

ESTTA Tracking number: **ESTTA1141527**

Filing date: **06/21/2021**

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	Linz Textil Holding AG
Granted to Date of previous extension	06/19/2021
Address	WIENER STR. 435 LINZ, A4030 AUSTRIA
Attorney information	ERIC T. FINGERHUT DYKEMA GOSSETT PLLC 1301 K STREET, N.W. SUITE 1100 WEST WASHINGTON, DC 20005 UNITED STATES Primary Email: tm@dykema.com Secondary Email(s): efingerhut@dykema.com, jpisigan@dykema.com, smck-eon@dykema.com 202.906.8618
Docket Number	066374.0172

Applicant Information

Application No.	88801550	Publication date	04/20/2021
Opposition Filing Date	06/21/2021	Opposition Period Ends	06/19/2021
Applicant	VOS Corp 8570 NW 61ST STREET DORAL, FL 33166 UNITED STATES		

Goods/Services Affected by Opposition


Class A. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Clothing; apparel; accessories, namely, aprons, kitchen towels, hand towels, masks, bandanas, scarves, hair ties

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	3228047	Application Date	11/08/2004
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No.			
Registration Date	04/10/2007	Foreign Priority Date	08/25/2004
Word Mark	VOSSSEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 024. First use: First Use: 0 First Use In Commerce: 0 TEXTILES, NAMELY, BED AND TABLE LINEN OF TEXTILE, CURTAINS, BLANKETS, BED BLANKETS, BEDSPREADS, NON-WOVEN TEXTILE MATERIALS AND LININGS OF NATURAL AND ARTIFICIAL FIBRES FOR GARMENTS, HAND TOWELS, BATH TOWELS, BEACH TOWELS, FACE TOWELS, WASHING MITTS, HOUSEHOLD LINEN</p> <p>Class 025. First use: First Use: 0 First Use In Commerce: 0 CLOTHING, NAMELY NECKTIES, UNDERWEAR, WOVEN AND KNITTED CLOTHING, NAMELY, SWIMWEAR, NIGHT CLOTHING, NAMELY NIGHT-GOWNS AND PAJAMAS, HOUSE COATS AND BATH ROBES, STOCKINGS AND SOCKS, SMOCKS, HOUSE COATS, BATHING WEAR, NAMELY BATHING SUITS, BATHING CAPS, BATHING TRUNKS, AND DRESSING-GOWNS</p> <p>Class 027. First use: First Use: 0 First Use In Commerce: 0 CARPET, FLOOR MATS, BATHROOM CARPETS AND BATH MATS</p>		

Attachments	79016847#TMSN.png(bytes) Notice of Opposition.VOS.pdf(267792 bytes)
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Signature	/eric t. fingerhut/
Name	ERIC T. FINGERHUT
Date	06/21/2021

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

In the Matter of Application:

Serial No.: 88801550
Filed: February 18, 2020
Applicant: Vos Corp
Mark: VOS & Design 
Class: A

Published in the Official Gazette of April 20, 2021

LINZ TEXTIL HOLDING AG)	
)	
Opposer)	
)	Opposition No. _____
v.)	
VOS CORP)	
)	
Applicant)	

NOTICE OF OPPOSITION

Linz Textil Holding AG (hereinafter “Opposer”) is an Austrian Aktiengesellschaft with offices at Wiener Str. 435, Linz A4030 Austria. Opposer is the owner of United States Registration No. 3228047 of the standard character mark VOSSSEN, which issued April 10, 2007, and was timely maintained and renewed. United States Registration No. 3228047 covers the following goods:

Textiles, namely, bed and table linen of textile, curtains, blankets, bed blankets, bedspreads, non-woven textile materials and linings of natural and artificial fibres for garments, hand towels, bath towels, beach towels, face towels, washing mitts, household linen, in Class 24;

Clothing, namely neckties, underwear, woven and knitted clothing, namely, swimwear, night clothing, namely nightgowns and pajamas, house coats and bath robes, stockings and socks, smocks, house coats, bathing wear, namely bathing suits, bathing caps, bathing trunks, and dressing gowns, in Class 25; and

Carpet, floor mats, bathroom carpets and bath mats, in Class 27. (collectively, “Registered Goods.”)

