

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

IN THE MATTER OF APPLICATION SERIAL NO. 77/289,546  
PUBLISHED IN THE OFFICIAL GAZETTE OF JULY 22, 2008

NORTH SAILS GROUP, LLC,	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition Proceeding No. _____
	:	
BOARDS & MORE HOLDING SA,	:	
	:	
Applicant.	:	

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**NOTICE OF OPPOSITION**

Opposer, North Sails Group, LLC, a Delaware limited liability company having an address of 125 Old Gate Lane, Milford, Connecticut 06460, believes that it will be damaged by the registration of the N Design trademark as shown in Application Serial No. 77/289,546 filed on September 26, 2007, and hereby opposes the application.

As grounds for the opposition, it is alleged that:

1. Opposer, North Sails Group, LLC ("Opposer"), has for many years, offered for sale and sold in commerce and is now offering for sale and selling in commerce, kite sails for kiteboards under the NORTH KITEBOARDING and N Design trademark.
2. Opposer is the owner of U.S. Trademark Application Serial No. 76/676,316 for NORTH KITEBOARDING and N Design for "Kite sails for sailboards".
3. Applicant, Boards & More Holding SA ("Applicant"), is a corporation organized under the laws of Switzerland having an address of rue du College 26, Clarens/Montreux, Switzerland 1815.



11-21-2008

4. Applicant has applied in Application Serial No. 77/289,546 to register the N Design trademark for "Life jackets; protective helmets for sports; face protectors for sports, namely, protective face masks not for medical purposes" in Class 9; "Precious metals and their alloys; jewelry; precious stones; horological and chronometric instruments" in Class 14; "Trunks in the nature of luggage; suitcases; sports bags; handbags; garment bags for travel; backpacks; parasols" in Class 18; "Clothing, namely, clothing for sport and leisure and special water sports apparel for surfing, windsurfing, kite surfing, water skiing, wake boarding and wake skating, namely, wetsuits, vests, gloves, shoes, swimsuits, hats, caps, visors, beanies, bonnets, swimming caps" in Class 25; and "Gymnastic and sporting articles and apparatus for water sports, namely, surfboards, windsurfing boards and sails, kite surfing boards, kite surfing kites, kite surfing bindings, kite surfing ropes, hand grips and bars for kite surfing, water skis, wake boards and wake board bindings, wake skates" in Class 28.

5. The mark in Application Serial No. 77/289,546 consists of the letter "N" design.

6. Application Serial No. 77/289,546 was filed on September 26, 2007, under the intent-to-use provision of Section 1(b) of the Trademark Act.

7. Application Serial No. 77/289,546 claims priority under Section 44(d) based on Swiss Trademark Application No. 533892007 filed on March 27, 2007.

8. On information and belief, Applicant has made no use of the N Design trademark in the U.S. prior to the filing date of September 26, 2007.

9. On information and belief, Applicant has not used the N Design trademark in

commerce prior to the filing date of September 26, 2007.

10. On information and belief, Applicant has made no use of the N Design trademark in the U.S. on the goods covered by the application prior to September 26, 2007.

11. On information and belief, Applicant has not used the N Design trademark in commerce on the goods covered by the application prior to September 26, 2007.

12. On information and belief, Applicant has made no use of the N Design trademark in the U.S. prior to March 27, 2007, the filing date of the Swiss trademark application.

13. On information and belief, Applicant has not used the N Design trademark in commerce prior to March 27, 2007, the filing date of the Swiss trademark application.

14. On information and belief, Applicant has made no use of the N Design trademark in the U.S. on the goods covered by the application prior to March 27, 2007, the filing date of the Swiss trademark application.

15. On information and belief, Applicant has not used the N Design trademark in commerce on the goods covered by the application prior to March 27, 2007, the filing date of the Swiss trademark application.

16. Opposer has been using the NORTH! KITEBOARDING and N Design trademark since prior to March 27, 2007.

17. Opposer's rights in the NORTH KITEBOARDING and N Design trademark are prior to Applicant's rights in the N Design trademark.

