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Filing date: **03/13/2024**

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	Wham-O Holding, Ltd.		
Entity	Limited Company	Incorporated or registered in	Hong Kong
Address	BLOCK F, 6/F, WAH HING INDUSTRIALMANSIONS 36 TAI YAU STREET SAN PO KONG, KOWLOON, 0 HONG KONG		

Attorney information	SARAH S. BROOKS VENABLE LLP 2049 CENTURY PARK EAST, SUITE 2300 LOS ANGELES, CA 90067 UNITED STATES Primary email: ssbrooks@venable.com Secondary email(s): hedmonds@venable.com, siduenas@venable.com, TrademarkDocketing@Venable.com (310) 229-9900		
Docket no.	1		

Applicant information

Application no.	97922545	Publication date	03/12/2024
Opposition filing date	03/13/2024	Opposition period ends	04/11/2024
Applicant	Bouzie's 648 BRANDING IRON ST. OAKDALE, CA 95361 UNITED STATES		

Goods/services affected by opposition

Class 021. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Bowls; Cutting boards
Class 028. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Cornhole game boards; Stands specially adapted for holding golf clubs

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.	1512876	Application date	03/25/1988
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Register	Principal		
Registration date	11/15/1988	Foreign priority date	NONE
Word mark	BZ		
Design mark			
Description of mark	NONE		
Goods/services	Class 028. First use: First Use: Dec 23, 1984 First Use In Commerce: Dec 23, 1984 SPORTING GOODS AND TOYS -NAMELY, WATER AAND SNOW SPORT BOARDS, WATER SKIS, SWIMFINS, BOOMERANGS, AND ACCESSORIES, NAMELY SURFBOARD AND BODYBOARD HANDLES, FINS AND LEASHES AND SWIM FIN TETHERS		

U.S. registration no.	2331792	Application date	12/29/1998
Register	Principal		
Registration date	03/21/2000	Foreign priority date	NONE
Word mark	BZ		
Design mark			
Description of mark	NONE		
Goods/services	Class 025. First use: First Use: Dec 23, 1984 First Use In Commerce: Dec 23, 1984 Clothing, namely, T-shirts, shorts, jackets, pants, dresses, skirts, gloves, hats, sweatshirts, sweat pants, and sandals Class 028. First use: First Use: Dec 23, 1984 First Use In Commerce: Dec 23, 1984 Bodyboards, surfboards, [and snowboards] and accessories therefor, namely, carrying bags, tethers, leashes with rail savers, handles, surfboard fins and leashes, swim fins, swim fin tethers, and towing harnesses		

Attachments	Notice of Opposition re BZ Stylized with Ex A.pdf(1983418 bytes)
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Signature	/Sarah S. Brooks/
Name	Sarah S. Brooks
Date	03/13/2024

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

**In the matter of Application Serial No. 97/922,545
Published in the *Official Gazette* on March 12, 2024**



Mark: B Z (Stylized)

WHAM-O HOLDING, LTD.,

Opposer,

v.


BOUZIE'S,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Wham-O Holding, Ltd., with a business address of Block F, 6/F, Wah Hing Industrial Mansions, 36 Tai Yau Street, San Po Kong, Kowloon, HONG KONG (“Wham-O” or “Opposer”)

believes that it will be damaged by registration of the B Z (Stylized)  mark shown in Application Serial No. 97/922,545 (“B Z Mark”), and hereby files the present notice of opposition under the provisions of 15 U.S.C. §§ 1051 *et seq.*, including specifically 15 U.S.C. § 1063. This Notice of Opposition has been timely filed. As grounds for its opposition, Opposer alleges as follows:

1. Opposer Wham-O Holding, Ltd., (“Wham-O” or “Opposer”) is a toy company known for creating some of the most iconic and popular children’s toys for the past 70 years, including the HULA-HOOP®, FRISBEE®, SLIP ‘N SLIDE®, and HACKY SACK®, as well as iconic and popular beach toys and sporting equipment such as BOOGIE® and BZ®.

2. Wham-O is the owner of U.S. Trademark Registration No. 1512876 for the stylized mark “BZ” for “Sporting goods and toys - namely, water and snow sport boards, water skis, swim fins, boomerangs, and accessories, namely surfboard and bodyboard handles, fins and leashes and swim fin tethers” in International Class 28. Wham-O is also the owner of U.S. Trademark Registration No. 2331792 for the word mark “BZ” for “Clothing, namely, T-shirts, shorts, jackets, pants, dresses, skirts, gloves, hats, sweatshirts, sweat pants, and sandals” in International Class 25 and “Bodyboards, surfboards, [and snowboards] and accessories therefore, namely, carrying bags, tethers, leashes with rail savers, handles, surfboard finds and leashes, swim fins, swim fin tethers, and towing harnesses” in International Class 28. Attached hereto as Exhibit A are true and correct copies of registration certificates for Registration Nos. 1512876 and 2331792 (collectively, the “BZ Marks”).

