

ESTTA Tracking number: **ESTTA507844**

Filing date: **11/28/2012**

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	The John Henry Company, A Multi Packaging Solutions Company
Granted to Date of previous extension	12/12/2012
Address	5800 West Grand River Avenue Lansing, MI 48901 UNITED STATES
Correspondence information	Mr. H. W. Reick Attorney of Record Price Heneveld LLP 695 Kenmoor S.E. P.O. Box 2567 Grand Rapids, MI 49501 UNITED STATES ptomail@priceheneveld.com, dlozon@priceheneveld.com Phone:616-949-9610

Applicant Information

Application No	77669772	Publication date	08/14/2012
Opposition Filing Date	11/28/2012	Opposition Period Ends	12/12/2012
International Registration No.	NONE	International Registration Date	NONE
Applicant	AZ Trading Co. Ltd. 1080 River Road Suite 223 Richmond, V6X1X5 CANADA		

Goods/Services Affected by Opposition

Class 016. All goods and services in the class are opposed, namely: mats for pictures and photographs, memo boards

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2228452	Application Date	02/11/1998
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Registration Date	03/02/1999	Foreign Priority Date	NONE
Word Mark	CAPRI		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1969/07/00 First Use In Commerce: 1969/07/00 occasion and gift cards		

Attachments	16S3269.PDF (8 pages)(295592 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	/Winthrop/
Name	Mr. H. W. Reick
Date	11/28/2012

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

Applicant : AZ Trading Co. Ltd.
Serial No. : 77-669,772
Filed : February 12, 2009
Mark : **CAPRI**
Int'l Class : 16
For : Mats for pictures and photographs, and memo boards.
Published : August 14, 2012

The John Henry Company,)
Opposer,)
v.)
AZ Trading Co. Ltd.,)
Applicant.)

Opposition No. _____

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

NOTICE OF OPPOSITION

The John Henry Company, a corporation of the state of Michigan, having its principal place of business at 5800 West Grand River Avenue, Lansing, Michigan 48901 (hereinafter referred to as "John Henry" or "Opposer") believes it will be damaged by registration of the mark shown in the above-identified application on the Principal Register (hereinafter referred to as "Applicant's Mark") by AZ Trading Co. Ltd. (hereinafter referred to as "AZ Trading" or "Applicant") and hereby opposes the same.

As grounds for this opposition, Opposer, upon information and belief, alleges as follows:

1. Opposer is, and for many years has been, engaged in the manufacture and sale of occasion and gift cards which are sold throughout the United States to various retail outlets for resale.

2. In connection with this business, Opposer is the owner of and uses its registered **CAPRI**[®] trademark.

3. Opposer has been using its Trademark Registration No. 2,228,452 for **CAPRI**[®] since at least 1969 in connection with occasion and gift cards in Class 16.

4. Attached as Exhibit A is a cop of Opposer's Trademark Registration No. 2,228,452 for **CAPRI**[®].

5. Attached as Exhibit B is a printout from TSDR of the current status and title of the registration.

6. The mark "CAPRI" sought to be registered by Applicant is identical to and confusingly similar to Opposer's **CAPRI**[®] mark, and on information and belief, Applicant seeks to register it in connection with goods which are related to Opposer's goods and are offered through the same or similar channels of retail trade and to the same consumers as Opposer's goods.

7. Opposer believes that Applicant's alleged mark, when applied to Applicant's goods as intended, so resembles Opposer's marks as to be likely to cause confusion, to cause mistake, or to deceive, all to Opposer's irrevocable damage and injury.

WHEREFORE, Opposer prays that this Opposition be sustained, that registration of Applicant's Mark be refused, and judgment be entered against Applicant.

Respectfully submitted,

November 28, 2012

Date



H.W. Reick, Reg. No. 25438

PRICE HENEVELD LLP

695 Kenmoor, S.E.

P.O. Box 2567

Grand Rapids, Michigan 49501

Phone: 616-949-9610

Fax: 616-957-8196

hreick@priceheneveld.com

Attorneys for Opposer

CERTIFICATE OF SERVICE

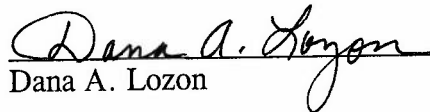
I hereby certify that a copy of the foregoing Notice of Opposition was served on counsel for AZ Trading Labs, Inc. by mailing, first class mail, postage prepaid to:

Ms. Ann Carlsen
Ann Carlsen and Company
3292 Production Way, Suite 501
Burnaby, BC V5A4R4 Canada

this 28th day of November, 2012.

November 28, 2012

Date



Dana A. Lozon

EXHIBIT A

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38 and 50

Reg. No. 2,228,452

United States Patent and Trademark Office

Registered Mar. 2, 1999

**TRADEMARK
PRINCIPAL REGISTER**

CAPRI

JOHN HENRY COMPANY, THE (MICHIGAN
CORPORATION)
5800 WEST GRAND RIVER AVENUE
LANSING, MI 48901

FIRST USE 7-0-1969; IN COMMERCE
7-0-1969.

SER. NO. 75-432,410, FILED 2-11-1998.

FOR: OCCASION AND GIFT CARDS, IN
CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND
50).

ALEX BUTTERMAN, EXAMINING ATTOR-
NEY

EXHIBIT B

[STATUS](#)[DOCUMENTS](#)[Back to](#)

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Mark: CAPRI

US Serial Number: 75432410

Application Filing Date: Feb. 11, 1998

US Registration Number: 2228452

Registration Date: Mar. 02, 1999

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Apr. 22, 2009

Publication Date: Dec. 08, 1998

▼ Mark Information

Mark Literal Elements: CAPRI

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

▼ Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: occasion and gift cards

International Class: 016 - Primary Class

U.S Class: 002, 005, 022, 0

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 1969

Use in Commerce: Jul. 1969

▼ Basis Information (Case Level)

▼ Current Owner(s) Information

Owner Name: John Henry Company, The

Owner Address: 5800 West Grand River Avenue
Post Office Box 17099

Lansing, MICHIGAN 489017099
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where MICHIGAN
Organized:

▼ **Attorney/Correspondence Information**

Attorney of Record

Attorney Name: H. W. REICK

Docket Number: HEN01 T336

Correspondent

Correspondent H W REICK

Name/Address: PRICE HENEVELD COOPER DEWITT & LITTON
695 KENMOOR SE
PO BOX 2567
GRAND RAPIDS, MICHIGAN 49501
UNITED STATES

Domestic Representative - Not Found

▲ **Prosecution History**

▼ **Maintenance Filings or Post Registration Information**

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Mar. 02, 2009

▲ **TM Staff and Location Information**

▲ **Assignment Abstract of Title Information**