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

GLEN RAVEN, INC.)
)
Opposer,)
)
v.)
)
KENNETH S. LIN)
)
Applicant.)

Opposition No.: _____



10-24-2003
U.S. Patent & TMO/TM Mail Rcpt Dt. #78

NOTICE OF OPPOSITION

Glen Raven, Inc., a corporation organized under the laws of the state of North Carolina, located and doing business at 1831 North Park Avenue, Glen Raven, North Carolina 27217 (hereinafter "Opposer"), hereby opposes registration of application Ser. No. 76/449,226 – KIMBRELLA for "nylon, polyethylene fabric, polypropylene fabrics and combinations thereof used in the manufacture of linings," filed September 11, 2002, by Kenneth S. Lin (hereinafter "Applicant"), and published for purposes of opposition in the Official Gazette dated September 2, 2003.

Opposer will be damaged in the event that the opposed application matures to registration and puts forth the following grounds for opposition:

1. Opposer is a leading manufacturer of, among other things, fabrics sold in the piece for use in a diverse array of applications, including, but not limited to, footwear, clothing and clothing accessories, clean room and health care environments, automotive applications, marine applications, including boat tops, boat covers and sail covers, awnings, umbrellas, canopies, wind screens, indoor and outdoor furniture, home furnishings and accessories, flags, tents and luggage.

2. Since 1959, Opposer has used the trademark SUNBRELLA to identify, among other things, fabrics in the piece for various applications and finished clothing products.

3. Through the years, Opposer has developed a family of SUNBRELLA trademarks for use on and with its various goods and, more recently, Opposer has expanded its use of the suffix BRELLA to appear in conjunction with a prefix other than SUN, creating BRELLA marks that include not only Opposer's various SUNBRELLA marks, but also the marks SHADE-BRELLA and CARTBRELLA.

4. Based on Opposer's extensive, exclusive and continuous use of its SUNBRELLA and other BRELLA marks, the name SUNBRELLA and Opposer's other BRELLA marks have come to be recognized among the consuming public as designators of origin with respect to said products.

5. Opposer is the owner of all right, title and interest in and to the following federal trademark registrations which presently are valid and subsisting in law. Opposer will submit current status and title copies, prepared by the Patent and Trademark Office, of its pleaded registrations at the appropriate time in this proceeding. Photocopies are attached hereto as Exhibit A.

- (a) Registration No. 2,761,048 – **SUNBRELLA FIRESIST & Design** for “fabrics sold in the piece for use in the manufacture of awnings, canopies, boat covers and tops, indoor and outdoor furniture, bags and umbrellas,” registered on the Principal Register September 9, 2003.
- (b) Registration No. 2,452,965 – **SUNBRELLA** for “sunblock lotion,” “fitted covers for marine bumpers,” “umbrella canopies,” “fringed chair cushions, decorative and wide striped pillows,” “hammocks,” and “reversible placemats and tablecloths,” registered on the Principal Register May 22, 2001.
- (c) Registration No. 2,451,005 – **SUNBRELLA & Umbrella Design** for “yarns” and “fabrics sold in the piece for use in producing awnings, sun and wind screens, tents, canopies, boat covers and tops, indoor and outdoor furniture, and beach umbrellas,” registered on the Principal Register May 15, 2001.

- (d) Registration No. 2,302,347 – **CARTBRELLA & Umbrella Design** for “fitted and/or semi-fitted protective rain cover for motorized golf carts” and “protective rain covers for golf bags,” registered on the Principal Register December 21, 1999.
- (e) Registration No. 2,028,355 -- **SUNBRELLAS** for “sunscreen lotions for the skin,” registered on the Principal Register January 7, 1997.
- (f) Registration No. 1,828,899 -- **SHADE-BRELLA** for “awnings,” registered on the Principal Register March 29, 1994.
- (g) Registration No. 1,815,959 -- **SUNBRELLA** for “outerwear, namely dusters and jackets,” registered on the Principal Register January 11, 1994.
- (h) Registration No. 1,542,589 -- **SUNBRELLA QUALITY EVERY STITCH OF THE WAY & Umbrella Design** for “fabrics for awnings, marine covers, bags and furniture,” registered on the Principal Register June 6, 1989.
- (i) Registration No. 709,110 -- **SUNBRELLA** for “fabrics for awnings, furniture, handbags and sportswear,” registered on the Principal Register December 27, 1960.

