

ESTTA Tracking number: **ESTTA1466928**
Filing date: **10/01/2025**

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 parties oppose registration of the indicated application.

Opposers information

Name	Skechers U.S.A. Inc.
Granted to date of previous extension	10/01/2025
Address	228 MANHATTAN BEACH BLVD., MANHATTAN BEACH, CA 90266 UNITED STATES

Name	Skechers U.S.A. Inc., II
Granted to date of previous extension	10/01/2025
Address	228 MANHATTAN BEACH BLVD., MANHATTAN BEACH, CA 90266 UNITED STATES

Attorney information	IAN ROBERT WASHBURN IRELL & MANELLA LLP 1800 AVENUE OF THE STARS SUITE 900 LOS ANGELES, CA 90036 UNITED STATES Primary email: iwashburn@irell.com Secondary email(s): mcohen@irell.com, trademarks@irell.com, slu@irell.com, ggabriel@irell.com 3102037108
Docket no.	

Applicant information

Application no.	98060917	Publication date	06/03/2025
Opposition filing date	10/01/2025	Opposition period ends	10/01/2025
Applicant	Birkenstock US BidCo, Inc. 100 WOOD HOLLOW DRIVE, SUITE 100 NOVATO, CA 95945 UNITED STATES OF AMERICA		

Goods/services affected by opposition

Class 025. First Use: 1973 First Use In Commerce: 1973
All goods and services in the class are opposed, namely: Sandals

Grounds for opposition

The mark is generic	Trademark Act Sections 1, 2 and 45
The mark comprises matter that, as a whole, is functional	Trademark Act Section 2(e)(5)
The mark is not inherently distinctive and has not acquired distinctiveness	Trademark Act Sections 1, 2 and 45; and Section 2(f)

Attachments	Skechers Opp of Birkenstock Appln 98-060917.pdf(3354859 bytes)
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Signature	/Ian R. Washburn/
Name	Ian R. Washburn
Date	10/01/2025

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

In the Matter of:

Applicant : Birkenstock US BidCo, Inc.
Serial No. : 98/060,917
Filed : June 27, 2023
Published : June 3, 2025
Mark :



Skechers U.S.A. Inc., and Skechers U.S.A., Inc. II Opposers, v. Birkenstock US BidCo, Inc. Applicant.	Opposition No. _____ NOTICE OF OPPOSITION
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NOTICE OF OPPOSITION

Skechers USA, Inc., a Delaware corporation, and Skechers USA, Inc. II, a Virginia corporation, each located at 228 Manhattan Beach Blvd., Manhattan Beach, CA 90266 (hereinafter jointly referred to as “Opposer” or “Skechers”), on the facts now known believe they will be damaged by the registration of the mark shown in application Serial Number 98/060,917, for “sandals” in International Class 25 (“the Opposed Application”) filed by Birkenstock US BidCo, Inc. (“Applicant”) and published for opposition on June 3, 2025 with extension of time granted, and hereby oppose said application.

In support of its Opposition, Opposer alleges as follows:

1. Skechers is a well-known footwear designer, wholesaler, and retailer. Since at least as early as 1993, Skechers has been engaged in the sale of footwear and apparel. Skechers has fifteen different footwear collections that include athletic sneakers, boots, sandals, slippers, and work and safety shoes. Its products are sold throughout the United States and in over 170 countries and territories worldwide via third-party department and specialty stores, online, and through its own network of company-owned and -operated retail stores. As a popular brand, Skechers has attracted 8 million followers on its Facebook page (<https://www.facebook.com/SKECHERS>) and 1.5 million followers on its Instagram account @Skechers.

2. Applicant Birkenstock US BidCo, Inc. is a Delaware corporation with a mailing address of 100 Wood Hollow Drive, Suite 100, Novato, California 95945.

3. On June 27, 2023, Applicant filed the Opposed Application to obtain a registration on the Principal Register for the design shown below (the “Opposed Mark”):

for “sandals” in International Class 25 (the “Claimed Goods”).



4. The Opposed Mark is described as follows:

The mark consists of a sandal featuring a footbed with an exaggerated defined rim, that appears wider and more sunken at the heel and tapers so that the front portion appears thinner; with outsoles having sides with a rutted, irregular appearance; a raised wishbone-shaped strip in the front portion of the footbed; and an upper composed of a medial and a lateral pattern piece, each pattern piece sandwiched between the outsole and the footbed on each side of the footbed, covering the midsole, with a sharp angle in each piece from the middle of the heel to the top of the instep, where the pattern pieces collectively form two robust straps, one strap across the instep and one strap across the forefoot, where the strap portions of the medial pattern piece are longer, having punched holes and rounded, angled edges, and the strap portions of the lateral pattern piece each having a flat buckle, such that when the straps are fastened, the upper forms a substantially rounded-rectangle cutout in the middle of the forefoot. The raised wishbone-shaped strip, the punched holes, and the prongs of the buckles are all shown in broken lines, which show the position of the mark and are not claimed as part of the mark.

5. The Opposed Application was filed based on Applicant's alleged use of the Opposed Mark in commerce since 1973 for the Claimed Goods under Trademark Act Section 1(a), 15 U.S.C. § 1051(a).

6. On November 14, 2023, an Office Action issued refusing registration of the Opposed Application "because the applied-for mark, which consists of a three-dimensional configuration of the goods, appears to be a functional design for such goods" under Trademark Act Section 2(e)(5), 15 U.S.C. §1052(e)(5). The Trademark Examining Attorney detailed the basis for this refusal as follows:

As described in the application, the mark is a configuration of a sandal featuring a footbed, a sole with a jagged uneven appearance, and two uppers connected between the sole and the footbed, each having a rectangular buckle. The function and advantages of the depicted footbed are described in detail on applicant's website, where the deep heel helps to hold the foot in place. See attached evidence from birkenstock.com. Similarly, the uneven sole assists in traction, making the sandal slip resistant. See attached evidence from birkenstock.com. The uppers serve to hold the sandal on the foot, as described in the definition of the word "sandal", while buckles are commonly used to secure one end of a strap to another. See attached evidence from collinsdictionary.com. Thus, the mark configuration is functional.

