

ESTTA Tracking number: **ESTTA883651**

Filing date: **03/15/2018**

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	Isabelle Vesey
Granted to Date of previous extension	04/04/2018
Address	24 N Bryn Mawr Ave, Ste 286 Bryn Mawr, PA 19010 UNITED STATES

Attorney information	NICOLE D GALLI LAW OFFICES OF ND GALLI LLC 2 PENN CENTER PLZ 1500 JFK BLVD Suite 910 PHILADELPHIA, PA 19102 UNITED STATES Email: ndgalli@ndgallilaw.com, pchoplin@ndgallilaw.com Phone: 2155259583
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Applicant Information

Application No	86481841	Publication date	12/05/2017
Opposition Filing Date	03/15/2018	Opposition Period Ends	04/04/2018
Applicant	EZ WRAP INC 3256 ABERYLS ST SPRING HILL, FL 34606 UNITED STATES		

Goods/Services Affected by Opposition


Class 016. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Gift wrap paper

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.	87768427	Application Date	01/24/2018
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	VZWRAPS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 024. First use: First Use: 2010/04/01 First Use In Commerce: 2010/04/01 Gift wrap of fabric; Gift wrap of textile

Attachments	87768427#TMSN.png(bytes) Notice of Opposition Re EZWRAP 3.15.2018.pdf(511506 bytes)
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Signature	/Nicole D. Galli/
Name	NICOLE D GALLI
Date	03/15/2018

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5

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

8 In the Matter of Application Serial No. 86481841
9 For the mark: EZ WRAP
Published: December 5, 2017
10

11 ISABELLE VESEY D/B/A VZWRAPS,

12 Plaintiff,

13 vs.

14 EZ WRAP INC.,

15 Defendant

Opposition No.: _____

NOTICE OF OPPOSITION

16 Opposer, Isabelle Vesey d/b/a VZWRAPS, with a principal place of business at 24 N Bryn Mawr
17 Ave., Suite 286, Bryn Mawr, PA 19010, believes she will be damaged by the issuance of a registration for the
18 proposed mark shown in Application Serial No. 86481841. Opposer hereby opposes the same pursuant to Section
19 13(a) of the Lanham Trademark Act of 1946 ("The Lanham Act"), 15 U.S.C. § 1063(a).

20 As grounds for opposition, Opposer alleges as follows:

- 21 1. Opposer is a manufacturer and retailer of gift wrap of fabric and gift wrap of textile in the
22 United States under the trademark, VZWRAPS.
- 23 2. Opposer has used the VZWRAPS mark in commerce in the United States through various
24 retail channels continuously since April 2010 in connection with the sale of the fabric
25 wine and gift bags described above. Attached hereto as Exhibit 1 are screenshots of
26 Opposer's shop on Etsy.com showing Opposer's use of the VZWRAPS mark in

1 connection with the advertising and sale of the fabric wine and gift bags from April 2010
2 to May 2016; attached hereto as Exhibit 2 are screenshots of Opposer's website showing
3 Opposer's use of the VZWRAPS mark in connection with the advertising and sale of the
4 fabric wine and gift bags since October 2011; attached hereto as Exhibit 3 is a screenshot
5 of Opposer's shop on Amazon.com showing Opposer's use of the VZWRAPS mark in
6 connection with the advertising and sale of the fabric wine and gift bags since August
7 2014; attached hereto as Exhibit 4 is an image of Opposer's use of the VZWRAPS mark
8 on the fabric bags themselves since 2010.

- 9 3. Opposer has used the VZWRAPS mark in connection with the sales of fabric gift bags in
10 interstate and international commerce to customers in all 50 states of the United States
11 and over a half dozen foreign countries.
- 12 4. Opposer has used the VZWRAPS mark in connection with the sales of fabric gift bags to
13 thousands of customers who purchased the VZWRAPS products from Etsy.com,
14 Amazon.com, and the VZWRAPS website. From 2010 to 2017, Opposer sold thousands
15 of units bearing the VZWRAPS mark. In fact, Opposer's sales have approximately
16 doubled every year for the past three years and Opposer has a five-star rating with over
17 95% positive feedback on Amazon.com in the last 12 months.
- 18 5. Opposer offers high-quality, reusable products under the VZWRAPS mark which has
19 aided Opposer in building her brand and reputation as evidenced by her positive feedback
20 ratings on Amazon.com, her registration as a member of the Sustainable Business
21 Network of Greater Philadelphia, and her acclaim on blogs focused on eco-friendly
22 products, such as Green Philly Blog at [http://www.greenphillyblog.com/philly/vz-wraps-
23 review/](http://www.greenphillyblog.com/philly/vz-wraps-review/) and USA Love List at [https://www.usalovelist.com/fabric-reusable-gift-wrap-
24 bags-vzwraps/](https://www.usalovelist.com/fabric-reusable-gift-wrap-bags-vzwraps/).
- 25 6. As a result of her use of the VZWRAPS mark to identify her products, Opposer has
26 common law rights to the mark. Additionally, VZWRAPS has filed a trademark

