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

IN THE MATTER OF TRADEMARK APPLICATION
SERIAL NO. 76/030,192 PUBLISHED IN THE
OFFICIAL GAZETTE ON JUNE 4, 2002
MARK: U Flag Design

[redacted]

10-03-2002
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #66

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UFO CONTEMPORARY, INC. :

Opposer, : **OPPOSITION NO.**

v. :

KABUSIHKI KAISHA FAST RETAILING: d/b/a FAST RETAILING CO., LTD. :

Applicant. :

---x

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

"Express Mail" mailing label No. Number EL353496240US
Date of Deposit OCTOBER 2, 2002
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner of Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.
ANDREA L CALVARUSO
Name
Andrea L Calvaruso
Signature

NOTICE OF OPPOSITION

UFO Contemporary, Inc. ("Opposer") is a corporation organized under the laws of New York with an office at 466 Broome Street, New York, NY 10013. Opposer believes it will be damaged by registration of the U Flag Design mark as shown in the above-identified application and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer has been making apparel since the early 1960's in the USA and has lead the international market in casual clothing fashions. Opposer was one of the first American jeans and sportswear companies to license its logo, name and products around the world. Opposer has a strong presence in North America, South America, Europe and Asia.

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2. As a result of extensive national and international sales, advertising and promotion of UFO apparel, the UFO Flag Design trademarks have come to identify Opposer as the source of these goods in the minds of consumers, and the goods sold bearing the trademarks have come to be known to the relevant purchasing public throughout the United States and the world as representing goods of the highest quality. As a result thereof, the UFO Flag Design trademarks and the goodwill associated therewith are of inestimable value to Opposer.

3. Opposer has been using its UFO Flag Design mark and variant marks, all consisting of multi stripe flag design with the capital letters "UFO" in a box in the upper left hand corner of the flag design, since at least 1969 on apparel and since 1973 on shoes. See example of UFO Flag Design mark attached hereto as Exhibit A

4. By virtue of the wide renown acquired by the mark, the UFO Flag Design marks have developed secondary meaning and significance in the minds of the relevant public, and products sold under the mark are immediately identified with Opposer.

5. Opposer is the owner of many federally registered trademarks for the UFO Flag Design in the United States and around the world (see schedule showing only some examples of these registrations attached hereto as Exhibit B). For example, Opposer owns UFO Flag Design, a federally registered incontestable trademark in International Class 25 (Reg. No. 938,923), registered on July 25, 1972 for use in connection with trousers, pants, blouses and shirts for males and females. Opposer is also the owner of the federally registered trademark UFO Flag Design (Reg. No. 1,845,706) in International Class 25, for use in connection with footwear, namely shoes, sneakers, slippers and the like, which was registered on July 19, 1994.

6. Applicant seeks to register the trademark U Flag Design, for clothing,

including shirts, pants, footwear and headwear in Class 25; leather goods, including backpacks, wallets and similar goods in Class 18; and fabrics, including towels in Class 24. See U Flag Design mark attached hereto as Exhibit C. Publication of said mark was in the June 4, 2002 issue of the Official Gazette at page TM 80. Opposer has been granted an extension of time to file a Notice of Opposition to and including October 2, 2002.

7. Applicant's U Flag Design mark, consisting of a multi striped flag design with the capital letter "U" in a box in the upper left corner of the flag design, is very similar in appearance and design to Opposer's UFO Flag Design mark, which consists of a multi striped flag design with the capital letters "UFO" in a box in the upper left corner of the flag design, and the marks are used on identical goods.

8. Applicant's registration and use of the U Flag Design mark is likely to create confusion and deceive purchasers into believing that Applicant's goods originate with or are in some way sponsored, endorsed, licensed, associated or otherwise authorized or connected with Opposer. Such confusion as to source would irreparably harm and damage Opposer because Opposer has no control over the nature or quality of the shoes produced by Applicant under the U Flag Design mark.

9. Applicant's U Flag Design mark is substantially similar to and imitative of Opposer's UFO Flag Design marks.

10. Opposer contends that the mark will be diluted as a matter of law because the UFO Flag Design marks have achieved such fame and renown by the reputation and value of the associated goods.

11. By reason of the foregoing, Opposer will be damaged by Applicant's registration of the U Flag Design mark.

WHEREFORE, Opposer respectfully requests that this Opposition be sustained and that the registration by Applicant of the U Flag Design mark be refused.

Two copies of this Notice of Opposition and the fee required in 37 CFR 2.6 are enclosed herewith.