7. In addition, the November 14, 2023 Office Action refused registration of the Opposed Application because "the applied-for mark consists of a non-distinctive product design or non-distinctive features of a product design that is not registrable on the Principal Register without sufficient proof of acquired distinctiveness," under Trademark Act Sections 1, 2, and 45, 15 U.S.C. §§1051-1052, 1127. The Examining Attorney indicated that "many companies produce sandals with a similar footbed, sole and straps." The Trademark Attorney included evidence from nae-vegan.com, goodguysdontwearleather.com, and ableclothing.com, that displayed sandals similar in appearance to the Opposed Mark available for sale.

8. Applicant amended its application in response to the November 14, 2023 Office Action to seek registration of the mark on the Principal Register based on evidence of acquired distinctiveness, under Trademark Act Section 2(f), 15 U.S.C. § 1052(f).

9. On September 12, 2024 the Trademark Attorney issued a subsequent Office Action maintaining the prior refusal as “the applied-for mark consists of a non-distinctive product design or non-distinctive features of a product design that is not registrable on the Principal Register without sufficient proof of acquired distinctiveness.” The Examining Attorney indicated the evidence of acquired distinctiveness was insufficient, as follows:

Applicant’s evidence does not demonstrate (1) exclusivity of use of the proposed mark in the United States; or (2) provide sufficient evidence that consumers identify applicant as the sole source of the style of sandal embodied in the applied-for mark.

In Applicant’s Response to the Office Action dated May 15, 2024, applicant provides evidence of long use, approximately fifty years, and widespread use of the Arizona design, stating that their use of the mark has been substantially exclusive. However, *an online search of sandals and shoes shows a large number of comparable shoes, which indicates that the design of the mark has not been substantially exclusive to applicant* “emphasis added”. In addition to the previously attached evidence, *numerous sandals appear identical or highly similar from designers and shoe companies such as Balenciaga, Mephisto, Cushionaire, Steve Madden, Funky Monkey, Leonardo, Summer Foot Styles, Viking Sandals, Alpine Swiss, Arizona Jean Co., Eastland Cambridge, Natural Reflections, Sonoma Goods for Life, TF Star, Goodfellow & Co., and Neida* “emphasis added”. See attached evidence from balenciaga.com, mephistousa.com, cushionaire.com, amazon.com, stevemadden.com, leonardoshoes.com, summerfootstyles.com, vikingsandals.com, jcpenny.com, cabelas.com, kohls.com, and target.com. Accordingly, it is not clear that applicant’s use has been substantially exclusive and this factor does not clearly weigh in the favor of applicant.

The Examiner concluded:

While applicant has provided evidence of acquired distinctiveness, the balance of factors weigh toward a finding that *the mark has not achieved acquired distinctiveness*. (emphasis added)

10. Three different Letters of Protest were forwarded to the Examining Attorney during the prosecution of the Opposed Application. The Letters of Protest contained evidence the Opposed Mark is a functional design; non-distinctive, and/or potentially generic product design.

11. Applicant's Opposed Mark is a design of a sandal that has not acquired distinctiveness.

12. Applicant's Opposed Mark is subject to substantial, unpoliced third-party use, including on numerous third-party sandals that possess the same characteristics.

13. Applicant's Opposed Mark is unprotectable and unregistrable because it is functional.

14. Applicant's Opposed Mark consists of features which are commonly used by others in the footwear industry.

15. Applicant's Opposed Mark, overall, is functional, and incorporates features, including but not limited to the footbed, which are functional for a sandal design, which are not unique to Applicant, which impact the cost and/or quality of goods, and for which there is competitive necessity.

16. Opposer will be damaged by registration of the Opposed Mark because it would give Applicant exclusive rights in the Opposed Mark, which is generic, lacks distinctiveness, and is functional. Registering the Opposed Mark would severely restrict or eliminate Opposer's ability to use features of the Opposed Mark in its products. Registration of the Opposed Mark would impose substantial financial harm on Opposer, including because Applicant has already threatened Opposer with suit over Opposer's alleged use of the Opposed Mark in its Skechers Foamies Sandals. Opposer, therefore, requests that the Application be refused.

COUNT ONE – THE OPPOSED MARK IS GENERIC

17. Opposer repeats and realleges the foregoing Paragraphs as if fully set forth herein.

18. The Opposed Mark consists of a three-dimensional configuration of a sandal, generic of the Claimed Goods.

19. The Opposed Mark has been widely used by third parties for at least decades and at least since the early 1990's.

20. The Opposed Mark has been subject to such third-party use with limited to no enforcement for decades.

21. As one example among many, the May 1994 edition of *Inc. Magazine* displayed sandals similar to the Opposed Mark, including those by Mephisto, Naot, and Josef Seibel. *See* Exhibit A (Brokaw, Leslie, "Company Profile," *Inc. Magazine*, May 1994, page 76). Moreover, similar sandals from these same third parties, and others, are currently available for sale today, thirty years later. Non-exclusive, exemplary printouts from these parties' websites are attached as Exhibit B.

22. Consumers do not associate the Opposed Mark with a single source. The Opposed Mark and its features are commonly used in the marketplace and consumers are accustomed to seeing the same or similar product designs on sandals from multiple sources.

23. The relevant public understands the Opposed Mark to be a standard sandal design, not a distinctive indicator of source, and the Opposed Mark is therefore not registrable under the Lanham Act.

