

ESTTA Tracking number: **ESTTA564097**

Filing date: **10/09/2013**

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	Inc International Company		
Entity	Corporation	Citizenship	united states
Address	143 Viburnum Drive kennett square, PA 19348 UNITED STATES		

Attorney information	Matthew H. Swyers The Trademark Company 344 Maple Avenue West Vienna, VA 22180 UNITED STATES mswyers@thetrademarkcompany.com Phone:18009068626100		
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Applicant Information

Application No	85919039	Publication date	10/08/2013
Opposition Filing Date	10/09/2013	Opposition Period Ends	11/07/2013
Applicant	Redditt, Brittani 18412 Garner Lane Accokeek, MD 20607 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2012/07/15 First Use In Commerce: 2012/12/20 All goods and services in the class are opposed, namely: T-shirts, hats, scarves, pants, jackets and dresses
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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.	4162517	Application Date	04/20/2011
Registration Date	06/19/2012	Foreign Priority Date	NONE
Word Mark	UNEQUAL		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 025. First use: First Use: 2012/04/02 First Use In Commerce: 2012/04/02 Briefs; Socks		
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U.S. Registration No.	3433363	Application Date	08/29/2006
Registration Date	05/20/2008	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of Two parallel lines and a diagonal line intersecting through the two lines.		
Goods/Services	Class 025. First use: First Use: 2002/11/12 First Use In Commerce: 2007/07/20 Sneakers; Tops		

U.S. Registration No.	3267320	Application Date	09/22/2006
Registration Date	07/24/2007	Foreign Priority Date	NONE
Word Mark	UNEQUAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2006/11/17 First Use In Commerce: 2006/11/17 Leather shoes; Running shoes; Shoes; Ski and snowboard shoes and parts thereof; Skiing shoes; Soccer shoes; Tennis shoes; Volleyball shoes; Women's shoes; Work shoes and boots		

U.S. Registration No.	4296114	Application Date	04/20/2011
Registration Date	02/26/2013	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of the design of two horizontal bands that are parallel, and a diagonal band intersecting the horizontal bands forming an unequal sign.		
Goods/Services	Class 009. First use: First Use: 2012/05/03 First Use In Commerce: 2012/05/03 Decorative magnets Class 025. First use: First Use: 2011/10/17 First Use In Commerce: 2011/10/17 Socks; Underwear		

U.S. Registration No.	3098472	Application Date	11/01/2002
Registration Date	05/30/2006	Foreign Priority Date	NONE
Word Mark	UNEQUAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2005/08/25 First Use In Commerce: 2005/08/25 paper products, namely posters, decals, books on the subject of self-		

	improvement Class 021. First use: First Use: 2005/08/25 First Use In Commerce: 2005/08/25 mugs, plastic cups
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Attachments	NOO.pdf(117608 bytes) Ex. 1-5.pdf(144402 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	/Matthew H. Swyers/
Name	Matthew H. Swyers
Date	10/09/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

In the Matter of Serial No. 85/919,039, for the trademark application
WE R NOT EQUAL = and Design:



INC International Company,

Opposer,

vs.


Redditt, Brittani,

Applicant.

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Opposition No. _____


NOTICE OF OPPOSITION




COMES NOW INC International Company, a Pennsylvania corporation, with an address of 143 Viburnum Drive, Kennett Square, PA 19348 (hereinafter, “Opposer”), by counsel, The Trademark Company, and states that it believes it will be damaged by the registration of the trademark WE R NOT EQUAL = and Design:  as more fully set forth in Application Serial No. 85/919,039, as filed by Brittani Redditt, an individual with an address of 18412 Garner Lane Accokeek Maryland 20607 (hereinafter “Applicant”) and, accordingly, hereby opposes the granting of said registration.



As grounds for this opposition, it is alleged that:

1. For many years, INC International Company and its exclusive licensee ‘Unequal Technologies Company’ (www.Unequal.com) domain (collectively referred to as “Opposer”) has been and now is engaged in the development and production of footwear and apparel products.


