

ESTTA Tracking number: **ESTTA1188811**

Filing date: **02/03/2022**

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	Thun S.p.A.		
Entity	societa per azioni	Citizenship	Italy
Address	VIA GALVANI, 29 BOLZANO, I-39100 ITALY		

Attorney information	JAMES J. BITETTO TUTUNJIAN & BITETTO, P.C. 401 BROADHOLLOW ROAD, SUITE 402 MELVILLE, NY 11747 UNITED STATES Primary email: trademarks@tb-iplaw.com Secondary email(s): susan@tb-iplaw.com 6318440080		
Docket no.	0903-0024		

Applicant information

Application no.	90633935	Publication date	01/04/2022
Opposition filing date	02/03/2022	Opposition period ends	02/03/2022
Applicant	SHINEON TRADING CO., LTD. 2F., NO. 31, LN. 244, DUNHUA N. RD. SONGSHAN DIST., TAIPEI CITY 105005 TAIWAN (R.O.C.), 105005 TAIWAN		

Goods/services affected by opposition


Class 035. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Administrative processing of purchase orders; Commercial administration of the licensing of the goods and services of others; Demonstration of goods; Direct response retail services by means of infomercials in the field of pet products; Dissemination services of advertisement matter; Import-export agency services; On-line auctioneering; Providing business information via a web site; Provision of an online marketplace for buyers and sellers of goods and services; Targeted marketing services

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. application	79322146	Application date	04/12/2021
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no.			
Registration date	NONE	Foreign priority date	10/14/2020
Word mark	LUXPETS		
Design mark			
Description of mark	The mark consists of the stylized wording LUXPETS in capital letters where the letter "X" is represented as a stylized dog design.		
Goods/services	Class 035. First use: First Use: None First Use In Commerce: None Retail services in relation to pet products; online retail services in relation to pet products; wholesaling of the following goods: pet goods; online wholesaling of the following goods: pet goods; advisory services for business management; sales promotion for others; online advertising on a computer network; procurement services for others [purchasing goods and services for other businesses]; marketing consulting; marketing; provision of an online marketplace for buyers and sellers of goods and services		

Attachments	79322146#TMSN.png(bytes) 0903-0024- Notice of Opposition.pdf(275369 bytes) EXHIBIT A_EUTM 018321060.pdf(221084 bytes)
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Signature	/Susan Paik/
Name	Susan Paik
Date	02/03/2022

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

Thun S.p.A.

Opposer,
v.

Opposition No.: [TBD]
Serial No.: 90/633,935
Mark: **PETDELUX (Design Mark)**
Published: January 4, 2022

Shineon Trading Co., Ltd.

Applicant.

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

Notice of Opposition

Thun S.p.A. (“Opposer”), a società per azioni organized and existing under the laws of Italy, and having a principal place of business at Via Galvani, 29, Bolzano ITALY 39100, believes that it will be damaged by, and hereby opposes, the grant of the application of **Shineon Trading Co., Ltd.** (“Applicant”), a Limited Company organized and existing under the laws of Taiwan, and having a principal place of business at 2F., No. 31, Ln. 244, Dunhua N. Rd. Songshan Dist., Taipei City 105005 Taiwan (R.O.C.) TAIWAN 105005, to register the mark “**PETDELUX**” (Design Mark) shown in the application Serial Number 90/633,935 filed April 9, 2021 for “Administrative processing of purchase orders; Commercial administration of the licensing of the goods and services of others; Demonstration of goods; Direct response retail services by means of infomercials in the field of pet products; Dissemination services of advertisement matter; Import-export agency services; On-line auctioneering; Providing business information via a web site; Provision of an online marketplace for buyers and sellers of goods and services; Targeted marketing services” in International Class 035.

Pursuant to 15 U.S.C. Section 1052, by and through its attorneys, Opposer hereby opposes the same.