COUNT TWO – THE OPPOSED MARK

HAS NOT ACQUIRED DISTINCTIVENESS UNDER SECTION 2(f)

24. Opposer repeats and realleges the foregoing Paragraphs as if fully set forth herein.

25. As a matter of law, the Opposed Mark is not inherently distinctive because it is a three-dimensional design configuration.

26. Registration should be refused on the basis that the Opposed Mark is merely descriptive of Applicant's Claimed Goods and has not acquired distinctiveness.

27. The Opposed Mark lacks secondary meaning as Applicant has not made substantially exclusive use of the Opposed Mark.

28. The Opposed Mark has not acquired distinctiveness and should be refused because Applicant's promotion, sale, and advertising of footwear have not sufficiently called attention to and/or highlighted the subset of design features that Applicant selectively seeks to register in the Opposed Mark.

29. The Opposed Mark is not entitled to registration on the Principal Register under Trademark Act Section 2(f), 15 U.S.C. § 1052(f), due to insufficient evidence of acquired distinctiveness.

COUNT THREE – THE OPPOSED MARK IS FUNCTIONAL

30. Opposer repeats and realleges the foregoing Paragraphs as if fully set forth herein.

31. The Opposed Mark is a functional product design for the Claimed Goods and is not entitled to registration on the Principal Register pursuant to Trademark Act Section 2(e)(5), 15 U.S.C. § 1052(e)(5).

32. Applicant disclosed its U.S. Utility Patent No. US 6,681,502 B1 entitled "Sandal," which discusses several characteristics that correspond with the Opposed Mark.

33. The Opposed Mark is utilitarian and functional. Indeed, David Kahan, Applicant's president of the Americas conceded this, stating "the benefits of our footbed make it front and center in running specialty shops." *See* Exhibit C (Ciment, Shoshy, "Birkenstock Wants to Target Runners and Position Its Footbed as a 'Recovery' Shoe Option," Footwear News).

34. As another example, Applicant's collaborators recognize the functionality of the Opposed Mark. For instance, Kristina Blahnik, the CEO of Manolo Blahnik and a renowned designer that collaborated with Applicant for the Opposed Mark, stated:

The Birkenstock Fussbett (footbed) is exactly that. It is doing exactly what it needs to do without anything on it. It's the absolute simplest form to achieve the maximum impact of comfort and use and function. . . . [T]hat shape is ergonomic perfection.

See "Ugly for a Reason," (Episode 3: Rethinking Footwear, Redefining Aesthetics), URL: <https://www.nytimes.com/paidpost/birkenstock/rethinking-footwear-redefining-aesthetics.html>

(Last Accessed: October 1, 2025).

35. As a result of the benefits discussed above, the Opposed Mark impacts the cost and/or quality of goods, and there is competitive necessity for its use.

36. Registration of the Opposed mark must be refused on the basis of functionality under Section 2(e) of the Lanham Act.

WHEREFORE, Opposer respectfully requests that Application Ser. No. 98/060,917 be refused, that no registration be issued thereon to Applicant, and this Opposition be sustained in favor of Opposer.

