

ESTTA Tracking number: **ESTTA60797**

Filing date: **01/06/2006**

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	Woolworths plc
Granted to Date of previous extension	01/08/2006
Address	Woolworth House 242-246 Marylebone Road London, NW1 6JL UNITED KINGDOM

Attorney information	John C. Wilson Heller Ehrman LLP 333 Bush Street San Francisco, CA 941042878 UNITED STATES sf-trademark@hellerehrman.com, john.wilson@hellerehrman.com Phone:(415) 772-6000
----------------------	--

Applicant Information

Application No	78463950	Publication date	07/12/2005
Opposition Filing Date	01/06/2006	Opposition Period Ends	01/08/2006
Applicant	partnership of Katherine Siems and LisaKunitzer, The 4231 Vista Del Rio Way, #4 Oceanside, CA 92057 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Shirts, hats, socks, jackets, pants, boots and shoes

Attachments	LADYBUG VENOM Notice of Opposition.pdf (4 pages)
-------------	--

Signature	/John C. Wilson/
Name	John C. Wilson
Date	01/06/2006

In the Matter of Application Serial No. 78/463950
Published in the *Official Gazette* on July 12, 2005
Trademark: **LADYBUG VENOM**

Woolworths plc, Opposer, v. The Partnership of Katherine Siems and Lisa Kunitzer, Applicant.	NOTICE OF OPPOSITION
---	-----------------------------

NOTICE OF OPPOSITION

Woolworths plc (“Opposer”), a corporation organized under the laws of the United Kingdom and having a place of business at Woolworth House, 242-246 Marylebone Road, London NW1 6JL, United Kingdom, believes it will be damaged by registration of the mark LADYBUG VENOM shown in Serial No. 78/463950 in International Class 25 and hereby opposes the same.

As grounds for opposition, Opposer alleges:

1. The Partnership of Katherine Siems and Lisa Kunitzer (“Applicant”) has filed an application to register LADYBUG VENOM for “shirts, hats, socks, jackets, pants, boots and shoes” in International Class 25, as evidenced by the publication of such mark in the *Official Gazette* on July 12, 2005.

2. Applicant is, upon information and belief, a partnership composed of Katherine Siems and Lisa Kunitzer, both U.S. citizens, and having a place of business at 4231 Vista Del Rio Way, #4 Oceanside, California 92057.

3. Opposer and its predecessors-in-interest have, since at least as early as October 1, 1958, used the mark LADYBUG in connection with women's clothing (the "LADYBUG Mark"). Such use has been valid and continuous since at least as early as such date of first use and such mark has not been abandoned. Opposer is also the owner of United States Trademark Registration No. 842,483 for LADYBUG and Design, among other registrations and applications.

4. There is no issue as to priority. Applicant has not used the mark LADYBUG VENOM for its goods prior to August 8, 2004, as evidenced by Applicant's intent-to-use application filed on August 8, 2004, which date is subsequent to the date of issuance of Opposer's Registration No. 842,483 for LADYBUG and Design.

5. Opposer has sold its goods under the LADYBUG Mark throughout the United States. Opposer has developed exceedingly valuable goodwill with respect to the LADYBUG Mark.

6. By virtue of its efforts and the expenditure of considerable sums for promotional and advertising activities and by virtue of the excellence of its goods, Opposer has gained for its LADYBUG Mark a most valuable reputation and has created, in the mind of the buying public, an exclusive association between the LADYBUG Mark and its goods.

7. The trademark proposed for registration by Applicant, namely LADYBUG VENOM, is likely to be confused with Opposer's LADYBUG Mark because Applicant's mark is similar in appearance, sound and commercial impression to Opposer's LADYBUG Mark.

8. Applicant seeks to register LADYBUG VENOM as a mark in connection with goods that are similar to the goods of Opposer, and the mark is likely, when used on or in connection with Applicant's goods, to cause confusion, to cause mistake or to deceive within the meaning of 15 U.S.C. § 1052(d).

9. The LADYBUG Mark is famous throughout the United States and has become closely associated with the goods of Opposer. The LADYBUG Mark became famous prior to the filing of Applicant's intent-to-use application for LADYBUG VENOM.

10. The trademark proposed for registration by Applicant, namely LADYBUG VENOM, is likely to dilute and actually dilutes Opposer's LADYBUG Mark and reduces the capacity of the famous LADYBUG Mark to identify the goods of Opposer.

11. If Applicant is permitted to use and register the LADYBUG VENOM mark for its goods, as specified in the opposed application, confusion in trade resulting in damage and injury to Opposer would be caused and would result by reason of the fact that Applicant's mark is confusingly similar to Opposer's mark. Persons familiar with Opposer's LADYBUG Mark would be likely to buy Applicant's LADYBUG VENOM goods as the goods offered and sold by Opposer. Furthermore, any defect, objection or fault found with Applicant's goods marketed under its LADYBUG VENOM mark would be likely to reflect upon and seriously injure the reputation that Opposer has established for its goods offered under its LADYBUG Mark.

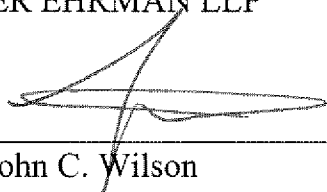
12. If Applicant is granted the registration herein opposed, it would obtain thereby at least a *prima facie* exclusive right to the use of the LADYBUG VENOM mark. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that the opposition be sustained and that the application be refused for registration.

Respectfully submitted,

HELLER EHRMAN LLP

Dated: January 6, 2006

By: 

John C. Wilson

333 Bush Street
San Francisco, CA 94104-2878
(415) 772-6000 (tel)
(415) 772-6268 (fax)
Attorneys for Woolworths plc