



TTAB

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August 19, 2005

BOSTON

Commissioner for Trademarks

BRUSSELS

P.O. Box 1451

Alexandria, Virginia 22313-1451

CHARLOTTE

Re: Notice of Opposition

FRANKFURT

Mark: FORTEZZA
Applicant: Fortezza LLC
Serial No.: 76/583,033

HARRISBURG

HARTFORD

To the Commissioner for Trademarks:

LONDON

Enclosed for filing, on behalf of Fortezza Inc., are an original and one copy of a Notice of Opposition to the above-identified application.

LUXEMBOURG

Please charge the opposition fee of three hundred dollars (\$300) to Deposit Account No. 04-0475. Any underpayment can also be charged, or any refund credited, to this account.

MUNICH

NEW YORK

Respectfully submitted,

NEWPORT BEACH

PALO ALTO


Glenn A. Gundersen

PARIS

GAG:mss

PHILADELPHIA

PRINCETON

Enclosures

SAN FRANCISCO

WASHINGTON



08-19-2005

U.S. Patent & TMO/TM Mail Rpt Dt. #77

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

In re Application of Fortezza LLC

Mark: FORTEZZA

Serial No.: 76/583,033

Published in the *Official Gazette* of
February 22, 2005

FORTESSA, INC.

Opposer,

v.

FORTEZZA LLC

Applicant.

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Opposition No.

NOTICE OF OPPOSITION

Opposer Fortessa Inc. ("Opposer"), a Virginia corporation with its principal place of business at 22601 Davis Drive, Sterling, Virginia 20164, believes that it will be damaged by the registration of the mark shown in Application Serial No. 76/583,033, and therefore opposes registration. The grounds for this opposition are as follows:

1. Opposer has used the mark FORTESSA in commerce for dinnerware, flatware, glassware, servingware, and various other tabletop products in the United States. Opposer has used the mark on tabletop products since at least as early as 2000. Opposer has used the mark in commerce on dinnerware, flatware, glassware, and servingware products continuously since then.

Opposer markets these products to commercial customers, retail customers, and individual

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consumers through independent sales representatives, through major retail chains, through its own retail store, and through the internet. Opposer has also used FORTESSA in the commerce as the trade name for its business in the United States since at least as early as 2000.

2. On December 29, 2000, Opposer filed an application with the U.S. Patent and Trademark Office to register FORTESSA on the Principal Register for “dishes, bowls, cups, saucers, pitchers, mugs, plates, serving platters, ramekins, sugar bowls, tea pots not of precious metal, coffee pots not of precious metal, gravy boats, butter dishes, creamers pitchers, serving trays not of precious metal, vases, salt and pepper shakers, and compotes dishes” in International Class 21, and for “ashtrays not of precious metal” in International Class 34. This application was designated as Serial No. 76/187,678 and was published for opposition on April 23, 2002. This application matured into a registration, which was designated Registration No. 2,594,039 and issued on July 16, 2002.

3. On March 25, 2004, Applicant filed an intent-to-use application to register FORTEZZA on the Principal Register as a trademark for “retail store services and online retail store services featuring housewares, home furnishings, home accessories, indoor and outdoor furniture, pillows, slipcovers, rugs, blanket throws, lamps and lighting fixtures, curtains, table linens, silk flowers, wreaths, candleholders, candles, clocks, paintings, framed photographs, posters, picture frames, mirrors, vases, pottery, books, photo albums, journals, notebooks, pencil cases, and fireplace tools and accessories” in International Class 35. This application was designated as Serial No. 76/583,033 and was published in the *Official Gazette* on February 22, 2005.

4. The issue date of Opposer's Registration No. 2,594,039 precedes the filing date of Applicant's application Serial No. 76/583,033.

5. On information and belief, Applicant has begun to use the FORTEZZA mark in commerce in connection with retail store services in the United States. On information and belief, Applicant's first use of this mark postdates the issue date of Opposer's Registration No. 2,594,039.

6. Prior to the filing date of Applicant's application Serial No. 76/583,033, Opposer sold and otherwise distributed dinnerware, flatware, glassware, servingware, and other tabletop products and provided related retail services under the FORTESSA marks in commerce in the United States.

7. Applicant's FORTEZZA mark is similar to Opposer's FORTESSA mark.

8. Applicant is seeking to register its FORTEZZA mark for products and related retail store services that are identical or closely related to the products that Opposer sells under its FORTESSA mark and closely related to the retail services that Opposer provides under its FORTESSA mark.

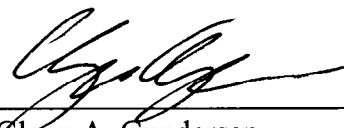
9. On information and belief, Applicant sells or intends to offer its products and related retail store services through the same channels of trade as Opposer's products and related retail store services.

10. In light of the foregoing, Applicant's registration and use of FORTEZZA in connection with the products and related retail store services specified in Applicant's application is likely to cause confusion or mistake or to deceive, or to create the false impression that

Applicant's products and services are provided by, related to, endorsed by, or associated with Opposer, all to the injury of Opposer's rights in its mark and its reputation and identity.

WHEREFORE, Opposer prays that Application Serial No. 76/583,033 be refused registration and that this opposition be sustained.

Respectfully submitted,



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Attorneys for Opposer,
FORTESSA, INC.

Dated: August 19, 2005

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