

ESTTA Tracking number: **ESTTA1221302**

Filing date: **07/13/2022**

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	Original Buff, S.A.		
Entity	Sociedad Anónima	Citizenship	Spain
Address	FRANÇA 16 E-08700 IGUALADA, BARCELONA, 0 SPAIN		

Attorney information	LEIGH ANN LINDQUIST SUGHRUE MION, PLLC 2000 PENNSYLVANIA AVENUE NW SUITE 9000 WASHINGTON, DC 20006 UNITED STATES Primary email: llindquist@sughrue.com Secondary email(s): tm@sughrue.com, vmullineaux@sughrue.com 202 663 7409		
Docket no.	H00491		

Applicant information

Application no.	90868833	Publication date	06/14/2022
Opposition filing date	07/13/2022	Opposition period ends	07/14/2022
Applicant	Garnica, Michael #5 501 EAST VERDUGO AVE. BURBANK, CA 91501 UNITED STATES		

Goods/services affected by opposition

Class 025. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Clothing, namely, bandannas, visors being headwear, hats, beanies, hooded sweatshirts, jackets, socks, underwear, pants, shorts, sweatshirts and sweat pants shirts, shirts with long sleeves, shirts with short sleeves, tank tops, collared shirts, shoes, flip flops being footwear, and slippers

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.	2197157	Application date	02/13/1997
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Register	Principal		
Registration date	10/20/1998	Foreign priority date	NONE
Word mark	BUFF		
Design mark			
Description of mark	The mark consists of a circle with a bolded black edge, inside of which is the word "BUFF" in stylized black lettering with a "B" larger than the letters "UFF".		
Goods/services	Class 025. First use: First Use: None First Use In Commerce: None multipurpose wraps made of textiles for use as decorative headwear, head bands, arm bands, wrist bands and leg bands		

U.S. registration no.	5532414	Application date	08/11/2017
Register	Principal		
Registration date	08/07/2018	Foreign priority date	NONE
Word mark	BUFF		
Design mark			
Description of mark	NONE		
Goods/services	Class 025. First use: First Use: None First Use In Commerce: None Ready-made clothing for use as external clothing layers and internal clothing layers, namely, shorts, shirts, pants, sweat shirts, sweat pants, coats, jackets, jerseys, T-shirts, dresses, underwear, undershirts, lingerie; Headscarves not included in other classes; Caps being headwear; Footwear except orthopedic footwear; Headwear, namely, hats, baseball caps, headscarves, headbands, balaclavas and berets		

Attachments	H00491NoticeofOpposition.pdf(467172 bytes)
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Signature	/Leigh Ann Lindquist/
Name	LEIGH ANN LINDQUIST
Date	07/13/2022

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


In re: Application Serial No. 90868833
Mark: BUFF GHOST

Original Buff, S.A.,	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No.:
	:	
Michael Garnica,	:	
	:	
Applicant.	:	
	:	

NOTICE OF OPPOSITION

Opposer, Original Buff, S.A., hereby opposes registration of the mark BUFF GHOST which is the subject of Application Serial No. 90868833. As grounds in support of this opposition, Opposer alleges as follows:

1. Opposer, Original Buff, S.A., is a Sociedad Anónima of Spain with a business address of França 16, E-08700 Igualada, Barcelona SPAIN.
2. Opposer, through its predecessor in interest since at least 1995, has adopted and continuously used up to and including the present time the trademark BUFF for a wide variety of wearing apparel items.
3. Opposer is the owner of the mark BUFF for a wide variety of wearing apparel items in International Class 25. Opposer holds a number of federal trademark registrations for its BUFF mark. Opposer's registrations include the following:

Mark	Reg. No.	Reg. Date	Goods
	2197157	10/20/1998	Multipurpose wraps made of textiles for use as decorative headwear, head bands, arm bands, wrist bands and leg bands, in International Class 25
BUFF	5532414	8/7/2018	Ready-made clothing for use as external clothing layers and internal clothing layers, namely, shorts, shirts, pants, sweat shirts, sweat pants, coats, jackets, jerseys, T-shirts, dresses, underwear, undershirts, lingerie; Headscarves not included in other classes; Caps being headwear; Footwear except orthopedic footwear; Headwear, namely, hats, baseball caps, headscarves, headbands, balaclavas and berets, in Class 25

4. Copies of USPTO TSDR status information for the registrations mentioned in paragraph 3 are attached hereto as Exhibit A. Together these marks and use of such marks are referred to as the "BUFF Marks."

