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Filing date: **12/28/2009**

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

Proceeding	91188035
Party	Plaintiff Guess? IP Holder L.P. and Guess?, Inc.
Correspondence Address	G. Warren Bleeker Christie, Parker & Hale, LLP P.O. Box 7068 Pasadena, CA 91109-7068 UNITED STATES pto@cph.com
Submission	Opposition/Response to Motion
Filer's Name	Steven E. Lauridsen
Filer's e-mail	pto@cph.com
Signature	/Steven E. Lauridsen/
Date	12/28/2009
Attachments	Opposition to Applicant Mtn to Strike and Decl of S Lauridson ISO.pdf ( 13 pages )(201420 bytes )

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

Guess?, Inc. and Guess? IP Holder L.P.

Opposers,

v.

Advance Watch Company Ltd.

Applicant.

Opposition No. 91188035

Trademark: GC  
Serial No.: 77/304,064  
Filed: October 15, 2007

**OPPOSERS' OPPOSITION TO APPLICANT'S MOTION TO STRIKE;  
DECLARATION OF STEVEN E. LAURIDSEN IN SUPPORT OF SAME**

**I. INTRODUCTION**

Applicant Advance Watch Company ("AWC") has sought to strike Paragraph 2 of Opposers Guess?, Inc. and Guess? IP Holder L.P.'s (collectively, "Guess" or "Opposers") Renewed Notice of Opposition on the basis that Opposers have purportedly "attempt[ed] to broadly define their rights." This is not a sufficient basis to bring a motion to strike. Opposers have clearly and directly identified their mark as "GC." The paragraph at issue sufficiently defines Guess' asserted trademark rights and is therefore directly relevant to Guess' claims of priority and likelihood of confusion. Moreover, AWC has not demonstrated that it would suffer any prejudice from the inclusion of this paragraph. As a result, AWC's motion to strike should be denied.

**II. AWC'S MOTION TO STRIKE SHOULD BE DENIED**

The Board "may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f); *see also* 37 C.F.R. §

2.120(a) (adopting Federal Rules of Civil Procedure in Board proceedings). "Motions to strike are not favored and matter will *not* be stricken unless it *clearly has no bearing* upon the issues under litigation." *Harsco Corp. v. Electrical Sciences Inc.*, 9 U.S.P.Q. 2d 1570, 1571 (T.T.A.B. 1988) (emphasis added); *see also* TBMP § 506.01 (collecting cases and citing Wright & Miller, Federal Practice and Procedure: Civil 2d § 1380 (1990)). The primary purpose of pleadings, under the Federal Rules of Civil Procedure, is to give fair notice of the claims or defenses asserted in a form that contains a short, plain statement of the claim. *Harsco*, 9 U.S.P.Q. 2d at 1571; TMEP § 506.01 (citing TBMP §§ 309.03 (Substance of Complaint) and 311.02 (Substance of Answer) and collecting cases). A party is allowed reasonable latitude in the pleading of its claims, and even redundant, immaterial, or otherwise objectionable allegations will not be stricken unless they prejudice the adverse party. *Harsco*, 9 U.S.P.Q. 2d at 1571.

AWC improperly seeks to strike Paragraph 2 from Guess' Renewed Notice of Opposition, which alleges, "Since long prior to Applicant's priority date, Opposers have continuously and extensively used in commerce the mark GC in connection with the sale of chronometric instruments, jewelry, and watches." AWC's sole argument for striking this paragraph is that Opposers purportedly have impermissibly "attempt[ed] to broadly define their rights" because Paragraph 2 allegedly does not define the mark GC and does not specifically state that the mark GC encompasses the subject mark of Guess?, Inc.'s Registration No. 3,605,306. This argument does not provide a sufficient basis for striking Paragraph 2 from the pleading.