Respectfully submitted,

Andrea L. Calvaruso, Esq.
Attorney for Opposer
Donovan & Yee LLP
110 Greene St #700
New York, NY 10012
(212) 226-3946

Dated: October 2, 2002
New York, New York

EXHIBIT A

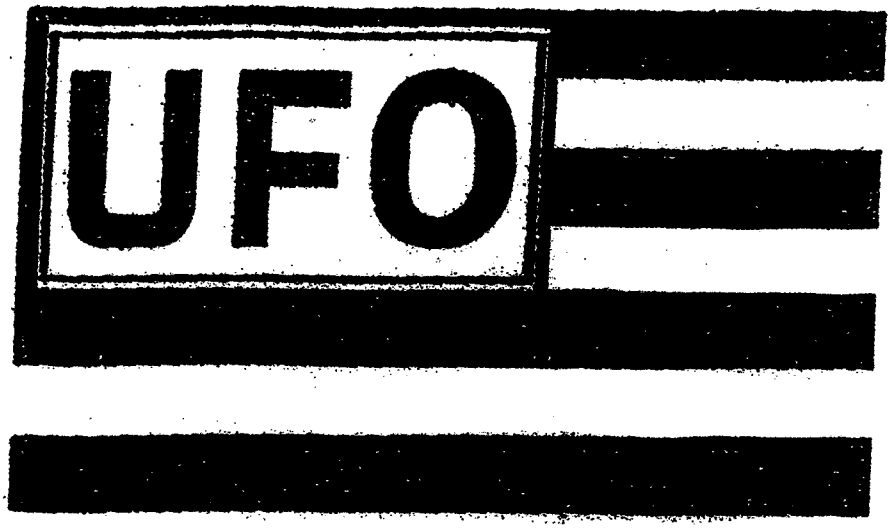

UFO

EXHIBIT B

SAMPLE TRADEMARK REGISTRATIONS FOR UFO FLAG DESIGN

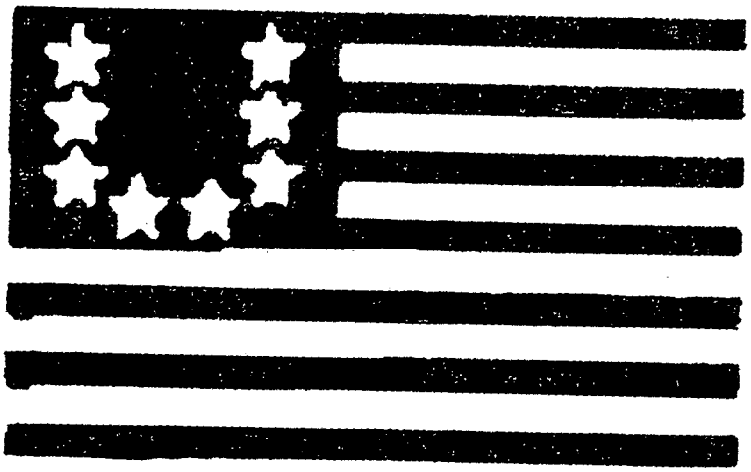
UNITED STATES

MARK	CLASS	REGISTRATION NO.	DATE OF REGISTRATION
UFO FLAG DESIGN	42	2,254,669	June 22, 1999
UFO FLAG DESIGN	25	1,845,706	July 19, 1994
UFO FLAG DESIGN	25	1,722,034	October 6, 1992
UFO FLAG DESIGN	25	938,923	July 25, 1972

OTHER JURISDICTIONS

MARK	COUNTRY	CLASS	REGISTRATION NO.	DATE OF REGISTRATION
UFO FLAG DESIGN	Japan	W	2708005	June 30, 1995
UFO FLAG DESIGN	United Kingdom	25	977,035	June 14, 1971
UFO FLAG DESIGN	European Union	25	421,362	October 8, 2001

EXHIBIT C



DONOVAN & YEE ▲ LLP

The Soho Building ▲ 110 Greene Street, Suite 700 ▲ New York, NY 10012
Telephone: 212-226-7700 ▲ Fax: 212-226-1995
E-mail: daygd@yeellp.com

Writer's Direct Dial:
(212) 226-9796

[redacted]

10-03-2002
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #66

Assistant Commissioner for Trademarks
BOX TTAB - FEE
2900 Crystal Drive
Arlington, Virginia 22202-3513

02 OCT 18 PM 9:30
TRADEMARK TRIAL AND APPEAL BOARD

Re: Client/Matter No. : 1198/USTM Gen
NOTICE OF OPPOSITION
Applicant : **KABUSIHKI KAISHA FAST RETAILING: d/b/a FAST RETAILING CO., LTD.**
Serial No. : 76/030,192
Mark : U FLAG DESIGN (Design Only)

Sir:

Enclosed please find a Notice of Opposition to the above-referenced application for registration of U FLAG DESIGN (Design Only), in triplicate.

Kindly file the enclosed papers and charge the fee, estimated to be $300, and any deficiency or overpayment of the fee as estimated below to the undersigned attorney's Deposit Account No. 50-0357.

"Express Mail" mailing label No.
Number EL353496240US
Date of Deposit OCTOBER 2, 2002
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Name ANDREA L CALVARUSO
Signature

Respectfully submitted,

DONOVAN & YEE LLP

By:
Andrea L. Calvaruso
Attorneys for Opposer

Estimated Fee: $300.00
Dated: October 2, 2002

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