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Attorneys and Counselors

**TTAB**

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Of Counsel:  
Whitney A. Bowling

February 21, 2006

*Via Overnight Delivery*  
UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
James Madison Building – East Wing  
Concourse Level  
600 Dulany Street, Room C55  
Alexandria, VA 22314

Re: Notice of Opposition by Tempres Products, LP ("Tempres") to Application for the Mark "GET YOUR FISH ON," Serial No. 78543405

Dear Madam or Sir:

Enclosed please find two (2) original Notices of Opposition to be filed in connection with the following trademark application:

Trademark: GET YOUR FISH ON  
Applicant: O. Mustad & Sons (U.S.A.) Inc.  
Filed: January 6, 2005  
Published for Opposition: October 25, 2005

Also enclosed please find a check in the amount of \$300.00 in satisfaction of the prescribed Federal filing fee for opposing an application with a single international class code.

Should you have any questions, please contact me at the number shown above.

Very truly yours,

LEGGETT & CLEMONS, PLLC

By:   
Stephen M. Johns



SMJ:jc  
Enclosures

02-22-2006

U.S. Patent & TMOfr/TM Mail RcptDt. #34

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

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IN THE MATTER OF trademark application Serial No. 78543405

For the mark GET YOUR FISH ON

Published in the Official Gazette on October 25, 2005

(the "Proposed Mark")

TEMPRESS PRODUCTS, LP

v.

O. MUSTAD & SON (U.S.A.) INC.

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01 FC:6402

~~300.00 OP~~

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**NOTICE OF OPPOSITION**

Tempress Products, LP, a Texas limited partnership ("Opponent"), whose principal office or place of business is 5052 Sharp Street, Dallas, Texas 75247, hereby provides notice to the United States Patent and Trademark Office (the "PTO") of its opposition to the Proposed Mark, applied for by O. Mustad & Son (U.S.A.) Inc. ("Applicant").

Opponent is the owner of the trademark "Fish-on," registered in the United States under Registration No. 2643164, in association with "clothing and apparel, namely, shirts and coats." Opponent is also the owner of the trademark "Fish-on," registered in the United States under Registration No. 1348212, in association with "fishing accessories - namely, on board live bait keepers, holders for fishnets, gaffs and boat hooks, and fish strike indicators." Opponent is also

the owner of the trademark "Fish-on," registered in the United States under Registration No. 1323292, in association with "seats and seat cushions." Opponent is also the owner of the trademark "Fish-on," registered in the United States under Registration No. 1900762, in association with "clothing and apparel, namely, caps and T-shirts." Opponent is also the owner of the trademark "Fish-on!," registered in the United States under Registration No. 1096881, in association with "fishing accessory - namely, a rod holder." Finally, Opponent is the owner of the trademark "Fish-on.com," registered in the United States under Registration No. 2488708, in association with "computerized on-line retail services featuring sport fishing products" and "providing information to others about the sport of fishing via a global computer information network." The preceding trademarks of Opponent are collectively referred to herein as the "Fish On Marks."

For the reasons set forth below, and for those reasons which will become apparent throughout the course of this opposition proceeding, the Proposed Mark of Applicant does not meet the requirements of the Trademark Act of 1946, as amended, Chapter 22 of Title 15 of the United States Code (the "Trademark Act"), and accordingly the registration of the Proposed Mark must be denied by the PTO.

Opponent believes that it will be damaged by registration of the trademark shown in the above-identified application, and hereby opposes the same. The grounds for opposition are as follows:

1. The application for registration does not conform to the requirements of Section 1(a)(3)(A) and/or Section 1(b)(3)(A) of the Trademark Act, as Applicant could not have been satisfied that it had ownership of the trademark sought to be registered in association with the goods and services described in the application. Applicant could not have been so satisfied due to the (i) prior registration and use of the Fish On Marks in the United States, (ii) advertising and promotion of the Fish On Marks in the United States and (iii) renown and acquired distinctiveness of the Fish On Marks in the United States in association with fishing gear, clothing and apparel, in each case as further promoted and sold through Opponent's website.