Opposer believes it will be damaged by registration of the mark shown in Application Serial No. 88801550, and hereby opposes same.

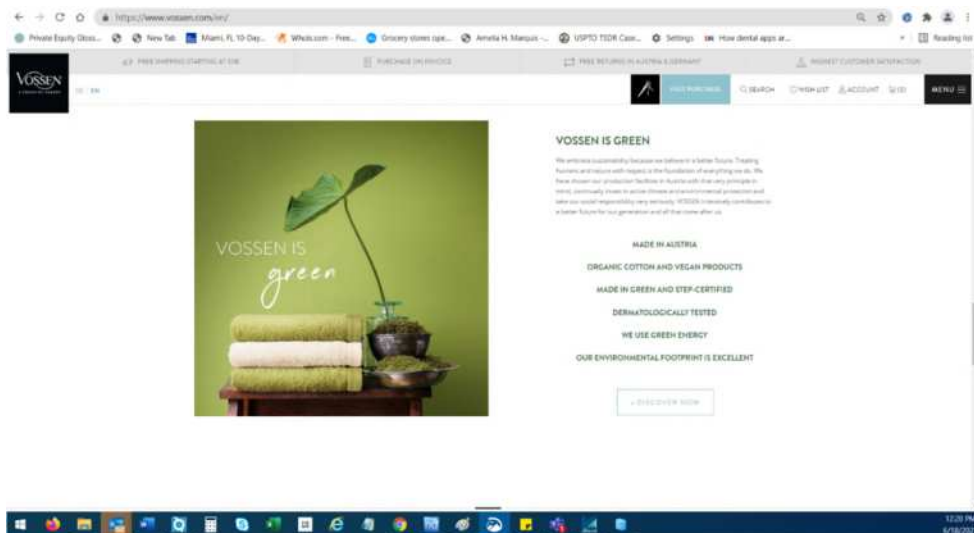
The grounds for the opposition are as follows:

(1) Application Serial No. 88801550 (hereinafter “Opposed Application”) seeks registration of the mark VOS with a leaf depicted in the O as a certification mark used by persons authorized by Applicant to certify that the goods offered under the mark meet prescribed standards with regard to their vegan, organic, and sustainable nature. The goods Applicant intends to certify as meeting this standard are “clothing; apparel; accessories, namely, aprons, kitchen towels, hand towels, masks, bandanas, scarves, and hair ties.”

(2) The opposed application was filed on February 18, 2020, based on Applicant’s alleged bona fide intention to use the mark in commerce.

(3) Opposer adopted the mark VOSSEN in connection with the Registered Goods at least as early as August 25, 2004, and Opposer’s use of the mark VOSSEN for the Registered Goods in the United States has been continuous and without interruption since at least as early as September 27, 2013. Opposer’s constructive first use date is more than fifteen (15) years prior to the February 18, 2020 filing date of the opposed application.

(4) The Registered Goods for which Opposer uses the mark VOSSEN are made with environmentally sustainable materials and Opposer touts the “green” nature of its product on its web site as shown in the screenshot below:



(5) Opposer's owns U.S. Registration. No. 3228047 of the standard character mark VOSSSEN for textiles, namely, bed and table linen of textile, curtains, blankets, bed blankets, bedspreads, non-woven textile materials and linings of natural and artificial fibres for garments, hand towels, bath towels, beach towels, face towels, washing mitts, household linen, in Class 24; clothing, namely neckties, underwear, woven and knitted clothing, namely, swimwear, night clothing, namely nightgowns and pajamas, house coats and bath robes, stockings and socks, smocks, house coats, bathing wear, namely bathing suits, bathing caps, bathing trunks, and dressing gowns, in Class 25; and carpet, floor mats, bathroom carpets and bath mats, in Class 27, which issued April 10, 2007. A printout of information from the electronic database records of the USPTO showing the current status and title of Registration No. 3228047 is attached as Appendix A.

