

ESTTA Tracking number: **ESTTA101615**

Filing date: **09/28/2006**

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	West Marine Products, Inc.		
Entity	Corporation	Citizenship	California
Address	500 Westridge Drive Watsonville, CA 95076 UNITED STATES		

Attorney information	Jennifer J. Ruttenberg DLA Piper US LLP P.O. Box 64807 Chicago, IL 60664-0807 UNITED STATES ch.tm@dlapiper.com,jennifer.ruttenberg@dlapiper.com Phone:3123684000		
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Applicant Information

Application No	78655654	Publication date	08/29/2006
Opposition Filing Date	09/28/2006	Opposition Period Ends	09/28/2006
Applicant	Third Reef Inc. 3353 keha dr. kihei, HI 96753 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and seVICES in the class are opposed, namely: surfwear, namely, rash guards, shorts, hats and sandals; women's swimwear; t-shirts

Attachments	Notice of Opposition - 3RD REEF.pdf (3 pages)(413588 bytes)
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Signature	/Jennifer J. Ruttenberg/
Name	Jennifer J. Ruttenberg
Date	09/28/2006

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

In re Serial No. 78/655,654
Mark: 3RD REEF
Published: August 29, 2006

WEST MARINE PRODUCTS, INC.,)	
)	
Opposer,)	
)	
v.)	Opposition No.
)	
THIRD REEF INC.)	
)	
Applicant.)	
)	
)	

NOTICE OF OPPOSITION

U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:

WEST MARINE PRODUCTS, INC. a California corporation, located at 500 Westridge Drive, Watsonville, California 95076 (hereinafter "Opposer"), believes that it would be damaged by registration of the mark shown in Application Serial No. 78/655,654 ("the '654 Application"), filed June 22, 2005 by Third Reef Inc. (hereinafter "Applicant"), published in the Official Gazette of the United States Patent and Trademark Office on August 29, 2006, and hereby opposes the registration of such mark. The time to oppose was extended by a timely request for extension of time to file this opposition.

The grounds for the opposition are as follows:

1. Opposer is a well-known leader in the field of retail boating supplies and related clothing and accessories. Since at least as early as February 1986, Opposer has continuously used its THIRD REEF trademark ("Opposer's Mark") nationwide in connection with offering, selling, transporting, advertising and promoting its associated clothing, namely, foul-weather gear.

2. By reason of its use and adoption of Opposer's Mark as a trademark, Opposer's Mark has an inherently distinctive quality and has acquired significance and goodwill as identifying Opposer and its clothing.

3. Consequently, Opposer, through such usage and recognition of its mark, has acquired common law rights in Opposer's Mark as a proprietary trademark, which rights extend, without limitation, to the exclusive right to use the mark nationwide.

4. On June 22, 2005, Applicant filed the '654 Application for the mark 3RD REEF for "surfwear, namely, rash guards, shorts, hats and sandals; women's swimwear; t-shirts" in Class 25.

5. Opposer's use of Opposer's Mark long pre-dates the filing date of the '654 Application.

6. The grant of a registration to Applicant for its 3RD REEF mark as sought in the '654 Application should be denied on the grounds of Opposer's prior use of Opposer's Mark. The mark sought to be registered by Applicant is confusingly similar to Opposer's Mark, and the use of the 3RD REEF mark by Applicant is likely to cause confusion or mistake in the minds of the public and to lead the public and prospective purchasers to believe that Applicant's goods are

those of Opposer or are endorsed, sponsored or otherwise affiliated or connected with Opposer, or that Opposer's goods are associated with Applicant, all to the damage and injury of the purchasing public and to the damage and injury of Opposer.

7. The grant of a registration to Applicant for its 3RD REEF mark as sought in the '654 Application, should be denied based on likelihood of confusion with Opposer's Mark.

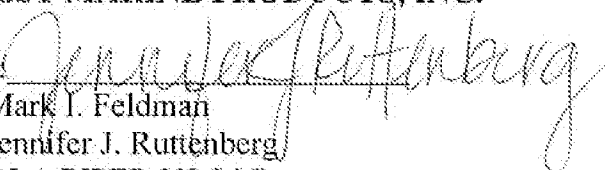
WHEREFORE, Opposer files this Notice of Opposition and prays that the aforesaid application of Third Reef Inc. herein opposed, be rejected; that no registration be issued thereon to Applicant; and for such other and further relief as may be deemed just and proper.

The Deposit Account No. 18-2284 should be charged the amount of \$300.00 to cover the filing fees of this notice of opposition in one class. Please charge any additional fees to Deposit Account No. 18-2284. Please address all correspondence regarding this opposition to:

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Respectfully submitted,

WEST MARINE PRODUCTS, INC.

By: 
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Attorneys for Opposer

Dated: 9/28/06