1 application, Application Serial No. 8,7768,427, with the United States Patent and
2 Trademark Office on January 24, 2018 with a use date that predates Applicant's trademark
3 application. Additionally, Applicant's trademark application is an intent to use
4 application and upon information and belief, Applicant has not used the trademark in
5 commerce.

- 6 7. Opposer has expended substantial time, money, and resources marketing, advertising, and
7 promoting the products sold under the VZWRAPS mark, including through digital
8 marketing and internet sales on Etsy, Amazon, and the VZWRAPS website.
- 9 8. Opposer's business is registered in the Sustainable Business Network of Greater
10 Philadelphia.
- 11 9. Upon information and belief, on December 16, 2014, Applicant, EZ WRAP INC., with
12 an address at 3256 Aberyls Street, Spring Hill, FL 34606, filed trademark Application
13 Serial No. 86481841 to register the proposed mark EZ WRAP for "Gift wrap paper" in
14 International Class 016, versus Opposer's mark in International Class 024.
- 15 10. Opposer's VZWRAPS mark has priority over the proposed mark because her use predates
16 the Applicant's filing date or any other date on which the Applicant may rely for purposes
17 of priority.
- 18 11. Applicant's proposed mark is confusingly similar to Opposer's VZWRAPS mark.
19 VZWRAPS and EZ WRAP have a similar appearance and a similar sound.
- 20 12. The intended products covered by Applicant's Application Serial No. 86481841 are
21 closely related to the products Opposer offers under its VZWRAPS mark. Specifically,
22 Applicant intends to use the proposed mark to sell gift wrap paper and Opposer sells gift
23 wrap of fabric and gift wrap of textile under her VZWRAPS mark.

1 **GROUNDS FOR OPPOSITION – LIKELIHOOD OF CONFUSION AND PRIOR USE**

2 13. Applicant’s proposed mark should not be permitted to be registered because the proposed
3 mark is visually and audibly similar to Opposer’s previously-used VZWRAPS mark. This
4 similarity, when used in connection with the alleged intended gift wrap paper products of
5 Applicant, is likely to cause confusion, mistake, or deception within the meaning of 15
6 U.S.C. § 105(d). In determining whether a likelihood of confusion exists, the relevant
7 factors outlined in *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357 (C.C.P.A. 1973)
8 must be considered. These factors include the following: (i) the similarity or dissimilarity
9 of the marks in their entirety as to appearance, sound, connotation, and commercial
10 impression; (ii) the relatedness of the goods or services as described in an application or
11 registration or in connection with which a prior mark is in use; (iii) the similarity or
12 dissimilarity of established, likely to continue trade channels; (iv) the conditions under
13 which, and buyers to whom, sales are made, i.e. “impulse” v. careful, sophisticated
14 purchasing; and (v) the number and nature of similar marks in use on similar goods. *Id.*

15 14. The pertinent factors support a finding that there is a likelihood of confusion between
16 Applicant’s proposed mark and Opposer’s VZWRAPS mark. When comparing the
17 Opposer’s mark and the Applicant’s mark, VZWRAPS and EZ WRAP are visual and
18 audibly similar. The only differences between Applicant’s proposed mark and Opposer’s
19 mark is the use of the letter “V” instead of “E” at the beginning of the mark and the use
20 of the plural form of “wrap” instead of the singular use of the word. Both marks also use
21 Z as the second letter. Furthermore, the marks are audibly similar because they both start
22 with “V” or “E” – two letters that have very similar sounds – followed by Z, all of which
23 leaves an identical commercial impression in the minds of consumers. Additionally, the
24 marks are used to provide the same types of products. If Applicant’s proposed mark is
25 registered, both marks will be used to sell gift wrap products. Taken together, these
26

1 factors point toward a finding that a likelihood of confusion exists, and Applicant's
2 proposed mark should not be permitted to be registered.

3
4 WHEREFORE, Opposer respectfully requests that her opposition be sustained and that
5 registration to Applicant be refused.

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7 Dated this 15th of March, 2018.

