

ESTTA Tracking number: **ESTTA1126197**

Filing date: **04/10/2021**

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	JanSport Apparel Corp.		
Entity	Corporation	Citizenship	DELAWARE
Address	3411 SILVERSIDE RD. WILMINGTON, DE 19810 UNITED STATES		
Attorney information	SARAH C. HSIA SNEED PLLC 445 SOUTH MAIN ST., SUITE 400 DAVIDSON, NC 28036 UNITED STATES Primary Email: trademarks@sneedlegal.com Secondary Email(s): sarah@sneedlegal.com, msneed@sneedlegal.com, js-need@sneedlegal.com 8447633347		
Docket Number	01042		

Applicant Information

Application No.	90201818	Publication date	03/23/2021
Opposition Filing Date	04/10/2021	Opposition Period Ends	04/22/2021
Applicant	GAO, YOULONG HAICANG RONGXIN HAISHANGCHENG 3#1105 XIAMEN, FUJIAN CHINA		

Goods/Services Affected by Opposition


Class 018. First Use: 2019/07/20 First Use In Commerce: 2019/07/20 All goods and services in the class are opposed, namely: Bags for sports; Bags for umbrellas; Athletic bags; Backpacks, book bags, sports bags, bum bags, wallets and handbags; Beach bags; Belt bags; Belt bags and hipbags; Book bags; Bum bags; Courier bags; Dry bags; Key bags; Kit bags; Militaryduffle bags, garment bags for travel, tote bags, shoulder bags and backpacks; Shoulder bags; Sling bags; Sports bags; Suit bags; Travel bags; Waist bags; Wristlet bags
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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	2997678	Application Date	07/01/2004
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No.			
Registration Date	09/20/2005	Foreign Priority Date	NONE
Word Mark	JANSPORT		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use: First Use: 2004/01/01 First Use In Commerce: 2004/01/01 ALL PURPOSE SPORTING BAGS, ALL PURPOSE CARRYING BAGS, SOFT LUGGAGE, [LUGGAGE CASES,] BACKPACKS, DAYPACKS, FANNY PACKS, FRAME BACKPACKS, KNAPSACKS, BOOK BAGS FOR TRAVELING, TOTE BAGS, DUFFEL BAGS, HANDBAGS, GARMENT BAGS FOR TRAVELING, CLOTHING BAGS FOR TRAVELING [, AND STRAPS FOR LUGGAGE AND STRAPS FOR HANDBAGS]</p> <p>Class 025. First use: First Use: 2004/01/01 First Use In Commerce: 2004/01/01 [Jeans, shirts,] skirts, t-shirts, jerseys, [tank tops,] hooded shirts, pants, [slacks,] sports jackets, gymnastic shorts, gymnastic pants and gymnastic shirts; warm-up suits, warm-up pants and warm-up jackets; sweatshirts, sweatpants, [caps, hats, parkas, coats, vests, wind-resistant jackets, boots, shoes and slippers]</p>		

U.S. Registration No.	3066768	Application Date	06/03/2004
Registration Date	03/07/2006	Foreign Priority Date	NONE
Word Mark	JANSPORT		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 1996/12/30 First Use In Commerce: 1996/12/30 Retail store services and on-line retail store services in the field of [apparel and] outdoor gear and luggage; providing consumer product information via the internet

U.S. Registration No.	4498227	Application Date	09/27/2013
Registration Date	03/18/2014	Foreign Priority Date	NONE

Word Mark	JANSPORT
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Description of Mark	NONE
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Goods/Services	Class 009. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00 Backpacks especially adapted for holding laptops; Laptop sleeves; Briefcases especially adapted for holding laptop computers; [Cases for mobile phones;]tablet sleeves; Messenger bags, shoulder bags, and slings, all especially adapted for holding laptops and tablets; [Protective covers, cases and stands for tablet computers;]Wheeled backpacks and wheeledbriefcases especially adapted for holding laptops and tablets[; Tote bags especially adapted for holding laptops and tablets]
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U.S. Registration No.	5251347	Application Date	02/28/2017
Registration Date	07/25/2017	Foreign Priority Date	NONE

Word Mark	JANSPORT
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Description of	The mark consists of a rectangle containing a stylized mountain with the word
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Mark	"JANSPORT" underneath.
Goods/Services	Class 009. First use: First Use: 2015/09/14 First Use In Commerce: 2015/09/14 backpacks specially adapted to carry laptops, notebook computers and tablets Class 018. First use: First Use: 2008/10/02 First Use In Commerce: 2008/10/02 backpacks, daypacks, duffle bags; toiletry bags sold empty