2. Opposer has spent millions of dollars and expended tremendous effort in developing and promoting goods under its Design Mark:  and related family of UNEQUAL marks which have become famous and associated exclusively with Opposer and its goods. The goodwill of the

business connected with the use of, and symbolized by,  and the related family of UNEQUAL marks is an asset of incalculable value.


3. Opposer has made substantial sales of products under  and related family of UNEQUAL Marks, and has used  and the related family of UNEQUAL Marks in highly successful advertising and promotional campaigns over the course of many years, including featuring  and the related family of UNEQUAL Marks in advertising campaigns in a variety of media in the U.S. and abroad, such as print and television ads and in-store displays.

4. Specifically, Opposer has spent millions on development, advertising and promotion of  and the related family of UNEQUAL Marks, including, but not limited to use in the National Football League (“NFL”), Major League Baseball (“MLB”), ESPN X-GAMES, National Hockey League (“NHL”), and interviews on Super Bowl Sunday for the past three Super Bowls, an endorsement deal with National Football League player, Michael Vick of the Philadelphia Eagles, James Harrison of the Pittsburgh Steelers, as well as national advertisements featuring  and the related family of UNEQUAL Marks on: NFL Network, ESPN, NBC, ABC, FOX and CNN; and publications that include: Inc magazine, Wall Street Journal, USA Today, New York Times, Los Angeles Times, and the Washington Times.


5. Moreover, Opposer is the owner of the United States Patent and Trademark Registration No. 4,162,517, which was filed on April 20, 2011 for the mark UNEQUAL for use in connection with the following goods: briefs and socks in International Class 25. The registration maintains a date of first use in commerce of at least as early as April 2, 2012. See Exhibit 1.

6. Opposer is also the owner of the United States Patent and Trademark Registration No. 3,433,363, which was filed on August 29, 2006 for the Design Mark:  for use in connection with the following goods: sneakers and tops in International Class 25. The registration maintains a date of first use in commerce of at least as early as July 20, 2007. This registration is valid and subsisting and hereby incontestable. See Exhibit 2.

7. Opposer is also the owner of the United States Patent and Trademark Registration No. 3,267,320, which was filed on September 22, 2006 for the mark UNEQUAL for use in connection with the following goods: leather shoes; running shoes; shoes; ski and snowboard shoes and parts thereof; skiing shoes; soccer shoes; tennis shoes; volleyball shoes; women's shoes; work shoes and boots in International Class 25. The registration maintains a date of first use in commerce of at least as early as November 17, 2006. See Exhibit 3. This registration is valid and subsisting and hereby incontestable.

8. Opposer is also the owner of the United States Patent and Trademark Registration No. 4,296,114, which was filed on April 20, 2011 for the design mark  for use in connection with the following goods: socks and underwear in International Class 25 and Decorative Magnets in International Class 009. The registration maintains a date of first use in commerce of at least as early as May 03, 2012 for Decorative Magnets and a date of first use in commerce of at least as early as October, 17, 2011 for socks and underwear. See Exhibit 4.


9. Opposer is also the owner of United States Patent and Trademark Registration No. 3,098,472, which was filed on November 1, 2002 for the mark UNEQUAL for use in connection with the following goods: paper products, namely posters, decals, books on the subject of self-improvement in International Class 16 and mugs and plastic cups in International Class 21. The registration maintains a date of first use in commerce of at least as early as August 25, 2005 for goods covered in International Class 16 and 21. See Exhibit 5. This registration is valid and subsisting and hereby incontestable.

10. On April 30, 2013, Applicant filed an application to register the mark WE R NOT EQUAL = and Design:  (hereinafter "Applicant's Mark) for use in connection with the following goods: T-shirts, hats, scarves, pants, jackets and dresses covered in International Class 25. (hereinafter "Applicant's goods"). The application was assigned Application Serial No. 85/919,039.

11. Applicant's Application Serial No. 85/919,039 for Applicant's mark claims a date of first use in commerce of December 20, 2012.