6. Registration Nos. 2,028,355; 1,815,959; 1,542,589; and 709,110 have become incontestable as to the goods listed therein and are conclusive evidence of the validity of the registered marks, Opposer’s ownership thereof, and of Opposer’s exclusive right to use the marks in commerce on or in connection with the goods identified in the registrations.

7. By reason of Opposer’s extensive, exclusive and continuous use of its **SUNBRELLA** and **BRELLA** marks, Opposer has become known and recognized as the owner of the aforesaid marks.

8. On information and belief, Applicant produces and distributes nylon, polyethylene fabric, polypropylene fabrics and combinations thereof for use in the manufacture of linings.

9. Applicant’s fabrics are identical or otherwise closely related to Opposer’s fabrics and other products.

10. Applicant's proposed mark so resembles Opposer's SUNBRELLA and BRELLA marks in terms of appearance, sound, connotation and commercial impression as to be likely, when applied to Applicant's fabrics, to cause confusion and mistake and to deceive.

11. Applicant's proposed mark is confusingly similar to Opposer's SUNBRELLA and BRELLA marks so that registration of Applicant's proposed mark would be inconsistent with and damaging to Opposer's exclusive rights in and to its registered marks in connection with the goods with which they are used.

12. Opposer will be damaged by registration of Applicant's proposed mark.

WHEREFORE, Opposer prays that its opposition be sustained and that Applicant's proposed mark be denied registration.

Opposer hereby authorizes the filing fee of THREE HUNDRED DOLLARS (\$300.00) and any additional charges necessary to institute this proceeding in one class to be debited from the deposit account of Wiley Rein & Fielding, Account No. 501129.

This opposition is being filed by the undersigned attorneys at law, duly authorized to represent Opposer in this proceeding, pursuant to Trademark Rule 2.101(b).

Respectfully submitted

GLEN RAVEN, INC.

By: 

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Christopher Kelly
Wiley Rein & Fielding LLP
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Attorneys for Opposer

Dated: October 24, 2003
WRFMAIN 12133757.1

Int. Cl.: 24

Prior U.S. Cls.: 42 and 50

United States Patent and Trademark Office

Reg. No. 2,761,048

Registered Sep. 9, 2003

**TRADEMARK
PRINCIPAL REGISTER**



GLEN RAVEN, INC. (NORTH CAROLINA CORPORATION)
1831 NORTH PARK AVENUE
GLEN RAVEN, NC 27217

OWNER OF U.S. REG. NOS. 709,110, 1,950,516 AND OTHERS.

FOR: FABRICS SOLD IN THE PIECE, FOR USE IN THE MANUFACTURE OF AWNINGS, CANOPIES, BOAT COVERS AND TOPS, INDOOR AND OUTDOOR FURNITURE, BAGS AND UMBRELLAS, IN CLASS 24 (U.S. CLS. 42 AND 50).

THE MARK IS LINED FOR THE COLORS YELLOW, RED AND BLUE BUT COLOR IS NOT CLAIMED AS A FEATURE OF THE MARK

SER. NO. 76-399,978, FILED 4-25-2002.

FIRST USE 2-13-1987; IN COMMERCE 5-9-1994.

SONYA STEPHENS, EXAMINING ATTORNEY

Int. Cls.: 3, 12, 18, 20, 22 and 24

Prior U.S. Cls.: 1, 2, 3, 4, 6, 7, 13, 19, 21, 22, 23, 25, 31,
32, 35, 41, 42, 44, 50, 51 and 52

United States Patent and Trademark Office

Reg. No. 2,452,965

Registered May 22, 2001

**TRADEMARK
PRINCIPAL REGISTER**

SUNBRELLA

GLEN RAVEN, INC. (NORTH CAROLINA COR-
PORATION)
1831 NORTH PARK AVENUE

GLEN RAVEN, NC 27217 , BY CHANGE OF NAME
GLEN RAVEN MILLS, INC. (NORTH CAROLINA
CORPORATION) GLEN RAVEN, NC 27217

FOR: SUNBLOCK LOTION, IN CLASS 3 (U.S. CLS.
1, 4, 6, 50, 51 AND 52).

FIRST USE 3-2-1999; IN COMMERCE 3-2-1999.

FOR: FITTED COVERS FOR MARINE BUMPERS,
IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

FIRST USE 3-2-1999; IN COMMERCE 3-2-1999.