1. By the application Serial No. 90/633,935 herein opposed, Applicant is seeking to obtain registration on the Principal Register of “**PETDELUX**” (Design Mark) (hereinafter “Applicant’s ‘935 mark”) for services in class 035, and particularly, for “Administrative processing of purchase orders; Commercial administration of the licensing of the goods and services of others; Demonstration of goods; Direct response retail services by means of infomercials in the field of pet products; Dissemination services of advertisement matter; Import-export agency services; On-line auctioneering; Providing business information via a web site; Provision of an online marketplace for buyers and sellers of goods and services; Targeted marketing services” in International Class 021.

2. Applicant’s application Serial No. 90/633,935 for “**PETDELUX**” (Design Mark) is a 1(b) Intent to Use basis application filed on April 9, 2021 and such mark was published for opposition on January 4, 2022. This Notice of Opposition is timely filed. The Applicant’s mark is a Design Mark and a copy is reprinted below:

The logo for PetDelux, featuring the word "PetDelux" in a stylized, serif font. The "P" is large and bold, and the "D" is also large and bold, with a decorative flourish. The "e" and "l" are smaller and more standard in style. The "u" and "x" are also smaller and standard. The "a" and "s" are the smallest and most standard in style.

3. Opposer is the owner of at least the following federal trademark application:
- a. **U.S. Serial No. 79/322,146 (hereinafter “LUXPETS Application”)**, filed on the Principal Register on April 12, 2021 for the Design trademark “LUXPETS” for:

“Retail services in relation to pet products; online retail services in relation to pet products; wholesaling of the following goods: pet goods; online wholesaling of the following goods: pet goods; advisory services for business management; sales promotion for others; online advertising on a computer network; procurement services for others [purchasing goods and services for other businesses]; marketing consulting; marketing; provision of an online marketplace for buyers and sellers of goods and services” in International Class 035.

The Opposer’s LUXPETS Application was filed under a 66(a) Basis having International Registration No. 1617488 and asserts a date of priority pursuant

to Section 67 of October 14, 2020 based on EUTM Application No. 018321060.

The Opposer's LUXPETS application is for a Design mark; a copy of the Design Mark as filed appears below:

The logo for LUXPETS features the word "LUXPETS" in a bold, black, sans-serif font. The letter "X" is stylized with a white, curved shape that resembles a paw print or a stylized animal head, positioned between the "U" and the "P".

4. The foreign priority application EUTM Application No. 018321060 was filed on October 14, 2020 for, *inter alia*, the following services in Class 035:

Class 035: "Retail services in relation to pet products; online retail services in relation to pet products; wholesaling of the following goods: pet goods; online wholesaling of the following goods: pet goods; advisory services for business management; sales promotion for others; online advertising on a computer network; procurement services for others [purchasing goods and services for other businesses]; marketing consulting; marketing; provision of an online marketplace for buyers and sellers of goods and services.."

The particulars of the foreign priority application EUTM Application No. 018321060 are reprinted below and are also attached herewith as **EXHIBIT A** (from EUIPO website: <https://euipo.europa.eu/eSearch/#details/trademarks/018321060>):

EUTM file information
Back to search results
1 of 1

LUXPETS

018321060

eRegister
Certificate
Print

Log in to access advanced functionalities
Log in
Sign up

Timeline

The timeline consists of a horizontal line with several key events marked by circles and dates:

- 14/10/2020**: EUTM application received (Start of Examination phase)
- 12/11/2020**: Application published (End of Examination phase)
- 0 oppositions received**: Event during the Opposition proceedings phase
- 12/02/2021**: End of opposition period (End of Opposition proceedings phase)
- 22/02/2021**: EUTM registered and published (Start of Registered EUTM phase)
- 03/02/2022**: Current date, marked with a yellow pin
- 14/10/2030**: EUTM expiry date (End of Registered EUTM phase)