Respectfully submitted,

IRELL & MANELLA LLP

/s/ Ian R. Washburn

Ian R. Washburn
Samuel K. Lu
Grant W. Gabriel

Counsel for Opposer

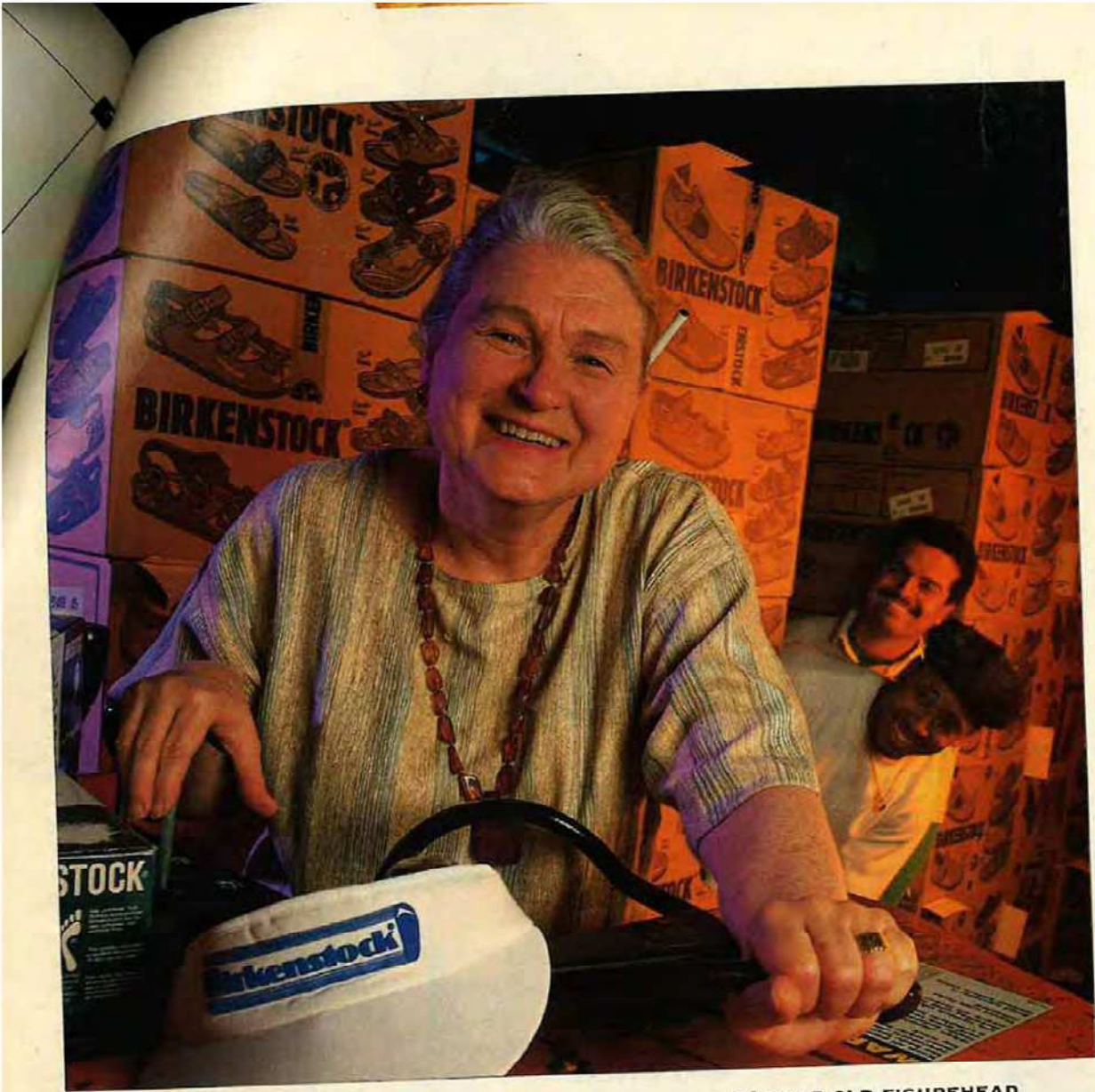
Dated: October 1, 2025

1800 Avenue of the Stars, Suite 900

Los Angeles, California 90067

Phone (310) 277-1010

EXHIBIT A



MARGOT FRASER IS THE OPERATIONAL LEADER AND 64-YEAR-OLD FIGUREHEAD OF BIRKENSTOCK FOOTPRINT SANDALS.

rubber-soled sports sandal] were going to eat the lunch of Nike and Reebok. But they certainly have." After creeping along for two decades, Birkenstock's sales, stature, and authority in the shoe industry burgeoned. It took all of the 1970s and most of the 1980s to reach sales of \$9 million. Then between 1989 and 1992, Birkenstock expanded nearly 500%, to \$50 million. "We grew by pure, unadulterated intuition," says Jones, now vice-president of administration.

Serendipitous fashion flings that adopted retro skirts, gauzy fabric, and your mama's geeky sandals helped, as did

the move away from the '80s power suits in favor of a casual look promoted by companies like the Gap and Timberland. The increase in demand wasn't pure luck, though. Birkenstock had launched an active effort to reposition the shoe as an item for more than just the alternative nation and had marketed it with vigor. In 1989 the company hired its first full-time sales representatives and added department-store accounts. Its catalog began featuring upscale weekenders lounging in bistros with toned (and shaved) legs. The expanding product selection of Fraser's distributorship

comprises 28 styles including the classic two-strap Arizona sandal in 25 combinations of color and texture.

Like the ugly duckling, Birkenstock was growing up. *Sassy* magazine first featured the sandals in a 1989 spread, and teenage grungers and preppies alike claimed them as their own. Designer Marc Jacobs had a pair of bejeweled satin Birkenstocks made especially for his 1993 fashion show. Chic publications, including *Details*, *GQ*, and *Vogue*, wrote breathy copy to accompany their pouty models wearing next to nothing above the \$76 to \$138 sandals. (Continued)

What this emerging swan was not altogether prepared for, however, was the awkwardness of adolescence. Like other unique products, Birkenstock sandals and their popularity have not gone unnoticed. Creditable alternatives and superficially indistinguishable rivals that sell for a small fraction of Birkenstocks' hefty prices are thrusting the company onto an unfamiliar battleground. Knock-offs, dueling retailers, and a nebulously broadening customer base beg for attention from Fraser and Jones, who still lead the business. While still the undisputed leader of its "comfort shoe" category, the company with the gentle soul is struggling to conform to a threatening new world.

NOVATO, CALIF., IS ONE OF THE PRETTIEST parcels of rolling land on all of God's earth and a completely likely place for Birkenstock Footprint Sandals Inc.'s headquarters. About 45 minutes north of San Francisco in preciously groovy Marin County, Novato is the kind of place where it seems perfectly logical that Birkenstock's public-relations chief, Lisa Geil, has planned an outing to a Japanese-style spa named Osmosis for my first evening in town. After tea in a dimly lit room adjacent to a rock garden, we recline in pits of Kitty Litter-sized, enzyme-impregnated wood chips that draw impurities from our pores.

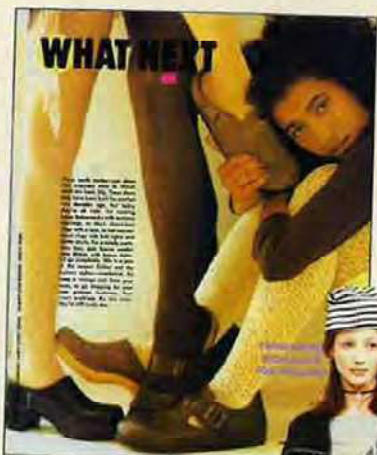
And then Geil and the company's marketing manager, Margaret Mackey, suggest we deliver our freshly purified selves to a health-food diner to load up on tempeh burgers and all-natural sodas. We discuss tai chi, the curative powers of papaya, machines that turn brain waves into music, and, only eventually, business.

It's a fitting introduction to the organization's prevailing mood of infinite laid-backness. All of Birkenstock seems to have internalized an interpretation of the company's proximity to the Pacific: nonaggressiveness, even in the face of fierce competition, is the rule.

That casual attitude is attributable to the company's founder and majority (90%) owner. Described in turn as without pretense, unassuming, a possessor of a solid German work ethic, and—most categorically—infinately discreet, Margot Fraser is the operational leader and 64-year-old figurehead of the company. She has an earthy elegance, with her hair perennially swept back in a bun, bifocals

hanging around her neck, and a propensity for hand-knit wool sweaters and chunky stone jewelry.

