

ESTTA Tracking number: **ESTTA85477**

Filing date: **06/14/2006**

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	Mossimo, Inc.
Granted to Date of previous extension	06/14/2006
Address	2016 Broadway Boulevard Santa Monica, CA 90404 UNITED STATES
Attorney information	Perry J. Viscounty Latham & Watkins LLP 650 Town Center Drive Suite 2000 Costa Mesa, CA 92626 UNITED STATES ipdocket@lw.com Phone: 714 540-1235

**Applicant Information**

Application No	78629681	Publication date	02/14/2006
Opposition Filing Date	06/14/2006	Opposition Period Ends	06/14/2006
International Registration No.	NONE	International Registration Date	NONE
Applicant	Mosso, Ernesto Fernando Luis Pasteurs 5846 Santiago, CHILE		

**Goods/Services Affected by Opposition**

Class 003. All goods and services in the class are opposed, namely: Perfumes
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Attachments	MOSSO Oppo.PDF ( 5 pages )(122504 bytes )
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Signature	/Mark R. Farris/
Name	Mark R. Farris
Date	06/14/2006

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

In re the Application of Ernesto Fernando Mosso,  
A Chilean individual

Serial No.: 78/629,681  
Filed: May 13, 2005  
Trademark: **MOSSO**  
Published: February 14, 2006

Mossimo, Inc., )  
a Delaware corporation, )  
 )  
Opposer, )  
v. )  
 )  
Ernesto Fernando Mosso, )  
a Chilean individual, )  
 )  
Applicant. )  
\_\_\_\_\_ )

OPPOSITION NO.: \_\_\_\_\_

**NOTICE OF OPPOSITION**

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Dear Sir:

Mossimo, Inc. ("Opposer"), a Delaware corporation, with a place of business located at 2016 Broadway, Santa Monica, California 90404, believes that it will be damaged by registration of the mark **MOSSO** for "*perfumes*," in International Class 3, as shown in Application Serial No. 78/629,681 referenced above and, therefore, hereby opposes the application of Ernesto Fernando Mosso, a Chilean individual ("Applicant") for the mark **MOSSO** in accordance with the provisions of Section 13 of the Trademark Act (15 U.S.C. Section 1063).

As grounds for the opposition, Opposer alleges:

1. Opposer, and its predecessors in interest, have been and are now engaged in the business of designing, developing, manufacturing, distributing, marketing, and selling a wide variety of popular men's, women's and children's clothing, including apparel products, accessories, toiletries, shampoos, lotions, bags, watches, sunglasses, and other goods.

2. Since long prior to May 13, 2005, the filing date of the application herein opposed, Opposer adopted and used the marks **MOSSIMO**, **MOSSIMO (Stylized)**, **MOSS**, and **MOSSIMO & M Design** (the "**MOSSIMO Marks**") in connection with the advertising, promotion, distribution, and sale of clothing, accessories, toiletries, bags, sunglasses, and other products. Since the adoption and first use of Opposer's **MOSSIMO Marks**, Opposer has made substantial and continuous use of the marks in interstate commerce on and in connection with the advertising, promotion, distribution, and sale of clothing, accessories, toiletries, sunglasses, and other products in International Classes 3, 9, 14, 18, 25, 28 and others.

3. Opposer's **MOSSIMO Marks** are now and ever since their first use have been applied directly to the products, packaging materials, hangtags, and product literature. Products and materials so marked are now and have been advertised and promoted and widely shipped, distributed and sold in interstate commerce. Opposer's **MOSSIMO Marks** are famous, well known and of great value to Opposer. In the mind of the trade and public, Opposer's **MOSSIMO Marks** identify and designate Opposer's goods and distinguish them from the goods of others.

