

ESTTA Tracking number: **ESTTA919368**

Filing date: **08/30/2018**

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	Champion Discs, Incorporated
Granted to Date of previous extension	09/02/2018
Address	950 South Dupont Avenue Ontario, CA 91761 UNITED STATES

Attorney information	John A. Rafter Jr. Stoel Rives LLP 760 SW Ninth Avenue, Suite 3000 Portland, OR 97205 UNITED STATES jay.rafter@stoel.com, lisa.davis@stoel.com, docketclerk@stoel.com, kevin.crosman@stoel.com 503-224-3380
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Applicant Information

Application No	86576783	Publication date	03/06/2018
Opposition Filing Date	08/30/2018	Opposition Period Ends	09/02/2018
Applicants	<p>MERCENARI URIBE, JUAN CARLOS Boulevard Adolfo Lopez num. 163 Col. Mixcoac, Deleg. Benito Juarez, 03910 MEXICO</p> <p>MERCENARI URIBE, FERNANDO HUMBERTO Boulevard Adolfo Lopez num. 163 Col. Mixcoac, Deleg. Benito Juarez Mexico D.F., 03910 MEXICO</p>		

Goods/Services Affected by Opposition

<p>Class 035. First Use: 2003/04/22 First Use In Commerce: 2003/04/22 All goods and services in the class are opposed, namely: catalog ordering services, marketing services, on-line retail store services, on-line wholesale and retail store services, online advertising and marketing services, retail store services, and wholesale store services featuring kitchen appliances, exercise and sports equipment, espionage surveillance equipment, security systems, writing objects, kitchenware for food preparation, furniture, musical instruments, lenses, eyeglasses, binoculars, microscopes and telescopes, hardware, razors and knives, domestic electric kitchen appliances, vitam-</p>
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ins, food andherbal supplements

Grounds for Opposition

Priority and likelihood of confusion

Trademark Act Section 2(d)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4446741	Application Date	02/28/2013
Registration Date	12/10/2013	Foreign Priority Date	NONE
Word Mark	INNOVA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2002/00/00 First Use In Commerce: 2002/00/00 shirts, t-shirts, caps, headwear Class 028. First use: First Use: 1986/00/00 First Use In Commerce: 1986/00/00 flying discs; disc golf targets and flying disc entrapment devices; flying disc and disc golf games; disc golf bags; disc golf course equipment, namely, targets, tee signs, tee mats, and throwing mats; and disc golf accessories, namely, disc bags, and back straps for holding disc golf accessories Class 040. First use: First Use: 2002/00/00 First Use In Commerce: 2002/00/00 customized printing of logos, designs, events and company names on sporting goods, apparel, and promotional products for others Class 041. First use: First Use: 1997/00/00 First Use In Commerce: 1997/00/00 providing news and information on the flying disc games, flying disc sports and the sport of disc golf; organization and planning of disc golf tournaments; providing a website featuring information on flying disc sports, disc golf and disc golf instruction Class 044. First use: First Use: 1997/00/00 First Use In Commerce: 1997/00/00 disc golf course design		

Attachments	85862667#TMSN.png(bytes) Opposition_to_86576783.pdf(167036 bytes)
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Signature	/JohnARafter/
Name	John A. Rafter Jr.
Date	08/30/2018

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

Champion Discs, Incorporated)	
)	
Opposer,)	Proceeding No: _____
)	
v.)	Application No. 86/576,783
)	
)	Published on March 6, 2018
Juan Carlos Mercenari Uribe,)	
Fernando Humberto Mercenari Uribe)	For the mark INOVA SHOP PRODUCTOS
)	FUERA DE LO ORDINARIO and design
Applicants.)	

NOTICE OF OPPOSITION

I. PARTIES

1. Opposer Champion Discs, Incorporated ("Opposer") is a California corporation having a principal place of business at 950 South Dupont Avenue, Ontario, CA 91761.

2. Applicants Juan Carlos Mercenari Uribe and Fernando Humberto Mercenari Uribe (collectively, the "Applicant") are, on information and belief, individuals having an address of Boulevard Adolfo Lopez num. 163, Col. Mixcoac, Deleg., Benito Juarez, Mexico 03910.

II. BASIS FOR OPPOSITION

3. In the matter of application for trademark registration, Serial No. 86/576,783, filed by Applicant on March 25, 2015, which application was published in the Official Gazette of the United States Patent and Trademark Office ("USPTO") on March 6, 2018, Opposer believes that it would be damaged by the grant of registration of such application, and hereby opposes the registration of such mark under the provisions of Section 13 of the Trademark Act, (15 U.S.C. § 1063).