In Fraser's office, centrally located in a sprawl of a building tucked into the hillside along Highway 101, she is open about many issues but determinedly distant about topics she considers private. She won't discuss revenues and profits in detail, although the company shares



CHIC PUBLICATIONS WRITE BREATHY COPY TO ACCOMPANY THEIR POUTY MODELS WEARING LITTLE ABOVE THEIR PRICEY BIRKENSTOCKS.

both with employees. She's warm but remains opaque, apparently not just to outsiders but to her staff as well. In a sentiment echoed by others, Diane Rowe, the company's first director of sales and marketing, tells me, "In some ways, you probably know her as well as I do after five and a half years."

For a long time Fraser led Birkenstock without regard for competition because there was none. Instead of fighting for a share of an established segment, she needed to define a market and create demand. "It took quite a bit of attention in the beginning to explain this shoe," says Fraser in a soft voice. "In Germany peo-

ple are very conscious of feet and comfort. They have something like 6,000 orthopedic shoe stores. In the United States there are only a thousand."

During the '70s and '80s Fraser's company grew steadily. Independent shoe stores, some licensing the Birkenstock name, formed the core of a network of retailers. Fraser brought them to California several times to meet and share ideas so that if one store ran short of stock it could trade with another. Fraser and Jones took business classes and read books by Peter Drucker and Tom Peters, and each year Fraser wrote a new business plan. Fraser and Jones were business novices, learning as they went along, but so, too, were many of the store owners with whom they were forming business ties and personal friendships.

By 1988 the company had 60 employees and was counting up sales of \$8.6 million. Fraser was still concentrating her energy on the product itself, making frequent trips to the German manufacturer to ensure that the sandal styles and colors would appeal to American consumers. Diane Rowe remembers that Birkenstock was "not sales driven" when she joined it, in 1988, as the organization's first sales-and-marketing director. "I lived in the Bay area and worked for another shoe company. I saw this as a brand that people were not really aware of—a hidden star."

Rowe initiated rudimentary changes: a less funky logo, point-of-sales materials, a public-relations department, and most noticeably, a brighter, yupscale catalog. "Buyers looked at it and said, 'Well, I didn't know Birkenstock looked like this,'" she says. "They had not seen ordinary, good-looking people wearing Birkenstock shoes. I think the catalog had an enormous impact on retailers and ultimately on consumers as well." She also hired Birkenstock's first real sales force. The new staff members began to telemarket and to travel around the country—though they hated to call themselves "sales reps," a term with all too aggressive vibes.

With the new marketing push, Birkenstock's name started to appear regularly in the trade press, and demand heated up. "We always knew that we had



only so much inventory to give to so many accounts," says Mary Jones. "For a long time we thought we never could sell to the major stores. We didn't think we could supply them, and we wondered if we wanted to 'do that' to our little mom-and-pop stores. But when the demand came, Diane said we had to."

Some of Birkenstock's small accounts bought the company line that the move into department stores and catalog companies would expand their markets, too, by making them beneficiaries of large-store advertising. But many others were anxious and even incensed. They resented the incursion of big competitors that sometimes put them in the position of having to refuse exchanges, for example, to customers who'd ordered ill-fitting shoes from L. L. Bean by mail.

"I'd really dreaded it," says Melanie Grimes, owner of M. J. Feer Inc. in Seattle, one of Birkenstock's largest retailers. For her, though, Birkenstock's expansion has proved neutral. "In some markets I think it's been detrimental, and in some it's been positive," she says. "It really depends on the quality of the retailers and how well they've positioned their businesses."

Three years into the drive that began in 1989, the Birkenstock name was hot and Fraser's company had grown to 145 employees. That's when a supply shortage hit. Fraser thought she had restrained her new distribution commitments until the German manufacturer had the production capacity to fuel her growth, but that company's expansion was hampered by delays. Encouraged by the German government to do business in the East after the Berlin Wall fell, in 1989, the manufacturing company had acquired a factory seven hours away from its headquarters. But training former garment workers to read a leather hide for imperfections and having to wait weeks or even months to get spare parts slowed the 1991 launch of that facility, and much of Fraser's 1992 spring line wasn't delivered until the fall. "It was a miserable time," she says.

Sales had been leapfrogging: \$8.6 million in 1988, \$15 million in 1989, \$25 million in 1990, \$38 million in 1991. Fraser had told *Forbes* magazine that she

expected sales to double from 1991 to 1992, but revenue growth stopped short at \$50 million. "We didn't have what I consider a bad year," says Jones, "and there were a lot of reasons that our goals changed during the year, but the problems in Germany were the main reason." Isabelle Sender, the comfort-beat reporter for *Footwear News*, observes, "They got crushed by success. Not to death, but they should have managed it better."

While Birkenstock was patching up the inconsistent supply lines and trying to restore its retailers' confidence, a new threat arose to tax those customers' patience: Birkenstocks were appearing on the so-called gray market. Popular shoe brands are coveted by discount stores, which sell them at extreme bargain

prices, and instead the shoes end up on the docks here," he says. He says that Birkenstock is attacking this problem aggressively but that the international aspects make it tricky.

And though Birkenstock hasn't yet faced a challenge as intense as the Nike/Reebok rivalry, all kinds of footwear companies have been nipping at its ankles. There are sandals on the market that are similar in look and price. Naot, an Israeli brand, and Josef Seibel, another German shoe, are similarly comfortable but more delicately styled. Nike has added sandals to its extensive line, and Deckers Outdoor Corp., maker of the Teva sandal, grew from \$12 million in 1991 to \$57 million in 1993, blowing away Birkenstock's own 8-year-old water shoe. Other established footwear companies have introduced "natural footbed" shoes and comfort sandals, and countless knockoff specialists are mimicking Birkenstocks' look at a quarter of the price.

