

ESTTA Tracking number: **ESTTA999473**

Filing date: **09/04/2019**

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	Marker Dalbello VÄ¶llkl (International) GmbH
Granted to Date of previous extension	09/04/2019
Address	RUESSENSTRASSE 6 BAAR, CH-6340 SWITZERLAND

Attorney information	JOHN W. MCGLYNN RATNERPRESTIA 2200 RENAISSANCE BLVD, SUITE 350 KING OF PRUSSIA, PA 19406 UNITED STATES tmde@ratnerprestia.com 6104070700
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**Applicant Information**

Application No	88209563	Publication date	05/07/2019
Opposition Filing Date	09/04/2019	Opposition Period Ends	09/04/2019
Applicant	Variance 240 West Spazier APT B Burbank, CA 91502 UNITED STATES		

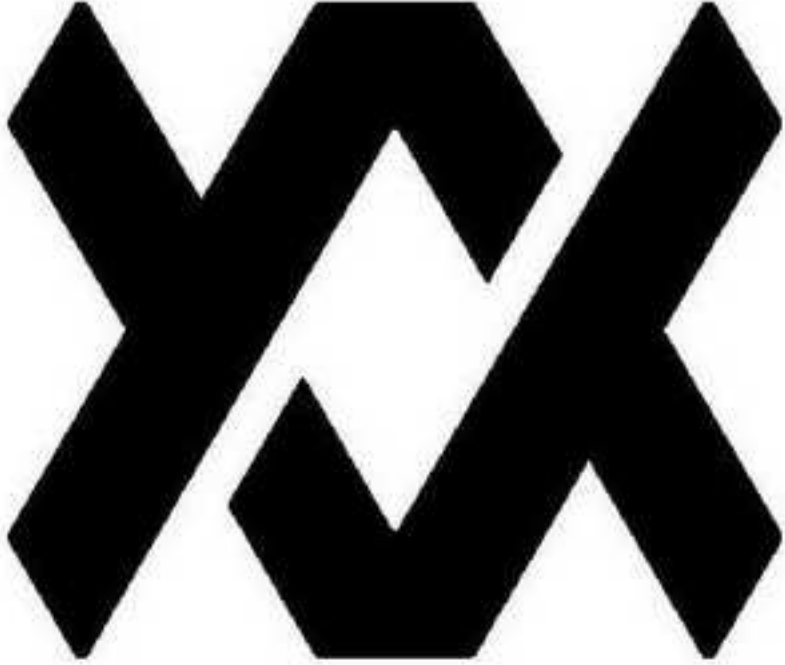
**Goods/Services Affected by Opposition**

Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Hats; Pants; Shirts; Shirts for infants, babies, toddlers and children; Shirts for suits; Shoes; T-shirts; Athletic pants; Athletic shirts; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Body shirts; Capri pants; Clothing for athletic use, namely, padded shirts; Golf pants, shirts and skirts; Gym pants; Jogging pants; Long-sleeved shirts; Polo shirts; Short-sleeve shirts; Short-sleeved or long-sleeved t-shirts; Snap crotch shirts for infants and toddlers; Sport shirts; Sports pants; Sports shirts with shortsleeves; Tee shirts; Track pants; Wearable garments and clothing, namely, shirts; Women's clothing, namely, shirts, dresses, skirts, blouses; Yoga pants; Yoga shirts
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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. Registration No.	5392343	Application Date	01/11/2016
Registration Date	01/30/2018	Foreign Priority Date	NONE
Word Mark	VV		
Design Mark			
Description of Mark	The mark consists of a stylistic upsidedown letter "V" superimposed on a stylistic upright letter "V".		
Goods/Services	<p>Class 018. First use: First Use: 2017/02/05 First Use In Commerce: 2017/02/05 bags, namely, handbags, luggage, tote bags, fanny packs, duffel bags, clutch bags, drawstring pouches, all-purpose sports bags, travel bags; rucksacks</p> <p>Class 025. First use: First Use: 2017/02/05 First Use In Commerce: 2017/02/05 clothing, namely, shirts, sports suits, skirts, sweatshirts, t-shirts, shorts, socks, vests, jackets and pants, undergarments; headwear, namely, skiing caps, snowboarding caps, tennis caps, headbands and hats; ski gloves and snowboard gloves, ski boots, after-ski boots, snowboard boots and tennis shoes</p> <p>Class 028. First use: First Use: 2017/02/05 First Use In Commerce: 2017/02/05 Sports equipment and sporting goods, namely, skis and snowboards, ski poles, ski bindings and snowboard bindings, tennis racquets, squash racquets, racquetball racquets, badminton racquets; bags specifically adapted for skis, snowboards, ski boots, tennis racquets, squash racquets, racquetball racquets, badminton racquets; climbing skins for use with touring skis; ski crampons for use with ski bindings; back guards for athletic use; knee guards for athletic use, shin guards for athletic use, elbow guards for athletic use; grip tapes and strings for tennis racquets, squash racquets, racquetball racquets, badminton racquets</p>		

Attachments	86871845#TMSN.png( bytes ) Notice of Opposition.pdf(198554 bytes )
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Signature	/jwm/
Name	JOHN W. MCGLYNN
Date	09/04/2019



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

In the Matter of Application No. 88209563



Mark:

Filed: Nov. 28, 2018

MARKER DALBELLO VOLKL  
(INTERNATIONAL) GMBH,

Opposer,

v.


Variance,

Applicant.

**Opposition No.** \_\_\_\_\_

**NOTICE OF OPPOSITION**

MARKER DALBELLO VOLKL (INTERNATIONAL) GMBH (“Opposer”) believes

that it will be damaged by registration of  (“Applicant’s Mark”) appearing in U.S. Application No. 88209563 (“Application”) and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is a GmbH organized under the laws of Switzerland and having a place of business at RUESSENSTRASSE 6, BAAR SWITZERLAND CH-6340.

2. Upon information and belief, Variance (“Applicant”) is a partnership comprised of Nicolas Russell Howard and William Austin Campos with an address at 240 West Spazier APT B, Burbank, California 91502.

3. Opposer is the owner of rights to design marks comprised of an upside down letter V superimposed on an upright letter V for use in connection with clothing and sporting equipment and owns several registrations therefor.



4. Opposer owns U.S. Registration No. 5392343 (“Registration”) for (“Opposer’s Mark”) for, *inter alia*, “clothing, namely, shirts, sports suits, skirts, sweatshirts, t-shirts, shorts, socks, vests, jackets and pants, undergarments; headwear, namely, skiing caps, snowboarding caps, tennis caps, headbands and hats; ski gloves and snowboard gloves, ski boots, after-ski boots, snowboard boots and tennis shoes,” which was filed on January 11, 2016, registered on January 30, 2018, and lists first use dates of February 5, 2017. A copy of the record from the USPTO’S Trademark Status and Document Retrieval (TSDR) database showing the current status and title of the Registration is submitted herewith.

5. The Registration has not been cancelled, is valid, and in full force and effect.

6. Through use and promotional and marketing activities, Opposer’s Mark has come to be recognized throughout the United States as identifying sports equipment and clothing emanating from or associated with Opposer. As a result, Opposer has developed a valuable reputation and acquired goodwill in connection with Opposer’s Mark.

7. The Application was filed on November 28, 2018 for “Hats; Pants; Shirts; Shirts for infants, babies, toddlers and children; Shirts for suits; Shoes; T-shirts; Athletic pants; Athletic shirts; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms;

Body shirts; Capri pants; Clothing for athletic use, namely, padded shirts; Golf pants, shirts and skirts; Gym pants; Jogging pants; Long-sleeved shirts; Polo shirts; Short-sleeve shirts; Short-sleeved or long-sleeved t-shirts; Snap crotch shirts for infants and toddlers; Sport shirts; Sports pants; Sports shirts with short sleeves; Tee shirts; Track pants; Wearable garments and clothing, namely, shirts; Women's clothing, namely, shirts, dresses, skirts, blouses; Yoga pants; Yoga shirts" ("Applicant's Goods").

8. Opposer has obtained extensions of time to oppose the Application.

9. Opposer's use and registration of Opposer's Mark predates Applicant's filing date. Accordingly, Opposer's rights are senior to Applicant's rights.

10. Applicant's Mark is confusingly similar to Opposer's Mark in appearance and commercial impression.

11. The goods identified in the Application are identical or closely related to goods identified in the Registration.

12. The Application and Registration contain no trade channel limitations or restrictions, so the goods listed in the Application and Registration are presumed to travel in the same trade channels to the same class of purchasers.

13. Due to the similarity between Applicant's Mark and Opposer's Mark and the parties' identical and related goods, consumers are likely to believe that Applicant's Goods originate from Opposer or are otherwise approved, endorsed or sponsored by Opposer, resulting in a likelihood of confusion in the marketplace and damage to Opposer.

14. Applicant does not have Opposer's consent to use or register Applicant's mark.

15. Registration of Applicant's Mark will cause irreparable damage to Opposer under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

Respectfully submitted,

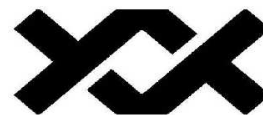
Dated: September 4, 2019

By: /jwm/  
John W. McGlynn  
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King of Prussia, PA 19406  
Tel: (610) 407-0700  
Fax: (610) 407-0701  
jwmcglynn@ratnerprestia.com

*Attorneys for Opposer,  
Marker Dalbello Volkl  
(International) GmbH*

Generated on: This page was generated by TSDR on 2019-09-04 11:21:38 EDT

Mark: VV



US Serial Number: 86871845

Application Filing Date: Jan. 11, 2016

US Registration Number: 5392343

Registration Date: Jan. 30, 2018

Filed as TEAS RF: Yes

Currently TEAS RF: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Jan. 30, 2018

Publication Date: Oct. 11, 2016

Notice of Allowance Date: Dec. 06, 2016

## Mark Information

Mark Literal Elements: VV

Standard Character Claim: No

Mark Drawing Type: 5 - AN ILLUSTRATION DRAWING WITH WORD(S) /LETTER(S)/ NUMBER(S) INSTYLIZED FORM

Description of Mark: The mark consists of a stylistic upside down letter "V" superimposed on a stylistic upright letter "V".

Color(s) Claimed: Color is not claimed as a feature of the mark.

## Goods and Services

### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*...\* identify additional (new) wording in the goods/services.

**For:** bags, namely, handbags, luggage, tote bags, fanny packs, duffel bags, clutch bags, drawstring pouches, all-purpose sports bags, travel bags; rucksacks

**International Class(es):** 018 - Primary Class

**U.S Class(es):** 001, 002, 003, 022, 041

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Feb. 05, 2017

**Use in Commerce:** Feb. 05, 2017

**For:** clothing, namely, shirts, sports suits, skirts, sweatshirts, t-shirts, shorts, socks, vests, jackets and pants, undergarments; headwear, namely, skiing caps, snowboarding caps, tennis caps, headbands and hats; ski gloves and snowboard gloves, ski boots, after-ski boots, snowboard boots and tennis shoes

**International Class(es):** 025 - Primary Class

**U.S Class(es):** 022, 039

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Feb. 05, 2017

**Use in Commerce:** Feb. 05, 2017



**For:** Sports equipment and sporting goods, namely, skis and snowboards, ski poles, ski bindings and snowboard bindings, tennis racquets, squash racquets, racquetball racquets, badminton racquets; bags specifically adapted for skis, snowboards, ski boots, tennis racquets, squash racquets, racquetball racquets, badminton racquets; climbing skins for use with touring skis; ski crampons for use with ski bindings; back guards for athletic use; knee guards for athletic use, shin guards for athletic use, elbow guards for athletic use; grip tapes and strings for tennis racquets, squash racquets, racquetball racquets, badminton racquets

**International Class(es):** 028 - Primary Class

**U.S Class(es):** 022, 023, 038, 050

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Feb. 05, 2017

**Use in Commerce:** Feb. 05, 2017

## Basis Information (Case Level)

**Filed Use:** No

**Currently Use:** Yes

**Filed ITU:** Yes

**Currently ITU:** No

**Filed 44D:** No

**Currently 44E:** No

**Filed 44E:** No

**Currently 66A:** No

**Filed 66A:** No

**Currently No Basis:** No

**Filed No Basis:** No

## Current Owner(s) Information

**Owner Name:** MARKER DALBELLO VOLKL (INTERNATIONAL) GMBH

**Owner Address:** RUESSENSTRASSE 6  
BAAR SWITZERLAND CH-6340

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** SWITZERLAND

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Andrew S. Neely

**Docket Number:** 71589.M1

**Attorney Primary Email Address:** [ANeely@Luedeka.com](mailto:ANeely@Luedeka.com)

**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** ANDREW S. NEELY  
LUEDEKA NEELY GROUP, P.C.  
P.O. BOX 1871  
KNOXVILLE, TENNESSEE UNITED STATES 37901

**Phone:** 8655464305

**Fax:** 8655234478

**Correspondent e-mail:** [ANeely@Luedeka.com](mailto:ANeely@Luedeka.com)

**Correspondent e-mail Authorized:** Yes

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
May 02, 2018	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Mar. 21, 2018	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jan. 30, 2018	REGISTERED-PRINCIPAL REGISTER	
Dec. 29, 2017	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Dec. 28, 2017	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Dec. 19, 2017	STATEMENT OF USE PROCESSING COMPLETE	66154
Dec. 05, 2017	USE AMENDMENT FILED	66154
Dec. 16, 2017	CASE ASSIGNED TO INTENT TO USE PARALEGAL	66154
Dec. 05, 2017	TEAS STATEMENT OF USE RECEIVED	
Jun. 01, 2017	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
May 30, 2017	EXTENSION 1 GRANTED	98765

May 30, 2017	EXTENSION 1 FILED	98765
May 30, 2017	TEAS EXTENSION RECEIVED	
Dec. 06, 2016	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Oct. 11, 2016	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Oct. 11, 2016	PUBLISHED FOR OPPOSITION	
Sep. 21, 2016	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Aug. 29, 2016	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 29, 2016	EXAMINER'S AMENDMENT ENTERED	88888
Aug. 29, 2016	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Aug. 29, 2016	EXAMINERS AMENDMENT E-MAILED	6328
Aug. 29, 2016	EXAMINERS AMENDMENT -WRITTEN	77299
Jun. 30, 2016	NOTIFICATION OF FINAL REFUSAL EMAILED	
Jun. 30, 2016	FINAL REFUSAL E-MAILED	
Jun. 30, 2016	FINAL REFUSAL WRITTEN	77299
Jun. 30, 2016	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jun. 29, 2016	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jun. 29, 2016	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Apr. 26, 2016	NOTIFICATION OF PRIORITY ACTION E-MAILED	6326
Apr. 26, 2016	PRIORITY ACTION E-MAILED	6326
Apr. 26, 2016	PRIORITY ACTION WRITTEN	77299
Apr. 26, 2016	ASSIGNED TO EXAMINER	77299
Jan. 19, 2016	NOTICE OF PSEUDO MARK E-MAILED	
Jan. 18, 2016	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jan. 14, 2016	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Dec. 28, 2017

## Assignment Abstract Of Title Information

### Summary

**Total Assignments:** 4

**Registrant:** Marker Völkl (International) GmbH

### Assignment 1 of 4

**Conveyance:** CHANGE OF NAME

**Reel/Frame:** [6291/0968](#)

**Pages:** 6

**Date Recorded:** Mar. 14, 2018

**Supporting Documents:** [assignment-tm-6291-0968.pdf](#)

#### Assignor

**Name:** [MARKER VÖLKL \(INTERNATIONAL\) GMBH](#)

**Execution Date:** Aug. 09, 2017

**Legal Entity Type:** LIMITED LIABILITY COMPANY

**State or Country Where Organized:** SWITZERLAND

#### Assignee

**Name:** [MARKER DALBELLO VÖLKL \(INTERNATIONAL\) GMBH](#)

**Legal Entity Type:** GESELLSCHAFT MIT BESCHRÄNKTER HAFTUNG (GMBH)

**State or Country Where Organized:** SWITZERLAND

**Address:** RUESSENSTRASSE 6  
6341 BAAR, SWITZERLAND

#### Correspondent

**Correspondent Name:** JOHN P. MURTAUGH/PEARNE & GORDON LLP

**Correspondent Address:** 1801 EAST 9TH STREET, SUITE 1200  
CLEVELAND, OH 44114-3108

Domestic Representative - Not Found

Assignment 2 of 4

Conveyance: CHANGE OF NAME  
Reel/Frame: [6315/0405](#) Pages: 3  
Date Recorded: Mar. 12, 2018  
Supporting Documents: [assignment-tm-6315-0405.pdf](#)

Assignor

Name: [MARKER VOLKL \(INTERNATIONAL\) GMBH](#) Execution Date: Aug. 18, 2017  
Legal Entity Type: CORPORATION State or Country: SWITZERLAND  
Where Organized:

Assignee

Name: [MARKER DALBELLO VOLKL \(INTERNATIONAL\) GMBH](#)  
Legal Entity Type: CORPORATION State or Country: SWITZERLAND  
Where Organized:  
Address: RUESSENSTRASSE 6  
BAAR, SWITZERLAND CH-6340

Correspondent

Correspondent Name: JOHN W. MCGLYNN  
Correspondent Address: 2200 RENAISSANCE BLVD, SUITE 350  
KING OF PRUSSIA, PA 19406

Domestic Representative - Not Found

Assignment 3 of 4

Conveyance: SECURITY INTEREST  
Reel/Frame: [6292/0264](#) Pages: 27  
Date Recorded: Mar. 15, 2018  
Supporting Documents: [assignment-tm-6292-0264.pdf](#)

Assignor

Name: [MARKER DALBELLO VÖKL \(INTERNATIONAL\) GMBH](#) Execution Date: Nov. 16, 2017  
Legal Entity Type: GESELLSCHAFT MIT BESCHRÄNKTER HAFTUNG (GMBH) State or Country: SWITZERLAND  
Where Organized:

Assignee

Name: [ARES MANAGEMENT LIMITED, AS SECURITY AGENT FOR THE SECURED PARTIES](#)  
Legal Entity Type: LIMITED LIABILITY COMPANY State or Country: ENGLAND  
Where Organized:  
Address: 5TH FLOOR, 6 ST. ANDREW STREET  
LONDON, ENGLAND EC4A 3AE

Correspondent

Correspondent Name: JOHN P. MURTAUGH/PEARNE & GORDON LLP  
Correspondent Address: 1801 EAST 9TH STREET, SUITE 1200  
CLEVELAND, OH 44114-3108

Domestic Representative - Not Found

Assignment 4 of 4

Conveyance: SECURITY INTEREST  
Reel/Frame: [6293/0622](#) Pages: 22  
Date Recorded: Mar. 16, 2018  
Supporting Documents: [assignment-tm-6293-0622.pdf](#)

Assignor

**Name:** [MARKER DALBELLO VÖKL \(INTERNATIONAL GMBH\)](#)

**Execution Date:** Nov. 16, 2017

**Legal Entity Type:** GESELLSCHAFT MIT BESCHRÄNKTER HAFTUNG (GMBH)

**State or Country Where Organized:** SWITZERLAND

**Assignee**

**Name:** [WELLS FARGO BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT](#)

**Legal Entity Type:** NATIONAL BANKING ASSOCIATION

**State or Country Where Organized:** UNITED STATES

**Address:** 101 NORTH PHILLIPS AVENUE  
SIOUX FALLS, SOUTH DAKOTA 57104

**Correspondent**

**Correspondent Name:** JOHN P. MURTAUGH/PEARNE & GORDON LLP

**Correspondent Address:** 1801 EAST 9TH STREET, SUITE 1200  
CLEVELAND, OH 44114-3108

**Domestic Representative - Not Found**