Opposers have clearly identified their trademark in their Renewed Notice of Opposition. Their mark is "GC," which also encompasses the subject mark of Registration No. 3,605,306. Thus, Opposers' rights in the mark GC are not limited to the specific font shown in Registration No. 3,605,306, as Applicant appears to argue in its motion. Indeed, Opposers' GC mark appears

in advertisements in standard characters, just as Opposers plead in their Renewed Notice of Opposition. [*Cf.* Declaration of Steven E. Lauridsen Ex. A with Renewed Notice of Opposition ¶ 2.]

AWC has cited no authority to support its contentions, and to the contrary, the paragraph at issue is directly related to Opposers claims and puts AWC on notice that (1) Opposers claim trademark rights in the letters GC for chronometric instruments, jewelry, and watches, (2) that Opposers' trademark rights stem from the extensive and continuous sale of those goods in association with the letters GC, and (3) that Opposers' rights in GC predate AWC's priority date for the application at issue in this proceeding. If proven, these allegations would have a direct impact on Opposers' priority and likelihood of confusion claims, and they therefore may not be stricken. *See Harsco*, 9 U.S.P.Q. 2d at 1572.

That Guess further pleads rights in its registered mark in Paragraph 3 is immaterial to whether Paragraph 2 is pertinent. Indeed, if AWC believes that Guess' rights in GC are limited to stylized letters or that Guess' rights are limited to the subject mark of its registration, as AWC argues in its motion to strike, then AWC can assert that contention in a motion for summary judgment or at trial.<sup>1</sup> That argument is not, however, properly presented in a motion to strike. Opposers' claimed trademark rights are directly relevant to the issues of priority and likelihood of confusion in this proceeding, and it would therefore be improper to strike them. *See id.* (allegations pertinent to the issues in the case not stricken). AWC's motion to strike should therefore be denied.

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1. If AWC remains unclear regarding Guess' asserted trademark rights, then the matter would be properly addressed through discovery – namely, an interrogatory aimed at determining the asserted trademark rights. Indeed, AWC has already propounded such an interrogatory. [AWC's Interrogatory No. 1 (Declaration of Steven E. Lauridsen ¶ 3 and Ex. B).] For this additional reason, AWC's motion to strike should be denied.

Finally, AWC has not demonstrated or even argued prejudice in its motion, and the motion should therefore be denied for this additional reason. *See id.* (pertinent, non-prejudicial matter not stricken).

**III. CONCLUSION**

The paragraph in Opposers' renewed notice of opposition that AWC seeks to have stricken sets forth Opposers' asserted trademark rights and is therefore directly pertinent to Opposers' claims of priority and likelihood of confusion. As a matter of law, this material may not be stricken. Moreover, AWC has demonstrated no prejudice that would support granting its motion. For these reasons, Opposers respectfully request that the Board deny AWC's motion to strike.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

Date December 28, 2009

By



Steven E. Lauridsen  
Attorneys for Opposers  
P.O. Box 7068  
Pasadena, California 91109-7068  
626/795-9900

**DECLARATION OF STEVEN E. LAURIDSEN**

I, Steven E. Lauridsen, state as follows:

1. I am an attorney with Christie, Parker & Hale, LLP, attorneys of record for Opposers. I make this declaration of my own personal knowledge and, if called as a witness, could testify competently to each of the following facts.

2. Attached as Exhibit A to this Declaration is the relevant portion of a website printout depicting Opposers' GC mark in standard characters.

3. Attached as Exhibit B to this Declaration is a copy of the relevant portions of AWC's First Set of Interrogatories, which were served on August 21, 2009. Interrogatory No. 1 asks that Opposers "Identify each mark on which Opposers base this Opposition, namely, the marks identified in the Notice of Opposition as 'the mark GC... in combination with other terms and designs,' with the dates of Opposer's first use for such marks. For each mark identified, provide United States Trademark Application/Registration information, if applicable."

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration is executed on December 28, 2009 in Pasadena, California.