12. Applicant's mark published for opposition on or about _____.

13. Applicant's applied-for mark is confusingly similar to the marks of Opposer identified in the attached Exhibits 1-5.

14. Opposer retains priority of use of the design mark at issue as Opposer has been using its design mark  in commerce since as early as July 20, 2007, per its Registration No. 3,433,363 for goods covered in International Class 25, which is prior to Applicant's date of first use in commerce of Applicant's mark on December 20, 2012.

15. Opposer retains priority of use of the mark UNEQUAL as Opposer has been using the mark UNEQUAL in commerce since as early as November 17, 2006, per its Registration No. 3,267,320 for goods covered in International Class 25, which is prior to Applicant's date of first use in commerce of Applicant's mark on December 20, 2012.

16. That the predominant feature of Applicant's Mark and Opposer's Marks, identified more fully on Federal Trademark Registrations: 3,433,363 and 4,296,114 is an equals sign with a diagonal slash, rendering Applicant's mark to be confusingly similar to Opposer's aforementioned marks.

17. Upon information and belief, Applicant's goods will be offered to the same class of consumers and through the same channels of trade as Opposer's goods. As applied to Applicant's goods, Applicant's Mark so resembles the Opposer's Marks, in fact nearly identical, that it is likely to cause confusion, or cause to mistake, or to deceive as to the source of the goods.

18. Upon information and belief, registration of Applicant's Mark will diminish and dilute the distinctive and famous quality of Opposer's Marks. One viewing Applicant's Mark will associate the mark with Opposer's goods, resulting in damage to Opposer.

19. Opposer will be damaged by Applicant's registration of Applicant's Mark for the goods identified in US Serial No. 85/919, 039 as a result of the aforementioned confusion, mistake, and deception.

20. By reason of the foregoing, Applicant is not entitled to registration of Applicant's Mark, Serial No. 85/919,039 for goods covered in International Class 25.

WHEREFORE, Opposer respectfully requests that the Application, Serial No. 85/919,039 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of the Opposer.

Respectfully submitted this 9th day of October, 2013.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/

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Counsel for Opposer

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

In the Matter of Serial No. 85/919,039, for the trademark application
WE R NOT EQUAL = and Design:



INC International Company,	:	
	:	
Opposer,	:	
	:	
vs.	:	Opposition No. _____
	:	
Redditt, Brittani,	:	
	:	
Applicant.	:	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing this 9th day of October 2013,
to be served, via first class mail, postage prepaid, upon:

BRITTANI REDDITT
18412 GARNER LN.
ACCOKEEK, MARYLAND 20607-3227

/Matthew H. Swyers/
Matthew H. Swyers

United States of America
United States Patent and Trademark Office

UNEQUAL

Reg. No. 4,162,517

Registered June 19, 2012

Int. Cl.: 25

TRADEMARK

PRINCIPAL REGISTER

INC INTERNATIONAL COMPANY (PENNSYLVANIA CORPORATION)
143 VIBURNUM DRIVE
KENNETT SQUARE, PA 19348

FOR: BRIEFS; SOCKS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 4-2-2012; IN COMMERCE 4-2-2012.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,929,512, 3,267,320, AND OTHERS.

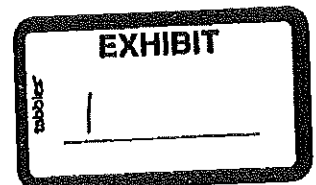
SN 85-976,623, FILED 4-20-2011.

JAY BESCH, EXAMINING ATTORNEY



David S. Kappas

Director of the United States Patent and Trademark Office



Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,433,363

Registered May 20, 2008

TRADEMARK
PRINCIPAL REGISTER



INC INTERNATIONAL COMPANY (PENNSYLVANIA CORPORATION)
143 VIBURNUM DRIVE
KENNETT SQUARE, PA 19348

FOR: SNEAKERS; TOPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

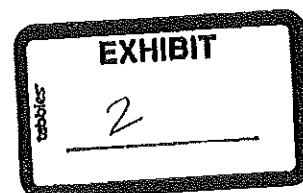
FIRST USE 11-12-2002; IN COMMERCE 7-20-2007.

