

ESTTA Tracking number: **ESTTA437821**

Filing date: **10/26/2011**

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 parties oppose registration of the indicated application.

Opposers Information

Name	medi GmbH & Co. KG		
Granted to Date of previous extension	10/26/2011		
Address	Medicusstr.1 Bayreuth, 95448 GERMANY		

Name	medi USA LP		
Entity	Limited partnership	Citizenship	Delaware
Address	6481 FRANZ WARNER PARKWAY Whitsett, NC 27377 UNITED STATES		

Attorney information	Howard A. MacCord, Jr. MacCord Mason PLLC PO Box 2974 Greensboro, NC 27402 UNITED STATES dcottelli@maccordmason.com, amaccord@maccordmason.com, sdavis@maccordmason.com Phone:336.273.4422		
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Applicant Information

Application No	85085009	Publication date	06/28/2011
Opposition Filing Date	10/26/2011	Opposition Period Ends	10/26/2011
Applicant	Complete Environmental Products, Inc. 3500 Pasadena Freeway Pasadena, TX 77503 UNITED STATES		


Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Clothing products, namely, protective clothing for consumers, oil spill response contractors and general cleaning purposes of all ages

Grounds for Opposition

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

U.S. Registration No.	3846951	Application Date	09/04/2008
Registration Date	09/14/2010	Foreign Priority Date	03/06/2008
Word Mark	CEP		
Design Mark			
Description of Mark	The mark consists of a 3 X 3 grid of black rhombuses, progressively getting wider from left to right, said rhombuses having rounded edges except the lower left edge, and with letters "cep" appearing underneath said rhombuses.		
Goods/Services	Class 010. First use: Compressive bandages; compression socks, namely, medical compression socks and medical compression stockings; medical compression trousers Class 025. First use: Skinsuits made of compression material, namely, garments covering torso from shoulders to tights to be worn when participating in triathlons; compression trousers for athletic use; compression socks for athletic use; compression stockings for athletic use		

Attachments	77562584#TMSN.jpeg (1 page)(bytes) Short and plain statement.pdf (3 pages)(14458 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	/Howard A. MacCord, Jr./
Name	Howard A. MacCord, Jr.
Date	10/26/2011

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

Medi GmbH & Co. KG,)	
)	
Opposer,)	Opposition No. _____
)	Application Serial No.: 85/085,009
v.)	Mark: CEP OIL MAX
)	Pub. for Opposition: June 28, 2011
)	Atty. Ref. No.: 8900-043
Complete Environmental Products, Inc.,)	
Applicant.)	
)	
)	

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

NOTICE OF OPPOSITION

As grounds in support of its opposition, Opposer asserts as follows:

1. Opposer, Medi GmbH & Co. KG (hereinafter “Medi”) has an affiliate Medi USA LP, which is the owner of United States registration number 3,846,951 of the mark CEP in connection with Compressive bandages; compression socks, namely, medical compression socks and medical compression stockings; medical compression trousers and Skinsuits made of compression material, namely, garments covering torso from shoulders to tights to be worn when participating in triathlons; compression trousers for athletic use; compression socks for athletic use; compression stockings for athletic use, and is the owner of U.S. application 85179148 of the mark CEP CLONE for “Compression garments for athletic or other non-medical use, namely, compression stockings” and examination of that application has been suspended pending the outcome of the application here opposed.

2. Applicant, Complete Environmental Products, Inc., has submitted an intent-to-use trademark application, assigned Serial No. 85/085,009, for CEP OIL MAX for Clothing products, namely, protective clothing for consumers, oil spill response contractors and general cleaning purposes of all ages as classified in international class 9. This application is the subject of this opposition. The application was published for opposition on June 28, 2011, and Opposer was granted an extension of time to oppose up until October 26, 2011.
3. Prior to Applicant's filing date, Opposer has registered Opposer's CEP mark in connection with the sale of Compressive bandages; compression socks, namely, medical compression socks and medical compression stockings; medical compression trousers and Skinsuits made of compression material, namely, garments covering torso from shoulders to tights to be worn when participating in triathlons; compression trousers for athletic use; compression socks for athletic use; compression stockings for athletic use.
4. Applicant's mark so resembles Opposer's previously used CEP mark as to be likely, when applied to Clothing products, namely, protective clothing for consumers, oil spill response contractors and general cleaning purposes of all ages, to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Trademark Act.
5. Opposer will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of Applicant's mark sought to be registered, will dilute Opposer's CEP mark, and will give color and exclusive statutory right to Applicant in violation and derogation of prior and superior rights of Opposer.

WHEREFORE, Opposer prays that the opposition be sustained and that registration to Applicant be refused.

The Commissioner is hereby authorized to charge the Notice of Opposition fees and any additional fees, which may be required, or credit any overpayment to Deposit Account No. 501923.

/Howard A. MacCord, Jr./
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ATTORNEY FOR OPPOSER

Date: October 26, 2011
File No.: 8900-043