

ESTTA Tracking number: **ESTTA174703**

Filing date: **11/14/2007**

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	The Burton Corporation
Granted to Date of previous extension	11/14/2007
Address	80 Industrial Parkway Burlington, VT 05401 UNITED STATES

Attorney information	Douglas R. Wolf Wolf, Greenfield & Sacks, P.C. 600 Atlantic Avenue Boston, MA 02210 UNITED STATES drwtrademarks@wolfgreenfield.com
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**Applicant Information**

Application No	77110694	Publication date	07/17/2007
Opposition Filing Date	11/14/2007	Opposition Period Ends	11/14/2007
Applicant	Burton, Deborah 719 Glenview Street Philadelphia, PA 19111 UNITED STATES		

**Goods/Services Affected by Opposition**

<p>Class 016. All goods and services in the class are opposed, namely: Patterns for the making of clothing; patterns for clothing accessories, handbags, shoulder bags, tote bags, clutches, gym bags, yoga bags, purses, back packs, cinch sacks, laundry bags, luggage, makeup bags, cell phone cases, eye glass cases, toiletry bags, diaper bags, messenger bags and memory keepers; Patterns for home furnishings, bedding, pillows, curtains, tablecloths, placemats, lamp shades, trinket boxes, and wall decor</p>
<p>Class 024. All goods and services in the class are opposed, namely: Fabrics for the manufacture of clothing, namely, skirts, slacks, pants, shirts, suits, scarves, sahes, slippers, flip flop and thong footwear, pajamas, robes, night gowns and shirts, outerwear, jackets, coats, swim suits and swimwear, shorts, gym clothes, body suits, workout and jogging clothes, sweat shirts, suits and pants, loungewear, tank tops and baby clothes in the nature of shoes, hats, bibs, shirts, pants, jumpers, coats and socks; Fabrics, linens and textile fabrics for the further manufacture of clothing accessories, namely hats, belts, gloves, handbags, lunch bags, tote bags, shoulder bags, clutches, gym bags, yoga bags, purses, back packs, cinch sacks, laundry bags, luggage, makeup bags, toiletry bags, diaper bags, coin purses, wallets, messenger bags, cell phone bags and cases, eye glass cases, laptop bags, umbrellas; Fabrics, linens and textile fabrics for the further manufacture of housewares, namely,</p>

bedding, sheets, blankets, quilts, skirts and canopies, receiving blankets, comforters, duvet covers, curtains, drapery, roman shades, valances, tab tops, blinds, throw quilts, decorative quilts, throws, floor pillows, furniture upholstery, table cloths and runners, cloth napkins, placemats, shower curtains, towels, bathroom towels, fabric wallpaper, children's bedding and clothing, crib duvets, crib sheets, crib bumpers, crib dusters and crib comforters

## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1362128	Application Date	07/02/1984
Registration Date	09/24/1985	Foreign Priority Date	NONE
Word Mark	BURTON SNOWBOARDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1978/12/15 First Use In Commerce: 1978/12/15 SNOWBOARDS - NAMELY, SINGLE SKIS IN THE NATURE OF SURFBOARDS TO BE USED IN SNOW		

U.S. Registration No.	1729368	Application Date	02/24/1992
Registration Date	11/03/1992	Foreign Priority Date	NONE
Word Mark	BURTON SNOWBOARDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1983/01/02 First Use In Commerce: 1983/01/02 all-purpose sports bags, day packs and back packs Class 025. First use: First Use: 1979/12/15 First Use In Commerce: 1979/12/15 clothing specifically jackets, shells, gloves, pants, shirts, hats, [gaiters] and shoes Class 028. First use: First Use: 1983/01/02 First Use In Commerce: 1983/01/02 cases for snowboards and snowboard travel cases		

U.S. Registration No.	2078237	Application Date	10/23/1992
Registration Date	07/15/1997	Foreign Priority Date	NONE
Word Mark	BURTON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1979/12/15 First Use In Commerce: 1979/12/15 hats, gloves, pants, jackets, [shifts,] vests, sweaters, shirts, T-shirts, sweatshirts, sweatpants, undergarments, [surfwear]		

U.S. Registration No.	2078363	Application Date	05/30/1995
Registration Date	07/15/1997	Foreign Priority Date	NONE
Word Mark	BURTON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1978/12/15 First Use In Commerce: 1978/12/15 snowboard boots and snowboard gloves Class 028. First use: First Use: 1978/12/15 First Use In Commerce: 1978/12/15 snowboards, snowboard bindings and snowboard binding straps; snowboard binding backs; and snowboard binding disks		

U.S. Registration No.	2161321	Application Date	08/15/1996
Registration Date	06/02/1998	Foreign Priority Date	NONE
Word Mark	BURTON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1995/08/20 First Use In Commerce: 1995/08/20 computer services, namely, providing databases in the field of snowboarding, snowboarders, snowboarding equipment, and snowboarding events		

U.S. Registration No.	2319488	Application Date	03/24/1999
Registration Date	02/15/2000	Foreign Priority Date	NONE
Word Mark	BURTON 3D		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1995/08/00 First Use In Commerce: 1995/08/00 snowboard bindings		