FOR: UMBRELLA CANOPIES, IN CLASS 18 (U.S.
CLS. 1, 2, 3, 22 AND 41).

FIRST USE 3-2-1999; IN COMMERCE 3-2-1999.

FOR: FRINGED CHAIR CUSHIONS; DECORA-
TIVE AND WIDE STRIPE PILLOWS, IN CLASS 20
(U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 3-2-1999; IN COMMERCE 3-2-1999.

FOR: HAMMOCKS, IN CLASS 22 (U.S. CLS. 1, 2, 7,
19, 22, 42 AND 50).

FIRST USE 3-2-1999; IN COMMERCE 3-2-1999.

FOR: REVERSIBLE PLACEMATS AND TABLE-
CLOTHS, IN CLASS 24 (U.S. CLS. 42 AND 50).

FIRST USE 3-2-1999; IN COMMERCE 3-2-1999.

OWNER OF U.S. REG. NOS. 1,815,959, 2,052,850
AND OTHERS.

SER. NO. 75-936,037, FILED 2-23-2000.

MICHAEL KEATING, EXAMINING ATTORNEY

Int. Cls.: 23 and 24

Prior U.S. Cls.: 42, 43 and 50

United States Patent and Trademark Office

Reg. No. 2,451,005

Registered May 15, 2001

**TRADEMARK
PRINCIPAL REGISTER**



GLEN RAVEN, INC. (NORTH CAROLINA CORPORATION)
1831 NORTH PARK AVENUE
GLEN RAVEN, NC 27217

FOR: YARNS, IN CLASS 23 (U.S. CL. 43).

FIRST USE 3-15-1991; IN COMMERCE 3-15-1991.

FOR: FABRICS SOLD IN THE PIECE FOR USE IN PRODUCING AWNINGS, SUN AND WIND SCREENS, TENTS, CANOPIES, BOAT COVERS AND TOPS, INDOOR AND OUTDOOR FURNITURE, AND BEACH UMBRELLAS, IN CLASS 24 (U.S. CLS. 42 AND 50).

FIRST USE 3-15-1991; IN COMMERCE 3-15-1991.

OWNER OF U.S. REG. NOS. 1,815,959, 2,052,850 AND OTHERS.

THE DRAWING IS LINED FOR THE COLORS YELLOW, RED, AND BLUE.

SER. NO. 76-049,848, FILED 5-16-2000.

MICHAEL KEATING, EXAMINING ATTORNEY

Int. Cls.: 12 and 28

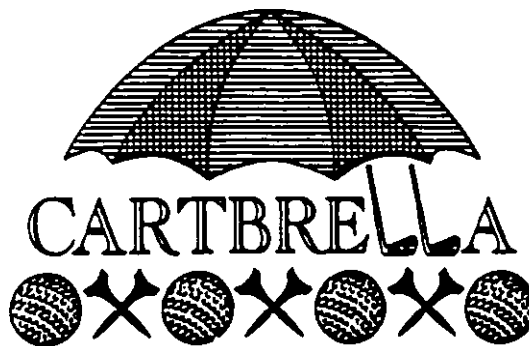
Prior U.S. Cls.: 19, 21, 22, 23, 31, 35, 38, 44, and 50

Reg. No. 2,302,347

United States Patent and Trademark Office

Registered Dec. 21, 1999

**TRADEMARK
PRINCIPAL REGISTER**



**CARTRELLA, INC. (NORTH CAROLINA CORPORATION)
P. O. BOX 99773
RALEIGH, NC 276249773**

FOR: FITTED AND/OR SEMI-FITTED PROTECTIVE RAIN COVER FOR MOTORIZED GOLF CARTS, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

FIRST USE 9-9-1995; IN COMMERCE 9-9-1995.

FOR: PROTECTIVE RAIN COVER FOR GOLF BAGS, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 9-9-1999; IN COMMERCE 9-9-1999.

THE LINING IS THE FACES OF THE GOLF CLUBS DEPICTED IN THE MARK IS A FEATURE OF THE MARK AND IS NOT INTENDED TO INDICATE COLOR. THE MARK IS LINED FOR THE COLORS BLUE AND YELLOW.

SN 74-723,987, FILED 9-1-1995.

