

ESTTA Tracking number: **ESTTA631732**

Filing date: **10/08/2014**

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 parties oppose registration of the indicated application.

Opposers Information

| | |
|---------------------------------------|--|
| Name | Riddell, Inc. |
| Granted to Date of previous extension | 10/08/2014 |
| Address | 9801 West Higgins Road, 8th Floor Rosemont, IL 60018 UNITED STATES |

| | | | |
|---------|--|-------------|----------|
| Name | Ridmark Corporation | | |
| Entity | Corporation | Citizenship | Delaware |
| Address | 9801 West Higgins Road, 8th Floor Rosemont, IL 60018 UNITED STATES | | |

| | |
|----------------------|--|
| Attorney information | Ulrika E. Mattsson McDermott Will & Emery LLP 227 West Monroe Street, Suite 4400 Chicago, IL 60606 UNITED STATES umattsson@mwe.com, jmikulina@mwe.com, psiavelis@mwe.com, cvicino@mwe.com, lbalsan@mwe.com, ipdocketchicago@mwe.com Phone:312.372.2000 |
|----------------------|--|

Applicant Information

| | | | |
|------------------------|--|------------------------|------------|
| Application No | 85961076 | Publication date | 06/10/2014 |
| Opposition Filing Date | 10/08/2014 | Opposition Period Ends | 10/08/2014 |
| Applicant | Wu, Zhenshan 5-3A,Jun Yi Hua Fu,No.3033 Taibai Road Luohu, Shenzhen, 518019 CHINA | | |


Goods/Services Affected by Opposition


Class 028. First Use: 2011/04/01 First Use In Commerce: 2011/04/01
All goods and services in the class are opposed, namely: Athletic protective pads for sporting activities; Athletic sporting goods, namely, athletic wrist and joint supports; Athletic supporters; Body protectors for sporting activities; Knee guards for athletic use; Knee pads for athletic use; Protective padding for playing sporting activities; Protective supports for shoulders and elbows; Throat protectors for athletic use; Wrist guards for athletic use

Grounds for Opposition

| | |
|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
|--------------------------------------|----------------------------|

Marks Cited by Opposer as Basis for Opposition

| | | | |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 3149236 | Application Date | 10/04/2004 |
| Registration Date | 09/26/2006 | Foreign Priority Date | NONE |
| Word Mark | CUSTOM POWER | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 028. First use: First Use: 2004/09/01 First Use In Commerce: 2004/09/01 athletic equipment, namely, protective equipment and padding for athletic activity and sports, namely, shoulder pads [, shin guards, chest pads, rib pads, hip-pads, knee pads, thigh pads, tailbone pads, elbow pads, forearm pads, and neck pads] | | |

| | | | |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 3149237 | Application Date | 10/04/2004 |
| Registration Date | 09/26/2006 | Foreign Priority Date | NONE |
| Word Mark | CUSTOM POWER | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 028. First use: First Use: 2004/09/01 First Use In Commerce: 2004/09/01 athletic equipment, namely, protective equipment and padding for athletic activity and sports, namely, shoulder pads, shin guards, chest pads, rib pads, hip pads, knee pads, thigh pads, tailbone pads, elbow pads, forearm pads, and neck pads | | |


| | | | |
|-----------------------|---------|------------------|------------|
| U.S. Registration No. | 3149241 | Application Date | 10/04/2004 |
|-----------------------|---------|------------------|------------|

| | | | |
|---------------------|--|-----------------------|------|
| Registration Date | 09/26/2006 | Foreign Priority Date | NONE |
| Word Mark | CUSTOM POWER EXTREME | | |
| Design Mark | CUSTOM POWER EXTREME | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 028. First use: First Use: 2005/09/01 First Use In Commerce: 2005/09/01 athletic equipment, namely, protective equipment and padding for athletic activity and sports, namely, shoulder pads, shin guards, chest pads, rib pads, hip pads, knee pads, thigh pads, tailbone pads, elbow pads, forearm pads, and neck pads | | |


| | | | |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 3261862 | Application Date | 11/25/2003 |
| Registration Date | 07/10/2007 | Foreign Priority Date | NONE |
| Word Mark | POWER | | |
| Design Mark | POWER | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 028. First use: First Use: 1987/02/05 First Use In Commerce: 1987/02/05 Athletic equipment, namely, mouth guards, shin guards and pads, chest guards and pads, wrist guards and pads, arm guards and pads, calf guards and pads, elbow guards and pads, throat guards, and athletic supporters; football equipment, namely, footballs, football body part guards and pads, football girdles; karate equipment, namely, karate gloves, head guards, kick pads, shin pads, target pads; lacrosse equipment, namely, lacrosse balls, ball bags, sticks; baseball equipment, namely, baseballs, baseball gloves, bats, grip tape for bats, batting | | |

| | |
|--|--|
| | gloves, batting tees, catchers' mitts, first basemen's mitts |
|--|--|