U.S. Registration No.	5300593	Application Date	02/28/2017
Registration Date	10/03/2017	Foreign Priority Date	NONE

Word Mark	JANSPORT COMPANY SEATTLE
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Design Mark	
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Description of Mark	The mark consists of a rectangle containing a stylized mountain with the words "JANSPORT COMPANY SEATTLE" inside.
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Goods/Services	Class 009. First use: First Use: 2013/06/30 First Use In Commerce: 2013/06/30 backpacks specially adapted to carry laptops, notebook computers and tablets; tote bags specially adapted to carry laptops, notebook computers and tablets Class 018. First use: First Use: 2008/07/07 First Use In Commerce: 2008/07/07 backpacks, daypacks, duffle bags; tote bags
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U.S. Registration No.	5423012	Application Date	08/15/2017
Registration Date	03/13/2018	Foreign Priority Date	NONE

Word Mark	ARROINTELLIGENCE
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Design Mark	ARROINTELLIGENCE
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 2016/09/30 First Use In Commerce: 2016/09/30 Providing a website featuring on-line non-downloadable software that enables users to perform healthcare data analytics

U.S. Registration No.	5447005	Application Date	08/17/2017
Registration Date	04/17/2018	Foreign Priority Date	NONE

Word Mark	JANSPORT
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Description of Mark	The mark consists of a blue rectangular patch detailed with blue stitch marks featuring the stylized word "JANSPORT" in red letters outlined with white.
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Goods/Services	<p>Class 009. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00 Backpacks and wheeled backpacks especially adapted to hold laptops; Laptop sleeves; Briefcases especially adapted for holding laptop computers; Tablet computersleeves; Messenger bags, shoulder bags, and slings, all especially adapted for holding laptops and tablet computers; Protective covers and cases for tablet computers; Wheeled backpacks and wheeled briefcases especially adapted for holding laptops and tablet computers; Tote bags especially adapted for holding laptops and tablet computers; Pouches especially adapted for holding electronic accessories, namely, USB cables, earbuds, USB portable chargers</p> <p>Class 018. First use: First Use: 1976/01/02 First Use In Commerce: 1976/01/02 Backpacks, all purpose sporting bags, all purpose carrying bags, soft luggage, daypacks, fanny packs, frame backpacks, knapsacks, tote bags, duffel bags, handbags, weekend bags, drawstring pouches, drawstring bags, messenger bags, toiletrybags sold empty</p>
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Attachments	78444401#TMSN.png(bytes) 78429232#TMSN.png(bytes) 86076921#TMSN.png(bytes) 87352283#TMSN.png(bytes) 87352275#TMSN.png(bytes) 87569130#TMSN.png(bytes) 87572544#TMSN.png(bytes) 2021-04-10 Notice of Opposition - CHANSPORT IC018.pdf(158902 bytes)
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Signature	/sch/
Name	Sarah C. Hsia
Date	04/10/2021

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

In the matter of Trademark Application Serial No. 90/201,818
Trademark: CHANSPORT
Filed: September 22, 2020
Published for Opposition: March 23, 2021

JanSport Apparel Corp.,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
Youlong Gao,)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

JanSport Apparel Corp. (“JanSport” or “Opposer”) believes that it is and will continue to be damaged by registration of the mark shown in Application Serial No. 90/201,818 in International Class 018, and therefore opposes same under the provisions of 15 U.S.C. §1063. As grounds for the opposition, Opposer asserts that:

1. Opposer is a corporation formed under the laws of the State of Delaware which maintains its principal place of business at 3411 Silverside Road, Wilmington, DE 19810.

2. Opposer designs, manufactures, markets and sells a variety of backpacks, bags and accessories. To market and promote Opposer’s goods and services, and to build goodwill among the relevant consumers of Opposer’s goods, Opposer uses, *inter alia*, a JANSPORT family of trademarks to identify the source of its goods and services, including the following marks registered or subject of applications for registration with the USPTO:

- US Reg. No. 2,997,678 for  in IC018 (ALL PURPOSE SPORTING BAGS, ALL PURPOSE CARRYING BAGS,SOFT LUGGAGE, [LUGGAGE CASES,]

