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

In the matter of Application Serial No. 76/111,592
For the Mark HOTTIE
Filed: August 17, 2000
Published in the Official Gazette on August 6, 2002

U.S. Patent & TMO/TM Mail Rcpt. Dt. #57

08-15-2002

William M. Windsor d/b/a Hotties, Inc.,

Opposer,

v.

Opposition No.

Hottie Corporation,

Applicant.

RECEIVED
U.S. PATENT & TRADEMARK OFFICE
AUG 15 2002

Commissioner for Trademarks
BOX TTAB - FEE
2900 Crystal Drive
Arlington, VA 22202-3513

NOTICE OF OPPOSITION

Opposer, William M. Windsor, a citizen of the United States of America d/b/a/ Hotties, Inc., having a residential address of 7675 Ball Mill Road, Atlanta, Georgia 30350, believes that

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

09/10/2002 CMAY11 00000014 76111592
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I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

August 13, 2002
Date of Deposit

William M. Windsor
Signature
WILLIAM M. WINDSOR

Typed or Printed Name of Person Signing Certificate

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 2

he will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same through this Notice of Opposition.

This Opposition is based on 15 U.S.C. Section 1063(a) and the grounds for opposition are as follows:

1. On August 17, 2000, Hottie Corporation (hereinafter "Applicant") filed with the United States Patent and Trademark Office an application under Section 1(a) of the Trademark Act seeking to register the mark HOTTIE (hereinafter the "Mark") for "SPORTING GOODS, namely, air mattresses for recreational use, namely, inflatable float mattresses and pads, animal attractant scents, archery equipment, namely, archery arm guards, archery arrow fletching devices, archery arrow points, archery arrows, archery bow cases, archery bow string changers, archery bow strings, archery bows, archery finger tabs, archery targets, archery quivers and non-telescopic archery bow sights, artificial climbing holds for climbing wall systems, backboards for basketball, badminton game playing equipment, bags and cases for carrying and storing sporting goods, ball bearings for roller skates and in-line skates, ball cages, ball pitching machines, baseball and bat bags, baseball bases, baseball bats, baseball batting tees, baseball mitts, baseballs, basketball goal sets, basketball nets, basketballs, billiard balls, billiard bridges, billiard chalk, billiard chalk holders, billiard cue cases, billiard cue cement, billiard cue clamps, billiard cue racks, billiard cue repair kits, billiard cues, billiard tables, billiard tips, billiard triangles, birdcalls, blocking dummies, bowling bags, bowling ball covers, bowling balls, bowling pins, boxing bag swivel mechanisms, boxing bags, brakes and replacement pads for roller skates and in-line skates, catchers' mitts, clay pigeons, clay target launchers, climbers' harnesses, cricket balls, cricket bats, crossbows, dart board cases, dart boards, dart carrying cases, dart point sharpeners, darts and parts therefor, discuses, earplugs for swimming purposes, fencing

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 3

equipment, namely, foils and gauntlets, field hockey balls, field hockey sticks, floating recreational lounge chairs, football blocking sleds, footballs, grip tapes for baseball bats, gymnastic apparatus, handballs, handle grips for sporting equipment, hang gliders, hockey pucks, home plates, horseshoes and stakes for recreational purposes, hunters' scent camouflage, hunting blinds, hunting camouflage used as hunting blinds, hunting game calls, hunting stands, ice hockey sticks, ice skates, in-line skates, inflatable inner tubes for aquatic recreational use, kicking tees, lacrosse ball bags, lacrosse balls, lacrosse sticks, mountain boards, mountain climbing training equipment, namely, climbing walls, mountaineering carabiners, mountaineering chalk, mountaineering equipment, namely, binding straps, mountaineering hook and ring combinations, mountaineering hooks, needles for pumps for inflating sports equipment, netballs, non-slip rosin sprays for use by athletes, paintball guns, paintballs, paragliders, pitchers' plates, portable ski carriers, pumps for inflating sports equipment, punching bags, racket grip tape, racket string vibration dampeners, racket swing weights, racquetball nets, racquetball racket covers, racquetball racket presses, racquetball racket strings, racquetball rackets, racquetballs, ring buoys for recreational use, roller skates, rosin used by athletes, rugby balls, sail board foot restraints, sail board leashes, sail board masts, sail boards, scuba equipment, namely, spring activated spear guns, scuba fins, scuba masks, scuba snorkels, skateboards, ski bindings, and parts therefor, ski brakes, ski poles, ski scrapers, ski wax, skim boards, slingshots and accessories therefor, snow skis, snowboard bags, snowboards, snowshoes, soccer balls, soccer goal nets, softball bats, softball mitts, softballs, sport balls, sport blowguns and darts therefor, squash balls, squash racket covers, squash racket presses, squash racket strings, squash rackets, starting blocks, surfboard fins, surfboard leashes, surfboard wax, surfboards, swim boards for recreational use, swim floats for recreational use, swim goggles, swimming equipment, namely,

