

ESTTA Tracking number: **ESTTA392552**

Filing date: **02/09/2011**

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	East Point Sports, LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	628 Route 10, Suite 5 Whippany, NJ 07981 UNITED STATES		

Attorney information	Thomas J. Oppold Larkin Hoffman Daly & Lindgren Ltd. 1500 Wells Fargo Plaza 7900 Xerxes Avenue South Minneapolis, MN 55431-1194 UNITED STATES ipgroup@larkinhoffman.com Phone:952-896-3397		
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Applicant Information

Application No	85098059	Publication date	01/11/2011
Opposition Filing Date	02/09/2011	Opposition Period Ends	02/10/2011
Applicant	Sportcraft, Ltd. 313 Waterloo Valley Rd. Mt. Olive, NJ 07828 UNITED STATES		

Goods/Services Affected by Opposition


Class 028. All goods and services in the class are opposed, namely: Lawn games in the nature of tetherball, badminton, volleyball game playing equipment; toss games in the nature of bean bag toss, ring toss, foam rockets; balls for games and sports, namely, footballs, basketballs, dodgeballs, and soccer balls; game equipment, namely, toy bats, balls and gloves for playing baseball-like indoor and outdoor games; toy golf clubs; toy boxing gloves; flying discs

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BIG FUN!		
Goods/Services	Outdoor games in the nature of tennis, tetherball, badminton, volleyball, and golf.		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Design Mark			
Goods/Services	Outdoor games in the nature of tennis, tetherball, badminton, volleyball, and golf.		

Attachments	BIG FUN logo B&W.JPG Notice-of-Oppositionmfp.pdf (4 pages)(2114665 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	/Thomas J. Oppold/
Name	Thomas J. Oppold
Date	02/09/2011

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

In the Matter of
Trademark Application Serial No. 85/098059

For the Mark:



Applicant: Sportcraft Ltd.
Date Filed: August 2, 2010
Published: January 11, 2011

East Point Sports, LLC

Opposer,

vs.

Opposition No. _____

Sportcraft Ltd.

Applicant.

NOTICE OF OPPOSITION

East Point Sports, LLC ("Opposer") hereby opposes registration of the above-referenced mark (the "Opposed Mark") filed by applicant Sportcraft Ltd. ("Applicant") which was published for opposition on January 11, 2011. As grounds for its opposition, Opposer states and alleges as follows:

1. Opposer is a Delaware limited liability company, having a principal place of business at 628 Route 10, Suite 5, Whippany, New Jersey 07981.

2. On information and belief, Applicant is a corporation organized under the laws of the State of Delaware, with its principal place of business at 313 Waterloo Valley Rd., Mt. Olive, New Jersey 07828.

3. Opposer designs, produces and sells various types of indoor and outdoor sporting and recreational games and toys.

4. Opposer, since at least as early as May 2010, has been using the marks BIG FUN!



and/or (collectively, the "Big Fun Marks") to actively promote and to offer for sale various outdoor games in the nature of tennis, tetherball, badminton, volleyball, and golf.

5. On August 2, 2010, Applicant filed an intent-to-use application to register the Opposed Mark under international class 28 for "lawn games in the nature of tetherball, badminton, volleyball game playing equipment; toss games in the nature of bean bag toss, ring toss, foam rockets; balls for games and sports, namely, footballs, basketballs, dodgeballs, and soccer balls; game equipment, namely, toy bats, balls and gloves for playing baseball-like indoor and outdoor games; toy golf clubs; toy boxing gloves; flying discs."

6. Opposer's use of the Big Fun Marks pre-dates any date of use or constructive date of use by Applicant of the Opposed Mark.

7. Any use by Applicant of the Opposed Mark for which it seeks registration is without Opposer's consent or permission.

8. Opposer has developed goodwill through its use of its Big Fun Marks. By reason of Opposer's marketing and promotion activities, purchasers recognize the Big Fun Marks and associate them exclusively with Opposer and its goods.

9. If Applicant is granted the registration herein opposed, purchasers are likely to be confused, mistaken, or deceived into believing that Applicant's goods originate with or are sponsored or approved by Opposer, all to Opposer's irreparable damage. Use by Applicant of the Opposed Mark will lessen the capacity of the Big Fun Marks to identify and distinguish Opposer's goods.

10. Opposer would be damaged by the use and registration of the Opposed Mark by Applicant.

11. Please address all communications regarding this Opposition to Thomas J. Oppold, Larkin Hoffman Daly & Lindgren Ltd., 1500 Wells Fargo Plaza, 7900 Xerxes Avenue South, Minneapolis, Minnesota 55431-1194.

WHEREFORE, Opposer respectfully requests that Application Serial No. 85/098059 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Date: February 9, 2011

Opposer, East Point Sports, LLC
By its Attorneys:

/Thomas J. Oppold/
Thomas J. Oppold
Molly T. Eichten
Larkin Hoffman Daly & Lindgren Ltd.
1500 Wells Fargo Plaza
7900 Xerxes Avenue South
Minneapolis, Minnesota 55431-1194
(952) 835-3800

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Applicant's attorney of record, as listed in the USPTO TARR Database, R. Alan Weeks, Esq., by delivering said copy on this 9th day of February, 2011, via U.S. Mail, enclosed in an envelope addressed to R. Alan Weeks, Esq., Fellers Snider, et al., 321 S. Boston Ave. Ste. 800, Tulsa, OK 74103-3318.

/Thomas J. Oppold/_____

Thomas J. Oppold

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