BACKPACKS, DAYPACKS, FANNY PACKS, FRAME

BACKPACKS,KNAPSACKS, BOOK BAGS FOR TRAVELING, TOTE BAGS,

DUFFEL BAGS, HANDBAGS, GARMENT BAGS FOR TRAVELING,

CLOTHING BAGS FOR TRAVELING [, AND STRAPS FOR LUGGAGE AND


STRAPS FOR HANDBAGS) and IC025 ([Jeans, shirts,] skirts, t-shirts, jerseys,

[tank tops,] hooded shirts, pants, [slacks,] sports jackets, gymnastic shorts,


gymnastic pants and gymnastic shirts; warm-up suits, warm-up pants and warm-up

jackets; sweatshirts, sweatpants, [caps, hats, parkas, coats, vests, wind-resistant



jackets, boots, shoes and slippers]) with a registration date of September 20, 2005

- US Reg. No. 3,066,768 for JANSPOORT in IC035 (Retail store services and on-line retail store services in the field of [apparel and] outdoor gear and luggage; providing consumer product information via the internet) with a registration date of March 7, 2006;
- US Reg. No. 4,498,227 for JANSPOORT in IC009 (Backpacks especially adapted for holding laptops; Laptop sleeves; Briefcases especially adapted for holding laptop computers; [Cases for mobile phones;] tablet sleeves; Messenger bags, shoulder bags, and slings, all especially adapted for holding laptops and tablets; [Protective covers, cases and stands for tablet computers;] Wheeled backpacks and wheeled briefcases especially adapted for holding laptops and tablets[; Tote bags especially adapted for holding laptops and tablets]) with a registration date of March 18, 2014;
- US Reg. No. 5,251,347 for  in IC009 (backpacks specially adapted to carry laptops, notebook computers and tablets) and IC018 (backpacks, daypacks, duffel bags; toiletry bags sold empty) with a registration date of July 25, 2017;



- US Reg. No. 5,300,593 for  in IC009 (backpacks specially adapted to carry laptops, notebook computers and tablets; tote bags specially adapted to carry laptops, notebook computers and tablets) and IC018 (backpacks, daypacks, duffel bags; tote bags) with a registration date of October 3, 2017;
- US Reg. No. 5,423,292 for JANSPORT in IC021 (Lunch bags not of paper) with a registration date of March 13, 2018;



- US Reg. No. 5,432,012 for  in IC009 (backpacks specially adapted to carry laptops, notebook computers and tablet computers) and IC018 (backpacks, mesh backpacks, wheeled backpacks) with a registration date of March 27, 2018;
- US Reg. No. 5,447,005 for  in IC009 (Backpacks and wheeled backpacks especially adapted to hold laptops; Laptop sleeves; Briefcases especially adapted for holding laptop computers; Tablet computer sleeves; Messenger bags, shoulder bags, and slings, all especially adapted for holding laptops and tablet computers; Protective covers and cases for tablet computers; Wheeled backpacks and wheeled briefcases especially adapted for holding laptops and tablet computers; Tote bags especially adapted for holding laptops and tablet computers; Pouches especially adapted for holding electronic accessories, namely, USB cables, earbuds, USB portable chargers) and IC018 (Backpacks, all purpose sporting bags, all purpose carrying bags, soft luggage, daypacks, fanny packs, frame backpacks, knapsacks, tote bags, duffel bags,

handbags, weekend bags, drawstring pouches, drawstring bags, messenger bags, toiletry bags sold empty) with a registration date of April 17, 2018.

collectively, the “JANSPORT Family of Marks”)

3. Since at least as early as 1976, Opposer and/or its predecessors-in-interest have been using one or more of its JANSPORT Family of Marks in commerce in the United States in connection with backpacks, tote bags, luggage, day packs, knapsacks, and duffel bags, among other goods and/or services (all, collectively, the “JANSPORT Goods”).

4. Upon information and belief, Applicant Youlong Gao is an individual, a citizen of China, with an address at Haicang Rongxin Haishangcheng 3#1105 Xiamen, CHINA 361000 (“Applicant”).

5. On September 22, 2020, Applicant filed application Serial No. 90/201,818 for CHANSPORT in IC018 in connection with “Bags for sports; Bags for umbrellas; Athletic bags; Backpacks, book bags, sports bags, bum bags, wallets and handbags; Beach bags; Belt bags; Belt bags and hip bags; Book bags; Bum bags; Courier bags; Dry bags; Key bags; Kit bags; Military duffel bags, garment bags for travel, tote bags, shoulder bags and backpacks; Shoulder bags; Sling bags; Sports bags; Suit bags; Travel bags; Waist bags; Wristlet bags,” claiming a first use in commerce date of July 20, 2019 (the “CHANSPORT Application” the “CHANSPORT Mark” or “Applicant’s Mark”).