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 4

racing lines, table tennis balls, table tennis nets, table tennis paddles, table tennis post sets, table tennis tables, targets, tennis ball holders, tennis ball retrievers, tennis balls, tennis nets, tennis racket covers, tennis racket presses, tennis racket strings, tennis rackets, tennis uprights, tether ball poles, tether balls, track and field equipment, namely, field and track cones, high jump standards, hurdles, javelins, pole vaulting standards, relay batons, shot put shots and vaulting poles, volleyball game playing equipment, wake boards, water ski carrying cases, water ski ropes, water ski tow harness quick releases, water ski tow harnesses for recreational use, water skis, waterfowl hunting decoys, wheels for roller skates and in-line skates; GOLF GOODS, namely, artificial portable golf putting greens, artificial portable golf putting greens with electric ball return, divot repair tools, golf accessory pouches, golf bag covers, golf bag organizers, golf bag stands, golf bag straps, golf bag tags, golf bags, golf ball and golf club cleaners, golf ball and golf tee monogrammers, golf ball holders, golf ball markers, golf ball pickups, golf ball retrievers, golf balls, golf chipping nets, golf club grip tape, golf club hand grips, golf club head covers, golf club swing aids, namely, swing weights, golf club tube locks, golf clubs, golf driving mats, golf flags, golf irons, golf practice balls, golf practice putting mats and rugs, golf putter covers, golf putter holders, gold putter props, golf putters, golf putting aids, namely, golf practice putting cups, golf shag bags, golf tee holders, golf tee markers, golf tees, non-motorized golf carts; FISHING GOODS, namely, artificial fishing bait, artificial worms, bite indicators, fish attractants, fishing creels, fishing flies, fishing floats, fishing fly boxes, fishing hooks, fishing leaders, fishing lines, fishing lure boxes, fishing lures, fishing pole holders worn on the body, fishing reels, fishing rod cases, fishing rod holders, fishing rods, fishing sinkers, fishing spinners, fishing tackle, fishing tackle boxes, hand-held fishing nets for sportsmen, inflatable float tubes for fishing, packaged freeze-dried fishing bait, sportsman's fishing bags; EXERCISE

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 5

EQUIPMENT, namely, barbells, dumbbell sets, elastic resistance bands, exercise benches, exercise doorway gym bars, exercise machines, exercise trampolines, grip developers, jump ropes, manual leg exercisers, manually operated exercise equipment, medicine balls, portable support structures for dance and other exercises, resistance bands, resistance tubes, skipping ropes, stationary exercise bicycles, thigh weights, treadmills, weightlifting belts, weightlifting benches and bench accessories, weightlifting machines, weights, wrist and ankle weights;