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9
10 Respectfully submitted,

11 */s/ Nicole D. Galli*

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20 *Attorney for Isabelle Vesey d/b/a VZWRAPS*

Exhibit 1

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Etsy Search for items or shops Search Sell on Etsy Register Sign in Cart

Jewelry & Accessories Clothing & Shoes Home & Living Wedding & Party Toys & Entertainment Art & Collectibles Craft Supplies & Tools Vintage

VZWraps
Fabric gift bags & wine bottle bags for all occasions
945 Sales | On Etsy since 2010
★★★★★ (348)
Favorite shop (285) Share Save Tweet

SHOP OWNER
Isabelle Vesey
Contact

VZWraps is taking a short break Email me when they're back

Note from shop owner
Last updated on Nov 16, 2016
Hi! We're temporarily on vacation from Etsy while focusing on other platforms. Please look for us on our own site or on Amazon.

Reviews About Policies

Reviews No reviews in the last year

Reviews About Policies

About

So many fabrics, so little time! How can I choose?
Trying to stop the trash, save time, and wrap beautifully.



Reviews

About

Policies

Trying to stop the trash, save time, and wrap beautifully.

I started making gift bags several years ago for my family's Christmas presents because I was tired of the waste generated from traditional wrapping paper. Who hasn't filled an entire trash bag with paper and ribbon after your kids have quickly ripped open their gifts on Christmas morning? The next year, after I already had a stash of bags, my wrapping went so much more quickly — just drop in the present and tie the bag shut! What a time saver during one of the busiest times of the year. Now, I make bags for all occasions — wedding showers, to welcome a new baby, birthdays, you name it. I haven't bought wrapping paper in years.

VZWraps can be reused countless times, keeping rolls and rolls of wrapping paper out of landfills. Paper that often can't be recycled because it is dyed or laminated, contains non-paper additives, is too thin to have good-quality fibers, or has tape on it (earth911.com.) According to the Clean Air Council, an additional 5 million tons of waste is generated in the U.S. during the holidays. Four million tons of this is wrapping paper and shopping bags.

In the fall of 2012, I worked with a local, Philadelphia-based sewing contractor to help me produce my holiday gift bags and a few all occasion patterns. In accordance with Etsy's new policies regarding using outside help, I will now be able to list those bags here. Those bags will be clearly marked indicating they were made with help. In addition, I still make plenty of bags on my own in my little home office, and they will be marked "handmade." I hope you'll find something you like that will make your gift wrapping easier and, best of all, trash-free!

[Close](#)



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1 **Exhibit 2**

2 *Free Shipping On Orders \$50+* Your Cart | Checkout

3  Home / About Us / Shop / Custom Orders / Blog / Contact

4

5 **Welcome To VZWraps**

6 VZWraps reusable fabric gift bags make gift wrapping stylish, easy, and trash-free! Drop your gift in, tie the bag closed, and your wrapping is done. No more trash bags full of crumpled paper and plastic ribbons after a party or holiday. Reuse the bags for years. If you're looking for an eco-friendly alternative to wrapping paper, we've got you -- and your gifts -- covered! [Click here](#) to see our full collection.

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14  Home / About Us / Shop / Custom Orders / Blog / Contact

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16 *WHAT FITS INSIDE?*

17 Standard Bag
18 Medium Bag
19 Large Bag
20 Wine Bag

21 *CART*

22 No products in the cart.

23 You are here: [Home](#) / [Shop](#)

24 **Shop**

25 Here are all of our fabric gift bags in one spot! If you'd like to narrow down your choices, please use the menus above (under Shop) to shop by a specific occasion, see what's available on Amazon, or score a great deal in the clearance section. Click on an image to see the available sizes.