Still, Birkenstock does remain the name of the category it created, much as Kleenex is for tissues and Xerox for copiers. Peter Mangione, president of the Footwear Distributors and Retailers of America, says that's exceptional in the shoe industry. "There are very, very few instances of foreign manufacturers that

have successfully developed their names in the United States. How many can you think of, other than Birkenstock?"

The strength of Birkenstock's name is tied to its message, which has stayed remarkably consistent for 25 years: comfort, repairability, value. The trademark molded footbed has remained the faithful constant throughout the fashion expansion. Jon Schoen, a brand manager and Fraser's stepson, notes, "We're selling the same product that we've sold for 25 years—with some more colors and some neat styles. But our bottom line is—and I'll say it softly—that we're an orthopedic product."

CAN BIRKENSTOCK KEEP ITS CUSTOMERS committed to the costly original? Outsid-ers voice what the company is unwilling to acknowledge, that Birkenstock's

THE SINCEREST FORM OF FLATTERY

If you invent a product or service, you'll have one main goal when you come to the marketplace: getting people to be receptive to your unique offering. But if popular acclaim comes your way, it can be as much a liability as an asset. Competitors either imitate or one-up successful ideas, and defending your market against encroaching opponents is a different and complicated challenge.

It's easier for rivals. They simply respond to your winning strategy with alternatives. You're expensive? They're cheaper. You offer a dozen choices? They've got one—styled after your best-selling selection. You're targeting part of the market? They'll take the rest.

Establishing your position as industry leader isn't enough. If you manage to do that, that's when it's time to reassess service, distribution channels, pricing, quality, and even inventory control.

prices. Industry experts say that when discounters get turned down for a legitimate wholesale account from the manufacturer, they work through middlemen who obtain the shoes from a variety of difficult-to-trace sources, including foreign distributors, legitimate wholesalers dumping part of their stock, and, some allege, manufacturers themselves that feign ignorance to keep other accounts happy. No matter how the shoes get onto discounters' shelves, the result, in customers' eyes, is the devaluation of a premium product.

Tim Black, who came on as Birkenstock's new sales director last July, says the gray market was a real problem for the company last year, with 10,000 pairs of shoes at a time showing up in discount chains. "In Germany they think they're selling to someone who's distrib-

prices are high, and efficient competitors are going straight for that jugular. *Footwear News* reported in late 1993 that consumers are comparison-shopping more, waiting for sales, and favoring a \$40-to-\$60 price range.

"There is a feeling that Margot lost touch with the market a little bit," says one observer. But Fraser maintains a stoic and somewhat improbable lack of interest in her competitors. "The market has been expanding, so that it can absorb other companies. Really it hasn't been a big deal," she says dismissively. And she's not the only one who downplays concern. "Copies come and go," Black insists, and besides, "there are going to be people who buy the \$49 knockoffs and are happy with them. But that's going to happen no matter what. We don't really have any plans of attack."

The company's resolve, consequently, is not to strike out but to secure—secure its relationships with stores, its ties to the fashion and trade industries, and its perception among shoppers. With the German supplier back on track—1993 deliveries were much better, Fraser says—Birkenstock has embarked on a campaign to shore up its position as the leading comfort-shoe company. The company is pursuing five strategies as part of the effort:

- last fall's launch of a national sales team with representatives at 17 sites throughout the United States;
- expansion of the product line that now includes men's dress shoes, children's sandals, and synthetic-fabric shoes for "the nonleather wearer";
- a concerted effort to stay on the fashion scene;
- a push to improve retail-store relations;
- a more structured marketing and advertising campaign.

"I don't think the competitors are that much tougher these days," says Black. "I just think that we need to make sure that the brand stays strong, and that Dillard's, Macy's, and places like them have people on the floor who are educated enough to sell the product properly."

The company's drive to differentiate its offerings from the noise of competing products has met with some success. "Birkenstock is smart: they're going to have the fashion colors; they've got a line builder; they're not just sitting over there being a bunch of yahoos thinking, 'Oh yeah, we'll be very basic and Euro-

WILL THE REAL BIRKENSTOCK PLEASE STEP FORWARD?

Q. Do you know who's who in the world of comfort sandals?



1.



2.



3.



4.



5.



6.



7.



8.

— TEVA, \$60.00

— RALPH LAUREN, \$115.00

— BIRKENSTOCK, \$83.95

— FAYVA, \$12.99

— REEBOK, \$49.99

— NAOT, \$74.99

— MEPHISTO, \$110.00

— JOSEF SEIBEL, \$79.95

A. 1. Naot Santa Barbara 2. Josef Seibel Companion II 3. Teva City Sport 4. Reebok Amazona 5. Mephisto Norman 6. Birkenstock Arizona 7. Ralph Lauren Polo Sandal 8. Fayva Street Beat

pean and stuff," says Cynthia Mullaly, vice-president of the National Shoe Retailers Association. Recently, in fact, Birkenstocks have appeared in fashion shows for Armani, Donna Karan, and Joseph Abboud. "It helps sell our core merchandise," says Mark Lenox, the company's chief product-marketing manager.

All the same, Birkenstock is not forgetting its core customer—the independent shoe store. The company continues its exemplary in-stock service, shipping even single pairs to its retailers. More common now, the service was almost unheard of when Fraser started to offer it, 25 years ago.

This year Birkenstock is applying more enthusiasm to its promotional efforts. Its new series of advertising pieces, for instance, offers a dozen variations of mock testimonials. Stores drop their names and addresses into the ads and run them locally, and they pay only half the costs. "The 50% copayment is higher than most other manufacturers offer. Many companies pay nothing," says Marlene Bishop, who owns Foot of the Rockies, a retailer in Cheyenne, Wyo.

