

ESTTA Tracking number: **ESTTA61160**

Filing date: **01/10/2006**

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	Government Employees Insurance Company		
Entity	Corporation	Citizenship	Maryland
Address	5260 Western Avenue Chevy Chase, MD 20815 UNITED STATES		

Attorney information	Anna W. Manville ARNOLD & PORTER, LLP 555 Twelfth Street, N.W. IP Docketing Washington, DC 20004 UNITED STATES trademarkdocketing@aporter.com Phone:202-942-5163
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Applicant Information

Application No	78517453	Publication date	12/20/2005
Opposition Filing Date	01/10/2006	Opposition Period Ends	01/19/2006
Applicant	GECKO TRADING COMPANY, INC. P.O. BOX 1650 MAKAWAO, HI 96768 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: CLOTHING FOR MEN, WOMEN, JUNIORS, AND CHILDREN, NAMELY, SHIRTS, INCLUDING T-SHIRTS AND POLO SHIRTS; CASUAL DRESSES; TOPS, BLOUSES, HALTER TOPS, TANK TOPS, SWEATERS; PANTS INCLUDING CASUAL SLACKS AND JEANS; SUITS; DRESSES, INCLUDING CASUAL AND EVENING GOWNS; SKIRTS, COATS AND JACKETS, INCLUDING BLAZERS; UNIFORMS; SLEEPWEAR, INCLUDING PAJAMAS AND NIGHTGOWNS, ROBES; BEACHWEAR AND SWIMWEAR, INCLUDING BATHING SUITS, SWIM TRUNKS AND BIKINIS; AND WRAPS, HATS, LOUNGEWEAR, INCLUDING SWEATPANTS AND SWEATSHIRTS; UNDERWEAR, INCLUDING BOXERS, BRIEFS AND PANTIES

Attachments	GEICO Notice.pdf (16 pages)
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Signature	/elizabeth vary/
Name	Elizabeth Vary
Date	01/10/2006

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

_____)	
GOVERNMENT EMPLOYEES)	
INSURANCE COMPANY)	
)	
Opposer,)	Opposition No. _____
)	
v.)	Application Serial No. 78-517453
)	
GECKO TRADING COMPANY, INC.)	Mark: GEICO
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Government Employees Insurance Company, a Maryland corporation with its principal place of business at 5260 Western Avenue, Chevy Chase, Maryland 20815 (“Opposer”), believes that it will be damaged by registration of the mark GEICO in Application Serial No. 78-517453 (“Applicant’s Mark”) and hereby opposes registration of the same in accordance with Trademark Act § 13, 15 U.S.C. § 1063 and Trademark Rule 2.101, 37 C.F.R. § 2.101.

The grounds for opposition are likelihood of confusion between the Applicant’s Mark and Opposer’s Mark under Trademark Act § 2(d), 15 U.S.C. § 1052(d), dilution under Trademark Act § 43(c), 15 U.S.C. § 1125(c), Applicant’s false claim of ownership of the mark in the Application under Trademark Act § 1, 15 U.S.C. § 1051, and Applicant’s knowingly false statements and representations regarding its intent to adopt and right to use Applicant’s Mark.

OPPOSER'S MARK

1. Opposer began operations in 1936 offering insurance services. Opposer is now the largest direct writer of private passenger auto insurance in the United States. Opposer's customer base exceeds 6 million auto policyholders. Opposer adopted the mark "GEICO" in 1948 (the "GEICO Mark").
2. Opposer has continuously used the GEICO Mark in connection with insurance underwriting, insurance brokerage, and related services for over 55 years.
3. Opposer is the owner of Registration No. 763274 for the mark GEICO for the services set forth in that registration. Said registration is incontestable under 15 U.S.C. § 1065, and is conclusive evidence of the validity of the registered mark, of Opposer's ownership of the mark, and of Opposer's exclusive right to use the registered mark in commerce under 15 U.S.C. § 1115. A copy of the registration is attached hereto as Exhibit A.
4. Opposer is the owner of Registration No. 2,601,179 for the mark GEICO for the services set forth in that registration. A copy of the registration is attached hereto as Exhibit B.
5. Opposer is the owner of Registration No. 1,442,076 for the mark GEICO DIRECT for the goods set forth in that registration. Said registration is incontestable under 15 U.S.C. § 1065, and is conclusive evidence of the validity of the registered mark, of Opposer's ownership of the mark, and of Opposer's exclusive right to use the registered mark in commerce under 15 U.S.C. § 1115. A copy of the registration is attached hereto as Exhibit C.