Actions and communications

EUTM

Trade mark information

Name:	LUXPETS	Filing date:	14/10/2020
Filing number:	018321060	Registration date:	19/02/2021
Basis:	EUTM on which IA is based	Expiry date:	14/10/2030
Date of receipt:	14/10/2020	Designation date:	
Date of receipt of International Registr...:	12/04/2021	Filing language:	Italian
IR number:	1617488	Second language:	English
Type:	Figurative	Application reference:	168.2020
Nature:	Individual	Trade mark status:	Registered
Nice classes:	6, 12, 16, 18, 20, 21, 24, 27, 28, 35 (Nice Classification)	Acquired distinctiveness:	No
Vienna Classification:	03.01.06, 03.01.24, 27.03.03 (Vienna Classification)		

5. The foreign priority application EUTM Application No. 018321060 was registered on February 19, 2021 for, *inter alia*, the following services in Class 035.

Class 035: “Retail services in relation to pet products; Online retail services in relation to pet products; Wholesaling of the following goods: Pet goods; Online wholesaling of the

following goods: Pet goods; Advisory services for business management; Sales promotion for others; Online advertising on a computer network; Procurement services for others [purchasing goods and services for other businesses]; Marketing consulting; Marketing; Provision of an online marketplace for buyers and sellers of goods and services.”

6. Opposer asserts priority with respect to the mark at issue in this Opposition. The priority filing date of October 14, 2020 in Opposer’s **LUXPETS Application** constitutes a constructive date of first use in the United States under 15 U.S.C. §1057(c), if the application matures into a registration. This constructive use date of the Opposer predates the Applicant’s filing date of April 9, 2021. Opposer’s **LUXPETS Application** currently remains valid and pending.

7. Applicant’s mark “PETDELUX” (Design mark) is confusingly and deceptively similar to Opposer’s “LUXPETS” Design mark at least in sight, sound and/or commercial impression.

8. In particular, the Applicant’s mark “PETDELUX” is essentially a reversal of the terms “LUX” and “PETS” in the Opposer’s “LUXPETS” mark, and such transposed marks do not create distinctly different commercial impressions. Namely, the Applicant’s “PETDELUX” mark conveys a similar meaning and connotation to the Opposer’s “LUXPETS” Mark.

9. Applicant’s services are in Class 035 and are identical to, are highly similar to, encompass and/or overlap at least the services in Class 035 provided in connection with Opposer’s “LUXPETS” Design mark, and such services would travel and/or be promoted through the same channels of trade, marketing and/or advertising to be provided to and/or used by, the same class of purchasers/clients.

10. Due to the similarities between Applicant’s “PETDELUX” Design Mark and Opposer’s “LUXPETS” Design trademark, and in view of their identical Class 035 designations and overlapping/identical goods therein, Applicant’s mark “PETDELUX” (Design Mark) is likely to cause confusion, mistake or deception as to the source of origin of Applicant’s

services in that the public, the trade and others are likely to believe that Applicant's services are: (a) the same services as Opposer's and/or (b) endorsed, provided, sponsored, approved, licensed by, affiliated with or in some other way legitimately related and/or connected to Opposer and/or its goods, licensed products and/or services.

11. Thus, the use and registration of the Applicant's "PETDELUX" (Design Mark) for services in Class 035 is likely to cause confusion or to cause mistake or deception in the trade and among purchasers/users and potential purchasers/users with Opposer's "LUXPETS" Design trademark which asserts an earlier date of constructive first use, causing damage to Opposer.

12. The use and registration of the Applicant's application No. 90/633,935 for the "PETDELUX" (Design Mark) is likely to dilute the distinctive quality of Opposer's "LUXPETS" Design trademark, again causing damage to Opposer.

13. Registration of the mark shown in the Application Serial No. 90/633,935 will result in damage to Opposer under at least the provisions of Section 2(d) of United States Trademark Act, 15 U.S.C. 1052(d), pursuant to the allegations stated above.

