

**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	Lacoste Alligator S.A.
Entity	Corporation
Citizenship	Switzerland
Address	6 rue Cornavin Geneva 1, 1211 SWITZERLAND

Attorney information	David Ehrlich Fross Zelnick 4 Times Square, 17th floor New York, NY 10036 UNITED STATES Email: ehrllich-docket@fzlz.com Phone: 2128135920
----------------------	--

Applicant Information

Application Serial No	87203550	Publication date	05/30/2017
Opposition Filing Date		Opposition Period Ends	06/29/2017
Applicant	Xavier College Preparatory Roman Catholic High School Address: 4710 N 5th St. Phoenix, AZ 85012 UNITED STATE		

Goods/Services Affected by Opposition

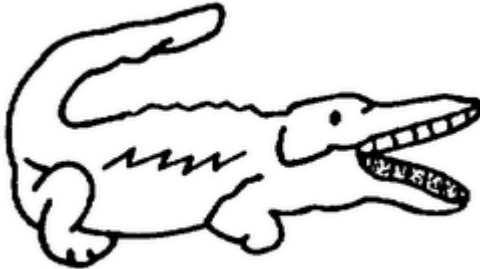
Class 016. First Use: 19900500 First Use In Commerce: 19900500 All goods and services in the class are opposed, namely: Student planners; school yearbooks; bumper stickers
Class 021. First Use: 19960800 First Use In Commerce: 19960800 All goods and services in the class are opposed, namely: Cups; water bottles, sold empty; thermally insulated containers for food or beverages
Class 025. First Use: 19880800 First Use In Commerce: 19880800 All goods and services in the class are opposed, namely: Hats; long-sleeve t-shirts; short-sleeve t-shirts; polo shirts; sweatpants; sweatshirts; visors; boxer shorts; pajamas; oxford shirts; socks

Grounds for Opposition

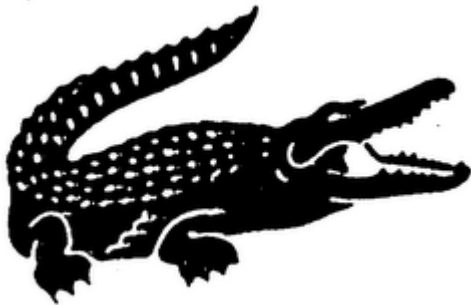
Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

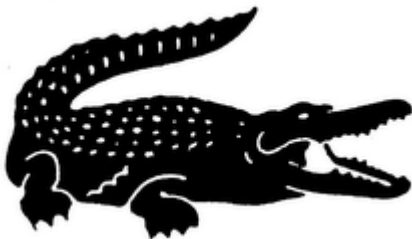
Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2004314	Application Date	09/29/1995
Registration Date	10/01/1996		
Design Mark			
Goods/Services	Class 025 First Use: 19350000 First Use In Commerce: 19500000 polo shirts, sweatshirts, blousons, shirts, pants, shorts, skirts, dresses, jogging suits, sweaters, jackets, parkas, headwear, robes, swimwear, footwear, socks, belts, gloves		

U.S. Registration No.	1108987	Application Date	07/07/1970
Registration Date	12/12/1978		
Design Mark			
Goods/Services	Class 025 First Use: 19581231 First Use In Commerce: 19581231 MEN'S, WOMEN'S AND CHILDREN'S SPORT SHIRTS AND SWEATERS, MEN'S SOCKS, OUTER SHORTS, HATS AND CAPS, WOMEN'S AND CHILDREN'S DRESSES		

U.S. Registration No.	2247880	Application Date	01/16/1992
Registration Date	05/25/1999		

Design Mark	
Goods/Services	Class 014 First Use: 19830000 First Use In Commerce: 19830000 watches

U.S. Registration No.	1206000	Application Date	01/28/1980
Registration Date	08/24/1982		
Design Mark			
Goods/Services	Class 009 First Use: 19790325 First Use In Commerce: 19790325 Eyeglasses, Sunglasses, and Cases for Both		