6. Opposer is the owner of Registration No. 2,071,336 for the mark GEICO DIRECT for the services set forth in that registration. Said registration is incontestable under 15 U.S.C. § 1065, and is conclusive evidence of the validity of the registered mark, of Opposer's ownership of the mark, and of Opposer's exclusive right to use the registered mark in commerce under 15 U.S.C. § 1115. A copy of the registration is attached hereto as Exhibit D.

7. Opposer is the owner of Registration No. 2,628,333 for the mark GEICO DIRECT for the services set forth in that registration. A copy of the registration is attached hereto as Exhibit E.

8. Opposer is the owner of Registration No. 2,422,414 for the mark GEICO DIRECT LINE for the services set forth in that registration. A copy of the registration is attached hereto as Exhibit F.

9. Opposer is the owner of Registration No. 2,982,260 for the mark GEICO AUTO REPAIR XPRESS for the services set forth in that registration. A copy of the registration is attached hereto as Exhibit G.

10. Opposer is the owner of Registration No. 3,010,870 for the mark GEICO AUTO R/X for the services set forth in that registration. A copy of the registration is attached hereto as Exhibit H.

11. Opposer possesses valuable common law rights in the GEICO Mark used in connection with clothing items and other merchandise offered in association with Opposer's services.

12. Through Opposer's longstanding and widespread use and extensive promotion of the GEICO Mark and the marks identified in the registrations noted above,

as well as Opposer's use of its GEICO Mark in connection with merchandise associated with Opposer's services, including clothing, the GEICO Mark has become distinctive and famous.

APPLICANT'S MARK

13. Upon information and belief, the Applicant, Gecko Trading Company, Inc., is a Hawaiian corporation with an address at P.O. Box 1650, Makawao, Hawaii 96768.

14. The Applicant filed an application in the U.S. Patent and Trademark Office ("USPTO") on November 16, 2004 to register the Applicant's Mark in Application Serial No. 78-517453 ("the Application") based on its claimed bona fide intention to use the mark in commerce. The Application was published for opposition on December 20, 2005.

15. The Application, as amended, identifies the goods as "clothing for men, women, juniors, and children, namely, shirts, including T-shirts and polo shirts; casual dresses; tops, blouses, halter tops, tank tops, sweaters; pants including casual slacks and jeans; suits; dresses, including casual and evening gowns; skirts, coats and jackets, including blazers; uniforms; sleepwear, including pajamas and nightgowns, robes; beachwear and swimwear, including bathing suits, swim trunks and bikinis; and wraps, hats, loungewear, including sweatpants and sweatshirts; underwear, including boxers, briefs and panties, in Class 25" ("Applicant's Goods").

LIKELIHOOD OF CONFUSION

16. The Applicant's Mark is confusingly similar to Opposer's GEICO Mark and Opposer's marks that include the distinctive term GEICO for the following reasons, among others:

Comparison of the Marks

17. Applicant's Mark is identical to Opposer's GEICO Mark and virtually identical to Opposer's marks that include the distinctive term GEICO.

18. Applicant is not affiliated with Opposer, and Opposer has not authorized Applicant to use or register the GEICO Mark or any variations thereof.

Strength of the GEICO Mark

19. GEICO is a strong mark. GEICO is a highly distinctive term that has become famous through longstanding and widespread use and promotion, not only in connection with insurance and related goods and services, but also in connection with promotional merchandise associated with Opposer's services and goods, including clothing.

Comparison of the Goods and Services

20. Potential customers for Applicant's Goods are likely to believe that the goods offered under the Applicant's Mark originate with, or are sponsored or approved by Opposer, when in fact they are not, resulting in damage to the Opposer. Furthermore, because the GEICO Mark is a famous trademark, it is entitled to a broad scope of protection.