3. Around 1984, a surfer and beach lover named Bobby Szabad started a company named BZ that made and sold high performance body boards. BZ body boards are still considered to be the number one high performance body board on the market. For over 39 years, since at least as early as 1984, Wham-O has continuously and pervasively used the BZ Marks in commerce in the United States and in connection with high quality sporting equipment, toys, games, and clothing that are used and enjoyed by people of all ages.

4. Upon information and belief, applicant is Bouzie’s, a California corporation with an address of 648 Branding Iron St, Oakdale, California 95361 (“Applicant”).

5. As illustrated in Application Serial No. 97/922,545, Applicant seeks to register the B Z Mark for “Bowls; Cutting boards” in International Class 21 and “Cornhole game boards; Stands specially adapted for holding golf clubs” in International Class 28.

LIKELIHOOD OF CONFUSION

6. Wham-O restates Paragraphs 1-5 as if fully set forth herein.

7. Wham-O asserts, pursuant to 15 U.S.C. § 1052(d) that Applicant's B Z Mark is so similar to Wham-O's BZ Marks, as to be likely to cause confusion, or to cause mistake, or to deceive.

8. In fact, Applicant's B Z Mark incorporates the entirety of Wham-O's BZ Marks.

9. For over 39 years, since December 1984, Wham-O has continuously used the distinctive BZ Marks in commerce in the United States in connection with high quality sporting equipment, toys, games, and clothing.

10. Notably, Wham-O's BZ Marks are well-known and valuable in the sporting and toy industry. Moreover, due to national advertising and promotion of Wham-O's BZ Marks, consumers have come to recognize the BZ Marks as symbolizing the goodwill inherent in the BZ Marks, and further, associate BZ solely with Wham-O and its high-quality toy and sporting products.



11. The strength of Wham-O's BZ Marks is a factor that increases the likelihood of confusion caused by Applicant's B Z Mark. Wham-O's BZ Marks are well known and famous.

12. Given the goodwill and public recognition arising from the association of the distinctive and famous BZ Marks with Wham-O, consumers are likely to believe that Wham-O has licensed, approved, or otherwise authorized Applicant's use of the B Z Mark, when it has not.

13. Wham-O's BZ Marks are famous under the definition set forth in 15 U.S.C. § 1125(c)(2)(A).

14. No issue of priority exists between Wham-O's date of first use of its BZ Marks as set forth above and Applicant's B Z Mark application. Wham-O has used its BZ Marks in commerce in the United States in connection with sporting goods and clothing since 1984. Conversely, Applicant filed Serial No. 97/922,545 for the B Z Mark on May 5, 2023, based on an intent to use. Upon information and belief, the B Z Mark is not yet in use.

15. Applicant's proposed B Z Mark is confusingly similar to Wham-O's BZ Marks in sound, appearance, and overall commercial impression pursuant to 15 U.S.C. § 1052(d). When comparing the similarity of the marks, Applicant's B Z Mark incorporates Wham-O's BZ Marks in its entirety. Further, Applicant's stylized B Z Mark and Wham-O's stylized BZ Marks have a very similar look and feel.

Applicant's Mark	Wham-O's Mark
	

16. Moreover, Applicant's B Z Mark was filed in the same class, Class 28, as Wham-O's BZ Marks. Further, Wham-O uses its BZ Marks in connection with sporting goods and games, which are closely related or complementary to Applicant's proposed goods, namely cornhole game boards and golf club accessories.

17. In addition, Applicant's B Z Mark creates a similar commercial impression to Wham-O's BZ Marks. Consumers are accustomed to seeing the BZ Marks used by Wham-O in connection with sporting goods and games, and are likely to assume that Applicant's B Z Mark, used in the same category of goods and services, is associated with the BZ Marks and Wham-O.

