

ESTTA Tracking number: **ESTTA369889**

Filing date: **09/23/2010**

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	Jackel International Limited		
Entity	company	Citizenship	United Kingdom
Address	Dudley Lane Cramlington Northumberland, NE237RH UNITED KINGDOM		

Attorney information	Jessica Parise Fulbright & Jaworski L.L.P. 666 Fifth Avenue New York, NY 10103 UNITED STATES jparise@fulbright.com, mmutterperl@fulbright.com, mrosenfeld@fulbright.com, hrosenberg@fulbright.com, nyipdocket@fulbright.com Phone:212-318-3397		
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**Applicant Information**

Application No	85003453	Publication date	08/24/2010
Opposition Filing Date	09/23/2010	Opposition Period Ends	09/23/2010
Applicant	Admar International Inc 309 Rehoboth Ave Rehoboth Beach, DE 19971 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 010. All goods and services in the class are opposed, namely: Cups adapted for feeding babies and children
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

**Mark Cited by Opposer as Basis for Opposition**

U.S. Application No.	77857399	Application Date	10/26/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TIP IT UP		

Design Mark	<h1>TIP IT UP</h1>
Description of Mark	NONE
Goods/Services	<p>Class 010. First use:  Feeding bottles; feeding bottle teats; teats for babies, infants and children; re-usable and disposable teats for bottles and drinking cups for babies, infants and children; gloves for medical purposes; belts for medical purposes, namely, maternity belts; physical exercise apparatus for medical purposes; incontinence sheets for babies, infants and children and adults; plastic and paper bags and wraps for disposal of hospital medical waste; disposable bags and precursors therefor for hospital medical waste, namely, tags and seals for closing disposal bags for hospital medical waste; surgical and medical sponges; electrical, non-electrical, and digital medical thermometers; teething rings; teethers incorporating baby rattles; pacifiers for babies; ; breast shields; breast pumps; nipple shields; medical syringes; medicine dispensers, namely, droppers and dropper bottles for administering medication, sold empty; and nasal aspirators</p> <p>Class 021. First use:  (Based on Intent-to-Use and Foreign Registration): Household or kitchen utensils, namely, spoons; household or kitchen containers, namely, glass storage jars, plastic storage boxes and containers of glass, plastic, silicone rubber, thermoplastic elastomers and any combination of these materials; utensils and containers for babies, infants and children, namely, plastic cups, pots, bowls and weaning bowls with lids for storage and serving of food and beverage, spoons, plastic cups and pots for storage, dispensing and mixing of dry infant formula, plastic cups and pots with lids for collection, storage and dispensing of expressed breast milk; non-insulated lids for beverage containers; cups; drinking cups for children; drinking spouts for children's drinking cups; valves used for training cups used for training babies and children; re-usable or disposable plastic or silicone valves used in training cups for babies and children; plates; dishes; crockery, namely, bowls, cups, saucers; bottle holders, namely, bottle holders for holding babies' bottles during feeding, namely, flexible braces for wearing around the neck of the person holding a feeding baby and rigid braces for clamping to babies' seats during feeding; heat insulated household containers for beverages and food; serving utensils for beverages and food, namely, serving forks and spoons; paper and plastic plates; sieves; vacuum containers for household or kitchen use; combs; hair brushes; brushes for cleaning babies' bottles; sponges; sponges and other cleaning articles for cleaning children's feeding equipment, namely, sponges, wipes, cloths and scouring pads; articles for cleaning purposes, namely, sponges, wipes, cloths and scouring pads; clothes drying racks; bottles sold empty and flasks for hot water; toothbrushes; toilet utensils, namely, toilet brushes; toilet trainer seats; chamber pots; household containers, namely, sanitary storage and disposal containers; household containers for storage and disposal of waste, including sanitary waste such as diapers and nappies, feminine hygiene products and incontinence products, namely, sanitary waste disposal units comprising tubs or bins with or without reels or cassettes containing wrapping materials for enveloping waste; wrapping material dispensers with or without reels or</p>

	cassettes containing wrapping materials, for enveloping waste, including sanitary waste such as diapers and nappies, feminine hygiene products and incontinence products, for storage and disposal; ; refuse bins, namely, portable diaper disposal tubs; containers for household use being adapted for the packaging and subsequent disposal of domestic waste, including diapers and nappies); containers for household use being adapted for the packaging and subsequent disposal of pet-waste; refuse bins, namely, nappy bins; diaper pails; refuse bins; portable baths for babies and infants; blenders for food preparation; gloves for household purposes, namely, textile gloves for cleaning; structural parts and fittings for all the aforementioned goods (Based solely on Intent-to-Use): Non-spill drinking bottles for children, sold empty
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Attachments	77857399#TMSN.jpeg ( 1 page )( bytes ) SIP IT UP-NOO.pdf ( 4 pages )(64658 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	/jessica parise/
Name	Jessica Parise
Date	09/23/2010

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

In the matter of Application Serial No.: 85/003,453  
By: Admar International Inc.  
Filed: March 31, 2010  
Published in the Official Gazette on August 24, 2010  
Mark: SIP IT UP

Jackel International Limited,

Opposer,

v.