(6) Registration No. 3228047 is prima facie evidence of the validity of and Opposer's exclusive right to use the mark VOSSSEN and is constructive notice of Opposer's ownership thereof, all as provided by §§ 7(b) and 22 of the Federal Trademark Act, 15 U.S.C. §§ 1057(b) and 1072. As the right to use the mark VOSSSEN has become incontestable, Registration No. 3228047 is conclusive evidence of Opposer's exclusive right to use the mark shown therein in commerce as provided by §§ 15 and 33(b) of the Federal. Trademark Act, 15 U.S.C. §§ 1065 and 1115(b).

(7) The mark VOSSSEN in Registration No. 3228047 and the mark VOS in the Opposed Application differ by only three letters and they are similar in appearance and upon information and belief, meaning. VOSSSEN a Germanic language word meaning "foxes" in English. Upon information and belief, the word VOS covered by the Opposed Application could be interpreted by consumers as the singular "fox" in English.

(8) The mark covered by the Opposed Application is intended to be used to certify the identical products Opposer sells under the mark VOSSSEN.

(9) Applicant is not lawfully entitled to the registration it seeks because Applicant's mark VOS – which will be used to certify that clothing goods meet prescribed standards with regard to their

vegan, organic, and sustainable nature - so resembles Opposer's previously used and registered VOSSSEN mark as to be likely to cause confusion, to cause mistake, or to deceive within the meaning of § 2(d) of The Federal Trademark Act, thereby damaging Opposer,

(10) The registered mark VOSSSEN owned by Opposer predates the Opposed Application to register the mark VOS. In particular, Applicant filed the Opposed Application on February 18, 2020, which is more than twelve (12) years after Opposer's registration of the mark VOSSSEN issued on the Federal Trademark Register. Accordingly, Opposer has rights of priority in the VOSSSEN mark that are senior and superior to those of Applicant.

(11) Applicant is not affiliated with nor connected in any way to Opposer. Moreover, Opposer has not consented to Applicant's use of the mark VOS in the Opposed Application.

WHEREFORE, Opposer believes the present opposition should be sustained, and the registration of Applicant's mark refused.

LINZ TEXTIL HOLDING AG

Dated: June 21, 2021

By: _____/eric fingerhut/

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Appendix A



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VOSSSEN

Word Mark VOSSSEN**Translations** THE ENGLISH TRANSLATION OF THE WORD VOSSSEN IN THE MARK IS "FOXES".**Goods and Services** IC 024. US 042 050. G & S: TEXTILES, NAMELY, BED AND TABLE LINEN OF TEXTILE, CURTAINS, BLANKETS, BED BLANKETS, BEDSPREADS, NON-WOVEN TEXTILE MATERIALS AND LININGS OF NATURAL AND ARTIFICIAL FIBRES FOR GARMENTS, HAND TOWELS, BATH TOWELS, BEACH TOWELS, FACE TOWELS, WASHING MITTS, HOUSEHOLD LINEN

IC 025. US 022 039. G & S: CLOTHING, NAMELY NECKTIES, UNDERWEAR, WOVEN AND KNITTED CLOTHING, NAMELY, SWIMWEAR, NIGHT CLOTHING, NAMELY NIGHTGOWNS AND PAJAMAS, HOUSE COATS AND BATH ROBES, STOCKINGS AND SOCKS, SMOCKS, HOUSE COATS, BATHING WEAR, NAMELY BATHING SUITS, BATHING CAPS, BATHING TRUNKS, AND DRESSING GOWNS

IC 027. US 019 020 037 042 050. G & S: CARPET, FLOOR MATS, BATHROOM CARPETS AND BATH MATS

Standard Characters Claimed**Mark Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 79016847**Filing Date** November 8, 2004**Current Basis** 66A**Original Filing Basis** 66A**Published for Opposition** January 23, 2007**Registration Number** 3228047**International Registration Number** 0866284**Registration Date** April 10, 2007

Owner (REGISTRANT) **Linz Textil Holding AG** AG AUSTRIA Wiener Str. 435 **Linz** AUSTRIA A4030
Attorney of Record Eric T. Fingerhut
Priority Date August 25, 2004
Prior Registrations 0900330
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECTION 71. SECTION 71
Live/Dead Indicator LIVE

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