5. Opposer's use of its BUFF Marks in the United States precedes Applicant's filing date in the United States and any use date upon which Applicant can rely.

6. Applicant, Michael Garnica, has applied to register the mark BUFF GHOST for "Clothing, namely, bandannas, visors being headwear, hats, beanies, hooded sweatshirts, jackets, socks, underwear, pants, shorts, sweatshirts and sweat pants shirts, shirts with long sleeves, shirts with short sleeves, tank tops, collared shirts, shoes, flip flops being footwear, and slippers" in Class 25.

7. Applicant filed its application for the mark BUFF GHOST on August 6, 2021, based on an intent to use basis, and that application received Serial No. 90868833.

8. Applicant was on constructive notice of Opposer's BUFF Marks at the time Applicant filed its application to register the BUFF GHOST mark by virtue of Section 22 of The Lanham Act, 15 U.S.C. §1072.

9. The Class 25 goods in the opposed application are highly related to Opposer's goods sold under its BUFF Marks. Applicant's Class 25 goods would be likely to be thought to have emanated from the same source as Opposer's goods, or to have been approved, endorsed or sponsored by Opposer, or to be related to Opposer's goods.

10. The trademark in the opposed application, as applied to the Class 25 goods set forth in that application, is confusingly and deceptively similar to Opposer's previously used and registered BUFF Marks.

11. Opposer believes and therefore alleges that the use and registration of the alleged BUFF GHOST mark by Applicant will damage Opposer, for the reasons, among others:

- a. That purchasers and persons in the trade will be deceived as to the source and origin of Applicant's Class 25 goods sold and offered under the BUFF GHOST mark; and
- b. Purchasers, persons in the trade and others will assume, contrary to fact, that Applicant's Class 25 goods are associated with, approved by, sponsored by or otherwise related to Opposer.

12. Registration of the mark sought by Applicant herein is barred by the provisions of Section 2(d) of the Trademark Act of 1946 for the reason that it consists of or comprises a mark which so resembles Opposer's previously used and registered trademarks, when applied to the Class 25 goods of Applicant, to cause confusion, mistake or deception.

WHEREFORE, it is respectfully requested that this opposition be sustained and that registration to Applicant be refused.

With this electronic submission, authorization is provided to debit an account of the undersigned in the amount of \$600 for the government filing fee in connection with this Notice of Opposition. Please charge any difference or credit any overpayment to the undersigned's Deposit Account No. 19-4880.

Respectfully submitted,

ORIGINAL BUFF, S.A.



By: _____

Leigh Ann Lindquist
SUGHRUE MION, PLLC
2000 Pennsylvania Avenue NW, Suite 9000
Washington, D.C. 20006
(202) 663.7409
Attorneys for Opposer

Date: July 13, 2022

EXHIBIT A

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Mark: BUFF



US Serial Number: 75241091

Application Filing Date: Feb. 13, 1997

US Registration Number: 2197157

Registration Date: Oct. 20, 1998

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: The registration has been renewed.

Status Date: Feb. 13, 2018

Publication Date: Jul. 28, 1998

Mark Information

Mark Literal Elements: BUFF

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of a circle with a bolded black edge, inside of which is the word "BUFF" in stylized black lettering with a "B" larger than the letters "UFF".

Design Search Code(s): 26.01.02 - Circles, plain single line; Plain single line circles

Foreign Information

Foreign Registration Number: 1954581(9)

Foreign Registration Date: Jun. 05, 1996

Foreign Application/Registration Country: SPAIN

Foreign Expiration Date: Mar. 16, 2005

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *.* identify additional (new) wording in the goods/services.