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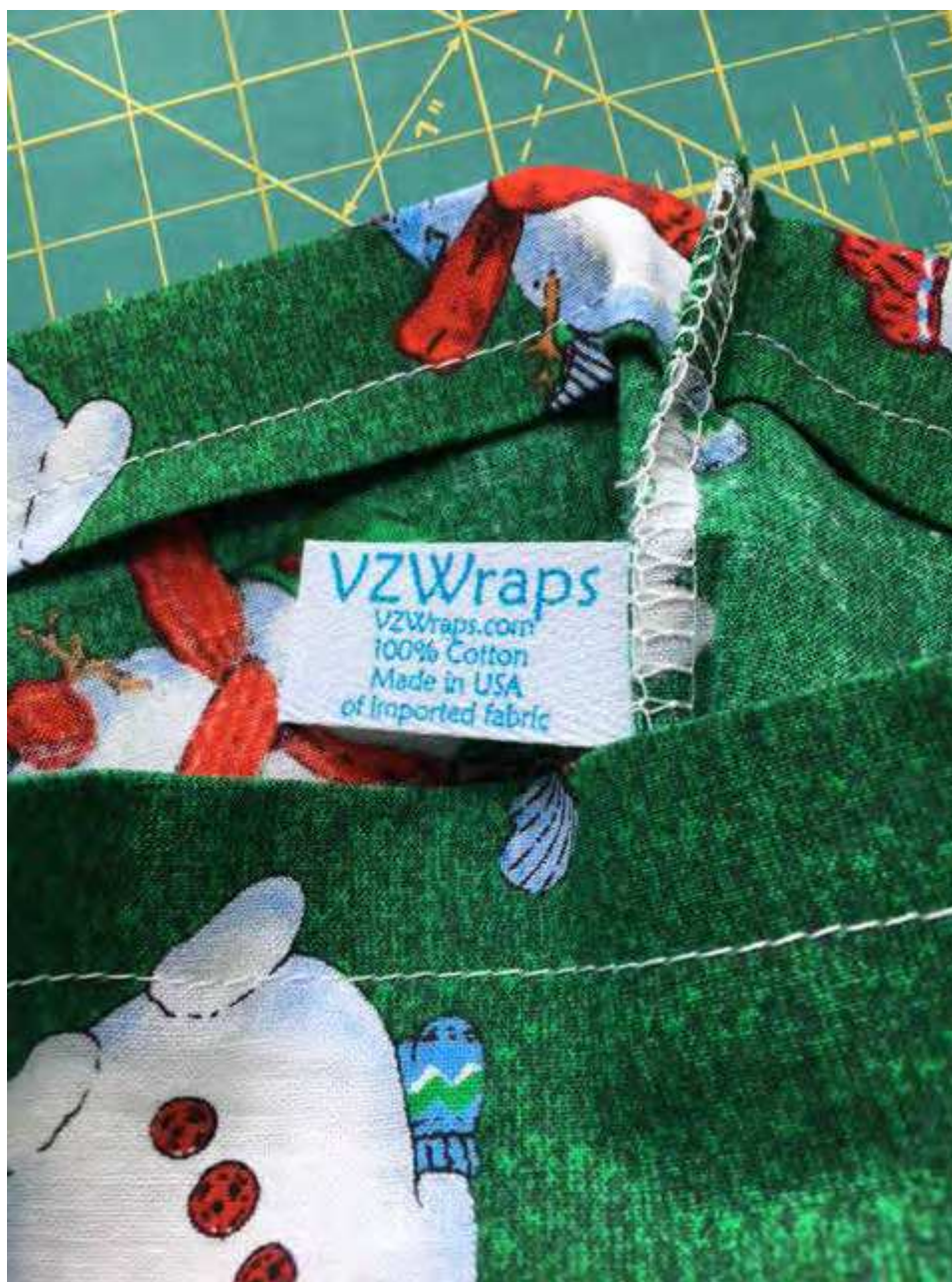
			
<i>Black And White Damask – Only On Amazon</i>	<i>Blue Balloons – Only On Amazon</i> \$10.49	<i>Candy Canes (Original)</i> \$8.49 \$4.75	<i>Candy Canes On Green</i> \$7.99 – \$15.99

Exhibit 3

The screenshot shows an Amazon search results page for "VZWraps". The search bar at the top contains "VZWraps" and the search button is visible. The page header includes "NEW & INTERESTING FINDS ON AMAZON" and "EXPLORE". The navigation bar shows "amazon Try Prime", "Departments", "Your Amazon.com", "Today's Deals", "Gift Cards", "Registry", "Sell", "Help", "EN", "Hello, Sign in", "Account & Lists", "Orders", "Try Prime", and "Cart". The search results are for "VZWraps Storefront" and show 1-24 of 35 results. Three gift bags are displayed:

- Giraffes Reusable Fabric Gift Bag for Baby Shower, Child's Birthday or Any Occasion (Standard 10 Inches Wide by 15 Inches High, Cream)** by VZWraps. Price: \$10.49. Prime. Only 10 left in stock - order soon. FREE Shipping on eligible orders. 4 stars.
- Elephants Reusable Fabric Gift Bag for Baby Shower, Child's Birthday, or Any Occasion (Large 20 Inches Wide by 27 Inches, Pink)** by VZWraps. Price: \$15.99. Prime. Get it by Saturday, Feb 3. FREE Shipping on eligible orders. 9 stars.
- Black and White Damask Reusable Fabric Gift Bag for Wedding, Birthday, Bridal Shower or Any Occasion (Large 20 Inches Wide by 27 Inches High)** by VZWraps. Price: \$13.99. Prime. Get it by Tomorrow, Feb 2. FREE Shipping on eligible orders. 11 stars.

Exhibit 4



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