2. The application for registration does not conform to the requirements of Section 1(a)(3)(A) and/or Section 1(b)(3)(A) of the Trademark Act, as Applicant could not have been satisfied that no other person had the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive. At the date of filing of Applicant's application for registration, Opponent's Fish On Marks had been used previously in the United States since as early as 1977. Opponent has spent a significant amount of money and time in developing and protecting the commercial value associated with the Fish On Marks in the field of fishing gear and in particular association with rod holders, rod holder accessories (including side mounts, flush mounts, and rail adaptor kits) accessory mounting kits for rod holders, holders for fish nets, holders for gaffs and boat hooks, fish strike indicators, boat seats and seat cushion, on board live bait keepers, as well as clothing and apparel (including hats, vests, visors, sports jackets, belt buckles and other purpose-specific, fishing-related garments). Opponent has clearly established prior and regular use of those marks forming a substantial portion of the Proposed Mark. It should have been obvious to Applicant during completion of its application for registration that registration of the Proposed Mark will create immediate and substantial confusion in the fishing products marketplace between the established and notorious branding of the Fish On Marks and those fishing products offered by Applicant. In fact, the Proposed Mark, GET YOUR FISH ON, specifically mandates to the consumer that they should purchase their Fish On products from Applicant, who will then have an opportunity to substitute their own goods and services.
  
3. Pursuant to Section 2(d) of the Trademark Act, the Proposed Mark so resembles the Fish On Marks such that use of the Proposed Mark on or in connection with the goods or services of Applicant will certainly cause confusion, or cause mistake, or deceive. A likelihood of confusion will occur in the marketplace as to the source, association, or sponsorship as between Applicant's and Opponent's products. Opponent and Applicant each manufactures, promotes and sells items

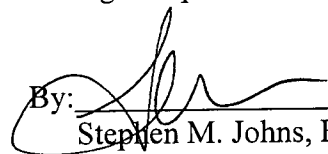
of equipment to be used by fisherman. However, they are very separate entities. Applicant's use of the Proposed Mark would falsely and deceptively suggest a connection between Opponent and Applicant. Use of the Proposed Mark in the same area as the Fish On Marks will lead to the inference that the goods and services are manufactured, promoted and/or sold by the same person. Further, use of the Proposed Mark would encourage consumers of fishing products to believe mistakenly that they could obtain Fish On products from Applicant; something that is certainly not the case.

4. Pursuant to Section 43(c) of the Trademark Act, registration of the Proposed Mark will dilute Opponent's famous Fish On trademarks. Opponent has established clear, widespread, and repetitive use of the Fish On Marks sufficient to create an association in the mind of potential purchasers between such marks and Opponent's goods and services. The Fish On Marks have a high degree of inherent and acquired distinctiveness, have been extensively used in connection with fishing goods and services since 1977, have been extensively advertised and promoted since 1977, have a high degree of recognition in the fishing products market, and are not utilized in a similar manner in the fishing products market by other fishing industry participants.

Opponent hereby appoints Mr. Steve H. Clemons, Esq. of Leggett & Clemons, PLLC to serve as its representative for all matters relating to this Notice of Opposition. The offices of Leggett & Clemons, PLLC are located at 2745 Dallas North Parkway, Plano, Texas 75093, and Mr. Clemons can be reached at (214) 473-8686.

**ON BEHALF OF TEMPRESS PRODUCTS, LP**

By: LEGGETT & CLEMONS, PLLC  
its Legal Representatives

By:   
Stephen M. Johns, Esq.

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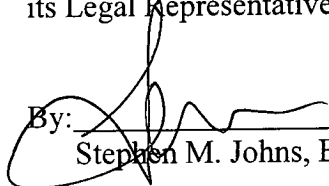
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