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Steven E. Lauridsen

# **EXHIBIT A**



click for **LIVE HELP**

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Compare Watches  
View Shopping Bag  
Check Out

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search :



**HOT PICK!**  
Shop now

**GUESS GC**

**Newsletter** ▶

**Testimonial** ▶

**PRODUCT**   
WRITING INSTRUMENTS  
LEATHER WALLET

[Timepiece Guess 2009 Models ▶](#)  
[Timepiece Guess 2008 Models ▶](#)  
[Timepiece Guess 2007 Models ▶](#)  
[View All Guess Price Mark Down Models ▶](#)

[View All Guess GC Ladies Models ▶](#)  
[View All Guess GC Gents Models ▶](#)  
[View All Guess Models ▶](#)

**Bestseller**

- ADIDAS
- CASIO
- CALVIN KLEIN
- CHRONOTECH
- DKNY
- D&G
- EMPORIO ARMANI
- EPOS
- ESPRIT
- FOSSIL
- GUESS
- MICHAEL KORS
- NAUTICA
- ODM
- ORIS
- SEIKO
- SWATCH
- TISSOT

**Popular Picks**

- BALL
- BURBERRY
- BVLGARI
- CHRISTIAN DIOR
- FORTIS
- HERMES
- LOCMAN
- LONGINES
- MAURICE LACROIX
- MIDO
- MONTBLANC
- OMEGA
- RAYMOND WEIL
- SWISS ARMY VICTORINOX
- TAG HEUER
- TITONI
- TUDOR

**All Time Favourite**

- AZIMUTH
- BAUME & MERCIER
- BELL & ROSS
- BREITLING
- CARL F. BUCHERER
- CARTIER
- CHOPARD
- CITIZEN
- EVERLAST
- FENDI



**Guess Gents Watches**

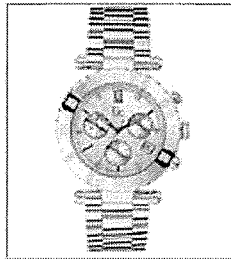
- Guess Watches - Trend
- Guess Watches - Dress
- Guess Watches - Sport
- Guess Watches - Boxed Sets
- Guess Watches - Automatic
- Guess Watches -GC



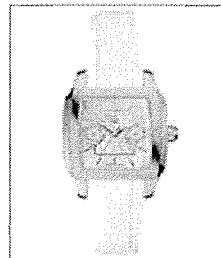
**Guess Ladies Watches**

- Guess Watches - Trend
- Guess Watches - Jewelry
- Guess Watches - Dress
- Guess Watches - Sport
- Guess Watches - GC
- Guess Watches - Boxed Sets
- Guess Watches - Couple Watch

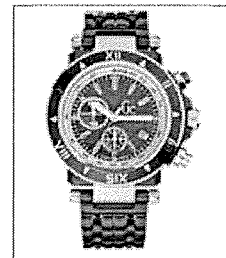
Click the picture to view models



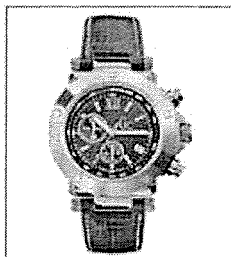
[View Guess GC Ladies Bracelet](#)



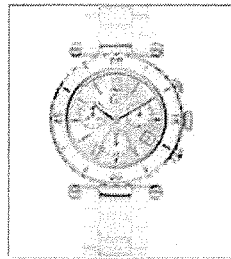
[View Guess GC Ladies Strap](#)



[View Guess GC Gents Bracelet](#)



[View Guess GC Gents Strap](#)



[View Guess GC Medium](#)

# **EXHIBIT B**

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

Guess? IP Holder L.P. and Guess?, Inc.

Opposers,

v.

Opposition No. 91188035  
Application No. 77/304,064

Advance Watch Company Ltd.

Applicant.

