

ESTTA Tracking number: **ESTTA445775**

Filing date: **12/12/2011**

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	12/11/2011
Address	926 NW 13th Avenue, 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, penfield@ahmrt.com, karl@ahmrt.com
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Applicant Information

Application No	85225641	Publication date	06/14/2011
Opposition Filing Date	12/12/2011	Opposition Period Ends	12/11/2011
Applicant	Miskeen Originals, LLC 1100 Wright Avenue Camden, NJ 08103 UNITED STATES		

Goods/Services Affected by Opposition


Class 025. First Use: 2001/09/00 First Use In Commerce: 2001/09/00 All goods and services in the class are opposed, namely: clothing, namely, t-shirts, tank tops, polo shirts, blouses, sport shirts, turtlenecks, mock turtlenecks, sweaters, sweat shirts, pants, shorts, sweat pants, trousers, jeans, hats, caps, jackets, coats and vests
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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. Registration No.	2916603	Application Date	10/04/2002
Registration Date	01/04/2005	Foreign Priority Date	NONE
Word Mark	KEEN		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2003/03/01 First Use In Commerce: 2004/01/01 Footwear

U.S. Registration No.	3545458	Application Date	03/17/2005
Registration Date	12/09/2008	Foreign Priority Date	NONE
Word Mark	KEEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2007/01/01 First Use In Commerce: 2007/01/01 Bags, namely, all purpose sport bags, all purpose carrying bags, and book bags; backpacks; luggage		

U.S. Registration No.	3454495	Application Date	12/15/2006
Registration Date	06/24/2008	Foreign Priority Date	NONE
Word Mark	KEEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2008/04/01 First Use In Commerce: 2008/04/01 Charitable fundraising; providing grants to charitable organizations; financial services, namely, charitable services in the field of monetary donations		

U.S. Registration No.	4032365	Application Date	03/17/2005
Registration Date	09/27/2011	Foreign Priority Date	NONE
Word Mark	KEEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2003/03/01 First Use In Commerce: 2003/03/01 Socks, shoes, boots, sandals, and slippers		

Attachments	76456829#TMSN.gif (1 page)(bytes) 78980746#TMSN.jpeg (1 page)(bytes) 77065753#TMSN.jpeg (1 page)(bytes) 78980008#TMSN.jpeg (1 page)(bytes) Notice of opposition (FINAL) 12-12-2011.pdf (4 pages)(100938 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	12/12/2011

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

Keen, Inc.,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
Miskeen Originals, LLC)	
)	
Applicant.)	
_____)	

Commissioner for Trademarks
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3514


NOTICE OF OPPOSITION

In the matter of the application of Miskeen Originals, LLC (“Applicant”), for registration of the mark MISKEEN ORIGINALS, application Serial No. 85/225,641, published in the Official Gazette on June 14, 2011, 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. 85/225,641 and hereby opposes registration.

We note the Opposer filed a 90 day extension of time on July 13, 2011 and filed a further 60 day extension of time on October 11, 2011 with consent from the Applicant. The Notice of Opposition is being timely filed within the extended opposition period.

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.

3. Since at least March 2003, Opposer has used continuously in interstate commerce marks consisting solely of, or including, the word KEEN (the “Keen Marks”), including but not limited to KEEN and , to identify products originating from the Opposer.

4. Opposer has common law rights and trademark registrations for its Keen Marks, including the following United States trademark registrations for some of its Keen Marks:

Registration Number	Registration Date	International Class
2,916,603	Jan. 4, 2005	25
3,545,458	Dec. 9, 2008	18
3,454,495	June 24, 2008	36
4,032,365	Sept. 27, 2011	25

5. In addition to the Keen Marks, Opposer has applied for or may have common law rights for additional marks, for use in connection with clothing, footwear, accessories and related services, including but not limited to KEEN.DRY, KEEN.WARM, KEEN.CORK, KEEN GARAGE and EVERY SEASON IS KEEN SEASON.

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

7. The use of Opposer’s Keen Marks has been valid and continuous since the date of first use and Opposer has not abandoned the Keen Marks. Opposer’s Keen Marks are symbolic of extensive goodwill and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion. Opposer’s Keen Marks identify and distinguish Opposer’s goods and service from the goods and services of others, and identify the source and origin thereof to both the trade and the public.

8. Notwithstanding Opposer’s rights in and to its Keen Marks, Applicant, on January 25, 2011, filed an application for registration of the mark MISKEEN ORIGINALS. Applicant’s application was given Serial No. 85/225,641 and was published for opposition in the Official Gazette on June 14, 2011.

9. The published application for the MISKEEN ORIGINALS mark recites the following goods:

Clothing, namely, t-shirts, tank tops, polo shirts, blouses, sport shirts, turtlenecks, mock turtlenecks, sweaters, sweat shirts, pants, shorts, sweat pants, trousers, jeans, hats, caps, jackets, coats and vests.

10. Applicant's recited goods are closely related to the goods offered by Opposer for the Keen Marks and consumers may be confused as to source of the goods.

11. Applicant's application and filing date are after Opposer's established common law rights and application filing dates and registrations.

12. Applicant's MISKEEN ORIGINALS mark, when used in connection with the goods set forth in its application, is confusingly similar to Opposer's use of its KEEN 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 KEEN 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 12th day of December, 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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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 Miskeen Originals, LLC at the address of record below on this 12th day of December, 2011:

Roberta Jacobs-Meadway
Eckert Seamans Cherin & Mellott, LLC
50 S 16th St
Philadelphia, PA 19102-2516



B. Anna McCoy
Attorney for Opposer