

ESTTA Tracking number: **ESTTA412781**

Filing date: **06/03/2011**

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	Keen, Inc.
Granted to Date of previous extension	06/05/2011
Address	926 NW 13th Ave., Suite 210 Portland, OR 97209 UNITED STATES

Attorney information	B. Anna McCoy Alleman Hall McCoy Russell & Tuttle LLP 806 SW Broadway, Suite 600 Portland, OR 97205 UNITED STATES mccoy@ahmrt.com, lunn@ahmrt.com Phone:503-459-4141
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Applicant Information

Application No	85077738	Publication date	12/07/2010
Opposition Filing Date	06/03/2011	Opposition Period Ends	06/05/2011
Applicant	Jan Jay Rigney 11880 E. 86th St. N. Owasso, OK 74055 UNITED STATES		

Goods/Services Affected by Opposition


Class 025. First Use: 2000/10/23 First Use In Commerce: 2000/10/23 All goods and services in the class are opposed, namely: A-shirts; Caps

Grounds for Opposition

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

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85203324	Application Date	12/21/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	!		

Design Mark	
Description of Mark	The mark consists of an equilateral triangle with the base on the bottom and the tip pointing up 90 degrees. Inside the triangle is an exclamation point.
Goods/Services	Class 025. First use: First Use: 2003/01/31 First Use In Commerce: 2004/01/01 footwear; socks

Attachments	85203324#TMSN.jpeg (1 page)(bytes) Notice of Opposition - KEE10400OPP6US (as filed).pdf (5 pages)(83154 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	/B. Anna McCoy/
Name	B. Anna McCoy
Date	06/03/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Keen, Inc.,)
)
Opposer,)
)
v.) Opposition No. _____
)
Jan Jay Rigney)
)
Applicant.)
_____)

Commissioner for Trademarks
Box TTAB FEE
2900 Crystal Drive
Arlington, Virginia 22202-3514

NOTICE OF OPPOSITION






In the matter of the application of Jan Jay Rigney (“Applicant”), for registration of the mark, application Serial No. 85/077,738, published in the Official Gazette on December 7, 2010, Keen, Inc. (“Opposer”), a corporation organized under the laws of Delaware, with its principal place of business at 926 NW 13th Ave., Suite 210, Portland, Oregon 97209, believes that it will be damaged by registration of the mark shown in Serial No. 85/077,738 and hereby opposes registration.

This notice of opposition is being timely filed as an initial ninety-day extension of time to file a notice of opposition was timely filed on December 20, 2010, and an additional sixty-day extension of time to file a notice of opposition was timely filed on April 6, 2011, which cumulatively extended the deadline to file the notice of opposition to June 5, 2011.


The grounds for opposition are as follows:





1. Opposer is a corporation, doing business as Keen, Inc, organized under the laws of Delaware, with its principal place of business at 926 NW 13th Ave., Suite 210, Portland, Oregon 97209.
2. Opposer has been and continues to be engaged in the business of designing, marketing and selling footwear, clothing, bags and other goods and related services in the United States and abroad.



3. Since at least 2003, Opposer has used continuously in interstate commerce a mark including a prominent exclamation point inside triangle design () to identify footwear and other products originating from the Opposer.

4. Opposer has common law rights in its  mark and has filed the following United States trademark application for the  mark:


Application Number	Application Date	International Class
85/203,324	December 21, 2010	25

5. Opposer has used and continues to use the  mark, and the goods in connection therewith have been popular and the subject of significant advertising and promotional activities.

6. The use of Opposer's  mark has been valid and continuous since the date of first use and Opposer has not abandoned the  mark. Opposer's  mark is symbolic of extensive goodwill and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion. Opposer's  mark identifies and distinguishes Opposer's goods from the goods of others, and identifies the source and origin thereof to both the trade and the public.

7. Notwithstanding Opposer's rights in and to its  mark, Applicant, on July 3, 2010, filed an application for registration of the  KNOW! mark. Applicant's application was given Serial No. 85/077,738 and was published for opposition in the Official Gazette on December 7, 2010.




8. The published application for the  KNOW! mark recites the following goods:

A-shirts; Caps in International Class 025.

9. Applicant's recited goods are closely related to the goods offered by Opposer for the





 mark and consumers may be confused as to source of the goods.


10. Applicant's application is after Opposer established common law rights.

11. Applicant's previous U.S. Registration Number 2,514,907 in classes 16 and 25 was cancelled on September 5, 2008, as Applicant did not file an acceptable declaration under Section 8 and thus, Applicant's federal registration rights expired.



12. Applicant's  KNOW! mark, when used in connection with the goods set forth in its

application, is confusingly similar to Opposer's use of its  mark. Registration of Applicant's mark and use by it for its goods in the U.S. is likely to cause confusion, mistake and deception among consumers. Registration of Applicant's mark may damage the goodwill and consumer recognition that

Opposer has built up in its  mark.

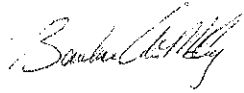
WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's mark, and prays that registration be denied.

Opposer authorizes the Commissioner for Trademarks to charge the fee for filing this Notice of Opposition, or any other additional fees that may be due, to Deposit Account 503397.

DATED this 3rd day of June, 2011.

Respectfully submitted,

Alleman Hall McCoy Russell & Tuttle LLP

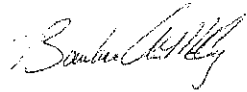


B. Anna McCoy
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Attorney for Opposer
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Portland, Oregon 97204
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Facsimile: (503) 459-4142

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served by First Class Mail upon Applicant Jan Jay Rigney at the address of record below on this 3rd day of June, 2011:

Jan Jay Rigney
11880 E. 86th St. N.
Owasso, OK 74055-2535
United States



B. Anna McCoy
Attorney for Opposer