

ESTTA Tracking number: **ESTTA1210948**

Filing date: **05/23/2022**

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	Swimwear Anywhere, Inc.
Granted to date of previous extension	05/22/2022
Address	85 SHERWOOD AVENUE FARMINGDALE, NY 11735 UNITED STATES

Correspondence information	DONNA RUBELMANN RUBELMANN & ASSOCIATES, P.C. 501 HERONDO STREET #45 HERMOSA BEACH, CA 90740 UNITED STATES Primary email: donna@rubelmannlaw.com Secondary email(s): para@rubelmannlaw.com 3104805390
----------------------------	---

Applicant information

Application no.	90583060	Publication date	11/23/2021
Opposition filing date	05/23/2022	Opposition period ends	05/22/2022
Applicant	PAC TRADING SERVICE INC 5436 ARDEN DR TEMPLE CITY, CA 91780 UNITED STATES		

Goods/services affected by opposition


Class 025. First Use: Jul 1, 2019 First Use In Commerce: Jul 1, 2019 All goods and services in the class are opposed, namely: clothing, namely, swimsuits, tops, sweat-shirts, hoodies, zip-ups being zippered sweatshirts and hoodies


Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
--------------------------------------	----------------------------

Marks cited by opposer as basis for opposition

U.S. registration no.	3761174	Application date	08/05/2009
Register	Principal		
Registration date	03/16/2010	Foreign priority date	NONE

Word mark	COCO REEF
Design mark	
Description of mark	NONE
Goods/services	Class 025. First use: First Use: Oct 27, 1995 First Use In Commerce: Oct 27, 1995 Swimwear and swimwear coverups

U.S. registration no.	2073316	Application date	11/30/1995
Register	Principal		
Registration date	06/24/1997	Foreign priority date	NONE
Word mark	COCO REEF		
Design mark			
Description of mark	NONE		
Goods/services	Class 025. First use: First Use: Oct 27, 1995 First Use In Commerce: Oct 27, 1995 swimwear, namely, bathing suits and related cover-up apparel, namely, skirts, [jackets,] pants, shorts and robes		

U.S. registration no.	3651831	Application date	08/09/2007
Register	Principal		
Registration date	07/07/2009	Foreign priority date	NONE
Word mark	COCO RAVE		

Design mark	COCO RAVE		
Description of mark	NONE		
Goods/services	Class 025. First use: First Use: Feb 24, 2009 First Use In Commerce: Feb 24, 2009 Clothing, namely, [coats and jackets,] shirts, [and] tops, [namely, tank tops and] t-shirts, [sweatshirts, sweatpants, jogging and warm-up suits, shorts,] skirts, dresses, [trousers, socks,] swimwear [sarongs,] * AND * swimwear cover-ups [and team uniforms; footwear, namely, shoes and sandals; and headwear, namely, caps, hats, bandanas, head bands and sweat bands]		

U.S. registration no.	4142936	Application date	09/18/2008
Register	Principal		
Registration date	05/15/2012	Foreign priority date	NONE
Word mark	COCO CONTOURS		
Design mark	COCO CONTOURS		
Description of mark	NONE		
Goods/services	Class 025. First use: First Use: Jan 27, 2012 First Use In Commerce: Jan 27, 2012 Clothing in the nature of swimwear and swimwear cover-ups		

U.S. registration no.	4667797	Application date	02/17/2010
Register	Principal		
Registration date	01/06/2015	Foreign priority date	NONE
Word mark	COCO REEF CONTOURS		

Design mark	COCO REEF CONTOURS		
Description of mark	NONE		
Goods/services	Class 025. First use: First Use: Dec 5, 2013 First Use In Commerce: Dec 5, 2013 Clothing, namely. shirts and tops, namely, tank tops and t-shirts, shorts, skirts, swimwear, sarongs and swimwear cover-ups		

U.S. registration no.	5267092	Application date	04/27/2016
Register	Principal		
Registration date	08/15/2017	Foreign priority date	NONE

Word mark	CONTOURS BY COCO REEF		
Design mark	CONTOURS BY COCO REEF		
Description of mark	NONE		
Goods/services	Class 025. First use: First Use: Nov 30, 2011 First Use In Commerce: Nov 30, 2011 Clothing, namely; jackets, shirts, tops, tank tops, t-shirts, sweatshirts, sweat pants, shorts, pants, skirts, swimwear, sarongs, swimwear cover-ups, tights and knickers; Headwear, namely; caps, swimcaps, hats, bandanas, head bands and sweatbands; Footwear, namely; shoes and sandals		

Attachments	77797598#TMSN.png(bytes) 75026087#TMSN.png(bytes) 77251072#TMSN.png(bytes) 77573139#TMSN.png(bytes) 77938135#TMSN.png(bytes) 87016539#TMSN.png(bytes) Opposition of COCO SWIM.pdf(85885 bytes)
-------------	---

Signature	/dar/
-----------	-------

Name	DONNA RUBELMANN
Date	05/23/2022

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

In re Application of:)	Swimwear Anywhere, Inc.
)	Opposer
PAC Trading Service Inc.)	
)	v.
Mark: COCO SWIM)	
)	PAC Trading Service Inc.
)	Applicant
App. No.: 90583060)	
)	
Pub. Date: November 23, 2021)	Opposition No. _____

NOTICE OF OPPOSITION

Swimwear Anywhere, Inc., (“Opposer”), a corporation of New York with a business address of 85 Sherwood Avenue, Farmingdale, New York 11735, by and through their attorney, believes that Opposer will be damaged by Application No. 90583060 of the mark COCO SWIM, which was filed March 16, 2021 and hereby opposes the same.