WHEREFORE, Opposer respectfully requests that the Opposition be sustained and Application Serial Number 90/633,935 be refused registration.

Accompanying this Notice of Opposition is the required fee of \$600.00.

[SIGNATURE PAGE FOLLOWS]

Dated: February 3, 2022

Respectfully submitted,
THUN, S.p.A.

By its attorneys,

/Susan Paik/

Susan Paik, Esq.
James J. Bitetto, Esq.
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ATTORNEY(S) FOR OPPOSER

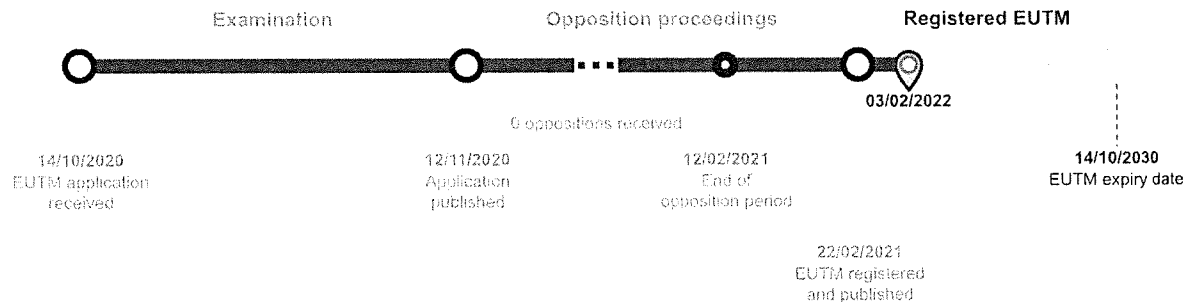
EXHIBIT A

EUTM file information

LUXPETS

018321060

Timeline



Trade mark information

Name	LUXPETS	Filing date	14/10/2020
Filing number	018321060	Registration date	19/02/2021
Basis	EUTM on which IA is based	Expiry date	14/10/2030
Date of receipt	14/10/2020	Designation date	
Date of receipt of International Registra...	12/04/2021	Filing language	Italian
IR number	1617488	Second language	English
Type	Figurative	Application reference	168.2020
Nature	Individual	Trade mark status	Registered
Nice classes	6, 12, 16, 18, 20, 21, 24, 27, 28, 35 (Nice Classification)	Acquired distinctiveness	No
Vienna Classification	03.01.06, 03.01.24, 27.03.03 (Vienna Classification)		

Graphic representation



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Goods and services

English (en) ▼

- 6** Stalls [structures] of metal for animals; Identification tags of metal for animals.
- 12** Pet strollers; Accessories for bicycles, For transporting pets.
- 16** Disposable absorbent training pads for pets; Plastic bags for pet waste disposal.
- 18** Clothing for pets; Clothing for pets; Electronic pet collars; Collars for animals; Collars for pets; Covers for animals; Harnesses; Pet hair bows; Leads for animals; Covers and wraps for animals; Nose bags [feed bags]; Animal carriers [bags].
- 20** safety barriers, not of metal, for and pets (furniture); Pet houses; Playhouses for pets; Nesting boxes for animals; Sleeping baskets, non-metallic, for domestic animals; Baskets, non-metallic, for the transportation of domestic animals; Pet cushions; Inflatable pet beds; Portable beds for pets; Pet furniture; Identification tags for animals, not of metal; Animal carriers in the form of boxes; Dog kennels; Animal housing and beds.
- 21** Non-mechanized pet waterers in the nature of portable water and fluid dispensers for pets; Pet paw cleaners, non-electric; Pet feeding bowls, automatic; Pet feeding bowls; Pet drinking bowls; Plastic containers for dispensing drink to pets; Household containers for storing pet food; Devices for pest and vermin control; Animal activated animal feeders; Electronic pet feeders; Cages for household pets; Animal grooming gloves; Automatic litter boxes for pets; Litter for domestic animals; Scoops for the disposal of animals excrement; Combs for animals; Fur brushes for animals; Electric pet brushes; Deshedding brushes for pets; Brushes for pets; Toothbrushes for pets; Litter boxes for pets; Pet feeding bowls; Aquariums; Aquarium ornaments.
- 24** Blankets for household pets.
- 27** Rugs for animals; Pet feeding mats.
- 28** Sports equipment for pets; Toys for animals; Toys for pets; Pet toys containing catnip.
- 35** Retail services in relation to pet products; Online retail services in relation to pet products; Wholesaling of the following goods: Pet goods; Online wholesaling of the following goods: Pet goods; Advisory services for business management; Sales promotion for others; Online advertising on a computer network; Procurement services for others [purchasing goods and services for other businesses]; Marketing consulting; Marketing; Provision of an online marketplace for buyers and sellers of goods and services.