ATHLETIC PROTECTIVE EQUIPMENT, namely, arm guards, athletic sporting goods, namely, athletic wrist supports, athletic supporters, athletic tape, catchers' masks, chest protectors for sports, elbow guards and elbow pads for athletic use, face masks, fencing masks, field hockey goalie pads, football body protectors, hand pads, ice hockey goalie pads, karate head guards, karate kick pads, karate shin pads, karate target pads, knee guards, kneepads, lacrosse masks, leg guards, mouth guards, shin guards, shin pads, shoulder pad laces, sport goggles for use in racquetball and squash, sport goggles for use in snow skiing, sport goggles for use with paintball guns, throat protectors, umpire protection equipment, wrestlers' head guards; ATHLETIC GLOVES, namely, archers' gloves, baseball batting gloves, bicycling gloves, boxing gloves, football receivers' gloves, goalkeepers' gloves, golf gloves, handball gloves, hockey gloves, karate gloves, racquetball gloves, sailing gloves, softball gloves, swim gloves, water ski gloves, weightlifting gloves; TOYS, namely, action figure playsets, action figures and accessories therefor, action skill games, action-type target games, adults' and children's party games, aerodynamic disks for use in playing catching games, amusement park rides, arcade games, baby multiple activity toys, baby rattles, backgammon game sets, bags and cases for carrying and storing toys and accessories therefor, balloons, bath toys, beach balls, beanbags, bendable toys, bingo game playing equipment, bocci balls, boomerangs, bubble making toys, bubble making

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 6

wand and solution sets, caps for toy pistols, checker sets, cheerleading pom-poms, chess sets, children's multiple activity toys, children's play cosmetics, coin operated pinball machines, coin operated video games, collectable toy figures, construction toys, costume masks, crib mobiles, crib toys, croquet sets, cube puzzles, dice, disc toss toys, disposable ticket sets for playing games of chance, doll accessories, doll cases, doll clothing, doll house furnishings, doll houses, dolls, dominoes, drawing toys, electrical action toys, electronic dart games, electronic educational game machines for children, electronic game equipment for playing video games, electronic game equipment with a watch function, electronic talking toys, electronically operated toy motor vehicles, equipment sold as a unit for playing board games, equipment sold as a unit for playing card games, fantasy character toys, flying discs, friction-operated motorized toys, game equipment, namely, chips, game tables, gaming tables, hand-held unit for playing electronic games, hand-held unit for playing video games, high bounce balls, infant toys, inflatable ride-on toys, inflatable swimming pools, inflatable toys, jigsaw puzzles, juggling equipment, jungle gyms, kite handles, kite parts, kite reels, kite string, kite tails, kites, LCD game machines, lottery tickets, magic tricks, manipulative games, manipulative puzzles, marbles, mechanical action toys, mechanically operated audio output game machines, music box toys, musical toys, noise-making party favor blow-outs, non-motorized scooters, paddle ball games, paper airplanes, paper dolls, parlor games, party favors in the nature of crackers and noisemakers, party favors in the nature of small toys, pet toys, pinatas, pinball-type games, play figures, play houses, play mats containing infant toys, play money, play tents, play wands, playground balls, playground equipment, namely, climbing units, sandboxes, slides and swing sets, playset buildings, playsets for dolls, plush toys, printing toys, promotional game cards, promotional game materials, pull toys, punching toys, puppets, plush toys, radio controlled model vehicles, radio controlled toy

