

ESTTA Tracking number: **ESTTA756187**

Filing date: **07/05/2016**

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    | Lacoste Alligator S.A.                          |             |             |
| Entity  | Corporation                                     | Citizenship | Switzerland |
| Address | 6 rue Cornavin<br>Geneva 1, 1211<br>SWITZERLAND |             |             |

|                      |   |  |  |
|----------------------|---|--|--|
| Attorney information | David Ehrlich<br>Fross Zelnick<br>866 UN Plaza<br>New York, NY 10017<br>UNITED STATES<br>ehrllich-docket@fzllz.com Phone:212 813-5920 |  |  |
|----------------------|---|--|--|

### Applicant Information

|                        |   |                        |            |
|------------------------|---|------------------------|------------|
| Application No         | 86834508  | Publication date       | 06/07/2016 |
| Opposition Filing Date | 07/05/2016  | Opposition Period Ends | 07/07/2016 |
| Applicant              | Young, Rich C<br>7940 E. GARVEY AVE, SUITE 106<br>ROSEMEAD, CA 91770<br>UNITED STATES |                        |            |

### Goods/Services Affected by Opposition

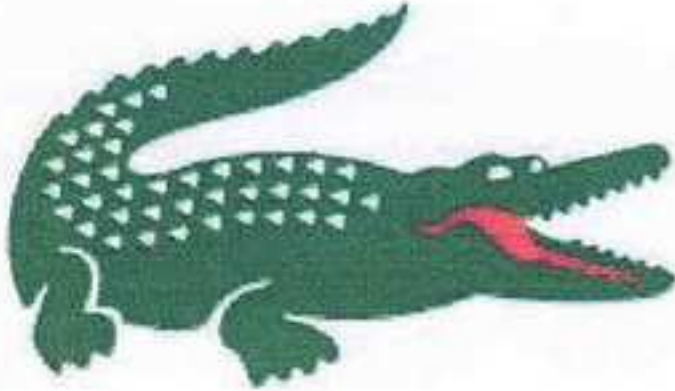
|   |
|---|
| Class 025. First Use: 0 First Use In Commerce: 0<br>All goods and services in the class are opposed, namely: A-shirts; Belts; Blouses |
|---|

### Grounds for Opposition

|  |                            |
|--|----------------------------|
| Priority and likelihood of confusion   | Trademark Act Section 2(d) |
| No bona fide intent to use mark in commerce for identified goods or services | Trademark Act Section 1(b) |


### Marks Cited by Opposer as Basis for Opposition

|                       |            |                       |            |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3129817    | Application Date      | 09/15/2005 |
| Registration Date     | 08/15/2006 | Foreign Priority Date | NONE       |
| Word Mark             | NONE       |                       |            |

|                     |  |
|---------------------|--|
| Design Mark         |    |
| Description of Mark | NONE   |
| Goods/Services      | Class 025. First use: First Use: 2002/12/00 First Use In Commerce: 2003/03/00<br>Sweaters, blazers, shirts, polo shirts, dress shirts, turtle neck shirts, tee-shirts, sweatshirts, knit shirts, jackets, parkas, trousers, shorts, bermuda shorts, track suit trousers, track suits, skirts, dresses, beachwear, socks, wrist bands, head bands, scarves, headwear, neckwear, gloves, underwear, footwear |

|                       |            |                       |            |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3220138    | Application Date      | 05/30/2006 |
| Registration Date     | 03/20/2007 | Foreign Priority Date | NONE       |

|           |      |
|-----------|------|
| Word Mark | NONE |
|-----------|------|

|                     |  |
|---------------------|--|
| Design Mark         |    |
| Description of Mark | The mark consists of a stylized representation of an alligator or crocodile in green, with a red mouth, black outline, and white outer-outline.  |
| Goods/Services      | Class 018. First use: First Use: 2002/03/00 First Use In Commerce: 2004/10/00<br>luggage; rucksacks; fanny packs; waist packs; belt bags; belt pouches; toiletry cases sold empty; cosmetic cases sold empty; tote bags; all purpose sport bags; gym bags; hand bags; shoulder bags; briefcases; wallets<br>Class 025. First use: First Use: 1935/00/00 First Use In Commerce: 1950/00/00<br>sweaters, shirts, polo shirts, dress shirts, turtle neck shirts, tee-shirts, sweat- |

|  |   |
|--|---|
|  | shirts, knit shirts, trousers, shorts, bermuda shorts, track suit trousers, track suits, skirts, dresses, beachwear, socks, wrist bands, head bands, scarves, headwear, neckwear, gloves, underwear, footwear |
|--|---|

|             |   |
|-------------|---|
| Attachments | 78713877#TMSN.png( bytes )<br>78895956#TMSN.png( bytes )<br>Lacoste v Rich C Young Notice of Opposition F1992547x96B9E.PDF(131715 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 | /dwe/         |
| Name      | David Ehrlich |
| Date      | 07/05/2016    |