| | | | |
|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 1537482 | Application Date | 09/24/1987 |
| Registration Date | 05/02/1989 | Foreign Priority Date | NONE |
| Word Mark | POWER | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 028. First use: First Use: 1987/02/05 First Use In Commerce: 1987/02/05 ATHLETIC EQUIPMENT, NAMELY FOOTBALL PROTECTIVE PADS FOR VARIOUS PARTS OF THE BODY, SUCH AS SHOULDER PADS, CHEST PADS AND THIGH PADS | | |

| | | | |
|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 1711910 | Application Date | 09/03/1991 |
| Registration Date | 09/01/1992 | Foreign Priority Date | NONE |
| Word Mark | POWER | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 028. First use: First Use: 1987/02/05 First Use In Commerce: 1988/05/31 athletic equipment; namely, football protective pads for various parts of the body, such as shoulder pads, chest pads, and thigh pads | | |

| | | | |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 2039625 | Application Date | 08/12/1994 |
| Registration Date | 02/25/1997 | Foreign Priority Date | NONE |
| Word Mark | POWER | | |

| | |
|---------------------|--|
| Design Mark |  |
| Description of Mark | NONE |
| Goods/Services | Class 028. First use: First Use: 1987/04/30 First Use In Commerce: 1987/04/30 [baseball equipment, namely catcher's protective equipment, namely facemask and shin guards; batting gloves; catcher'sgloves;] baseball fielder's gloves; [baseball bats; softball bats;] hockey equipment, namely shin guards, shoulder pads, hockey sticks, hockey gloves; balls, namely [baseballs,] volleyballs, soccer balls, [softballs, and golf balls] |

| | | | |
|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 1809340 | Application Date | 09/09/1991 |
| Registration Date | 12/07/1993 | Foreign Priority Date | NONE |
| Word Mark | POWER PAC | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 028. First use: First Use: 1989/09/12 First Use In Commerce: 1989/09/12 athletic equipment; namely, football protective pads for various parts of the body, such as shoulder pads, chest pads, and thigh pads | | |

| | |
|-------------|--|
| Attachments | 76614743#TMSN.png(bytes) 76614744#TMSN.png(bytes) 76614854#TMSN.png(bytes) 78332795#TMSN.png(bytes) 74200023#TMSN.png(bytes) 74560301#TMSN.png(bytes) POWER IONICS Not of Opp -77146-623.pdf(29139 bytes) |
|-------------|--|

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 | /Ulrika E. Mattsson/ |
| Name | Ulrika E. Mattsson |
| Date | 10/08/2014 |

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

In the matter of trademark application Serial No. 85/961,076
For the mark POWER IONICS
Published in the Official Gazette on June 10, 2014

Ridmark Corporation and Riddell, Inc.,

Opposers,

v.

Zhenshan Wu,




Applicant.

NOTICE OF OPPOSITION

Ridmark Corporation, a Delaware corporation, with its principal place of business at 9801 West Higgins Road; Rosemont, Illinois 60018 and Riddell, Inc., an Illinois Corporation, with its principal place of business at 9801 West Higgins Road, Rosemont, Illinois 60018 (together, the “Opposers”), through its counsel, McDermott Will & Emery LLP; 227 West Monroe Street; Chicago, Illinois 60606, hereby states that they will be damaged by registration of the mark POWER IONICS, covered by U.S. Application Serial Number 85/961,076, filed by Zhenshan Wu (“Applicant”), and therefore files this Notice of Opposition to the application.

The grounds for this Opposition are as follows:

1. Opposers and their related companies are well-known leading manufacturers and distributors of sports and athletic equipment. Opposers and their related companies have been manufacturing and selling sports and athletic equipment for over eighty years.
2. Opposers are the owners of a family of marks containing the term POWER, including the following U.S. trademark registrations (together, the “POWER Marks”):

| Trademark | Application Number (Application Date) | Registration Number (Registration Date) | Goods |
|---|--|--|---|
| CUSTOM POWER | 76-614743 (October 4, 2004) | 3,149,236 (September 26, 2006) | Class 28: Athletic equipment, namely, protective equipment and padding for athletic activity and sports, namely, shoulder pads [shin guards, chest pads, rib pads, hip pads, knee pads, thigh pads, tailbone pads, elbow pads, forearm pads, and neck pads] |
|  | 76-614744 (October 4, 2004) | 3,149,237 (September 26, 2006) | Class 28: Athletic equipment, namely, protective equipment and padding for athletic activity and sports, namely, shoulder pads, shin guards, chest pads, rib pads, hip pads, knee pads, thigh pads, tailbone pads, elbow pads, forearm pads, and neck pads |
| CUSTOM POWER EXTREME | 76-614854 (October 4, 2004) | 3,149,241 (September 26, 2006) | Class 28: Athletic equipment, namely, protective equipment and padding for athletic activity and sports, namely, shoulder pads, shin guards, chest pads, rib pads, hip pads, knee pads, thigh pads, tailbone pads, elbow pads, forearm pads, and neck pads |
| POWER | 78-332795 (November 25, 2003) | 3,261,862 (July 10, 2007) | Class 28: Athletic equipment, namely, mouth guards, shin guards and pads, chest guards and pads, wrist guards and pads, arm guards and pads, calf guards and pads, elbow guards and pads, throat guards, and athletic supporters; football equipment, namely, footballs, football body part guards and pads, football girdles; karate equipment, namely, karate gloves, head guards, kick pads, shin pads, target pads; lacrosse equipment, namely, lacrosse balls, ball bags, sticks; baseball equipment, namely, baseballs, baseball gloves, bats, grip tape for bats, batting gloves, batting tees, catchers' mitts, first basemen's mitts |
| POWER | 73-686094 (September 24, 1987) | 1,537,482 (May 2, 1989) | Class 28: Athletic equipment, namely football protective pads for various parts of the body, such as shoulder pads, chest pads and thigh pads |
| POWER and Design  | 74-200023 (September 3, 1991) | 1,711,910 (September 1, 1992) | Class 28: Athletic equipment; namely, football protective pads for various parts of the body, such as shoulder pads, chest pads, and thigh pads |
| POWER and Design  | 74-560301 (August 12, 1994) | 2,039,625 (February 25, 1997) | Class 28: baseball fielder's gloves; hockey equipment, namely shin guards, shoulder pads, hockey sticks, hockey gloves; balls, namely volleyballs, soccer balls |