21. Applicant's Goods are likely to be offered to the same persons and groups to whom Opposer offers its services.

Channels of Trade

22. Upon information and belief, the channels of trade for the Opposer's Services and Applicant's Goods are identical.

Priority

23. There is no issue with respect to priority. Opposer began use of the GEICO Mark and other marks that feature the distinctive term GEICO in commerce before Applicant filed the Application. Upon information and belief, Applicant has not used the mark identified in the Application.

DILUTION

24. The GEICO Mark is inherently distinctive and the GEICO Mark has become famous through longstanding and widespread use and promotion in commerce in connection with the Opposer's Services.

25. The GEICO Mark became distinctive and famous within the meaning of 15 U.S.C. § 1125(c) long before Applicant filed the Application.

26. The registration of the mark in the Application will dilute the distinctive quality of the GEICO Mark.

OWNERSHIP

27. Applicant is not the owner of the mark in the Application. Applicant had full knowledge of Opposer's ownership of the GEICO Mark when the Applicant filed the Application. Applicant's verified statements in the Application that it owns the mark and that, to the best of its knowledge "no other person has the right to use such mark" was false. Accordingly, the Application is void as filed under Trademark Act § 1, 15 U.S.C. § 1051, because the Application was not filed by the true owner of the mark in the Application.

FALSE STATEMENTS

28. Upon information and belief, the Applicant made knowingly and willfully false and/or fraudulent declarations or representations to the USPTO, including statements that the Applicant had a “bona fide intention to use the mark in commerce” and that “no other person has the right to use such mark.” Upon information and belief, the Applicant filed the Application and made these false statements with the intent to induce the Opposer to abandon a pending application, unrelated to this matter, filed with the USPTO to which the Applicant objected. Relying upon the truth of these false statements, the USPTO approved the Application for publication.

WHEREFORE, Opposer states that it will be damaged by registration of the mark in the Application and therefore requests that the Trademark Trial and Appeal Board refuse registration and sustain the Opposition.

* * *

This Notice of Opposition is submitted electronically and the undersigned has authorized the payment of all official filing fees or any other fees due from Deposit Account No. 50-2387.

January 10, 2006

GOVERNMENT EMPLOYEES
INSURANCE COMPANY

By: 

Charles Ossola
Anna W. Manville
Arnold & Porter LLP
555 Twelfth Street, N.W.
Washington, D.C. 20004-1202
(202) 942-5737

Attorneys for Opposer

United States Patent Office

763,274

Registered Jan. 14, 1964

PRINCIPAL REGISTER Service Mark

Ser. No. 153-616, Filed Dec. 6, 1962

GEICO

Government Employees Insurance Company (District of Columbia corporation)
Vermont Ave. and K St. NW.
Washington 5, D.C.

For: INSURANCE UNDERWRITING AND RELATED SERVICES—NAMESLY, AUTOMOBILE COLLISION, COMPREHENSIVE AND LIABILITY INSURANCE; BOAT OWNERS' INSURANCE; OVER-

SEAS INSURANCE; AUTOMOBILE AND MOBILE HOME AND BOAT FINANCING; FIRE AND HOME OWNERS' INSURANCE; MORTGAGE CANCELLATION INSURANCE; LIFE HOSPITALIZATION, SICKNESS AND ACCIDENT INSURANCE—in CLASS 102.

First use 1948; in commerce 1948.

EXHIBIT A

Int. Cl.: 36

Prior U.S. Cls.: 100, 101 and 102

Reg. No. 2,601,179

United States Patent and Trademark Office

Registered July 30, 2002

Corrected

OG Date June 22, 2004

**SERVICE MARK
PRINCIPAL REGISTER**

GEICO

GOVERNMENT EMPLOYEES INSURANCE COMPANY (MARYLAND CORPORATION)
ONE GEICO PLAZA
WASHINGTON, DC 20067
OWNER OF U.S. REG. NOS. 763,274, 1,602,785 AND OTHERS.