18. The N Design mark in Application Serial No. 77/289,546 is identical to N Design

element in Opposer's NORTH KITEBOARDING and N Design mark.

19. The N Design mark in Application Serial No. 77/289,546 is confusingly similar to N Design element in Opposer's NORTH KITEBOARDING and N Design mark.

20. The N Design mark in Application Serial No. 77/289,546 is similar to N Design element in Opposer's NORTH KITEBOARDING and N Design mark.

21. Applicant's N Design trademark is confusingly similar to Opposer's NORTH KITEBOARDING and N Design trademark, and is likely, when used in conjunction with the goods identified in Applicant's application, to cause confusion or to cause mistake or to cause deception.

22. Applicant's goods as set forth in its application are closely related to Opposer's goods and would be offered through the same or similar channels of trade, and used by one or more of the same classes of purchasers and users, such that consumers will be confused, mistaken or deceived into believing that Applicant's goods originate from, are authorized by or are in some way connected with Opposer.

23. The N Design was created to be used in association with the "North Kiteboarding" mark, and has been used in association with "North Kiteboarding".

24. The N Design mark is recognized by the public as being associated with and synonymous with "North Kiteboarding". Because of this association, the use of the N Design with other than "North Kiteboarding" products will cause confusion or mistake, such that consumers will be confused, mistaken or deceived into believing that Applicant's goods originate

from, are authorized by or are in some way connected with Opposer.

25. Opposer will be damaged by registration of the N Design trademark as shown in Application Serial No. 77/289,546.

WHEREFORE, Opposer, North Sails Group, LLC, prays that this Opposition be sustained and that registration be refused for the mark shown in Application Serial No. 77/289,546.

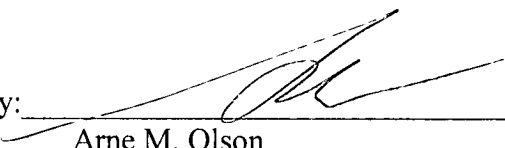
A check in the amount of \$1,500.00 is enclosed to cover the fee for opposing the proposed trademark in five (5) classes. If this check is missing or deficient, please charge any fees due to our Deposit Account No. 15-0508.

Respectfully submitted,

NORTH SAILS GROUP, LLC

Date: November 19, 2008

By: \_\_\_\_\_

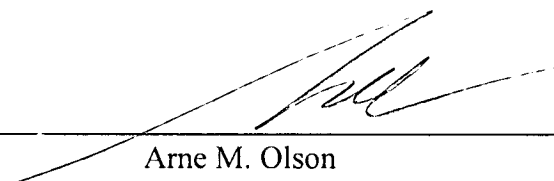
  
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(312) 580-1180  
Attorneys for Opposer

**CERTIFICATE OF MAILING**

I hereby certify that the foregoing **NOTICE OF OPPOSITION** and attached requisite fee are being deposited with the United States Postal Service on the date shown below with sufficient postage prepaid as First Class Mail in an envelope addressed to:

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

on this 19<sup>th</sup> day of November, 2008.

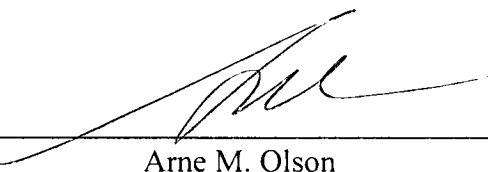
  
\_\_\_\_\_  
Arne M. Olson

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **NOTICE OF OPPOSITION** is being served via the United States Postal Service on the date shown below with sufficient postage prepaid as First Class Mail in envelope addressed to:

Lawrence E. Abelman, Esq.  
Abelman, Frayne & Schwab  
666 Third Avenue  
New York, New York 10017

on this 19<sup>th</sup> day of November, 2008.

  
\_\_\_\_\_  
Arne M. Olson