U.S. Registration No.	3129817	Application Date	09/15/2005
Registration Date	08/15/2006		
Design Mark			
Goods/Services	Class 025 First Use: 20021200 First Use In Commerce: 20030300 Sweaters, blazers, shirts, polo shirts, dress shirts, turtle neck shirts, tee-shirts, sweatshirts, knit shirts, jackets, parkas, trousers, shorts, bermuda shorts, track suit trousers, track suits, skirts, dresses, beachwear, socks, wrist bands, head bands, scarves, headwear, neckwear, gloves, underwear, footwear		

U.S. Registration No.	3129817	Application Date	09/15/2005
Registration Date	08/15/2006		

Design Mark	
Goods/Services	Class 025 First Use: 20021200 First Use In Commerce: 20030300 Sweaters, blazers, shirts, polo shirts, dress shirts, turtle neck shirts, tee-shirts, sweatshirts, knit shirts, jackets, parkas, trousers, shorts, bermuda shorts, track suit trousers, track suits, skirts, dresses, beachwear, socks, wrist bands, head bands, scarves, headwear, neckwear, gloves, underwear, footwear

Attachments	74735966#TMSN.png 72364539#TMSN.png 74238224#TMSN.png 73247943#TMSN.png 78713877#TMSN.png Notice of Opposition v Xavier Prep.PDF
-------------	---

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address of record by First Class Mail on this date.

Signature	/dwe/
Name	David Ehrlich
Date	06/19/2017

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

In the Matter of Serial No. 87203550

-----X		
LACOSTE ALLIGATOR S.A.,	:	
	:	Opposition No.
Opposer,	:	
	:	
- against -	:	
	:	
XAVIER COLLEGE PREPARATORY	:	
ROMAN CATHOLIC HIGH SCHOOL,	:	
	:	
Applicant.	:	
-----X		

NOTICE OF OPPOSITION

Opposer believes that it will be damaged by registration of the mark shown in the above-described application, and hereby opposes the same. As grounds of opposition, it is alleged that:

COUNT I – Likely Confusion

1. As to the Class 25 goods, Opposer owns design marks of a crocodile or alligator for shirts, polo shirts, shorts, and other clothing and accessories. Opposer, though licensees, has used this mark in the U.S. for such goods since long before Applicant's 2016 filing date and 1988 claimed first use date (for Class 25) and continues to do so. Opposer most often uses its mark in the color green. On shirts, it is usually sewn onto the left breast area, in addition to appearing on labels and packaging. As to the Class 16 and Class 21 goods in the application, the Opposer's mark has long been used in the U.S., since before the 1990 first use date claimed in the application for Class 16 and the 1996 first use date claimed in the application for Class 21, for a variety of merchandising items, such as watches and sunglasses. It has also been used for promotional or gift with purchase items, such as sports bottles. A photo of such a sports bottle is attached as Exhibit A. Opposer's mark is extremely famous in the U.S., based on many decades

of high sales and advertising. The mark often appears in two slightly different versions, that is, in a somewhat simplified image as a small embroidery patch sewn on the front of the clothing and in a more detailed version, with crisper lines, that appears on labels and packaging.

2. Among other registrations, Opposer owns U.S. Trademark Reg. No. 2004314 for the label version and 1108987 for the embroidery patch version for shirts and other clothing, Reg. No. 3129817 for the mark in the color green for clothing, Reg. No. 2247880 for watches and Reg. No. 1206000 for sunglasses. These registrations are valid, fully in force and incontestable.

3. Upon information and belief, Applicant has no basis to claim an earlier priority than Opposer.

4. Opposer's clothing bearing its mark is sold in sizes for children and teens and has long been popular with school children. The Class 25 specimen in the opposed application shows the alligator portion of Applicant's mark in green in a small size sewn onto the left breast of a polo shirt, with the X portion in blue and the word XAVIER in blue above the alligator. This is a size, placement and color very similar to that used by Opposer for its mark on its shirts. This gives the highly misleading impression that the shirt is a genuine Lacoste shirt with XAVIER in blue added above Opposer's green alligator logo and the X in blue added below Opposer's green alligator logo

5. Applicant's mark so resembles Opposer's mark as to be likely, when applied to the goods of Applicant, to cause confusion, or to cause mistake, or to deceive, in violation of Lanham Act Section 2(d), such as by consumers thinking incorrectly that Applicant's mark is another variation of Opposer's famous logo and that Opposer is the source or sponsor of Applicant's clothing.