4. Opposer is the owner of the following United States trademark registrations containing the visually similar "**MOSSIMO**" and/or prefix term "**MOSS-**":

a. Registration No. 1,551,068, issued August 8, 1989, for the mark **MOSSIMO** used in connection with “*clothing, namely, tops, pants, shorts, shirts, T-shirts, tank tops, jackets, sweatshirts, sweatpants, and hats,*” in International Class 25.

b. Registration No. 2,157,797, issued May 12, 1998, for the mark **MOSS** used in connection with “*clothing, namely headwear, footwear, sleepwear, and loungewear, namely shirts, woven shirts, T-shirts, underwear, boxer shorts, underwear briefs, socks, sweatshirts, tank tops, vests, coats, clothing ties, jackets, sweaters, blouses, pullovers, skirts, dresses, slacks, pants, sweatpants, jeans, overalls, shorts, shoes, boots, sandals, socks, clothing belts, hats, caps, visors, swimwear, foundation garments, bras, girdles, garter belts, body suits, corselettes, body shapers, control undergarments, bra slips, bra top camisoles, bustiers, lingerie, namely, merry widow, camisettes, leotards and unitards, culottes, bikinis, hip hugging pants, slips, chemises, teddies, camisoles, tap pants and pedal-pushers, nightgowns, night shirts, pajamas, rompers, sleep shirts, peignoirs, bed jackets, caftans, jumpsuits, robes, dressing gowns, kimonos, housecoats, beachwear, clothing tops, leggings, and hosiery,*” in International Class 25.

c. Registration 2,591,646, issued July 9, 2002, for the mark **MOSSIMO (Stylized)** used in connection with “*toiletries, fragrances, lotions, soaps and cosmetics, namely, aftershave lotions, antiperspirants, bath gels, bath creams, bath oils, bath crystals, bath powders, body cream, body gel, body moisturizers, body talc, colognes, cosmetics, deodorants, facial balm, namely,*

*shaving balm, hair shampoos, hair conditioners and styling products, namely, hair styling preparations, non-medicated hand and skin lotions, perfumes, shaving cream, shaving foam, and soaps for personal use,”* in International Class 3.

d. Registration No. 2,491,176, issued September 18, 2001, for the mark **MOSSIMO (Block)** used in connection with “*perfume, cologne, cosmetics, and skin care products for men and women, namely, perfume, cologne, shaving foam, after-shave lotion, after-shave balm, soap for personal use, body shampoo, antiperspirant, body moisturizer, body cream, body gel, and body talc,*” in International Class 3.

e. Registration No. 2155,830, issued May 5, 1998, for the mark **MOSS** used in connection with “*eyeglasses, sunglasses, frames, and cases therefore,*” in International Class 9, amongst several other similar marks in these and other related classes.

Opposer’s registrations are valid, unrevoked and uncanceled, and in full force and effect. Opposer owns these registrations and the trademarks shown thereby and all the business and goodwill connected with said marks in the United States.

5. By the application herein opposed, Applicant seeks to register **MOSSO** for “*perfume,*” in International Class 3.

6. Applicant’s **MOSSO** mark so resembles Opposer’s previously used and registered **MOSSIMO** Marks as to be likely, when applied to Applicant’s goods, to cause confusion, mistake or deception with consequent injury to Opposer and the public.

7. Opposer will be damaged by the registration sought by Applicant's **MOSSO** application because any resulting registration would support and assist Applicant in confusing, misleading and deceiving members of the purchasing public. A registration would give to Applicant 'color of exclusive statutory rights' to the **MOSSO** mark, in violation of Opposer's superior rights.

8. WHEREFORE, Opposer believes that it will be damaged by the registration of Applicant's mark and prays that such registration will be denied.


Please recognize as attorneys for Opposer Perry J. Viscounty, Mark A. Finkelstein, and Mark R. Farris, and the law firm of Latham & Watkins LLP, 650 Town Center Drive, Suite 2000, Costa Mesa, California 92626. Please address all communications to Mark A. Finkelstein of Latham & Watkins LLP at the address set forth below.

Dated: June 14, 2006

Respectfully submitted,

LATHAM & WATKINS

By:

  
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