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 7

vehicles, ride-on toys, rocking horses, role playing game equipment in the nature of game book manuals, role playing games, rubber action balls, sand toys, shuffleboard cues and discs, sketching toys, snow sleds for recreational use, soft sculpture toys, spinning tops, squeeze toys, stand alone electronically operated audio output game machines, stuffed toy animals, stuffed toys, swimming pool toys, namely, inflatable swimming pool play articles, non-inflatable floating swimming pool play articles and weighted swimming pool play articles for diving games, toy armor, toy bakeware and cookware, toy banks, toy binoculars, toy boxes, toy building blocks, toy cameras and viewers, toy candy dispensers, toy cap pistols, toy gliders, toy helmets, toy holsters, toy hoop sets, toy lawnmowers, toy machinery, toy mobiles, toy model train sets. toy model vehicles and accessories therefor sold as a unit, toy modeling dough, toy musical instruments, toy putty, toy razors, toy rockets, toy snow globes, toy swords, toy tools, toy vehicles, toy vehicles with transforming parts, toy watches, toy weapons, toys designed to be attached to car seats and cribs and high chairs and strollers, train set accessories, namely, artificial trees, ballast, electric toy train transformers, electric toy trains, foliage, toy train cars, toy train track and turf, transforming robotic toys, twirling batons, ventriloquists' dummies, water pistols, water squirting toys, windsocks for decorative and toy purposes, windup toys, yo-yos; HOBBY CRAFT KITS, namely, Easter egg coloring kits, egg decorating kits, Halloween pumpkin decorating kits, kits consisting of toy looms and thread, kits for building outdoor play equipment, kits for catching and studying insects, kits for decorating clothing with charms and rhinestones and sequins, kits for growing crystals, kits for making and decorating craft items, namely, clocks, desk sets, desk top drawers, framed mirrors, jewelry boxes, photo frames and toy mobiles, kits for making aprons, kits for making art and craft items out of beads, kits for making art and craft items out of precut wood pieces, kits for making art and craft items out of sand, kits

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 8

for making art and craft items out of wire, kits for making baskets, kits for making braided lanyards, kits for making candles, kits for making Christmas tree decorations and ornaments except confectionery and illumination articles, kits for making fragrances using essential oils, kits for making glass etchings, kits for making hair clips and hair wraps, kits for making handbags, kits for making jewelry, kits for making pottery, kits for making soap, kits for making stained glass sun catchers, kits for making wood carvings, kits for molding clay, plaster or plastic to make art and craft items, kits for pressing and drying flowers and leaves to be used for arts and crafts, toy model hobby craft kits; CHRISTMAS GOODS, namely, artificial Christmas garlands, artificial Christmas trees, artificial Christmas wreaths, Christmas stockings, Christmas tree decorations and ornaments except confectionery and illumination articles, Christmas tree skirts, Christmas tree stands," in International Class 28 (hereinafter the "Application"). The Application was designated Application Serial No. 76/111,592.

2. Applicant alleges in the Application, executed under oath on August 17, 2000, that the Mark is in use in connection with all of the goods recited in the Application and that Applicant's date of first use of the Mark and date of first use of the Mark in commerce in connection with all of the goods recited in the Application is November 1992.

3. Upon information and belief, the Mark was not in use by Applicant in commerce in connection with "SPORTING GOODS, namely, air mattresses for recreational use, namely, inflatable float mattresses and pads, animal attractant scents, archery equipment, namely, archery arm guards, archery arrow fletching devices, archery arrow points, archery arrows, archery bow cases, archery bow string changers, archery bow strings, archery bows, archery finger tabs, archery targets, archery quivers and non-telescopic archery bow sights, artificial climbing holds for climbing wall systems, backboards for basketball, badminton game playing equipment, bags

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 9

and cases for carrying and storing sporting goods, ball bearings for roller skates and in-line skates, ball cages, ball pitching machines, baseball and bat bags, baseball bases, baseball bats, baseball batting tees, baseball mitts, baseballs, basketball goal sets, basketball nets, basketballs, billiard balls, billiard bridges, billiard chalk, billiard chalk holders, billiard cue cases, billiard cue cement, billiard cue clamps, billiard cue racks, billiard cue repair kits, billiard cues, billiard tables, billiard tips, billiard triangles, birdcalls, blocking dummies, bowling bags, bowling ball covers, bowling balls, bowling pins, boxing bag swivel mechanisms, boxing bags, brakes and replacement pads for roller skates and in-line skates, catchers' mitts, clay pigeons, clay target launchers, climbers' harnesses, cricket balls, cricket bats, crossbows, dart board cases, dart boards, dart carrying cases, dart point sharpeners, darts and parts therefor, discuses, earplugs for swimming purposes, fencing equipment, namely, foils and gauntlets, field hockey balls, field hockey sticks, floating recreational lounge chairs, football blocking sleds, footballs, grip tapes for baseball bats, gymnastic apparatus, handballs, handle grips for sporting equipment, hang gliders, hockey pucks, home plates, horseshoes and stakes for recreational purposes, hunters' scent camouflage, hunting blinds, hunting camouflage used as hunting blinds, hunting game calls, hunting stands, ice hockey sticks, ice skates, in-line skates, inflatable inner tubes for aquatic recreational use, kicking tees, lacrosse ball bags, lacrosse balls, lacrosse sticks, mountain boards, mountain climbing training equipment, namely, climbing walls, mountaineering carabiners, mountaineering chalk, mountaineering equipment, namely, binding straps, mountaineering hook and ring combinations, mountaineering hooks, needles for pumps for inflating sports equipment, netballs, non-slip rosin sprays for use by athletes, paintball guns, paintballs, paragliders, pitchers' plates, portable ski carriers, pumps for inflating sports equipment, punching bags, racket grip tape, racket string vibration dampeners, racket swing

