

ESTTA Tracking number: **ESTTA90687**

Filing date: **07/19/2006**

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	Rosenruist Gestao E Servicos Lda.
Granted to Date of previous extension	07/19/2006
Address	Rua Do Esmeraldo No. 8/10 Funchal, Madeira, 9000-051 PORTUGAL

Attorney information	Michael A. Grow Arent Fox PLLC 1050 Connecticut Avenue, NW Washington, DC 20036 UNITED STATES henrye@arentfox.com
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Applicant Information

Application No	78545969	Publication date	03/21/2006
Opposition Filing Date	07/19/2006	Opposition Period Ends	07/19/2006
Applicant	Tavdi, Alex 4274 1/2 South Broadway Blvd. Los Angeles, CA 90037 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Clothing and sportswear, namely, tops, bottoms, jackets, coats, vests, sweaters, dresses, skirts, shorts, shirts, pants, headwear, footwear, underwear, belts, gloves
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Attachments	tavdi.pdf (4 pages)(117946 bytes)
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Signature	/Chiara Giuliani/
Name	Chiara Giuliani
Date	07/19/2006

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

In re Application No. 78/545969, for the mark KATAN filed on January 11, 2005 and published on March 21, 2006

ROSENUIST GESTAO E SERVICOS LDA. :
:
Opposer :
:
v. : Opp. No. _____
:
Alex Tavdi :
:
Applicant :

NOTICE OF OPPOSITION

Rosenruist Gestao E Servicos Lda. (“Opposer”) believes that it will be damaged by the registration of the above identified mark and hereby opposes registration of the mark under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, Opposer alleges that:

1. Opposer is the owner of all rights, title and interest in and to the mark KITANA (“Opposer’s Mark”).
2. The Patent and Trademark Office has recognized Opposer's exclusive rights by issuing Registration No. 2707106 for the mark KITANA.
3. The registration for Opposer’s Mark is valid and subsisting. Accordingly, it provides prima facie evidence of Opposer’s ownership of the Mark, and of its exclusive right to use the Mark in commerce.
4. Since long prior to the filing date of Applicant’s application, and long prior to any first use date that Applicant may claim, Opposer’s Mark has been used in commerce in connection with clothing.

5. Because of said prior use, Opposer has acquired common law rights in Opposer's Mark and Opposer is entitled to protection against the registration of confusingly similar marks.

6. Upon information and belief, Opposer's Mark has been used in commerce since at least as early as July 1999 in connection with clothing.

7. Notwithstanding Opposer's prior rights in its Mark, Applicant is seeking registration of the confusingly similar mark KATAN for clothing.

8. Upon information and belief, Applicant made no use of its alleged mark in connection with the sale of any articles of clothing prior to the filing date of its application.

Likelihood of Confusion - §2(d)

9. The Mark which Applicant seeks to register is identical to or so resembles Opposer's Mark that the use and registration thereof is likely to cause confusion, mistake and deception as to the source or origin of Applicant's goods and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's Mark.

10. The goods of Applicant are so closely related to the goods of Opposer that the public is likely to be confused, to be deceived, and to assume erroneously that Applicant's goods are those of Opposer, or that Applicant has been licensed by Opposer to use the mark sought to be registered, or that Applicant is in some way connected with, sponsored by, or affiliated with Opposer.

11. Likelihood of confusion is enhanced in this case by the fact that Opposer's Mark and Applicant's alleged mark are virtually identical in appearance and sound..

12. Likelihood of confusion is enhanced by the fact that Applicant's goods are identical or related to Opposer's goods.

Deception/ False Suggestion of Connection - §2(a)

13. Applicant's Mark so closely resemble Opposer's Mark that it is likely to cause deception in violation of Section 2(a) of the Trademark Act, in that the Mark misdescribes the nature or origin of the goods, purchasers are likely to believe that the misdescription actually describes the nature or origin of the goods, and this is likely to materially alter purchasers' decisions to acquire Applicant's goods.

14. Applicant's alleged Mark so closely resembles Opposer's Mark that it falsely suggests a connection with Opposer in violation of Section 2(a) of the Trademark Act, because Applicant's alleged mark points uniquely to Opposer, and purchasers will assume that goods sold under Applicant's alleged Mark are connected with Opposer.

15. When Applicant's alleged mark is used on goods of the type described in its application, Applicant's alleged mark will cause purchasers to mistakenly assume that Opposer is endorsing, attempting to promote, or encouraging the sale of Applicant's goods by permitting the alleged mark to be used on such goods.

16. Applicant's mark is deceptive in that it falsely suggests a connection with, or approval by, Opposer.

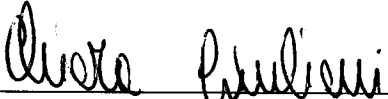
17. Use and registration of the mark KATAN by Applicant will deprive Opposer of the ability to protect its reputation, persona and goodwill.

18. Likelihood of damage to Opposer's goodwill is enhanced by the fact that prospective customers who encounter defects in the quality of Applicant's goods will attribute those defects to Opposer and this will injure Opposer's reputation and goodwill.

19. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's alleged mark and registration should be refused.

WHEREFORE, Opposer prays that this opposition be sustained and that registration be denied.

ROSENUIST GESTAO E SERVICOS LDA.

By  _____

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