4. Opposer owns the federal registration detailed below for INNOVA, and is a leading manufacturer, distributor, and seller of, among other goods and services, disc golf discs, disc golf course equipment, and disc golf accessories marketed and sold to consumers. Opposer invests heavily in advertising its INNOVA trademarked products throughout the United States and various foreign countries.

5. Opposer owns federal Registration No. 4,446,741 for INNOVA in standard characters for use in connection with "shirts, t-shirts, caps, headwear" in Class 25; "flying discs; disc golf targets and flying disc entrapment devices; flying disc and disc golf games; disc golf bags; disc golf course equipment, namely, targets, tee signs, tee mats, and throwing mats; and disc golf accessories, namely, disc bags, and back straps for holding disc golf accessories" in Class 28; "customized printing of logos, designs, events and company names on sporting goods, apparel, and promotional products for others" in Class 40; "providing news and information on the flying disc games, flying disc sports and the sport of disc golf; organization and planning of disc golf tournaments; providing a website featuring information on flying disc sports, disc golf and disc golf instruction" in Class 41; and "disc golf course design" in Class 44. Opposer's Registration No. 4,446,741 is valid and subsisting and is prima facie evidence of Opposer's exclusive right to use said mark in commerce on the goods and services specified in said registration. A true and correct printout of information from the electronic database records of the USPTO showing the current status and title of Registration No. 4,446,741 is attached hereto as Exhibit A.

6. Opposer has used the INNOVA trademark continuously in commerce in the United States in connection with its goods in Class 28 since at least 1986 and has used the INNOVA trademark continuously in commerce in the United States in connection with all classes depicted in federal Registration No. 4,446,741 since before Applicant's alleged first use date.

7. Through Opposer's extensive use, considerable sales and investment in time and marketing, Opposer's INNOVA mark has gained considerable notoriety and goodwill among the relevant public. As a result, Opposer's INNOVA mark is of significant value to Opposer as an identifier of source in connection with the promotion and offering of Opposer's goods and services.

8. Opposer's INNOVA branded goods and services have generated considerable sales. Over the past several years, Opposer's sales of goods and services in connection with the INNOVA mark have averaged in the millions of dollars per year in the U.S.

9. Applicant seeks registration of the mark INOVA SHOP PRODUCTOS FUERA DE LO ORDINARIO and design in application Serial No. 86/576,783, on an actual use basis under 15 U.S.C. § 1051(a), for "catalog ordering services, marketing services, on-line retail store services, on-line wholesale and retail store services, online advertising and marketing services, retail store services, and wholesale store services featuring kitchen appliances, exercise and sports equipment, espionage surveillance equipment, security systems, writing objects, kitchenware for food preparation, furniture, musical instruments, lenses, eyeglasses, binoculars, microscopes and telescopes, hardware, razors and knives, domestic electric kitchen appliances, vitamins, food and herbal supplements" in International Class 35.

10. Opposer would be damaged if application Serial No. 86/576,783 is allowed to register because Applicant will obtain statutory rights in Applicant's mark INOVA SHOP PRODUCTOS FUERA DE LO ORDINARIO and design in violation and derogation of the prior and superior rights of Opposer in its INNOVA mark.

11. Opposer adopted and commenced interstate use of its INNOVA mark long before any date which may be lawfully claimed by Applicant.

12. Opposer's federal registration for its INNOVA mark was registered prior to March 25, 2015, the filing date of Applicant's application Serial No. 86/576,783.

13. The mark depicted in application Serial No. 86/576,783, namely INOVA SHOP PRODUCTOS FUERA DE LO ORDINARIO and design is confusingly similar in appearance, sound and commercial impression to Opposer's INNOVA mark. The mark depicted in application Serial No. 86/576,783 consists of the term "INOVA" in stylized form, which is nearly identical to the term that makes up the INNOVA mark, differing only by one "N." Moreover, Applicant appears to depict the "INOVA" portion of the mark as one "N" superimposed on another "N" which creates the impression of two "N's." Moreover the specimen in the Applicant's application includes the mark in the form "INNOVashop" with two "N's" as set forth below



14. Although the mark depicted in application Serial No. 86/576,783 includes additional design and word elements, they have little impact on the overall appearance of the mark and do not alter the commercial impression of the mark. Among other things, the "INOVA" portion of the mark depicted in application Serial No. 86/576,783 is set in much larger font size than the remaining elements of the mark. Consequently, the term "INOVA" is the portion of the mark that will be impressed in the minds of relevant purchasers, and as such, the term "INOVA" (or potentially "INNOVA") is the dominant portion of the mark.

15. The services recited in application Serial No. 86/576,783, as amended, are related and/or similar to, the goods and services recited in Opposer's registration for the INNOVA mark.