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

In the Matter of Serial No. 86/834508

-----X  
LACOSTE ALLIGATOR S.A., :  
Opposer, : Opposition No.  
- against - :  
RICH C. YOUNG, :  
Applicant. :  
-----X

**NOTICE OF OPPOSITION**

Opposer believes that it will be damaged by registration of the mark shown in the above-described ITU application, and hereby opposes the same. As grounds of opposition, it is alleged that:

COUNT I – Likely Confusion

1. Opposer owns design marks of a crocodile or alligator for shirts, belts and other clothing. Opposer, through licensees, has used this mark in the U.S. for such goods since long before Applicant's filing date and continues to do so. The Opposer's design mark usually appears in the color green with a red mouth. The mark often appears in two slightly different versions on clothing, that is, in a somewhat simplified image as an embroidery patch sewn on the front of the clothing and in a more detailed version, with crisper lines, appearing on labels and packaging of clothing.

2. Opposer owns U.S. Trademark Reg. No. 3129817 for the label version



and 3220138 for the embroidery patch version



for

shirts and other clothing. These registrations are valid, fully in force and incontestable.

3. Applicant filed the application at issue on November 30, 2015, based on intent-to-use, for a mark consisting of a design of a green alligator or crocodile head with a red mouth, plus the letters USA, for the same types of clothing (shirts and belts) and closely related clothing (blouses). Upon information and belief, Applicant has no basis to claim an earlier priority than Opposer.

4. Applicant's mark so resembles Opposer's marks as to be likely, when applied to the goods of Applicant, to cause confusion, or to cause mistake, or to deceive, in violation of Lanham Act Section 2(d).

5. Opposer would be injured by the granting to Applicant of a certificate of registration for the trademark for which registration is sought because this mark would tend to damage Opposer's goodwill in its marks.

6. By reason of the foregoing, Applicant is not entitled to the registration of the trademark sought by its application.

COUNT II – Lack of Bona Fide Intention to Use the Mark

7. Upon information and belief, the full name of the application is Rich Chen Young, and he is, by profession, an accountant and tax preparer.

8. Upon information and belief, specimens of use that Mr. Young filed in other U.S. trademark applications, such as SN 85477278 (ITALIA USA & design), SN 74429686 (SWISSUSA) and SN 85615900 (IRISH USA & design) are crude black and white labels, apparently printed on office equipment, for the specific purpose of filing fabricated specimens or making token uses to obtain or maintain registration without actual commercial sales.

9. The applicant previously copied the famous mark POLO for clothing and was the defendant in Opposition No. 91206799, by PRL USA Holdings, Inc., against his application SN 85484346, for the mark THE POLO CLUB OF AMERICA USA plus a design of a polo player on a horse, for "shirts, polo shirts, tee shirts." PRL USA Holdings, Inc. opposed on the basis of its prior rights in the famous marks POLO, POLO RALPH LAUREN and the design of a polo player on a horse for the same goods. In an order dated October 16, 2013, the Board sustained the opposition on the basis of the

applicant's lack of a bona fide intention to use the mark, given that the applicant was unable to produce any documentation showing that the applicant was engaged in the clothing business or had any plans to use the mark at issue.

10. Upon information and belief, based on an internet search, the applicant is not engaged in the business of production of clothing.

11. Based on all the foregoing, upon information and belief, the applicant lacks a bona fide intention to use the mark for the goods claimed in the application. Accordingly, the application is invalid under Section 1(b) of the U.S. Trademark Act.


WHEREFORE, Opposer respectfully prays that this opposition be sustained and that the application be denied.

Dated: New York, New York  
July 5, 2016

Respectfully submitted,

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: \_\_\_\_\_

  
David Ehrlich  
Attorney for Opposer  
866 United Nations Plaza  
New York, New York 10017  
(212) 813-5900  
Opposer's Ref: LCA USA TC-1604853

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served by First Class mail on the Applicant, Rich C. Young, at 7940 E. Garvey Avenue, Suite 106, Rosemead, California 91770, on July 5, 2016.



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David Ehrlich