6. Opposer would be injured by the granting to Applicant of a certificate of registration for the trademark for which registration is sought because this mark would tend to damage Opposer's goodwill in its mark.

7. By reason of the foregoing, Applicant is not entitled to the registration of the trademark sought by its application.

COUNT II – Dilution

8. Applicant's mark consists of a realistically-rendered image of a right-facing alligator with an open mouth, viewed from the side, with a curving tail, over a letter X.

9. That mark closely resembles the realistically-rendered image of a right-facing alligator, viewed from the side, with a curving tail, comprising the Opposer's mark, as shown in Opposer's pleaded registrations.

10. Applicant's mark dilutes the distinctive quality of Opposer's famous mark, causing dilution by blurring, in violation of Lanham Act Sections 13(a) and 43(c).

WHEREFORE, Opposer respectfully prays that this opposition be sustained and that the application be denied.

Dated: New York, New York
June 19, 2017

Respectfully submitted,

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 

David Ehrlich
Attorney for Opposer
4 Times Square, 17th Floor
New York, NY 10036
(212) 813-5920
Opposer's Ref: LCA USA TC-1705128

Hi! Sign in

Sell : My eBay

eBay

Search...

All Categories

[Back to home page](#) | [Listed in category:](#) [Sporting Goods](#) > [Cycling](#) > [Bicycle Accessories](#) > [Water Bottles & Cages](#)


Lacoste Sport Water Bottle Aluminum

Item: **Used**
condition:

"VERY MINOR SCUFF MARKS, OTHERWISE LIKE NEW"

Time left: 24d 17h 7/11, 9:39AM

Price: **US \$10.50**

Buy It Now

Add to cart

[Add to watch list](#)

[Add to collection](#)

Free shipping

30-day returns

Located in United States

Shipping: **FREE** Standard Shipping | [See details](#)

Item location: **Lutz, Florida, United States**

Ships to: **United States and many other countries** | [See details](#)

Delivery: **Estimated between Wed, Jun. 21 and Mon, Jun. 26**

Payments: **PayPal** | **VISA** | **MasterCard** | **Discover**

Credit Cards processed by PayPal

PayPal CREDIT

Get more time to pay. [Apply Now](#) | [See terms](#)

[See details](#)

Returns: **30 days money back, buyer pays return shipping** | [See details](#)

Guarantee: **eBay MONEY BACK GUARANTEE** | [See details](#)

Get the item you ordered or get your money back. Covers your purchase price and original shipping.

Seller information

nybuss (4283)

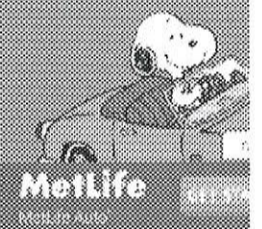
100% Positive feedback

[Follow this seller](#)

Visit store: **NYBUSS**

[See other items](#)

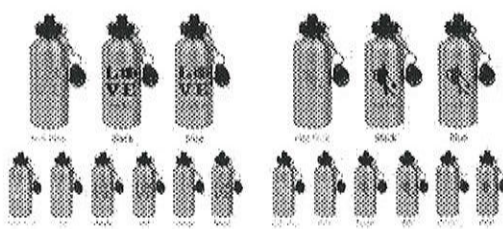
Find out if you're an employer discount



[Have one to sell?](#) [Sell now](#)

People who viewed this item also viewed

[Feedback](#)



SPONSORED

Personalized Custom Love Tennis Aluminum Silver 20
\$17.95
Free shipping

SPONSORED

Personalized Custom Basketball Dribbling Aluminum Silver
\$17.95
Free shipping

NEW Adjustable Aluminum Sport Water Bottle Cage Holder
\$3.59
~~\$7.18~~
+ Shipping

Adjustable Aluminum Alloy Sport Water Bottle Holder for
\$5.59
+ Shipping

Bike Bicycle Cycling Mountain Sport Water Bottle Aluminum
\$3.89
+ Shipping

Aluminum Water Bottle Holder Bracket
\$6.99
+ Shipping

Description

Shipping and payments

Seller assumes all responsibility for this listing.

Exhibit A

eBay item number: