

ESTTA Tracking number: **ESTTA1007640**

Filing date: **10/09/2019**

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	ABG-Frye LLC
Granted to Date of previous extension	10/09/2019
Address	1411 BROADWAY, 4TH FLOOR NEW YORK, NY 10018 UNITED STATES

Attorney information	BRIDGETTE FITZPATRICK 1411 BROADWAY, 4TH FLOOR NEW YORK, NY 10018 UNITED STATES trademark@abg-nyc.com, bfitzpatrick@abg-nyc.com 646-490-9839
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Applicant Information

Application No	88285093	Publication date	06/11/2019
Opposition Filing Date	10/09/2019	Opposition Period Ends	10/09/2019
Applicant	COOL BRANDS SUPPLY S.A. INT. NEYER 1133 - BECCAR PROV. DE BUENOS AIRES ARGENTINA		

Goods/Services Affected by Opposition


Class 025. First Use: 2003/11/15 First Use In Commerce: 2003/11/15 All goods and services in the class are opposed, namely: Caps with visors; Hats; Headwear; Pants; Shirts; Shoes; Socks; Belts; Jackets; Jerseys; Jogging pants; Sports caps and hats; Sports pants; Sports shirts; Sports shoes; Sweat shirts; Tee shirts


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	3039511	Application Date	11/01/2004
Registration Date	01/10/2006	Foreign Priority Date	NONE
Word Mark	FF		

Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use: First Use: 2003/06/01 First Use In Commerce: 2003/06/01 LEATHER BAGS, NAMELY, DUFFLE BAGS, PURSES BRIEFCASES and SMALL LEATHER GOODS, NAMELY, WALLETS</p> <p>Class 025. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 CLOTHING, NAMELY, FOOTWEAR [, JACKETS]</p>		
U.S. Registration No.	4342210	Application Date	10/01/2012
Registration Date	05/28/2013	Foreign Priority Date	NONE
Word Mark	FF		

Design Mark	
Description of Mark	The mark consists of mirrored stylized letter "F"s; the top arm of each "F" goes out of the stem of the letter at an upward angle and is tapered to a point; the center arm of each "F" widens to a straight horizontal line; the bottom of each "F" is curved into the stem of the letter; the two "F"s are separated by a thin vertical space.
Goods/Services	Class 025. First use: First Use: 2012/03/05 First Use In Commerce: 2012/03/05 Clothing, namely shirts and t-shirts

U.S. Registration No.	1244640	Application Date	07/19/1982
Registration Date	07/05/1983	Foreign Priority Date	NONE
Word Mark	FRYE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 Footwear [and Vests]

U.S. Registration No.	4625902	Application Date	07/24/2013
Registration Date	10/21/2014	Foreign Priority Date	NONE
Word Mark	FRYE FF		
Design Mark			
Description of	The mark consists of the wording "FRYE" appearing above a rectangular box		


Mark	containing the stylized letters "FF"; both of these are inside a box.
Goods/Services	Class 025. First use: First Use: 2012/00/00 First Use In Commerce: 2012/00/00 Clothing and wearing apparel, namely, shirts, T-shirts

Attachments	76618758#TMSN.png(bytes) 85742623#TMSN.png(bytes) 73375583#TMSN.png(bytes) 86018564#TMSN.png(bytes) Notice of Opposition.pdf(199691 bytes)
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Signature	/Bridgette Fitzpatrick/
Name	BRIDGETTE FITZPATRICK
Date	10/09/2019

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

Applicant: COOL BRANDS SUPPLY S.A.
Serial No.: 88285093
Filing Date: January 31, 2019

Mark: FF ()


Published in the Official Gazette on June 11, 2019

ABG-Frye LLC,)	
)	
Opposer,)	
)	
vs.)	Opposition No. _____
)	
COOL BRANDS SUPPLY S.A.,)	
)	
Applicant.)	

FILED ELECTRONICALLY VIA ESTAA

NOTICE OF OPPOSITION

Opposer **ABG-Frye LLC** (“Opposer”), a limited liability company organized and existing under the laws of the State of Delaware, having a place of business at 1411 Broadway, Fourth Floor, New York, New York 10018, United States of America believes that it will be damaged by registration of the mark

FF () (“Applicant’s Mark”) as applied for in Application Serial No. 88285093 (the “Opposed Application”) by COOL BRANDS SUPPLY S.A. (the “Applicant”). Accordingly, Opposer hereby opposes registration of Applicant’s Mark under the Opposed Application. Opposer has obtained the necessary extension of time in which to oppose the Opposed Application following its publication on June 11, 2019 in the Official Gazette.

The grounds for the opposition are as follows:





1. Opposer is the owner of the iconic American FRYE footwear brand, which is the oldest footwear brand in America. Since it was established in 1863, the FRYE brand has been known as the original

craftsmen of American footwear, famous for its iconic styles and quality leather. Over the past 150 years, the FRYE brand has expanded to be used in connection with a wide variety of branded goods and services, including men’s and women’s clothing and accessories.

- Commencing long prior to the filing date of the Opposed Application seeking to register a stylized depiction of the letters FF and the date of first use claimed by Applicant in the Opposed Application, Opposer and its predecessors-in-interest have engaged and Opposer is now engaged in the distribution, promotion and/or sale in commerce of footwear, apparel, headwear and handbags, as well as other items under the FRYE trademark and the distinctive FF design shown below (the “FF Design”).



- Opposer is the owner of, and will rely herein on, a number of federal trademark registrations for the FF Design, as well as registrations that incorporate the FF Design, including the following:

MARK	REG. NO.	ISSUE DATE	GOODS
	3039511	January 10, 2006* <i>*citing First Use at least as early as 1978</i>	Class 18: Leather bags, namely, duffle bags, purses, briefcases and small leather goods, namely, wallets. Class 25: Clothing, namely, footwear
	4342210	May 28, 2013	Class 25: Clothing, namely shirts and t-shirts.
	1244640	July 5, 1983* <i>*citing First Use at least as early as 1978</i>	Class 25: Footwear.
	4625902	October 21, 2014	Class 25: Clothing and wearing apparel, namely, shirts, T-shirts

4. The above registrations (the “FF Design Registrations”) are valid, subsisting and incontestable and constitute *prima facie* evidence of Opposer’s exclusive right to use the registered FF Design in commerce for the goods specified in said registrations and related goods and services. Current printouts from the electronic database records of the United States Patent and Trademark Office of the aforementioned registrations are attached hereto as Exhibit A.
5. Opposer and its predecessors-in-interest have extensively sold, advertised and promoted goods bearing the FF Design, including the goods specified in the FF Design Registrations, to the public through various channels of trade in commerce for many years prior to the filing date of the Opposed Application and the first use date claimed in the Opposed Application.
6. As a result of the widespread advertising, promotion and sale by Opposer and its predecessors-in-interest, Opposer’s FF Design has acquired a high degree of recognition, fame and distinctiveness in the United States as designating goods, including the goods specified in the FF Design Registrations, originating exclusively from Opposer since well prior to the filing date of the Opposed Application or the first use date claimed in the Opposed Application.
7. Notwithstanding Opposer’s rights in and to the FF Design, Applicant filed the Opposed Application on January 31, 2019, seeking registration of a stylized depiction of the letters FF, as shown below, for a variety of goods, including “caps with visors; headwear; pants; shirts; shoes; socks; belts; jackets; jerseys; jogging pants; sports caps and hats; sports pants; sports shirts; sports shoes; sweat shirts; tee shirts” in International Class 25.



8. The goods for which Applicant seeks to register the stylized depiction of the letters FF in the Opposed Application are identical or very similar to the goods upon which Opposer has used and currently uses its FF Design, including the goods specified in the FF Design Registrations, and both parties’

goods would move through substantially the same channels of trade and be sold online and, upon information and belief, in traditional retail stores, among other locations.

9. The mark sought to be registered in the Opposed Application consists of two stylized “F” letters that are the same size, oriented back-to-back, and therefore blatantly mimics Opposer’s FF Design.
10. The mark sought to be registered in the Opposed Application so resembles Opposer’s FF Design, as to be likely, when applied to the goods specified, to cause consumers to be confused, mistaken or deceived as to the origin and sponsorship of those goods and to mislead them into believing that such goods emanate from, are licensed by, or are in some way associated with Opposer, resulting in irreparable damage and detriment to Opposer and its reputation and goodwill, and otherwise will improperly give the appearance of exclusive statutory ownership rights in marks incorporating the FF Design to Applicant, all in violation of Section 2(a) of the United States Trademark Act of 1946 (the “Lanham Act”), as amended (15 U.S.C. § 1052(d)), and in derogation of the prior and superior rights of Opposer.

WHEREFORE, Opposer requests that this opposition be sustained and that the Opposed Application seeking to register a stylized depiction of the letters FF be refused pursuant to Section 2(d) of the Lanham Act (15 U.S.C. § 1052(d)), on the grounds that the application to register the mark shown so resembles Opposer’s FF Design as to be likely to cause confusion, mistake or deception.

Dated: New York, New York

October 9, 2019

Respectfully submitted,

ABG-Frye LLC
1411 Broadway, Fourth Floor
New York, New York 10018
(646) 490-9839

By: / Bridgette Fitzpatrick /
Bridgette Fitzpatrick
Vice President, Associate General Counsel –
Intellectual Property

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of October 2019, the foregoing Notice of Opposition was served upon Applicant's attorney of record, by email to fdc@demarcas.com and first-class mail, addressed as follows:

Ignacio De Las Carreras
AV Rivadavia 2450 5 A
C.A.B.A Argentina C1034ACQ