In particular, Applicant's "catalog ordering services, marketing services, on-line retail store services, on-line wholesale and retail store services, online advertising and marketing services, retail store services, and wholesale store services featuring kitchen appliances, exercise and sports equipment, espionage surveillance equipment, security systems, writing objects, kitchenware for food preparation, furniture, musical instruments, lenses, eyeglasses, binoculars, microscopes and telescopes, hardware, razors and knives, domestic electric kitchen appliances, vitamins, food and herbal supplements" recited in application Serial No. 86/576,783 are related to Opposer's goods and services offered under its INNOVA mark which include, among others, certain sports equipment (e.g., flying discs and disc golf targets in Class 028) and various services in classes 040, 041 and 044 (e.g., customized printing of logos, designs, events and company names on sporting goods, apparel, and promotional products for others in Class 040).

16. Due to the related nature of the services offered under the mark INNOVA SHOP PRODUCTOS FUERA DE LO ORDINARIO and design and because Applicant's services contain no restrictions as to Applicant's intended customers, markets, or channels of trade, on information and belief, such services are likely to be advertised, promoted, and sold in the same channels of trade, to the same class of purchasers, and in the same marketing channels as those in which the goods and services provided by Opposer under its INNOVA mark are advertised, promoted, and sold.

17. In view of the similarity of the respective marks, relatedness of the parties' goods and services including based on the likelihood of overlapping classes of purchasers, customers, and channels of trade, Applicant's mark so resemble Opposer's mark, as to be likely to cause confusion or to cause mistake, or to deceive when used in connection with Applicant's services. Trademark Act § 2(d), 15 U.S.C. § 1052(d). As a result, the public will wrongly assume the Opposer is the source of Applicant's services, has approved of Applicant, is affiliated with Applicant, or has otherwise sanctioned, sponsored, or licensed the services of Applicant.

18. Opposer would be damaged by the registration of the mark INOVA SHOP PRODUCTOS FUERA DE LO ORDINARIO and design by Applicant as Opposer has priority and the mark is confusingly similar to Opposer's mark and, thus, application Serial No. 86/576,783 should be denied.

WHEREFORE, Opposer respectfully requests that this Notice of Opposition be sustained and that application Serial No. 86/576,783 be refused registration, and respectfully requests such other and further relief as may be deemed to be just and proper.

Dated: August 30, 2018

Respectfully submitted,

/JohnARafter/
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Attorney for Opposer

United States of America
United States Patent and Trademark Office

INNOVA

Reg. No. 4,446,741

Registered Dec. 10, 2013

**Int. Cls.: 25, 28, 40, 41
and 44**

TRADEMARK

SERVICE MARK

PRINCIPAL REGISTER

CHAMPION DISCS, INCORPORATED (CALIFORNIA CORPORATION)
900 S. DUPONT AVE.
ONTARIO, CA 91761

FOR: SHIRTS, T-SHIRTS, CAPS, HEADWEAR, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 0-0-2002; IN COMMERCE 0-0-2002.

FOR: FLYING DISCS; DISC GOLF TARGETS AND FLYING DISC ENTRAPMENT DEVICES; FLYING DISC AND DISC GOLF GAMES; DISC GOLF BAGS; DISC GOLF COURSE EQUIPMENT, NAMELY, TARGETS, TEE SIGNS, TEE MATS, AND THROWING MATS; AND DISC GOLF ACCESSORIES, NAMELY, DISC BAGS, AND BACK STRAPS FOR HOLDING DISC GOLF ACCESSORIES, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 0-0-1986; IN COMMERCE 0-0-1986.

FOR: CUSTOMIZED PRINTING OF LOGOS, DESIGNS, EVENTS AND COMPANY NAMES ON SPORTING GOODS, APPAREL, AND PROMOTIONAL PRODUCTS FOR OTHERS, IN CLASS 40 (U.S. CLS. 100, 103 AND 106).

FIRST USE 0-0-2002; IN COMMERCE 0-0-2002.

FOR: PROVIDING NEWS AND INFORMATION ON THE FLYING DISC GAMES, FLYING DISC SPORTS AND THE SPORT OF DISC GOLF; ORGANIZATION AND PLANNING OF DISC GOLF TOURNAMENTS, PROVIDING A WEBSITE FEATURING INFORMATION ON FLYING DISC SPORTS, DISC GOLF AND DISC GOLF INSTRUCTION, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 0-0-1997; IN COMMERCE 0-0-1997.

FOR: DISC GOLF COURSE DESIGN, IN CLASS 44 (U.S. CLS. 100 AND 101).

FIRST USE 0-0-1997; IN COMMERCE 0-0-1997.

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



Deborah S. Cohen
Commissioner for Trademarks of the
United States Patent and Trademark Office