

ESTTA Tracking number: **ESTTA9386**

Filing date: **05/28/2004**

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	KP Sports, Inc.
Granted to Date of previous extension	05/30/2004
Address	KP Sports, Inc. 1020 Hull Street Baltimore, MD 21230 UNITED STATES

Attorney information	Cynthia Raposo Gill & Sippel 98 Church Street Rockville, MD 21230 UNITED STATES raposo@gillandsippel.com Phone:301-251-9200
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Applicant Information

Application No	78238076	Publication date	12/02/2003
Opposition Filing Date	05/28/2004	Opposition Period Ends	05/30/2004
Applicant	Gen-X Sports SÄrl		

Goods/Services Affected by Opposition

Class 025. First Use: First Use In Commerce:

All goods and services in the class are opposed, namely: Men's, women's, and youth apparel, namely, long and short sleeve t-shirts; shirts; sweaters; sweater vests and sweater jackets; turtlenecks, mock turtlenecks; fleece pullovers; polo shirts; shorts; slacks; jackets; vests; wind shirts and wind resistant jackets and vests; waterproof jackets and pants; capri pants; skorts; skirts; footwear; gloves; sweatshirts and sweatpants; socks; and headwear, namely, hats, caps and visors.

Attachments	Notice of Opposition.pdf (4 pages)
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Signature	/cynthia raposo/
Name	Cynthia Raposo
Date	05/28/2004

4. Opposer has extensively and prominently advertised its UNDER ARMOUR and UNDER ARMOUR & Design marks in a variety of media, including a number of high-profile national publications and network television commercials.

5. Opposer has engaged in a variety of other promotional activities and has, for example, placed products bearing its UNDER ARMOUR and UNDER ARMOUR & Design marks prominently in major motion pictures and television shows.

6. Opposer's products, branded under and in connection with its UNDER ARMOUR and UNDER ARMOUR & Design marks, have received extensive unsolicited national media attention.

7. As a result of Opposer's successful sales, extensive advertising and promotional activities, and receipt of unsolicited media attention, Opposer's UNDER ARMOUR and UNDER ARMOUR & Design marks have become well-known and famous.

8. Opposer owns Federal Registration No. 2,279,668 for the mark UNDER ARMOUR for a wide variety of apparel. That registration, issued on September 21, 1999, has a priority date of August 13, 1996 and claims a first use date of September 7, 1996.

9. Opposer owns Federal Registration No. 2,509,632 for the mark UNDER ARMOUR & Design for a wide variety of apparel. That registration, issued on November 20, 2001, has a priority date of November 1, 2000 and claims a first use date of August 1996.

10. Upon information and belief, Applicant filed an intent-to-use application for the mark TOMMY ARMOUR on April 15, 2003, which has been assigned Serial No. 78/238,076.

11. As published, Applicant's TOMMY ARMOUR application covers "mens, women's, and youth apparel, namely long and short sleeve T-shirts; shirts; sweaters; sweater vests and sweater jackets; turtlenecks, mock turtlenecks; fleece pullovers; polo shirts; shorts; slacks; jackets; vests; wind shirts and wind resistant jackets and vests; waterproof jackets and pants; capri pants; skorts; skirts; footwear; gloves; sweatshirts and sweatpants; socks; and headwear, namely hats, caps and visors," in Class 25.

12. Upon information and belief, Opposer's federally registered marks UNDER ARMOUR and UNDER ARMOUR & Design have priority over Applicant's TOMMY ARMOUR application in Class 25.

13. Upon information and belief, the goods identified by Applicant's TOMMY ARMOUR mark are closely related to Opposer's goods.

14. Applicant's mark TOMMY ARMOUR so resembles Opposer's UNDER ARMOUR and UNDER ARMOUR & Design marks, as to be likely, when used in connection with Applicant's goods, to cause confusion, to cause mistake, or to deceive.

15. Opposer's UNDER ARMOUR and UNDER ARMOUR & Design marks have become famous within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

16. Opposer's famous UNDER ARMOUR and UNDER ARMOUR & Design marks will be diluted by the registration of Applicant's TOMMY ARMOUR mark as a result of dilution under Section 43(c).

17. For the reasons noted above, Opposer would be damaged by the registration of the TOMMY ARMOUR Application, Serial No. 78/238,076.

WHEREFORE, Opposer respectfully requests that registration of the mark TOMMY ARMOUR (Serial No. 78/238,076) be refused and that this opposition be sustained.

The required opposition fee of \$300 is being paid on-line via credit card contemporaneously with the filing of this Notice.

Dated: May 28, 2004

By: 
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