U.S. Registration No.	2930639	Application Date	08/25/2003
Registration Date	03/08/2005	Foreign Priority Date	NONE
Word Mark	BURTON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2003/08/15 First Use In Commerce: 2003/08/15 Computerized on-line retail services in the field of snowboarding		

U.S. Registration	2988036	Application Date	04/24/2003
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No.			
Registration Date	08/23/2005	Foreign Priority Date	NONE
Word Mark	BURTON SNOWBOARDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1988/08/00 First Use In Commerce: 1988/08/00 retail store services for clothing and sports equipment and accessories		

U.S. Registration No.	3083420	Application Date	04/24/2003
Registration Date	04/18/2006	Foreign Priority Date	NONE
Word Mark	BURTON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 Retail store services for clothing, sports equipment and accessories in the field of snowboarding		

Attachments	75667119#TMSN.gif ( 1 page )( bytes ) B0932.50128US00.NoticeOpp.pdf ( 4 pages )(124620 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/lwm/
Name	Lisa W. Martin
Date	11/14/2007

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

Opposer: The Burton Corporation  
Applicant: Deborah Burton  
Serial No.: 77/110694  
Filing Date: February 19, 2007  
Mark: DEB BURTON  
Published: July 17, 2007

THE BURTON CORPORATION Opposer,  v.  DEBORAH BURTON Applicant.
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Opposition No.

**NOTICE OF OPPOSITION**

This Notice of Opposition relates to the application of Deborah Burton ("Deb Burton") in International Classes 16 and 24, for DEB BURTON, Serial No. 77/110694, filed on February 19, 2007 and published for opposition on July 17, 2007.

The Burton Corporation ("Burton"), organized and existing under the laws of the State of Vermont having its principal place of business at 80 Industrial Parkway, Burlington, Vermont, 05401, believes it will be damaged by the registration of the DEB BURTON mark in International Classes 16 and 24 and hereby opposes the same.

The grounds for opposition are as follows:

1. Burton is a corporation duly organized under the laws of the State of Vermont, having its principal place of business at 80 Industrial Parkway, Burlington, Vermont, 05401.

2. Burton has made extensive and exclusive use of the trademark BURTON, at least as a formative, since at least as early as 1978 (collectively hereinafter "Burton Trademarks"). Burton is the owner of numerous trademark registrations and applications and rights at common law, including the following:

<u>Registration No./ (Application No.)</u>	<u>Issue Date</u>	<u>Mark</u>
1,362,128	9/24/1985	BURTON SNOWBOARDS
1,729,368	11/3/1992	BURTON SNOWBOARDS
2,078,237	7/15/1997	BURTON
2,078,363	7/15/1997	BURTON
2,161,321	6/2/1998	BURTON
2,319,488	2/15/2000	BURTON 3D
2,930,639	3/8/2005	BURTON
2,988,036	8/23/2005	BURTON SNOWBOARDS
3,083,420	4/18/2006	BURTON

3. The Burton Trademarks, including those listed above are used in conjunction with numerous products including bags, clothing, sports equipment and services including retail store services, and computerized on-line retail services. Burton also manufactures, displays and/or sells through its retail stores and/or its online retail stores numerous accessories.

4. Burton has created valuable goodwill in the Burton Trademarks and the Burton Trademarks are famous and represent high quality products to consumers throughout the United States.

5. Notwithstanding Burton's use of the Burton Trademarks for a wide variety of goods and services, DEB BURTON filed an application under Serial No. 77/110694 on February 19, 2007, to register the mark DEB BURTON for numerous goods in International Classes 16 and 24.

6. Deb Burton's mark DEB BURTON is confusingly similar to Burton's Burton Trademarks which are protected by numerous registrations, including those listed above, as well as at common law.

7. The goods as cited in Application Serial No. 77/110694 are identical to or closely related to Burton's goods and are likely to be sold in the same or similar channels of trade and to the same or similar consumers of Burton's goods and services.

8. Potential purchasers of Deb Burton's goods are likely to believe that such goods originate with, or are authorized or approved by Burton, when in fact they are not, causing a likelihood of confusion in the marketplace.

9. The mark DEB BURTON is similar in appearance, sound and commercial impression with the Burton Trademarks.

10. Deb Burton's registration and use of a mark that is similar to Burton's Burton Trademarks will dilute, tarnish and blur the distinctive nature and worth of the Burton Trademarks to Burton.

11. If Deb Burton is granted registration on the application herein opposed, she would obtain a prima facie exclusive right to use the mark DEB BURTON which would be a source of damage to Burton's trademark rights.

WHEREFORE, Burton requests that registration of the mark DEB BURTON, to Deb Burton, be denied and this Opposition be sustained.

Date: November 14, 2007

Respectfully submitted,

By 

Douglas R. Wolf

Lisa W. Martin

WOLF, GREENFIELD & SACKS, P.C.

600 Atlantic Ave.

Boston, MA 02210

Attorneys for Opposer

THE BURTON CORPORATION

Attorney's Docket No.: B0932.50128US00


Due Date: November 14, 2007

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 14, 2007, I served a copy of NOTICE OF OPPOSITION of United States Trademark Application Serial No. 77/110694 on Applicant, by first-class mail, postage-prepaid, addressed to:

Deborah Burton  
719 Glenview Street  
Philadelphia, PA 19111

  
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Lisa W. Martin