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 10

weights, racquetball nets, racquetball racket covers, racquetball racket presses, racquetball racket strings, racquetball rackets, racquetballs, ring buoys for recreational use, roller skates, rosin used by athletes, rugby balls, sail board foot restraints, sail board leashes, sail board masts, sail boards, scuba equipment, namely, spring activated spear guns, scuba fins, scuba masks, scuba snorkels, skateboards, ski bindings, and parts therefor, ski brakes, ski poles, ski scrapers, ski wax, skim boards, slingshots and accessories therefor, snow skis, snowboard bags, snowboards, snowshoes, soccer balls, soccer goal nets, softball bats, softball mitts, softballs, sport balls, sport blowguns and darts therefor, squash balls, squash racket covers, squash racket presses, squash racket strings, squash rackets, starting blocks, surfboard fins, surfboard leashes, surfboard wax, surfboards, swim boards for recreational use, swim floats for recreational use, swim goggles, swimming equipment, namely, racing lines, table tennis balls, table tennis nets, table tennis paddles, table tennis post sets, table tennis tables, targets, tennis ball holders, tennis ball retrievers, tennis balls, tennis nets, tennis racket covers, tennis racket presses, tennis racket strings, tennis rackets, tennis uprights, tether ball poles, tether balls, track and field equipment, namely, field and track cones, high jump standards, hurdles, javelins, pole vaulting standards, relay batons, shot put shots and vaulting poles, volleyball game playing equipment, wake boards, water ski carrying cases, water ski ropes, water ski tow harness quick releases, water ski tow harnesses for recreational use, water skis, waterfowl hunting decoys, wheels for roller skates and in-line skates" in November 1992, the date of first use recited in the Application, nor was the Mark in use by Applicant in connection with such goods on August 17, 2000, the date that Applicant declared under oath that it was using the Mark. As such, Applicant is not entitled to a registration for the HOTTIE mark under Sections 1(a) and 13 of the Trademark Act, 15 U.S.C. §§ 1051(a) and 1063.

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 11

4. Upon information and belief, the Mark was not in use by Applicant in commerce in connection with "GOLF GOODS, namely, artificial portable golf putting greens, artificial portable golf putting greens with electric ball return, divot repair tools, golf accessory pouches, golf bag covers, golf bag organizers, golf bag stands, golf bag straps, golf bag tags, golf bags, golf ball and golf club cleaners, golf ball and golf tee monogrammers, golf ball holders, golf ball markers, golf ball pickups, golf ball retrievers, golf balls, golf chipping nets, golf club grip tape, golf club hand grips, golf club head covers, golf club swing aids, namely, swing weights, golf club tube locks, golf clubs, golf driving mats, golf flags, golf irons, golf practice balls, golf practice putting mats and rugs, golf putter covers, golf putter holders, gold putter props, golf putters, golf putting aids, namely, golf practice putting cups, golf shag bags, golf tee holders, golf tee markers, golf tees, non-motorized golf carts." in November 1992, the date of first use recited in the Application, nor was the Mark in use by Applicant in connection with such goods on August 17, 2000, the date that Applicant declared under oath that it was using the Mark. As such, Applicant is not entitled to a registration for the HOTTIE mark under Sections 1(a) and 13 of the Trademark Act, 15 U.S.C. §§ 1051(a) and 1063.