OWNER OF U.S. REG. NO. 3,021,364.

THE MARK CONSISTS OF TWO PARALLEL LINES AND A DIAGONAL LINE INTERSECTING THROUGH THE TWO LINES.

SN 78-963,142, FILED 8-29-2006.

SAMUEL E. SHARPER JR., EXAMINING ATTORNEY



Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,267,320

Registered July 24, 2007

TRADEMARK
PRINCIPAL REGISTER

UNEQUAL

INC INTERNATIONAL COMPANY (PENNSYLVANIA CORPORATION)
1434 SUGARTOWN ROAD
BERWYN, PA 19312

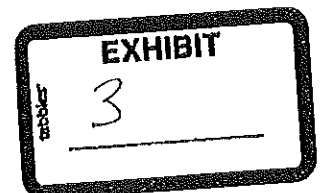
FOR: LEATHER SHOES; RUNNING SHOES; SHOES; SKI AND SNOWBOARD SHOES AND PARTS THEREOF; SKIING SHOES; SOCCER SHOES; TENNIS SHOES; VOLLEYBALL SHOES; WOMEN'S SHOES; WORK SHOES AND BOOTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 11-17-2006; IN COMMERCE 11-17-2006.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 77-005,479, FILED 9-22-2006.

SAMUEL E. SHARPER JR., EXAMINING ATTORNEY



United States of America

United States Patent and Trademark Office



Reg. No. 4,296,114

Registered Feb. 26, 2013

Int. Cls.: 9 and 25

TRADEMARK

PRINCIPAL REGISTER

INC INTERNATIONAL COMPANY (PENNSYLVANIA CORPORATION)
143 VIBURNUM DRIVE
KENNETT SQUARE, PA 19348

FOR: DECORATIVE MAGNETS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 5-3-2012; IN COMMERCE 5-3-2012.

FOR: SOCKS; UNDERWEAR, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 10-17-2011; IN COMMERCE 10-17-2011.

OWNER OF U.S. REG. NOS. 3,021,364, 3,433,363, AND OTHERS.

THE MARK CONSISTS OF THE DESIGN OF TWO HORIZONTAL BANDS THAT ARE PARALLEL, AND A DIAGONAL BAND INTERSECTING THE HORIZONTAL BANDS FORMING AN UNEQUAL SIGN.

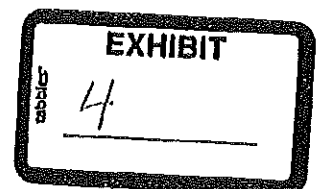
SN 85-300,369, FILED 4-20-2011.

JAY BESCH, EXAMINING ATTORNEY



Sean Howard Rice

Acting Director of the United States Patent and Trademark Office



Int. Cls.: 16 and 21

Prior U.S. Cls.: 2, 5, 13, 22, 23, 29, 30, 33, 37, 38, 40,
and 50

United States Patent and Trademark Office

Reg. No. 3,098,472

Registered May 30, 2006

TRADEMARK
PRINCIPAL REGISTER

UNEQUAL

INC INTERNATIONAL COMPANY (PENNSYL-
VANIA CORPORATION)
1434 SUGARTOWN ROAD
BERWYN, PA 19312

FOR: PAPER PRODUCTS, NAMELY POSTERS,
DECALS, BOOKS ON THE SUBJECT OF SELF-
IMPROVEMENT, IN CLASS 16 (U.S. CLS. 2, 5, 22,
23, 29, 37, 38 AND 50).

FIRST USE 8-25-2005; IN COMMERCE 8-25-2005.

FOR: MUGS, PLASTIC CUPS, IN CLASS 21 (U.S.
CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 8-25-2005; IN COMMERCE 8-25-2005.

SN 76-463,693, FILED 11-1-2002.

KATHERINE STOIDES, EXAMINING ATTORNEY