| Trademark | Application Number (Application Date) | Registration Number (Registration Date) | Goods |
|------------------|--|--|---|
| POWER PAC | 74-202069 (September 9, 1991) | 1,809,340 (December 7, 1993) | Class 28: Athletic equipment; namely, football protective pads for various parts of the body, such as shoulder pads, chest pads, and thigh pads |

3. Since at least as early as February 2, 1987, Opposers’ predecessors-in-interest and their licensees have used the POWER Marks in interstate commerce in connection with athletic equipment.

4. Opposers and their licensees have expended substantial sums and resources to advertise and promote their goods under the POWER Marks.

5. By reason of the widespread advertisement, promotion and sale of athletic goods under the POWER Marks for so many years, the POWER Marks are famous throughout the United States and internationally, and Opposers have developed substantial goodwill in the POWER Marks.

6. Notwithstanding the prior use of and rights in and to Opposers’ POWER Marks, on June 17, 2013, Applicant filed U.S. Application Serial No. 85/961,076 (the “POWER IONICS Application”), for registration of the mark POWER IONICS for use in connection with “athletic protective pads for sporting activities; athletic sporting goods, namely, athletic wrist and joint supports; athletic supporters; body protectors for sporting activities; knee guards for athletic use; knee pads for athletic use; protective padding for playing sporting activities; protective supports for shoulders and elbows; throat protectors for athletic use; wrist guards for athletic use” in International Class 28.

7. The POWER IONICS Application was published in the Official Gazette (Trademarks) of the United States Patent and Trademark Office on June 10, 2014. Opposers obtained an extension of time to file this Notice of Opposition through October 8, 2014. Therefore,

this Opposition is being timely filed. The Opposers are affiliates and controlled by the same parent company and are both the recorded owner of their POWER Marks. Therefore, the Opposers are in privity.

8. Upon information and belief, Opposers believe there is a definite relationship and overlap between the goods offered in connection with Applicant's POWER IONICS mark and the goods set forth in Opposers' POWER Marks and actually offered in connection with Opposers' POWER Marks. The mark in the POWER IONICS Application is therefore likely to be confused with Opposers' POWER Marks.

9. Upon information and belief, the goods identified in the Applicant's application for the trademark POWER IONICS and those products sold under the Opposers' POWER Marks are sold to the same potential consumers or end-users.

10. Both Applicant's mark and Opposers' POWER Marks contain the term POWER.

11. Because Applicant's POWER IONICS mark is very similar to Opposers' POWER Marks, purchasers of the goods are likely to believe that Applicant's POWER IONICS products are related to, affiliated with or extensions of the goods offered under Opposers' POWER Marks or endorsed or sponsored by Opposers.

12. Applicant further states that it has been using its POWER IONICS mark in commerce since April 1, 2011. Opposers and their predecessors have been using their POWER Marks since at least as early as February 5, 1987 –over twenty years before Applicant's use allegedly started.

13. Accordingly, Applicant's registration and use of the mark POWER IONICS is likely to cause confusion in the minds of consumers or to cause mistake or to deceive, or otherwise injure,

diminish or detract from the prior rights firmly established by Opposers in and to the POWER Marks, and will seriously damage Opposers and their goodwill and reputation.

14. Opposers' POWER Marks are famous, and the registration of Applicant's POWER IONICS mark is likely to injure Opposers' business reputation and tarnish and dilute the distinctive quality of Opposers' famous POWER Marks.

WHEREFORE, Opposers believe that they will be damaged by registration of Applicant's mark and prays that it be denied.

Respectfully submitted,

Ridmark Corporation
Riddell, Inc.

Date: October 8, 2014

By: //Ulrika E. Mattsson//
Attorneys for Opposers
Peter M. Siavelis
Jennifer M. Mikulina
Ulrika E. Mattsson
McDERMOTT WILL & EMERY LLP
227 West Monroe Street, Suite 4400
Chicago, Illinois 60606
312.372.2000 (telephone)
312.984.7700 (facsimile)
IPDocketChicago@mwe.com

DM_US 55123899-2.077146.0128
12:38 PM