Admar International Inc.,

Applicant.

Opposition No. \_\_\_\_\_

NOTICE OF OPPOSITION

Commissioner:

Jackel International Limited (“Jackel” or “Opposer”), a United Kingdom company, having a place of business at Dudley Lane Cramlington, Northumberland NE237RH, United Kingdom, believes that it will be damaged by registration of Admar International Inc.’s (“Admar” or “Applicant”) Application Serial Number 85/003,453, for SIP IT UP, in International Class 10 (“Applicant’s Mark”) and hereby opposes the same.

As grounds for opposition, Jackel states that:

1. Jackel markets and sells high-quality, innovative baby accessories, including bottles, sippy cups, pacifiers and feeding products, throughout the world, including in the United States.
2. Jackel is a world-renowned company and leader in the baby accessories industry.
3. Jackel owns many trademarks registered and/or used in connection with its products in numerous countries including the United States.

4. Jackel owns all rights, title and interest in the trademark TIP IT UP to identify a unique line of sippy cups for children and, on October 26, 2009, applied to register (Serial No. 77/857399) with the U.S. Patent and Trademark Office (“PTO”) to identify, among other things, bottles, cups and feeding utensils for babies, infants and children in Classes 10 and 21.

5. Jackel has expended resources developing and promoting its trademarks, including TIP IT UP in the United States and other countries.

6. As a result of Jackel’s efforts, consumers have come to recognize Jackel’s trademarks, including TIP IT UP as designating Jackel’s high-quality and innovative baby products.

7. From 2003 to 2010, Admar and its affiliate company, Luv N’ Care Ltd. maintained a contractual business relationship with Jackel.

8. Admar terminated the contractual relationship without cause and has attempted since to trade off the goodwill of Jackel’s trademarks, compete unfairly with Jackel and interfere with Jackel’s expansion plans into the United States.

9. As a result, on May 7, 2010, Opposer filed suit in the United States District Court for the District of Connecticut against Admar and its operating company Luv N’ Care Ltd., which now includes claims for, among other things, trademark and trade dress infringement, unfair competition, cyber squatting and design patent infringement (see Civil Litigation No. 10 CV-00706).

10. Despite actual knowledge of Jackel’s TIP IT UP trademark and its expansion plans into the United States, on March 31, 2010, Admar applied to register with the PTO the mark SIP IT UP on the basis of intent to use the mark to identify “cups adapted for feeding babies and children.”

11. SIP IT UP is confusingly similar to TIP IT UP in appearance, sound, meaning and commercial impression.

12. The goods on which Admar allegedly intends to use SIP IT UP are identical or closely related to the goods on which Opposer uses TIP IT UP.

13. Jackel and Admar are in the same line of business and direct competitors.

14. The parties goods are targeted to the same class of purchasers and the same channels of trade.

15. Opposer adopted and applied to register TIP IT UP before Admar filed its application for, or started using in United States commerce, SIP IT UP.

16. Admar applied for Applicant's Mark SIP IT UP in the PTO with knowledge of a Jackel's use of and rights to TIP IT UP, a confusingly similar mark, and thus did so in bad faith.

17. Admar's bad faith is further illustrated by the fact that it also filed, on the same day, two other trademark applications for marks identical to Opposer's trademarks: DURA SPOUT (Serial No. 85/003,408) and SPORTSTER (Serial No. 85/003,358). Jackel has is filing simultaneously Notices of Opposition against each of these applications.

18. When applying for Applicant's Mark, Admar's owner Edward Hakim signed a declaration, under penalty of perjury, on behalf of Admar stating that "no other person, firm, corporation or association has the right to use the mark in commerce, either in identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive."

19. When he signed this declaration, Admar could not have a good faith belief that he was the owner of the trademark or that he was entitled to use the trademark.

20. In addition, Applicant's Mark is likely to cause confusion or mistake or deception in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

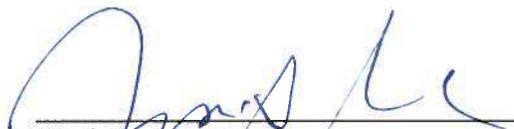
21. Allowing registration of Applicant's Mark will improperly give the appearance of exclusive statutory ownership rights in SIP IT UP to Applicant in violation and derogation of the prior and superior rights of Opposer in TIP IT UP.

22. For the foregoing reasons, Opposer believes it would be irreparably damaged by registration of Applicant's Mark.

Therefore, registration of Applicant's Mark should be refused.

Date: September 23, 2010

Respectfully submitted,



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