But even as the competition intensifies, Birkenstock shrinks from national advertising. Black says Birkenstock won't run ads other than those in its co-op program any earlier than 1995. In large part the company will continue to depend on public relations and the work of PR manager Geil to keep the Birkenstock name in the press.

TENSION OVER THE CHALLENGES IT FACES belies the serenity Birkenstock favors. The supply problems endured in 1992 and the abrupt halt to revenue growth last year have obscured the company's goals, and the new five-part campaign has engendered some internal upheaval. Last December sales-and-marketing chief Diane Rowe left under conditions that make everybody clam up when her name is mentioned. Fraser herself says that it was a "personality issue" and coolly declines further comment. A key saleswoman, Mary Rodriguez, left Birkenstock last summer to join Yalco, maker of the Israeli Naot brand, as its West Coast sales manager.

Fraser won't disclose 1993 sales figures but asserts that there was some expansion. The only goal she will state for the

record is a sales target of \$100 million for 1995. Mary Jones says the company needs a good 1994. "It's real important to us right now that we just stay on track this year, with no major upsets. I wouldn't want to grow too fast beyond that."

But at a time when Birkenstock's dominance is being threatened, focusing on stability may be insufficient. For example, Teva's parent, Deckers, went public last October, netting \$32 million destined, in part, for increased advertising and marketing. Birkenstock is one of the Goliaths Teva intends to conquer.

Among Teva's newest offerings is a brown-leather-strap version of its popular nylon-strap comfort sandal. The word on the street is that when a certain Teva sales rep calls on his customers, he unwraps the shoe and dangles it from his fingers. With the confident smirk and narrowed eyes of someone who knows he's on a roll, he leans forward, takes a deep breath, and quietly, in a smooth drawl, declares, "This here is our Birkenstock killer."

If Margot Fraser were there, could she still look away? ■

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COLOR: DARK BROWN



MEN'S SIZE: 7

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DESCRIPTION 

A modern-day staple, this easy-going men's mule sandal brings timeless appeal and Bohemian charm. The Nerio is a must for brewery hopping, bonfires, patio grilling, and open-air concerts. With a wide range of colors and finishes that include suede, full-grain, or nubuck leather, you can find exactly the look that's right for you. The leather-lined footbed and cork midsole offer unparalleled comfort for long stretches on your feet - with the

kind of support that'll take you from, "just stopping by for a second" to "never missing a moment." These go-to, go-anywhere sandals will have you looking great and feeling even better for years (and countless moments) to come.

FEATURES



NERIO



Shock Absorption



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Overall Rating

3.8 ★★★★★
9 Reviews

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Value of Product

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Comfort

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Fit



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Unbelievably comfortable

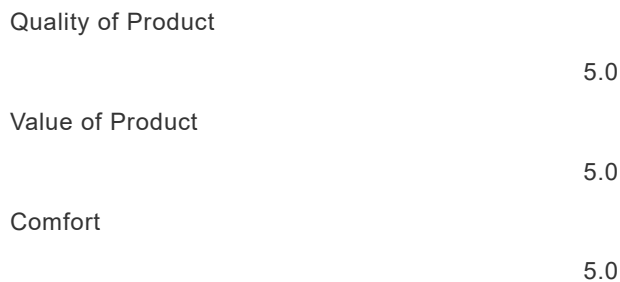
rffr

a year ago

Whether standing or walking, my feet haven't felt this good since I was a kid. I've tried numerous other "comfort" brands over the years, but none felt right to me. Mephisto: Please keep producing these -- and don't change a thing!

Yes, I recommend this product.

Helpful? (1) (0) Report



Design Issues

Anonymous

VERIFIED PURCHASER

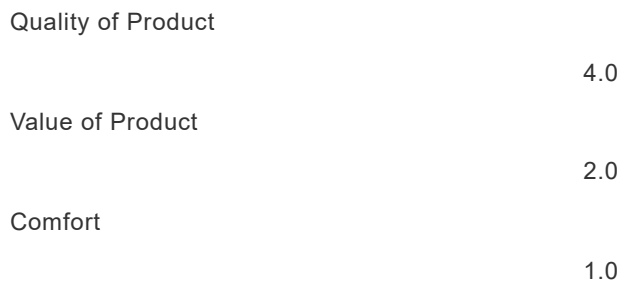
2 years ago

Design flaw with metal rivet head at location of little toe

No, I do not recommend this product.

Originally posted on NERIO SCRATCH 3451 DARK BROWN - 12

Helpful? (3) (2) Report



Response from Mephisto:

2 years ago

Customer Service

Thank you for reviewing the NERIO sandal. We appreciate your comments and will share your thoughts with our design team!



mse09

3 months ago

Material began to bubble under toes on one sandal about a month in. Totally understand things can arise in workmanship but I've now been without sandals that were sent in for repair going on two months. I just don't understand the company's approach here. Stand behind your products and simply issue a new pair or offer a more timely remedy.

No, I do not recommend this product.

Originally posted on Nerio - Warm Grey

Helpful? (0) (0) Report

Quality of Product

2.0

Value of Product

1.0

Comfort

3.0

Fit



Runs Small

Runs Large

Response from Mephisto:

3 months ago

Mephisto Customer Service

Thank you for reviewing the NERIO. Sorry for any frustration with your sandals. All items deemed defective within the return window should be returned for refund or replacement. Worn items deemed defective after the return policy are sent in for warranty inspection. Please contact customer service at 615-771-5900 to discuss if sandal qualifies for refund or replacement.

6 Ratings-Only Reviews

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Size

[Size Guide](#)

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46	47	48	49		

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The Santa Barbara is a classic everyday slide. This sandal features two buckle closures for complete adjustability. Naot's anatomic cork and latex footbed is wrapped in a pampering ...