FOR: PROVIDING INSURANCE BROKERAGE AND UNDERWRITING SERVICES FOR AUTOMOBILES, MOTORCYCLES, HOMEOWNERS, RENTERS, CONDOMINIUMS, MOBILE HOMES, COMMERCIAL PROPERTIES, OVERSEAS

TRAVEL, FLOODS AND BOATS; PROVIDING INSURANCE BROKERAGE AND UNDERWRITING SERVICES FOR AUTOMOBILES, MOTORCYCLES, HOMEOWNERS, RENTERS, CONDOMINIUMS, MOBILE HOMES, COMMERCIAL PROPERTIES, OVERSEAS TRAVEL, FLOODS AND BOATS VIA A GLOBAL COMMUNICATIONS NETWORK, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 12-31-1948; IN COMMERCE 12-31-1948.

SER. NO. 78-044,968, FILED 1-25-2001.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on June 22, 2004.*

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

EXHIBIT B

Int. Cl.: 16

Prior U.S. Cl.: 38

United States Patent and Trademark Office Reg. No. 1,442,076
Registered June 9, 1987

**TRADEMARK
PRINCIPAL REGISTER**

GEICO DIRECT

GOVERNMENT EMPLOYEES INSURANCE
COMPANY (MARYLAND CORPORATION)
GEICO PLAZA
5260 WESTERN AVENUE
WASHINGTON, DC 20076

FIRST USE 8-27-1986; IN COMMERCE
8-27-1986.

OWNER OF U.S. REG. NO. 763,274.

SER. NO. 625,859, FILED 10-17-1986.

FOR: MAGAZINE, IN CLASS 16 (U.S. CL. 38).

AMOS T. MATTHEWS, JR., EXAMINING AT-
TORNEY

EXHIBIT C

Int. Cl.: 36

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,071,336

Registered June 17, 1997

SERVICE MARK
PRINCIPAL REGISTER

GEICO DIRECT

GOVERNMENT EMPLOYEES INSURANCE
COMPANY (MARYLAND CORPORATION)
ONE GEICO PLAZA
WASHINGTON, DC 200760001

FOR: AUTOMOBILE INSURANCE UNDER-
WRITING AND BROKERAGE SERVICES, IN
CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 2-6-1996: IN COMMERCE
2-6-1996.

OWNER OF U.S. REG. NOS. 763,274, 1,442,076,
AND 1,735,243.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DIRECT". APART FROM THE
MARK AS SHOWN.

SER. NO. 75-047,556. FILED 1-23-1996.

BRIAN WEBER, EXAMINING ATTORNEY

EXHIBIT D

Int. Cl.: 36

Prior U.S. Cls.: 100, 101 and 102

Reg. No. 2,628,333

United States Patent and Trademark Office

Registered Oct. 1, 2002

Corrected

OG Date June 22, 2004

**SERVICE MARK
PRINCIPAL REGISTER**

GEICO DIRECT

GOVERNMENT EMPLOYEES INSURANCE COMPANY (MARYLAND CORPORATION)
ONE GEICO PLAZA
WASHINGTON, DC 200670001
OWNER OF U.S. REG. NOS. 763,274, 1,602,785 AND OTHERS.
NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DIRECT", APART FROM THE MARK AS SHOWN.

FOR: PROVIDING INSURANCE BROKERAGE AND UNDERWRITING SERVICES FOR AUTOMOBILES, MOTORCYCLES, HOMEOWNERS, RENTERS,

CONDOMINIUMS, MOBILE HOMES, COMMERCIAL PROPERTIES, OVERSEAS TRAVEL, FLOODS AND BOATS; PROVIDING INSURANCE BROKERAGE AND UNDERWRITING SERVICES FOR AUTOMOBILES, MOTORCYCLES, HOMEOWNERS, RENTERS, CONDOMINIUMS, MOBILE HOMES, COMMERCIAL PROPERTIES, OVERSEAS TRAVEL, FLOODS AND BOATS VIA A GLOBAL COMMUNICATIONS NETWORK, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 8-27-1986; IN COMMERCE 8-27-1986.