Description

No data

Owners

THUN SPA

ID	48669	Country	IT - Italy	Correspondence address	
Organisation	THUN SPA	State/county	n/a	THUN SPA	Hidden. You can set your contact details to be publicly available via the User Area.
Legal status	Legal entity	Town	Bolzano	Via Galvani, 29	
Size of company	n/a	Post code	39100	I-39100 Bolzano	Hidden. You can set your contact details to be publicly available via the User Area.
Sector of activity	n/a	Address	Via Galvani, 29	ITALIA	
					Hidden. You can set your contact details to be publicly available via the User Area.

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ADEXE SRL

ID	74031	Country	IT - Italy	Correspondence address	Hidden. You can set your contact details to be publicly available via the User Area.
Organisation	n/a	State/county	n/a	ADEXE SRL	
Legal status	Legal person	Town	VERONA	Corso Porta Nuova 131 I-37122 VERONA ITALIA	
Type	Association	Post code	37122	Address	Hidden. You can set your contact details to be publicly available via the User Area.
			Corso Porta Nuova 131		Hidden. You can set your contact details to be publicly available via the User Area.

Correspondence

From	Procedure	Filing number	Subject	Date	Actions
	EUTM	018321060	LSU02 — Information to proprietors of earlier trade mark registrations or applications (Article 195(4) EUTMR)	01/09/2021	
	IA	018321060_01	M150 - Notification that the Office has forwarded the international application to the International Bureau	19/04/2021	
	IA	018321060_01	M200A - Letter special correspondence	19/04/2021	
	IA	018321060_01	M101 — Receipt of an International Application (Article 184(1) EUTMR)	12/04/2021	
	EUTM	018321060	LSU01 — Information to proprietors of earlier trade mark registrations or applications (Article 43(7) EUTMR)	17/03/2021	
	EUTM	018321060	L304 - Cover letter for registration certificate	23/02/2021	
	EUTM	018321060	Certificate	22/02/2021	
	EUTM	018321060	L167 - Confirmation of a restriction of the list of goods or services in a European Union trade mark application	10/02/2021	
	EUTM	018321060	Letter to the EUIPO	09/02/2021	
	EUTM	018321060	L101F - Receipt of an application for a European Union trade mark (EUTM) and notification that a provisional filing date has been accorded	14/10/2020	

Showing 1 to 10 of 12 entries

IR transformation

No data

Seniority

No data

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Priority

No data

Publications

Bulletin number	Date	Section	Description
2020/216	12/11/2020	A.1	Applications published under Article 44 EUTMR
2021/035	22/02/2021	B.2	Registrations with amendments since the application was published
2021/192	08/10/2021	C.3.6	International trade marks

Showing 1 to 3 of 3 entries

Cancellation

No data

Recordals

No data

Oppositions

No data

Appeals

No data

Decisions

No data

Renewals

No data

Trade mark relations

No data

International Applications

ID	Status	IsReceipt	IsConfirmation
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