

ESTTA Tracking number: **ESTTA523257**

Filing date: **02/25/2013**

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	Leaf Trading Cards, LLC		
Entity	limited liability company	Citizenship	Texas
Address	3330 Earhart Drive Suite 204 Carrollton, TX 75006 UNITED STATES		

Attorney information	John A. Thomas Glast, Phillips & Murray, P.C. 14801 Quorum Drive Suite 500 Dallas, TX 75254 UNITED STATES jathomas@gpm-law.com Phone:972-419-8378		
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Applicant Information

Application No	85791735	Publication date	02/12/2013
Opposition Filing Date	02/25/2013	Opposition Period Ends	03/14/2013
Applicant	PANINI AMERICA, INC. 5325 FAA Boulevard, Suite 100 Irving, TX 75061 UNITED STATES		

Goods/Services Affected by Opposition

Class 016. First Use: 2012/11/28 First Use In Commerce: 2012/11/28 All goods and services in the class are opposed, namely: Collectable trading cards; Sports trading cards
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	PRISMATIC		
Goods/Services	collectable trading cards; sports trading cards		

Related Proceedings	None
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Attachments	Notice of Opposition-PRIZM.pdf (6 pages)(22087 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/John A. Thomas/
Name	John A. Thomas
Date	02/25/2013

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

Opposition No. _____

LEAF TRADING CARDS, LLC,)	
Opposer)	NOTICE OF OPPOSITION
v.)	PRIZM , Serial No. 85/791735
PANINI AMERICA, INC.,)	
Applicant)	

Opposer Leaf Trading Cards, LLC ("Opposer") a Texas limited-liability company, having an office and principal place of business at 3330 Earhart Dr., Suite 204, Carrollton, Texas 75006, believes that it would be damaged by the registration of the trademark PRIZM in International Class 16 as applied for in Application Serial No. 85/791735, filed on November 30, 2012 under Section 1(a) of the Lanham Act. As grounds for its opposition, Opposer, by its undersigned attorneys, alleges as follows:

1. Opposer began operations in 2010 as a manufacturer and seller of sports trading cards.
2. Opposer markets and sells its products nationwide to dealers and distributors of trading cards and sports memorabilia who then resell Opposer's products to individual collectors.

3. Opposer created, developed, used, and is still using, the distinctive mark PRISMATIC in connection with the production, marketing, promotion, and sale of certain of its trading cards.

4. Opposer began use of the PRISMATIC mark on or about March 2, 2011, well before the date of first use of PRIZM by Applicant, and has continued to use the mark continuously since.

5. Opposer created the PRISMATIC mark for its trading cards that have a metal appearance and refract light. The cards are bright and glossy, and have a reflective, three-dimensional appearance, but do not literally comprise prisms.

6. Opposer also produces, markets, promotes, and sells “parallel” PRISMATIC trading cards. These PRISMATIC cards are “parallel” because they each have the same design as the original PRISMATIC card, but incorporate another feature, such as a background color. As a result, some Opposer PRISMATIC cards will be produced, promoted, marketed, and sold with a color designation (e.g., blue, gold, green, red, purple), such as a Opposer Blue PRISMATIC. Opposer has also produced, marketed, promoted, and sold SUPER PRISMATIC trading cards.

7. Prior to the acts of Panini complained of herein, Opposer expended a substantial amount of money in developing, marketing, and promoting its PRISMATIC mark in connection with its trading cards. Opposer is continuing to spend substantial sums promoting the PRISMATIC mark.

8. Opposer has acquired an excellent reputation among trading card customers because of its high quality trading cards, innovative products, and excellent customer service. As a result, Opposer's products associated with its trademarks have been and are now recognized by the public and the trading card community as originating from a single source, namely, Opposer.

9. Upon information and belief, Applicant is a Delaware corporation with its principal place of business at 5325 FAA Blvd., Suite 100, Irving, Texas 75061.

10. On or about November 30, 2012, Applicant filed an application to register the mark PRIZM for "collectable trading cards; sports trading cards," in International Class 16, in App. Ser. No. 85/791735 ("the Application"), claiming a date of first use of November 28, 2012. Applicant's mark was published for opposition on February 12, 2013.

COUNT SOLO – LIKELIHOOD OF CONFUSION

11. Opposer repeats and realleges the allegations set forth in paragraphs 1 through 10 as if fully set forth herein.

12. Applicant's PRIZM mark is highly similar to Opposer's PRISMATIC mark.

13. The goods set forth in the Application are identical to the goods in connection with which Opposer uses the PRISMATIC mark, as both Opposer's and Applicant's mark are used in connection with sports trading cards.

14. Upon information and belief , Applicant has targeted or intends to target the same type of customers that now purchase Opposer's PRISMATIC products or to whom Opposer markets and promotes its PRISMATIC products.

15. Upon information and belief, Applicant markets and intends to market its PRIZM product on its Internet web site, thus making it available to a wide audience of sports collectors.

16. Based on the similarities of the parties' respective marks and goods, the public is likely to falsely associate the goods of Applicant under the PRIZM brand with Opposer or with Opposer's goods; or to falsely believe that Applicant's goods emanate from or are sponsored, endorsed, manufactured by or licensed by Opposer; or to falsely believe that there is some relationship between Applicant and Opposer.

17. Applicant's Application and the presumption of exclusivity that would arise from a registration to Applicant of the PRIZM designation are inconsistent with the prior rights of Opposer in the PRISMATIC mark and the rights flowing from its extensive use in commerce.

18. Upon information and belief, Applicant did not use the PRIZM designation prior to the adoption and use of the PRISMATIC mark by Opposer.

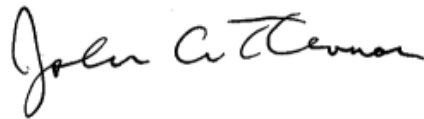
19. Use and registration of the PRIZM designation by Applicant in connection with its trading card goods in Class 16 is likely to cause confusion, cause mistake or deceive consumers, and cause them to believe that the goods offered under Applicant's PRIZM designation come from, or are sponsored by, manufactured by, endorsed by, or

otherwise connected with Opposer, in violation of the Lanham Act, 15 U.S.C. § 1052(d).
By reason of the foregoing, Opposer will be damaged by the registration of Applicant's
PRIZM designation as a trademark.

WHEREFORE, it is respectfully requested that this opposition be sustained and
that the registration in Class 16 sought by Application Serial No. 85/791735 be denied.

Dated: February 25, 2013

GLAST, PHILLIPS & MURRAY, P.C.



By _____

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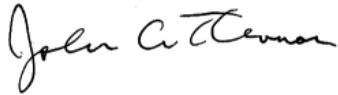
Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Opposition has be served on the attorney of record for the Applicant; namely:

Norman H. Zivin
COOPER & DUNHAM LLP
30 Rockefeller Plaza, 20th Fl.
New York, NY 10112

by United States First Class Mail, postage prepaid, on February 25, 2013.



By _____
John A. Thomas
Attorney for Opposer