

ESTTA Tracking number: **ESTTA605624**

Filing date: **05/21/2014**

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	Briggs & Riley Travelware, LLC		
Entity	Limited Liability Company	Citizenship	New York
Address	400 Wireless Blvd. Hauppauge, NY 11788 UNITED STATES		

Attorney information	Keith A. Weltsch Scully, Scott, Murphy & Presser, P.C. 400 Garden City Plaza Suite 300 Garden City, NY 11530 UNITED STATES intprop@ssmp.com, kweltsch@ssmp.com, hmanthey@ssmp.com Phone:516-742-4343		
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Applicant Information

Application No	86147781	Publication date	05/06/2014
Opposition Filing Date	05/21/2014	Opposition Period Ends	06/05/2014
Applicant	Verb Products, Inc. #1235 Los Angeles, CA 90064 UNITED STATES		

Goods/Services Affected by Opposition

Class 018. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Beach bags; Cosmetic bags sold empty; Cosmetic cases sold empty; Leather and imitation leather; Purses; Toiletry bags sold empty; Toiletry cases sold empty; Travel cases; Traveling bags; Travelling trunks; Umbrellas and parasols; Wallets
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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. Application No.	86211761	Application Date	03/05/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	VERB		

Design Mark	<h1>VERB</h1>
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 2007/06/00 First Use In Commerce: 2007/06/00 Bags and cases especially adapted for holding portable computers and computer tablets; protective covers, sleeves, and cases for tablet and portable computers</p> <p>Class 018. First use: First Use: 2007/06/00 First Use In Commerce: 2007/06/00 Luggage; messenger bags; business cases; carrying cases; attache cases; briefcases; backpacks; shoulder straps</p>

Attachments	86211761#TMSN.jpeg(bytes) Notice of Opposition.pdf(449946 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	/Keith A. Weltsch/
Name	Keith A. Weltsch
Date	05/21/2014

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

In the matter of Application Serial No. 86/147,781
Filed on December 18, 2013
For the Mark VERB
Published in the *Official Gazette* (Trademark) on May 6, 2014

Briggs & Riley Travelware, LLC)	
)	
Opposer,)	Opposition No.
v.)	
Verb Products, Inc.,)	
Applicant.)	

PARTIAL NOTICE OF OPPOSITION TO CLASS 18 GOODS

Briggs & Riley Travelware, LLC (“Opposer”), a limited liability company duly organized and existing under the laws of New York and having its principal place of business in Hauppauge, New York believes that it will be damaged by registration of the mark shown in the application filed by Verb Products, Inc. (“Applicant”) for the mark VERB, having Serial No. 86/147,781 for goods classified in International Class 18.

This Notice of Opposition has been timely filed, as application Serial No. 86/147,781 was published on May 6, 2014 and an opposition must be filed no later than June 5, 2014.

1. Applicant seeks to register the word mark VERB, which has been accorded Serial 86/147,781 (“Applicant’s Mark”), as a trademark in International Classes 3, 18 and 21, and particularly in Class 18 for use in conjunction with “Beach bags; Cosmetic bags sold empty; Cosmetic cases sold empty; Leather and imitation leather; Purses; Toiletry bags sold empty;

Toiletry cases sold empty; Travel cases; Traveling bags; Travelling trunks; Umbrellas and parasols; Wallets” in International Class 18.

2. Opposer is the owner of the word mark VERB in the United States for use in conjunction with bags, covers, sleeves and cases adapted for storing and holding portable tablets and computers, as well as luggage, messenger bags, business cases, carrying cases, attaché cases, briefcases, backpacks and shoulder straps.

3. Opposer adopted and used the VERB mark in commerce in connection with such products referenced in Paragraph 2 long prior to any date upon which Applicant can rely for the mark VERB for any products in Class 18 covered by Applicant’s Mark.

4. Opposer has significant common law interest and rights to the term VERB as a trademark for use, and in conjunction with, bags, covers, sleeves and cases adapted for storing and holding portable tablets and computers, as well as luggage, messenger bags, business cases, carrying cases, attaché cases, briefcases, backpacks and shoulder straps, which has been in use by Opposer in interstate commerce since at least as early as 2007.

5. Opposer’s said VERB mark is inherently distinctive when used on or in connection with bags, covers, sleeves and cases adapted for storing and holding portable tablets and computers, as well as luggage, messenger bags, business cases, carrying cases, attaché cases, briefcases, backpacks and shoulder straps.

6. Opposer’s said VERB trademark is symbolic of the extensive goodwill and consumer recognition built up through significant sales of such bags, covers, sleeves and cases adapted for storing and holding portable tablets and computers, as well as luggage, messenger bags, business cases, carrying cases, attaché cases, briefcases, backpacks and shoulder straps in the United States bearing said VERB trademark over a lengthy period of time.

