Trademark Trial and Appeal Board Electronic Filing System. http://estta.uspto.gov

ESTTA Tracking number: **ESTTA214559**

Filing date: **05/30/2008**

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	IC Companys A/S
Granted to Date of previous extension	06/29/2008
Address	Raffinaderivej 10 Copenhagen, DK2300 DENMARK

Domestic Representative	Simor L. Moskowitz Attorney JACOBSON HOLMAN PLLC 400 7th Street, NW Washington, DC 20004 UNITED STATES trademark@jhip.com,smoskowitz@jhip.com Phone:2026386666

Applicant Information

Application No	77222704	Publication date	01/01/2008
Opposition Filing Date	05/30/2008	Opposition Period Ends	06/29/2008
Applicant	Sinnott, Thomas 9111 Lincoln Avenue Brookfield, IL 60513 UNITED STATES		

Goods/Services Affected by Opposition

Class 025.
All goods and services in the class are opposed, namely: Clothing for infants, children and tweens, namely, pants, shorts, jeans, shirts, blouses, tops, t-shirts, sweatshirts, overalls, dresses, skirts, sweaters, jackets, coats, hats, caps, swimwear, sleepwear, gloves, mittens, shoes, sandals, sneakers, slippers, wristbands, headbands and bibs not made of paper

Grounds for Opposition

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

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3199002	Application Date	01/07/2005
Registration Date	01/16/2007	Foreign Priority Date	NONE

Word Mark	INWEAR
Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: Clothing, namely jeans, trousers, coats, jackets, blousons, shirt jackets, skirts, dresses, pants, vests, waistcoats, hats, jump-suits, jump-dresses, caps, gloves, coveralls, overalls, shirts, blouses, sweaters, sweatshirts, T-shirts, polo-shirts, shorts, bathing suits, underwear, ties, scarves, belts, socks and shawls; shoes and boots

Attachments	79008378#TMSN.jpeg (1 page)(bytes) notice of opp.pdf (5 pages)(371065 bytes) registration-1.pdf (4 pages)(366965 bytes)

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	/Simor L. Moskowitz/
Name	Simor L. Moskowitz
Date	05/30/2008

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

IC COMPANYS A/S Opposer,	)	
v.	)	Opposition No. _____
THOMAS SINNOTT Applicant.	)	Application Serial No. 77/222704 Mark: IM WEAR

NOTICE OF OPPOSITION

In the matter of an application to register a trademark under the Trademark Act of 1946, namely, Serial No. 77/222704 for the mark IM WEAR, in the name of Mark Sinnott ("Applicant"), which was published for opposition in the TRADEMARK OFFICIAL GAZETTE of January 1, 2008, Volume 1326, No. 1, at page TM 160, the Opposer, IC COMPANYS A/S, believes it will be damaged by registration of said alleged trademark in International Class 25, and hereby opposes same. The grounds for opposition are as follows:

1. The Opposer, IC Companys A/S (hereinafter "Opposer"), is a Danish corporation, located and doing business at Raffinaderivej 10, Copenhagen DK2300, Denmark.

2. Opposer is the owner of, and will rely upon, U.S. Trademark Registration No. 3,199,002, issued January 16, 2007, for the trademark INWEAR ("Opposer's INWEAR Mark"), in connection with "clothing, namely, jeans, trousers, coats, jackets, blousons, shirt jackets, skirts, dresses, pants, vests, waistcoats, hats, jump-suits, jump-dresses, caps, gloves, coveralls, overralls, shirts, blouses, sweaters, sweatshirts, T-shirts, polo-shirts, shorts, bathing suits, underwear, ties,

scarves, belts, socks and shawls; shoes and boots" ("Opposer's INWEAR Registration"). Opposer's INWEAR Registration is valid and subsisting, and constitutes *prima facie* evidence of Opposer's ownership of Opposer's Mark, and the exclusive right to use same in commerce in connection with the goods set forth in said registration. Attached hereto as Exhibit 1 is a printout of information from the TARR electronic database records of the U.S. Patent and Trademark Office showing the current status and title of this registration, pursuant to 37 CFR §2.122(d)(1).