SER. NO. 78-044,972, FILED 1-25-2001.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on June 22, 2004.*

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

EXHIBIT E

Int. CL: 36

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 2,422,414

Registered Jan. 23, 2001

**SERVICE MARK
PRINCIPAL REGISTER**

GEICO DIRECT LINE

GOVERNMENT EMPLOYEES INSURANCE COM-
PANY (MARYLAND CORPORATION)
ONE GEICO PLAZA
WASHINGTON, DC 200760001

FOR: AUTOMOBILE INSURANCE UNDER-
WRITING AND BROKERAGE SERVICES, IN CLASS
36 (U.S. CLS. 100, 101 AND 102).
FIRST USE 2-14-1996; IN COMMERCE 2-14-1996.

OWNER OF U.S. REG. NOS. 763,274, 1,442,076,
AND 1,735,243.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT
TO USE "DIRECT LINE", APART FROM THE
MARK AS SHOWN.

SER. NO. 75-047,506, FILED 1-23-1996.

JEFFERY COWARD, EXAMINING ATTORNEY

EXHIBIT F

Int. Cl.: 36

Prior U.S. Cls.: 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 2,982,260

Registered Aug. 2, 2005

**SERVICE MARK
PRINCIPAL REGISTER**

**GEICO AUTO REPAIR
XPRESS**

GOVERNMENT EMPLOYEES INSURANCE
COMPANY (MARYLAND CORPORATION)

5260 WESTERN AVENUE

CHEVY CHASE, MD 20815

FOR: ADMINISTRATION OF AUTOMOBILE IN-
SURANCE PROGRAMS FEATURING ASSISTANCE
IN SECURING EXPEDITED REPAIR AND MONI-
TORING THE REPAIR OF DAMAGED VEHICLES
AND ASSISTANCE IN SECURING TEMPORARY
USE OF A SUBSTITUTE VEHICLE, IN CLASS 36
(U.S. CLS. 100, 101 AND 102).

FIRST USE 3-14-2004; IN COMMERCE 3-14-2004.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 763,274, 2,601,179,
AND 2,628,333.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "AUTO REPAIR EXPRESS", APART
FROM THE MARK AS SHOWN.

SN 78-406,397, FILED 4-22-2004.

BILL DAWE, EXAMINING ATTORNEY

EXHIBIT G

Int. Cl.: 36

Prior U.S. Cls.: 100, 101 and 102

United States Patent and Trademark Office

Reg. No. 3,010,870

Registered Nov. 1, 2005

**SERVICE MARK
PRINCIPAL REGISTER**

GEICO AUTO R/X

GOVERNMENT EMPLOYEES INSURANCE
COMPANY (MARYLAND CORPORATION)

5260 WESTERN AVENUE

CHEVY CHASE, MD 20815

FOR: ADMINISTRATION OF AUTOMOBILE IN-
SURANCE PROGRAMS FEATURING ASSISTANCE
IN SECURING EXPEDITED REPAIR AND MONI-
TORING THE REPAIR OF DAMAGED VEHICLES
AND ASSISTANCE IN SECURING TEMPORARY
USE OF A SUBSTITUTE VEHICLE, IN CLASS 36
(U.S. CLS. 100, 101 AND 102).

FIRST USE 3-14-2004; IN COMMERCE 3-14-2004.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 763,274, 2,601,179,
AND 2,628,333.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "AUTO", APART FROM THE
MARK AS SHOWN.

SER. NO. 78-406,409, FILED 4-22-2004.

TONJA GASKINS, EXAMINING ATTORNEY

EXHIBIT H

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

In Re Application Serial No. 78/517453

Mark: GEICO

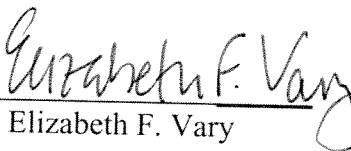
Filed: November 16, 2004

Published: December 20, 2005

GOVERNMENT EMPLOYEES)
INSURANCE COMPANY)
)
Opposer,)
)
v.)
)
GECKO TRADING COMPANY, INC.)
)
Applicant.)

Opposition No. _____

I hereby certify that the foregoing Notice of Opposition is being filed electronically, on January 10, 2006 with the U.S. Patent and Trademark Office, Trademark Trial and Appeal Board.


Elizabeth F. Vary