6. On information and belief, Applicant did not make *bona fide* use in commerce of Applicant’s Mark prior to the date on which the application seeking registration under 15 U.S.C. § 1051(a) was filed.

7. Opposer has been continuously using one or more of its JANSPORT Family of Marks in connection with the JANSPORT Goods since prior to the earliest of: i) August 26,

2020 filing date of the CHANSPORT Application; ii) Applicant's claimed first use in commerce date of August 15, 2020 of the CHANSPORT mark; and iii) Applicant's actual first use in commerce of the CHANSPORT mark, in the United States, if any.

8. Accordingly, Opposer has used continuously in commerce in this country the JANSPOUR Marks long prior to the first use of Applicant's Mark in this country, or any applicable priority date.

9. Opposer has marketed, promoted and advertised to the public the JANSPOUR Goods under the JANSPOUR Marks at considerable expense, expending approximately \$200,000 annually in marketing and advertising the JANSPOUR Goods sold under the JANSPOUR Marks.

10. By reason of the adoption and the continuous use of the JANSPOUR Marks in conjunction with the JANSPOUR Goods, those designations have a distinctive quality and have acquired special and particular significance and very valuable goodwill as identifying Opposer and its JANSPOUR Goods.

11. Further, one or more of the JANSPOUR Family of Marks are famous and distinctive, inherently or through acquired distinctiveness, in connection with, *inter alia*, backpacks, tote bags, luggage, day packs, knapsacks, and duffel bags and accessories therefor.

12. Applicant's CHANSPORT mark is confusingly similar to Opposer's JANSPOUR Marks when used in connection with "Bags for sports; Bags for umbrellas; Athletic bags; Backpacks, book bags, sports bags, bum bags, wallets and handbags; Beach bags; Belt bags; Belt bags and hip bags; Book bags; Bum bags; Courier bags; Dry bags; Key bags; Kit bags; Military duffel bags, garment bags for travel, tote bags, shoulder bags and backpacks; Shoulder bags; Sling bags; Sports bags; Suit bags; Travel bags; Waist bags; Wristlet bags" in IC018.

13. Further, the goods described in the CHANSPORT Application are, on information and belief, offered and/or sold to the same types of customers to whom Opposer offers its JANSPOORT Goods, and through the same or closely related channels of trade. These factors further enhance the likelihood of confusion.

14. Finally, Applicant's goods claimed in the CHANSPORT Application are identical in part, and/or substantially similar and/or related to the JANSPOORT Goods offered and sold by Opposer in this country. Consumers familiar with the JANSPOORT Goods offered and sold in conjunction with the JANSPOORT Marks who come into contact with Applicant's CHANSPORT mark used in conjunction with its goods, are likely to be confused into believing that Applicant's goods are related to, sponsored by, affiliated with or derived from Opposer. These factors contribute to a likelihood of confusion among relevant purchasers of the parties' respective products.

15. Thus, the mark that is the subject of Applicant's CHANSPORT Application, when used in conjunction with the goods set forth therein, are likely to deceive or cause confusion or mistake among members of the public as to the source or sponsorship of Applicant's goods in relation to Opposer.

16. Accordingly, Applicant's Application Serial No. 90/201,818 should be refused registration on the basis that it consists of or comprises, according to 15 U.S.C. §1052(d):

A mark which so resembles a mark registered in the Patent and Trademark Office or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the applicant, to cause confusion or to cause mistake, or to deceive.

17. Alternatively, Applicant's Application Serial No. 90/201,818 should be refused registration on the basis that it is *void ab initio*.

18. Accordingly, Opposer prays that Application Serial No. 90/201,818 be refused registration pursuant to 15 U.S.C. §1063.

Dated: April 10, 2021

Respectfully Submitted,

/s/ Sarah Hsia

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*Attorneys for Opposer
JanSport Apparel Corp.*

Certificate of Filing

The undersigned hereby certifies that the foregoing *Notice of Opposition* was filed on April 10, 2021, through electronic means via the ESTTA website, which constitutes service to the Applicant pursuant to 37 C.F.R. § 2.105.

/s/ Sarah Hsia

An Attorney for Opposer