3. Upon information and belief, notwithstanding Opposer's INWEAR Registration, Applicant filed an intent-to-use application on July 5, 2007 for registration of the mark IM WEAR, in relevant part, for "clothing for infants, children and tweens, namely, pants, shorts, jeans, shirts, blouses, tops, t-shirts, sweatshirts, overalls, dresses, skirts, sweaters, jackets, coats, hats, caps, swimwear, sleepwear, gloves, mittens, shoes, sandals, sneakers, slippers, wristbands, headbands, and bibs not made of paper" in International Class 25. This application was assigned Serial No. 77/222704, and was published for opposition on January 1, 2008; the opposition period has been extended to and including June 29, 2008.

4. By virtue of the January 7, 2005 filing date of the application which resulted in Opposer's INWEAR Registration, as well its January 16, 2007 registration date , Opposer has priority vis a vis the published IM WEAR application filed July 5, 2007 pursuant to Section 1(b) of the Trademark Act.

5. Upon information and belief, Applicant's adoption of the mark IM WEAR was with knowledge and notice of Opposer's Mark and Opposer's INWEAR Registration.

6. The IM WEAR mark sought to be registered by Applicant is substantially identical to, phonetically equivalent, confusingly similar to, and a colorable imitation of Opposer's Mark.

Applicant's published IM WEAR mark so resembles Opposer's Mark as to be likely, when used in connection with the goods of Applicant, to cause confusion or mistake or to deceive actual and/or prospective purchasers, the trade, and consumers, thereby resulting in damage and detriment to Opposer, Opposer's Mark, and its reputation.

7. Upon information and belief, Opposer's customers, and the public in general, likely would be confused, mistaken or deceived as to the origin and sponsorship of Applicant's goods marketed, promoted, advertised and/or sold under the IM WEAR mark sought to be registered by Applicant, and misled into believing that such goods are sold by, emanate from, affiliated with, sponsored by, or in some way, directly or indirectly, are associated with Opposer and/or its INWEAR mark, to the damage and detriment of Opposer and its reputation.

8. Opposer has been and, upon information and belief, will be, damaged by the registration by Applicant of the opposed IM WEAR mark, as set forth in the opposed application therefor, Ser. No. 77/222704, in that said mark is substantially similar to, a colorable imitation of, and substantially identical to, Opposer's Mark, and is likely to cause confusion therewith.

9. By virtue of the foregoing, if Applicant is granted the registration opposed herein and Applicant obtains such rights as conferred under the Principal Register of the Trademark Act of 1946, Opposer will and continue to be subjected to great and irreparable damage, and Applicant will obtain unlawful gain and advantage to which it is not entitled under the Trademark Act of 1946.

WHEREFORE, Opposer IC COMPANYS A/S believes and alleges that it will be damaged by registration of the Applicant's mark as aforesaid, and therefore Opposer prays that:

(a) the present Opposition be sustained and judgment entered in favor of Opposer;

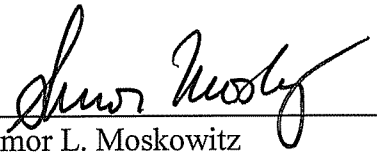
(b) registration on the application of Mark Sinnott, Serial No. 77/222704, be rejected and refused; and

(c) for such other and further relief as the Board believes is just and appropriate.

Opposer will endeavor to pay electronically the $300.00 filing fee for this opposition. However, should this effort prove unsuccessful or the amount be insufficient, the Board is authorized to charge Opposer's counsel's Deposit Account No. 06-1358.

Respectfully submitted,

IC COMPANYS A/S

By: 

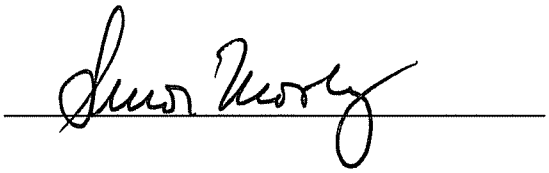
Simor L. Moskowitz
JACOBSON HOLMAN, PLLC
400 Seventh Street, N.W.
Washington, D.C. 20004
(202) 638-6666

Dated: May 30, 2008
Atty. Dkt. No. I-5819

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Opposition, with exhibit, was served by first-class mail, postage prepaid, on this 30th day of May 2008 , on the following correspondent and attorney, as set forth in the records of the U.S. Patent and Trademark Office:

Brian J. Lum, Esquire
Ice Miller LLP
200 Madison Street
Suite 3500
Chicago, IL 60606-3417



Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 3,199,002

United States Patent and Trademark Office

Registered Jan. 16, 2007

TRADEMARK
PRINCIPAL REGISTER

INWEAR

IC COMPANYS A/S (DENMARK PUBLIC LIMITED COMPANY)
RAFFINADERIVEJ 10
DK-2300 COPENHAGEN S
DENMARK

FOR: CLOTHING, NAMELY JEANS, TROUSERS, COATS, JACKETS, BLOUSONS, SHIRT JACKETS, SKIRTS, DRESSES, PANTS, VESTS, WAISTCOATS, HATS, JUMP-SUITS, JUMP-DRESSES, CAPS, GLOVES, COVERALLS, OVERALLS, SHIRTS, BLOUSES, SWEATERS, SWEATSHIRTS, T-SHIRTS, POLO-SHIRTS, SHORTS, BATHING SUITS, UNDERWEAR, TIES, SCARVES, BELTS, SOCKS AND SHAWLS; SHOES AND BOOTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF INTERNATIONAL REGISTRATION 0791574 DATED 10-29-2002, EXPIRES 10-29-2012.

OWNER OF U.S. REG. NO. 2,114,158.

SER. NO. 79-008,378, FILED 1-7-2005.

MICHAEL TANNER, EXAMINING ATTORNEY

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-05-30 12:24:38 ET

Serial Number: 79008378 Assignment Information Trademark Document Retrieval

Registration Number: 3199002

Mark

INWEAR

(words only): INWEAR

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2007-01-16

Filing Date: 2005-01-07

Transformed into a National Application: No

Registration Date: 2007-01-16

Register: Principal

Law Office Assigned: LAW OFFICE 117

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-01-16

LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. IC Companys A/S

Address:
IC Companys A/S
Raffinaderivej 10 DK-2300 Copenhagen S
Denmark
Legal Entity Type: Public Limited Company
State or Country Where Organized: Denmark

GOODS AND/OR SERVICES

International Class: 025

Class Status: Active
Clothing, namely jeans, trousers, coats, jackets, blousons, shirt jackets, skirts, dresses, pants, vests, waistcoats, hats, jump-suits, jump-dresses, caps, gloves, coveralls, overalls, shirts, blouses, sweaters, sweatshirts, T-shirts, polo-shirts, shorts, bathing suits, underwear, ties, scarves, belts, socks and shawls; shoes and boots
Basis: 66(a)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Prior Registration Number(s):
2114158

MADRID PROTOCOL INFORMATION

International Registration Number: 0791574
International Registration Date: 2002-10-29
Priority Claimed: No
Date of Section 67 Priority Claim: (DATE NOT AVAILABLE)
International Registration Status: Request For Extension Of Protection Processed
Date of International Registration Status: 2005-03-03
International Registration Renewal Date: 2012-10-29
Notification of Designation Date: 2005-03-03
Date of Automatic Protection: 2006-09-03
Date International Registration Cancelled: (DATE NOT AVAILABLE)
First Refusal: Yes

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-09-20 - Final Decision Transaction Processed By IB

2007-08-16 - Final Disposition Notice Sent To IB

2007-08-16 - Final Disposition Processed

2007-08-09 - Final Disposition Notice Created, To Be Sent To IB

2007-01-16 - Registered - Principal Register

2006-10-31 - Published for opposition

2006-10-11 - Notice of publication

2006-09-14 - Law Office Publication Review Completed

2006-09-11 - Assigned To LIE

2006-08-24 - Approved for Pub - Principal Register (Initial exam)

2006-08-17 - Notification Of Possible Opposition - Processed By IB

2006-08-03 - Notification Of Possible Opposition Sent To IB

2006-08-03 - Notification Of Possible Opposition Created, To Be Sent To IB

2006-02-22 - LETTER OF SUSPENSION E-MAILED

2006-02-22 - Suspension Letter Written

2006-02-22 - Examiner's Amendment Entered

2006-02-22 - EXAMINERS AMENDMENT E-MAILED

2006-02-22 - Examiners Amendment -Written

2006-02-22 - Teas/Email Correspondence Entered

2006-02-15 - Communication received from applicant

2006-02-15 - TEAS Response to Office Action Received

2006-02-15 - TEAS Change Of Correspondence Received

2005-09-02 - Refusal Processed By IB

2005-08-15 - Non-Final Action Mailed - Refusal Sent To IB

2005-08-12 - Non-Final Action (Ib Refusal) Prepared For Review

2005-08-11 - Non-Final Action Written

2005-08-08 - Assigned To Examiner

2005-03-04 - New Application Entered In Tram

2005-03-03 - Sn Assigned For Sect 66a Subseq Desig From IB

ATTORNEY/CORRESPONDENT INFORMATION

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