LIZ KULICK, EXAMINING ATTORNEY

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

United States Patent and Trademark Office

Reg. No. 2,028,355

Registered Jan. 7, 1997

**TRADEMARK
PRINCIPAL REGISTER**

SUNBRELLAS

GLEN RAVEN MILLS, INC. (NORTH CAROLI-
NA CORPORATION)
1831 NORTH PARK AVENUE
GLEN RAVEN, NC 27217

FOR: SUNSCREEN LOTIONS FOR THE
SKIN, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND
52).

FIRST USE 1-1-1985; IN COMMERCE
1-1-1985.

OWNER OF U.S. REG. NOS. 709,110, 1,463,580,
AND 1,542,589.

SER. NO. 74-703,897, FILED 7-21-1995.

JEFFREY SMITH, EXAMINING ATTORNEY

Int. Cl.: 22

Prior U.S. Cl.: 50

United States Patent and Trademark Office Reg. No. 1,828,899
Registered Mar. 29, 1994

TRADEMARK
PRINCIPAL REGISTER

SHADE-BRELLA

SHADE-BRELLA INC. (ILLINOIS CORPORATION)
5748 SOUTH NARRAGANSETT
CHICAGO, IL 60638

FIRST USE 5-1-1993; IN COMMERCE
5-1-1993.

SN 74-350,439, FILED 1-21-1993.

FOR: AWNINGS, IN CLASS 22 (U.S. CL. 50).

JOAN LESLIE DISHOP, EXAMINING ATTORNEY

Assigned from Shade-Brella, Inc., an Illinois Corporation to
Glen Raven Mills, Inc., a North Carolina Corporation through a
Trademark Assignment executed on 3-5-96, filed in the PTO Assignment
Office on March 11, 1996, recorded on 3-11-96 at Frame 65/21
Reel 1405.

Int. Cl.: 25

Prior U.S. Cl.: 39

United States Patent and Trademark Office

Reg. No. 1,815,959

Registered Jan. 11, 1994

**TRADEMARK
PRINCIPAL REGISTER**

SUNBRELLA

GLEN RAVEN MILLS, INC. (NORTH CAROLINA CORPORATION)
1831 NORTH PARK AVENUE
GLEN RAVEN, NC 27215

FOR: OUTERWEAR; NAMELY, DUSTERS AND JACKETS, IN CLASS 25 (U.S. CL. 39).
FIRST USE 1-13-1989; IN COMMERCE 1-13-1989.

OWNER OF U.S. REG. NO. 709,110 AND OTHERS.

SER. NO. 74-271,168, FILED 4-30-1992.

KATHERINE STOIDES, EXAMINING ATTORNEY

Int. Cl.: 24

Prior U.S. Cl.: 42

United States Patent and Trademark Office

Reg. No. 1,542,589

Registered June 6, 1989

**TRADEMARK
PRINCIPAL REGISTER**



GLEN RAVEN MILLS, INC. (NORTH CAROLINA CORPORATION)
1831 N. PARK AVENUE
GLEN RAVEN, NC 27215

FOR: FABRICS FOR AWNINGS, MARINE COVERS, BAGS AND FURNITURE, IN CLASS 24 (U.S. CL. 42).

FIRST USE 10-16-1987; IN COMMERCE 10-16-1987.

OWNER OF U.S. REG. NO. 709,110.

THE STIPLING SHOWN IN THE MARK IS FOR SHADING PURPOSES ONLY AND DOES NOT INDICATE COLOR.

SER. NO. 693,598, FILED 11-4-1987.

MARIA SOLOMON, EXAMINING ATTORNEY

JTH

United States Patent Office

709,110
Registered Dec. 27, 1960

PRINCIPAL REGISTER Trademark

Ser. No. 96,329, filed May 3, 1960

SUNBRELLA

Glen Raven Cotton Mills, Inc. (North Carolina corporation)
Glen Raven, N.C.

For: FABRICS FOR AWNINGS, FURNITURE,
HANDBAGS, AND SPORTSWEAR, in CLASS 42.
First use Dec. 11, 1959; in commerce Dec. 11, 1959

Merger of Glen Raven Cotton Mills, Inc., Glen Raven Knitting Mills, Inc., and Glen Raven Silk Mills, Inc., and Change of Name of surviving Glen Raven Cotton Mills, Inc. to Glen Raven Mills, Inc., a North Carolina corporation, recorded in the U.S. Patent Office on 4-23-68, Trademark Reel 161,
Frames 714-A • effective 1-26-67