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Product Information



- **Fit:** True to size, half sizes should size up
- **Sole Material:** EVA **Heel Height:** 1.25 "
- **Width:** Medium
- **Platform Height:** .5 "
- **Slip Resistant:** No
- **Orthotic Friendly:** No
- **Removable Footbed:** No

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1
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Size

Runs Small

True to Size

Runs Large

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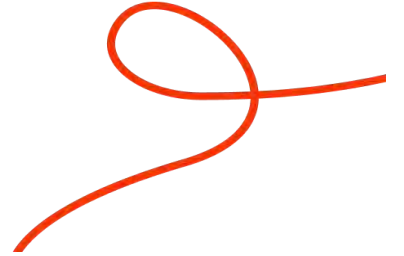
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Product Information

- Get a premium style and an extremely comfortable feel as you take your steps or stand on your feet all day long in the Josef Seibel® Maverick 06 Sandals. These are topped with a leather upper featuring dual adjustable buckle straps for a bespoke fit and come structured with a breathable and soft leather and textile lining and insole.
- Contoured cushioned footbed.

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Size Chart

- Please click here for the Josef Seibel footwear size guide.

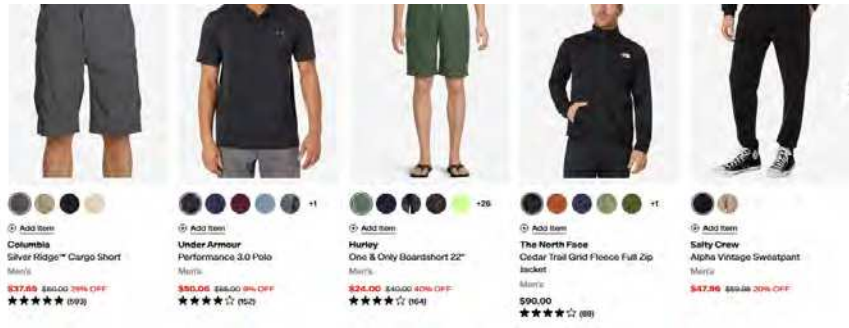


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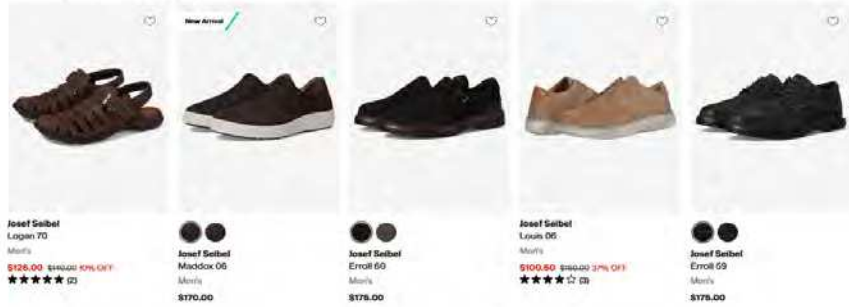
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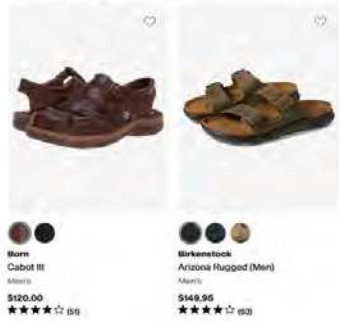
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Birkenstock Wants to Target Runners and Position Its Footbed as a 'Recovery' Shoe Option

Shoshy Ciment

Thu, January 18, 2024 at 10:29 AM PST · 2 min read

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Birkenstock may be a fashion sandal brand, but the company is trying to win over a new subset of consumers as well: runners.

The German sandal company on Thursday laid out a plan to position its footwear as an ideal recovery option for runners after their workouts.

More from Footwear News

- [Birkenstock Beats Revenue Targets in First Public Quarter, But Warns on Profits for 2024](#)
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In a call with analysts discussing the company's [2023 results](#), Birkenstock's president of Americas David Kahan said the brand had progressed in expanding its distribution "so that the benefits of our footbed make it front and center in running specialty shops."

This new initiative, Kahan explained, is meant to educate sports-oriented consumers on the benefits of Birkenstock's footbed "whereby this consumer can benefit from Birkenstock as a recovery item as part of their athletic lifestyle."

Using the marketing slogan of "Run, Birkenstock, repeat," the sandal company is looking to capitalize on the lucrative running market, which has led to massive gains for brands like On, [Hoka](#) and Brooks in recent years.

"This helps us ensure the benefit of our footbed leads a growing revenue base to complement purchases made by some who may buy for fashion-led reasons," Kahan said.

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He noted that Birkenstock is being strategic when it comes to [expanding into doors](#) where there is notable white space and is looking to "ensure scarcity across all retail partners." He added that Birkenstock sought out strategic "land grabs" of white space in the footwear market during the difficult macroeconomic situation in Q4, which helped it see strong sell-through and inventories at retail during the quarter.

While inflation has challenged the U.S. consumer lately, Kahan said [Birkenstock](#) has benefitted to a shift from “general shopping to real intentional purchasing, where people are searching out those products, brands, experiences they really want.”

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for, Kahan said. The goal is to navigate this consistent demand with a thoughtful approach to expansion and growth without flooding the market with too much product.

“We’re expanding but with extreme discipline,” Kahan said.

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In addition to being strategic about its wholesale distribution strategy, Birkenstock also wants to increase its direct-to-consumer penetration, where it sees the most profit per pair sold. In fiscal year 2023, DTC revenues grew by 24 percent, which outperformed wholesale.

“Based on the incredible momentum we’ve had in direct-to-consumer, we’re fluid,” Kahan said. “Even in the middle of a quarter, in the middle of a month, we’re able to steer available product wherever we think that the highest return and the most benefit will be.”

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