7. Opposer has so used the VERB trademark in the United States in connection with bags, covers, sleeves and cases adapted for storing and holding portable tablets and computers, as well as luggage, messenger bags, business cases, carrying cases, attaché cases, briefcases, backpacks and shoulder straps that said trademark acquired distinctiveness long prior to any date upon which Applicant can rely, in that the public closely associates said trademark with Opposer, and that said trademark originates exclusively with Opposer in connection with such products.

8. Opposer is the owner of a pending U.S. trademark application for the mark VERB filed under U.S. Serial No. 86/211,761 for “Bags and cases especially adapted for holding portable computers and computer tablets; protective covers, sleeves, and cases for tablet and portable computers” in Class 9, and “Luggage; messenger bags; business cases; carrying cases; attache cases; briefcases; backpacks; shoulder straps” in Class 18.

9. Applicant’s VERB mark is identical to Opposer’s VERB mark.

10. The Class 18 goods included in Applicant’s VERB application, which has been assigned U.S. Serial No. 86/147,781, are in some instances identical, and in other instances, very highly related to the goods in which Opposer has a prior common law right in conjunction with its VERB trademark which are in the nature of bags, covers, sleeves and cases adapted for storing and holding portable tablets and computers, as well as luggage, messenger bags, business cases, carrying cases, attaché cases, briefcases, backpacks and shoulder straps.

11. Applicant’s VERB mark when applied to the Class 18 goods covered by its application filed under U.S. Serial No. 86/147,781 so resembles Opposer’s VERB mark as used in conjunction with bags, covers, sleeves and cases adapted for storing and holding portable tablets and computers, as well as luggage, messenger bags, business cases, carrying cases, attaché cases, briefcases, backpacks and shoulder straps, as to cause confusion, mistake or deception within the meaning of section 2(d) of the Trademark Act.

12. In addition, if Applicant's VERB mark for its listed Class 18 goods filed under U.S. Serial No. 86/147,781 matures to registration, Opposer believes it will be damaged, in that its pending application for the mark VERB filed under U.S. Serial No. 86/211,761 is likely to be refused by the U.S. Patent and Trademark Office due to the identity of the relevant marks and identity and/or relatedness of the Class 18 goods filed under U.S. Serial No. 86/147,781 as compared to the goods covered by Opposer's VERB mark filed under U.S. Serial No. 86/211,761.

13. Given Opposer's longstanding and prior trademark rights in and to the VERB mark for use in conjunction with bags, covers, sleeves and cases adapted for storing and holding portable tablets and computers, as well as luggage, messenger bags, business cases, carrying cases, attaché cases, briefcases, backpacks and shoulder straps, any federal trademark registration for the mark VERB granted to Applicant for the Class 18 goods listed under U.S. Serial No. 86/147,781 would be improper and would interfere with Opposer's significant prior rights in the VERB mark.

14. For the foregoing reasons, Applicant should not be entitled to registration of its International Class 18 goods for the VERB mark filed under, and accorded, U.S. Serial No. 86/147,781.

Opposer hereby requests that the required \$300 fee proscribed under 37 C.F.R. §2.6 be withdrawn from Deposit Account No. 19-1013 in order to effect an Opposition against the Class 18 goods listed under U.S. Serial No. 86/147,781.

WHEREFORE, Opposer believes and alleges that it will be damaged by registration of the VERB mark filed under Serial No. 86/147,781 as aforesaid for the goods classified in International Class 18 and prays that judgment in the present opposition be entered in favor of Opposer and that registration of U.S. Application Serial No. 86/147,781 for the Class 18 goods associated with this application be refused.

Opposer hereby appoints the following attorneys, to whom all correspondence should be addressed, to prosecute this Opposition and transact all business in the Patent and Trademark Office connected therewith:

Please address all correspondence to:

Keith A. Weltsch
Peter I. Bernstein
SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
Telephone: (516) 742-4343

Respectfully submitted,

Briggs & Riley Travelware, LLC

Dated: May 21, 2014

By: 


Keith A. Weltsch
Peter I. Bernstein
SCULLY, SCOTT, MURPHY & PRESSER
400 Garden City Plaza, Suite 300
Garden City, New York 11530
Telephone: (516) 742-4343
Facsimile: (516) 742-4366
General Email: intprop@ssmp.com

COUNSEL FOR OPPOSER

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Partial Notice of Opposition To Class 18 Goods is being deposited with the United States Postal Service as first class mail, postage prepaid, to counsel for Applicant on this 21st day of May 2014 as follows:

Mark D. Kremer, Esq.
Conkle, Kremer & Engel, Plc
3130 Wilshire Blvd Ste 500
Santa Monica, California 90403-2351


Keith A. Weltsch