18. Applicant's goods would also be marketed and advertised through trade channels that overlap with those used by Wham-O. Wham-O sells its products under its BZ Marks in a broad range of trade channels, including through e-commerce websites, online retail shops, individual retail establishments, grocery stores, sports stores, big box stores, and other institutions. Based on

information and belief, Applicant would sell its goods under the B Z Mark in some of the same trade channels, such as e-commerce websites, online retail shops, and sports stores. Due to the overlap in trade channels, prospective purchasers and others are likely to be confused as to whether Applicant's goods sold under the B Z Mark emanate from and/or are in some way affiliated with, or sponsored and approved by, Wham-O, or are otherwise related to Wham-O and/or Wham-O's goods, thereby damaging Wham-O.

19. Upon information and belief, Applicant knew or should have known of Wham-O and its prior and senior rights in and to the BZ Marks and Applicant intentionally invoked the good will and reputation of BZ in connection with its goods, and to intentionally create confusion with Wham-O's BZ Marks.

20. Pursuant to 15 U.S.C. § 1063(a), Wham-O will be damaged by registration of Applicant's proposed mark. Such registration would grant Applicant a *prima facie* exclusive right to use the proposed mark despite Wham-O's priority over Applicant and despite the likelihood of confusion, dilution, and injury to Wham-O's goodwill that will be caused by Applicant's mark.

21. In sum, at least for the reason that purchasers of Applicant's goods offered under Applicant's B Z Mark would be very likely to believe that Applicant's goods originate from the same source as the goods sold by Wham-O under Wham-O's BZ Marks, Wham-O opposes Application Serial No. 97/922,545.

WHEREFORE, Wham-O prays that this Notice of Opposition be granted, that judgment be entered against Applicant, and that U.S. Application Serial No. 97/922,545 for the goods identified in International Classes 21 and 28 be denied.

Dated: March 13, 2024

Respectfully submitted,

VENABLE LLP

/s/ Sarah S. Brooks

Sarah S. Brooks

Alicia M. Sharon

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Attorneys for Opposer Wham-O Holdings, Ltd.

EXHIBIT A

Int. Cl.: 28

Prior U.S. Cl.: 22

United States Patent and Trademark Office **Reg. No. 1,512,876**
Registered Nov. 15, 1988

**TRADEMARK
PRINCIPAL REGISTER**



PACKAGING INDUSTRIES GROUP, INC.
(DELAWARE CORPORATION)
130 NORTH STREET
HYANNIS, MA 02601

FOR: SPORTING GOODS AND TOYS —
NAMELY, WATER AND SNOW SPORT
BOARDS, WATER SKIS, SWIMFINS, BOOMER-
ANGS, AND ACCESSORIES, NAMELY SURF-

BOARD AND BODYBOARD HANDLES, FINS
AND LEASHES AND SWIM FIN TETHERS, IN
CLASS 28 (U.S. CL. 22).

FIRST USE 12-23-1984; IN COMMERCE
12-23-1984.

SER. NO. 718,739, FILED 3-25-1988.

TERESA M. RUPP, EXAMINING ATTORNEY

Int. Cls.: 25 and 28

Prior U.S. Cls.: 22, 23, 38, 39 and 50

Reg. No. 2,331,792

United States Patent and Trademark Office

Registered Mar. 21, 2000

**TRADEMARK
PRINCIPAL REGISTER**

BZ

**EARTH & OCEAN SPORTS, INC. (MASSACHU-
SETTS CORPORATION)
70 AIRPORT ROAD
P.O. BOX S
HYANNIS, MA 02601**

**FOR: CLOTHING, NAMELY, T-SHIRTS,
SHORTS, JACKETS, PANTS, DRESSES,
SKIRTS, GLOVES, HATS, SWEATSHIRTS,
SWEAT PANTS, AND SANDALS, IN CLASS 25**

**FOR, NAMELY, CARRYING BAGS, TETHERS,
LEASHES WITH RAIL SAVERS, HANDLES,
SURFBOARD FINS AND LEASHES, SWIM
FINS, SWIM FIN TETHERS, AND TOWING
HARNESSES, IN CLASS 28 (U.S. CLS. 22, 23, 38
AND 50).**

**FIRST USE 12-23-1984; IN COMMERCE
12-23-1984.**

**OWNER OF U.S. REG. NOS. 1,512,876 AND
2,033,344.**

(U.S. CLS. 22 AND 39).

FIRST USE 12-23-1984; IN COMMERCE
12-23-1984.

FOR: BODYBOARDS, SURFBOARDS, AND
SNOWBOARDS AND ACCESSORIES THERE-

SER. NO. 75-613,249, FILED 12-29-1998.

JONATHAN PAWLOW, EXAMINING ATTOR-
NEY