD "COOPERS" APPEARING IN STYLIZED FONT.

SER. NO. 78-607,660, FILED 4-13-2005.

KATHERINE E. HALMEN, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office