5. Upon information and belief, the Mark was not in use by Applicant in commerce in connection with "FISHING GOODS, namely, artificial fishing bait, artificial worms, bite indicators, fish attractants, fishing creels, fishing flies, fishing floats, fishing fly boxes, fishing hooks, fishing leaders, fishing lines, fishing lure boxes, fishing lures, fishing pole holders worn on the body, fishing reels, fishing rod cases, fishing rod holders, fishing rods, fishing sinkers, fishing spinners, fishing tackle, fishing tackle boxes, hand-held fishing nets for sportsmen, inflatable float tubes for fishing, packaged freeze-dried fishing bait, sportsman's fishing bags" in November 1992, the date of first use recited in the Application, nor was the Mark in use by

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 12

Applicant in connection with such goods on August 17, 2000, the date that Applicant declared under oath that it was using the Mark. As such, Applicant is not entitled to a registration for the HOTTIE mark under Sections 1(a) and 13 of the Trademark Act, 15 U.S.C. §§ 1051(a) and 1063.

6. Upon information and belief, the Mark was not in use by Applicant in commerce in connection with "EXERCISE EQUIPMENT, namely, barbells, dumbbell sets, elastic resistance bands, exercise benches, exercise doorway gym bars, exercise machines, exercise trampolines, grip developers, jump ropes, manual leg exercisers, manually operated exercise equipment, medicine balls, portable support structures for dance and other exercises, resistance bands, resistance tubes, skipping ropes, stationary exercise bicycles, thigh weights, treadmills, weightlifting belts, weightlifting benches and bench accessories, weightlifting machines, weights, wrist and ankle weights" in November 1992, the date of first use recited in the Application, nor was the Mark in use by Applicant in connection with such goods on August 17, 2000, the date that Applicant declared under oath that it was using the Mark. As such, Applicant is not entitled to a registration for the HOTTIE mark under Sections 1(a) and 13 of the Trademark Act, 15 U.S.C. §§ 1051(a) and 1063.

7. Upon information and belief, the Mark was not in use by Applicant in commerce in connection with "ATHLETIC PROTECTIVE EQUIPMENT, namely, arm guards, athletic sporting goods, namely, athletic wrist supports, athletic supporters, athletic tape, catchers' masks, chest protectors for sports, elbow guards and elbow pads for athletic use, face masks, fencing masks, field hockey goalie pads, football body protectors, hand pads, ice hockey goalie pads, karate head guards, karate kick pads, karate shin pads, karate target pads, knee guards, kneepads, lacrosse masks, leg guards, mouth guards, shin guards, shin pads, shoulder pad laces, sport

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 13

goggles for use in racquetball and squash, sport goggles for use in snow skiing, sport goggles for use with paintball guns, throat protectors, umpire protection equipment, wrestlers' head guards" in November 1992, the date of first use recited in the Application, nor was the Mark in use by Applicant in connection with such goods on August 17, 2000, the date that Applicant declared under oath that it was using the Mark. As such, Applicant is not entitled to a registration for the HOTTIE mark under Sections 1(a) and 13 of the Trademark Act, 15 U.S.C. §§ 1051(a) and 1063.

8. Upon information and belief, the Mark was not in use by Applicant in commerce in connection with "ATHLETIC GLOVES, namely, archers' gloves, baseball batting gloves, bicycling gloves, boxing gloves, football receivers' gloves, goalkeepers' gloves, golf gloves, handball gloves, hockey gloves, karate gloves, racquetball gloves, sailing gloves, softball gloves, swim gloves, water ski gloves, weightlifting gloves" in November 1992, the date of first use recited in the Application, nor was the Mark in use by Applicant in connection with such goods on August 17, 2000, the date that Applicant declared under oath that it was using the Mark. As such, Applicant is not entitled to a registration for the HOTTIE mark under Sections 1(a) and 13 of the Trademark Act, 15 U.S.C. §§ 1051(a) and 1063.