To the best of the Opposer’s knowledge, the name and address of the above-identified Applicant is PAC Trading Service Inc., a California corporation, with a business address of 5436 Arden Dr. Temple City, California 91780.

The grounds for Opposition are as follows:

- (1) For many years, and long before the acts of Applicant alleged herein, Swimwear Anywhere, Inc., including its predecessors and affiliates (“Swimwear Anywhere”), has been engaged, inter alia, in the manufacture, distribution and sale of a wide range of swimwear, beach clothing, and related accessories.
- (2) Since October 27, 1995, Swimwear Anywhere has distributed and sold, and continues to distribute and sell a wide range of swimwear, beach clothing and related accessories under and in connection with a family of marks containing the first dominant term COCO, including but not limited to COCO REEF, COCO RAVE, COCO CONTOURS, and variations thereof (hereinafter COCO Marks.)
- (3) Swimwear Anywhere has devoted substantial resources, time and effort to developing, marketing and distributing such products under its family of COCO Marks. As a result of Swimwear Anywhere’s consistent efforts to promote and protect its COCO Marks, Swimwear Anywhere has developed considerable recognition and goodwill in the COCO Marks, which are now widely recognized as signifying Swimwear Anywhere and its goods.
- (4) To protect its rights in these marks, Swimwear Anywhere has obtained the following Federal Registrations of the COCO Marks for use in connection with a variety of swimwear and related clothing and accessory products:

- (5) Opposer is the owner of U.S. Registration No. 3761174 of the mark COCO REEF for swimwear and swimwear coverups which issued March 16, 2010. This registration is incontestable.
- (6) Opposer is the owner of U.S. Registration No. 2073316 of the mark COCO COCO REEF & Design for swimwear, namely, bathing suits and related cover-up apparel, namely, skirts [jackets], pants, shorts and robes which issued June 24, 1997. This registration is incontestable.
- (7) Opposer is the owner of U.S. Registration No. 3651831 for the mark COCO RAVE for clothing, namely, [coats and jackets, shirts, and] tops, namely, [tank tops and] t-shirts, [sweatshirts, sweat pants, jogging and warm-up suits, shorts,] skirts, dresses, [trousers, socks,] swimwear, [sarongs,] *AND* swimwear cover-ups[and team uniforms; footwear, namely, shoes and sandals; and headwear, namely caps, hats, bandanas, headbands and sweat bands] which issued July 7, 2009. This registration is incontestable.
- (8) Opposer is the owner of U.S. Registration No. 5267092 of the mark CONTOURS BY COCO REEF for clothing, namely; jackets, shirts, tops, tank tops, t-shirts, sweatshirts, sweat pants, shorts, pants, skirts, swimwear, sarongs, swimwear cover-ups, tights, and knickers; headwear, namely caps, swim caps, hats, bandanas, head bands and sweatbands; Footwear, namely shoes and sandals which issued August 15, 2017.

- (9) Opposer is the owner of U.S. Registration No. 4142936 of the mark COCO CONTOURS for clothing in the nature of swimwear and swimwear cover-ups which issued May 15, 2012. This registration was cancelled December 21, 2018.
- (10) Opposer is the owner of U.S. Registration No. 4667797 of the mark COCO REEF CONTOURS for clothing, namely; shirts and tops, namely tank tops and t-shirts, shorts, skirts, swimwear, sarongs, and swimwear cover-ups which issued January 6, 2015. This registration was cancelled August 13, 2021.
- (11) On July 1, 2019, decades after Swimwear Anywhere began use of its COCO Marks, Applicant filed an application to register the mark COCO SWIM for clothing, namely, swimsuits, tops, sweatshirts, hoodies, zip-ups being zippered sweatshirts and hoodies in Class 25. (Serial No. 90583060)
- (12) Applicant entered a Disclaimer of the term “SWIM.”
- (13) As a result, inter alia, of the strength of the COCO Marks, the virtual identity of the parties’ marks, the virtual identity of the goods associated with the marks, and their respective channels of trade, Applicant’s use and registration of the COCO SWIM mark for identical and overlapping products is likely to cause confusion or mistake, or to deceive purchasers, in that purchasers would likely to believe that Applicant’s goods are Swimwear Anywhere’s goods, or are in some way legitimately connected with or sponsored or approved by Swimwear Anywhere in violation of 15 U.S.C. Section 1052(d). Applicant’s registration of COCO SWIM

would, therefore damage Swimwear Anywhere, and on that basis, Swimwear Anywhere opposes registration of the mark by Applicant.

WHEREFORE, Opposer prays that the registration sought by Applicant be refused and that this Notice of Opposition be sustained.

Respectfully Submitted,

Swimwear Anywhere, Inc.

By: ___/dar/_____

Donna Rubelmann, Esq.
Rubelmann & Associates, P.C.
Attorney for Opposer
501 Herondo Street, Suite 45
Hermosa Beach, CA 90254
Phone: (310) 379-2715/(310) 480-5390
Fax: (310) 318-1852