For: multipurpose wraps made of textiles for use as decorative headwear, head bands, arm bands, wrist bands and leg bands

International Class(es): 025 - Primary Class

U.S Class(es): 022, 039

Class Status: ACTIVE

Basis: 44(e)

Basis Information (Case Level)

Filed Use: No
Filed ITU: No
Filed 44D: No
Filed 44E: Yes
Filed 66A: No
Filed No Basis: No

Currently Use: No
Currently ITU: No
Currently 44E: Yes
Currently 66A: No
Currently No Basis: No

Current Owner(s) Information

Owner Name: ORIGINAL BUFF, S.A.
Owner Address: FRANCA, 16 - POLIGONO INDUSTRIAL
IGUALADA (BARCELONA) 08700 SPAIN
Legal Entity Type: CORPORATION
State or Country Where Organized: SPAIN

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Brooks R. Bruneau
Attorney Primary Email Address: brooks.bruneau@fisherbroyles.com
Docket Number: 04758.T050US
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Brooks R. Bruneau
FisherBroyles, LLP
100 Overlook Center
Second Floor
PRINCETON, NEW JERSEY UNITED STATES 08540
Phone: 609 454 6772
Correspondent e-mail: docketing@fisherbroyles.com brooks.bruneau@fisherbroyles.com denise.mcculloch@fisherbroyles.com
Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Name: Brooks R. Bruneau
Domestic Representative e-mail: brooks.bruneau@fisherbroyles.com
Phone: 609 454 6772
Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Feb. 13, 2018	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Feb. 13, 2018	REGISTERED AND RENEWED (SECOND RENEWAL - 10 YRS)	71359
Feb. 13, 2018	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	71359
Feb. 13, 2018	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	71359
Jan. 24, 2018	TEAS SECTION 8 & 9 RECEIVED	
Oct. 20, 2017	COURTESY REMINDER - SEC. 8 (10-YR)/SEC. 9 E-MAILED	
Oct. 07, 2016	AMENDMENT UNDER SECTION 7 - PROCESSED	66607
Oct. 03, 2016	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	66607
Jul. 12, 2016	TEAS SECTION 7 REQUEST RECEIVED	
Oct. 30, 2008	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	66607
Oct. 30, 2008	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Oct. 30, 2008	ASSIGNED TO PARALEGAL	66607
Oct. 13, 2008	TEAS SECTION 8 & 9 RECEIVED	

Aug. 07, 2007 CASE FILE IN TICRS
 Feb. 14, 2007 AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP
 Feb. 08, 2007 ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED
 Feb. 08, 2007 TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED
 Jan. 20, 2006 ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED
 Jan. 20, 2006 TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED
 Sep. 22, 2005 TEAS CHANGE OF OWNER ADDRESS RECEIVED
 Jul. 20, 2004 REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.
 Jun. 14, 2004 REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED
 Jun. 14, 2004 TEAS SECTION 8 & 15 RECEIVED
 Sep. 12, 2002 PAPER RECEIVED
 Oct. 20, 1998 REGISTERED-PRINCIPAL REGISTER
 Jul. 28, 1998 PUBLISHED FOR OPPOSITION
 Jun. 26, 1998 NOTICE OF PUBLICATION
 Apr. 28, 1998 APPROVED FOR PUB - PRINCIPAL REGISTER
 Jan. 07, 1998 CORRESPONDENCE RECEIVED IN LAW OFFICE
 Jul. 07, 1997 NON-FINAL ACTION MAILED
 Jun. 12, 1997 ASSIGNED TO EXAMINER

67604

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: GENERIC WEB UPDATE

Date in Location: Feb. 13, 2018

Assignment Abstract Of Title Information

Summary

Total Assignments: 3

Registrant: MAS, JUAN ROJAS

Assignment 1 of 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [2564/0467](#)