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**APPLICANT'S FIRST SET OF  
INTERROGATORIES TO OPPOSERS**

Applicant, Advance Watch Company Ltd. (“Applicant”), submits the following Interrogatories to Opposers Guess? IP Holder L.P. and Guess?, Inc. (“Opposers”), in accordance with Fed. R. Civ. P. 33 and Rule 2.120 of the Trademark Rules of Practice. Applicant requests that Opposers serve upon Applicant sworn answers to these Interrogatories within thirty (30) days of service, by delivering the answers to Brooks Kushman P.C., 1000 Town Center, 22<sup>nd</sup> Floor, Southfield, Michigan 48075. These Interrogatories are intended to be continuing in nature and any information that may be discovered subsequent to the service by Opposers of its responses should be brought to Applicant’s attention through supplemental answers within a reasonable time following such discovery.

For the convenience of the Board and the parties, Applicant requests that each Interrogatory be quoted in full immediately preceding the response.

## INTERROGATORIES

### INTERROGATORY NO. 1.

Identify each mark on which Opposers base this Opposition, namely, the marks identified in the Notice of Opposition as “the mark GC... in combination with other terms and designs,” with the dates of Opposers’ first use of such marks. For each mark identified, provide United States Trademark Application/Registration information, if applicable.

### RESPONSE:

### INTERROGATORY NO. 2.

Identify and describe in what way Opposers will be damaged by the registration of Applicant’s Mark.

### RESPONSE:

### INTERROGATORY NO. 3.

State whether Opposers claim any entity is its predecessor concerning Opposers’ use of or rights in Opposers’ Marks, and, if so, identify each predecessor.

### RESPONSE:

### INTERROGATORY NO. 4.

State whether Opposers have ever conducted, or caused to be conducted on their behalf, or are aware of, any market survey or other analysis or investigation that discloses, indicates or relates in any way to recognition or awareness of Opposers’ Marks by actual or prospective purchasers and/or the trade.

### RESPONSE:

**INTERROGATORY NO. 13.**

Identify each person who participated in the preparation of Opposers' responses to the foregoing interrogatories or furnished any information used in responding to each interrogatory, specifying the interrogatory response for which each such person participated in the preparation or contributed information.

**RESPONSE:**

Respectfully submitted,

**BROOKS KUSHMAN P.C.**



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

Mark A. Cantor  
Matthew R. Mowers  
Hope V. Shovein  
1000 Town Center  
Twenty-Second Floor  
Southfield, Michigan 48075

*Attorneys for Applicant*

Dated: **August 21, 2009**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of **APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSERS, GUESS? IP HOLDER L.P. AND GUESS?, INC.** has been served on August 21, 2009 by:

delivering

mailing (via First-Class mail)

a copy to:

Steven E. Lauridsen  
P.O. Box 7068  
Pasadena, California 91109

*Attorney for Opposers*



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Hope V. Shovein

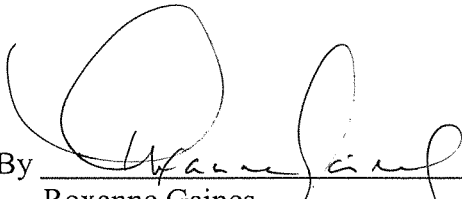
**CERTIFICATE OF TRANSMISSION AND SERVICE**

I certify that on December 28, 2009, the foregoing **OPPOSER'S OPPOSITION TO APPLICANT'S MOTION TO STRIKE; DECLARATION OF STEVEN E. LAURIDSEN IN SUPPORT OF SAME** is being electronically transmitted to:

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

I certify that on December 28, 2009, the foregoing **OPPOSER'S OPPOSITION TO APPLICANT'S MOTION TO STRIKE; DECLARATION OF STEVEN E. LAURIDSEN IN SUPPORT OF SAME** is being served by mailing a copy thereof by first-class mail addressed to:

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Matthew R. Mowers  
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