Pages: 31

Date Recorded: Aug. 13, 2002

Supporting Documents: [assignment-tm-2564-0467.pdf](#)

Assignor

Name: [MAS, JUAN ROJAS](#)

Execution Date: Mar. 01, 1996

Legal Entity Type: INDIVIDUAL

Citizenship: No Citizenship Found

Assignee

Name: [CAVIRO, S.L.](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: SPAIN

Address: AVDA, CARESMAR, 48
BARCELONA, SPAIN 08700

Correspondent

Correspondent Name: TRADEMARK & PATENT COUNSELORS OF

Correspondent Address: AMERICA, P.C.
MARK I. PEROFF
915 BROADWAY, 19TH FLR.
NEW YORK, NY 10010

Domestic Representative - Not Found

Assignment 2 of 3

Conveyance: CHANGE OF NAME

Reel/Frame: [3163/0498](#)

Pages: 3

Date Recorded: Sep. 22, 2005

Supporting Documents: [assignment-tm-3163-0498.pdf](#)

Assignor

Name: [CAVIRO, S.L.](#) Execution Date: Sep. 19, 2005
Legal Entity Type: CORPORATION State or Country: SPAIN
Where Organized:

Assignee

Name: [ORIGINAL BUFF, S.L.](#)
Legal Entity Type: CORPORATION State or Country: SPAIN
Where Organized:
Address: FRANCA, 16-POLIGONO INDUSTRIAL
IGUALADA (BARCELONA) 08700, SPAIN

Correspondent

Correspondent Name: MARK I. PEROFF
Correspondent Address: 599 LEXINGTON AVENUE
NEW YORK, NY 10022-6030

Domestic Representative

Domestic Representative Name: MARK I. PEROFF
Domestic Representative Address: 599 LEXINGTON AVENUE
NEW YORK, NY 10022-6030

Assignment 3 of 3

Conveyance: CHANGE OF NAME
Reel/Frame: [3477/0685](#) Pages: 8
Date Recorded: Feb. 08, 2007
Supporting Documents: [assignment-tm-3477-0685.pdf](#)

Assignor

Name: [ORIGINAL BUFF, S.L.](#) Execution Date: Feb. 11, 2006
Legal Entity Type: CORPORATION State or Country: SPAIN
Where Organized:

Assignee

Name: [ORIGINAL BUFF, S.A.](#)
Legal Entity Type: CORPORATION State or Country: SPAIN
Where Organized:
Address: FRANCA, 16 - POLIGONO INDUSTRIAL
IGUALADA (BARCELONA) 08700, SPAIN

Correspondent

Correspondent Name: PERLA M. KUHN
Correspondent Address: HUGHES HUBBARD & REED LLP
ONE BATTERY PARK PLAZA
NEW YORK, NY 10004-1482

Domestic Representative

Domestic Representative Name: PERLA M. KUHN
Domestic Representative Address: HUGHES HUBBARD & REED LLP
ONE BATTERY PARK PLAZA
NEW YORK, NY 10004-1482

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Mark: BUFF

BUFF

US Serial Number: 79218757

Application Filing Date: Aug. 11, 2017

US Registration Number: 5532414

Registration Date: Aug. 07, 2018

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Aug. 07, 2018

Publication Date: May 22, 2018

Mark Information

Mark Literal Elements: BUFF

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

International Registration Number: 1370544

International Registration Date: Aug. 11, 2017

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *...* identify additional (new) wording in the goods/services.

For: Ready-made clothing for use as external clothing layers and internal clothing layers, namely, shorts, shirts, pants, sweat shirts, sweat pants, coats, jackets, jerseys, T-shirts, dresses, underwear, undershirts, lingerie; Headscarves not included in other classes; Caps being headwear; Footwear except orthopedic footwear; Headwear, namely, hats, baseball caps, headscarves, headbands, balaclavas and berets

International Class(es): 025 - Primary Class

U.S Class(es): 022, 039

Class Status: ACTIVE

Basis: 66(a)

Basis Information (Case Level)

Filed Use: No
Filed ITU: No
Filed 44D: No
Filed 44E: No
Filed 66A: Yes
Filed No Basis: No

Currently Use: No
Currently ITU: No
Currently 44E: No
Currently 66A: Yes
Currently No Basis: No

Current Owner(s) Information

Owner Name: ORIGINAL BUFF, S.A.

Owner Address: França, 16
IGUALADA (BARCELONA) SPAIN E-08700

Legal Entity Type: SOCIEDAD ANONIMA

State or Country SPAIN
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Brooks R. Bruneau
Attorney Primary Email Address: brooks.bruneau@fisherbroyles.com
Docket Number: 04758.T068US
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Brooks R. Bruneau
FisherBroyles, LLP
100 Overlook Center
Second Floor
Princeton, NEW JERSEY UNITED STATES 08540
Phone: 6094546772
Correspondent e-mail: docketing@fisherbroyles.com brooks.bruneau@fisherbroyles.com denise.mcculloch@fisherbroyles.com
Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jul. 09, 2021	NEW REPRESENTATIVE AT IB RECEIVED	
Apr. 02, 2019	REVIEW OF CORRESPONDENCE COMPLETE - INFORMATION MADE OF RECORD	73376
Dec. 28, 2018	PAPER RECEIVED	
Dec. 07, 2018	FINAL DECISION TRANSACTION PROCESSED BY IB	
Nov. 21, 2018	FINAL DISPOSITION NOTICE SENT TO IB	
Nov. 21, 2018	FINAL DISPOSITION PROCESSED	70029
Nov. 07, 2018	FINAL DISPOSITION NOTICE CREATED, TO BE SENT TO IB	
Aug. 07, 2018	REGISTERED-PRINCIPAL REGISTER	
Jun. 02, 2018	NOTIFICATION PROCESSED BY IB	
May 22, 2018	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
May 22, 2018	PUBLISHED FOR OPPOSITION	
May 16, 2018	NOTIFICATION OF POSSIBLE OPPOSITION SENT TO IB	
May 16, 2018	NOTICE OF START OF OPPOSITION PERIOD CREATED, TO BE SENT TO IB	
May 02, 2018	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Apr. 16, 2018	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 16, 2018	TEAS/EMAIL CORRESPONDENCE ENTERED	68123
Apr. 16, 2018	CORRESPONDENCE RECEIVED IN LAW OFFICE	68123
Apr. 11, 2018	ASSIGNED TO LIE	68123
Mar. 28, 2018	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Dec. 29, 2017	REFUSAL PROCESSED BY IB	
Dec. 08, 2017	NON-FINAL ACTION MAILED - REFUSAL SENT TO IB	

Dec. 08, 2017	REFUSAL PROCESSED BY MPU	67445
Nov. 26, 2017	NON-FINAL ACTION (IB REFUSAL) PREPARED FOR REVIEW	
Nov. 25, 2017	NON-FINAL ACTION WRITTEN	82417
Nov. 14, 2017	ASSIGNED TO EXAMINER	82417
Oct. 27, 2017	APPLICATION FILING RECEIPT MAILED	
Oct. 23, 2017	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Oct. 20, 2017	LIMITATION FROM ORIGINAL APPLICATION ENTERED	68359
Oct. 19, 2017	SN ASSIGNED FOR SECT 66A APPL FROM IB	

International Registration Information (Section 66a)

<p>International Registration Number: 1370544</p> <p>Intl. Registration Status: REQUEST FOR EXTENSION OF PROTECTION PROCESSED</p> <p>Notification of Designation Date: Oct. 19, 2017</p> <p>International Registration Renewal Date: Aug. 11, 2027</p> <p>First Refusal Flag: Yes</p>	<p>International Registration Date: Aug. 11, 2017</p> <p>Date of International Registration Status: Oct. 19, 2017</p> <p>Date of Automatic Protection: Apr. 19, 2019</p>
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TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Aug. 07, 2018