9. Upon information and belief, the Mark was not in use by Applicant in commerce in connection with "TOYS, namely, action figure playsets, action figures and accessories therefor, action skill games, action-type target games, adults' and children's party games, aerodynamic disks for use in playing catching games, amusement park rides, arcade games, baby multiple activity toys, baby rattles, backgammon game sets, bags and cases for carrying and storing toys and accessories therefor, balloons, bath toys, beach balls, beanbags, bendable toys, bingo game playing equipment, bocci balls, boomerangs, bubble making toys, bubble making

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 14

wand and solution sets, caps for toy pistols, checker sets, cheerleading pom-poms, chess sets, children's multiple activity toys, children's play cosmetics, coin operated pinball machines, coin operated video games, collectable toy figures, construction toys, costume masks, crib mobiles, crib toys, croquet sets, cube puzzles, dice, disc toss toys, disposable ticket sets for playing games of chance, doll accessories, doll cases, doll clothing, doll house furnishings, doll houses, dolls, dominoes, drawing toys, electrical action toys, electronic dart games, electronic educational game machines for children, electronic game equipment for playing video games, electronic game equipment with a watch function, electronic talking toys, electronically operated toy motor vehicles, equipment sold as a unit for playing board games, equipment sold as a unit for playing card games, fantasy character toys, flying discs, friction-operated motorized toys, game equipment, namely, chips, game tables, gaming tables, hand-held unit for playing electronic games, hand-held unit for playing video games, high bounce balls, infant toys, inflatable ride-on toys, inflatable swimming pools, inflatable toys, jigsaw puzzles, juggling equipment, jungle gyms, kite handles, kite parts, kite reels, kite string, kite tails, kites, LCD game machines, lottery tickets, magic tricks, manipulative games, manipulative puzzles, marbles, mechanical action toys, mechanically operated audio output game machines, music box toys, musical toys, noise-making party favor blow-outs, non-motorized scooters, paddle ball games, paper airplanes, paper dolls, parlor games, party favors in the nature of crackers and noisemakers, party favors in the nature of small toys, pet toys, pinatas, pinball-type games, play figures, play houses, play mats containing infant toys, play money, play tents, play wands, playground balls, playground equipment, namely, climbing units, sandboxes, slides and swing sets, playset buildings, playsets for dolls, plush toys, printing toys, promotional game cards, promotional game materials, pull toys, punching toys, puppets, plush toys, radio controlled model vehicles, radio controlled toy

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 15

vehicles, ride-on toys, rocking horses, role playing game equipment in the nature of game book manuals, role playing games, rubber action balls, sand toys, shuffleboard cues and discs, sketching toys, snow sleds for recreational use, soft sculpture toys, spinning tops, squeeze toys, stand alone electronically operated audio output game machines, stuffed toy animals, stuffed toys, swimming pool toys, namely, inflatable swimming pool play articles, non-inflatable floating swimming pool play articles and weighted swimming pool play articles for diving games, toy armor, toy bakeware and cookware, toy banks, toy binoculars, toy boxes, toy building blocks, toy cameras and viewers, toy candy dispensers, toy cap pistols, toy gliders, toy helmets, toy holsters, toy hoop sets, toy lawnmowers, toy machinery, toy mobiles, toy model train sets, toy model vehicles and accessories therefor sold as a unit, toy modeling dough, toy musical instruments, toy putty, toy razors, toy rockets, toy snow globes, toy swords, toy tools, toy vehicles, toy vehicles with transforming parts, toy watches, toy weapons, toys designed to be attached to car seats and cribs and high chairs and strollers, train set accessories, namely, artificial trees, ballast, electric toy train transformers, electric toy trains, foliage, toy train cars, toy train track and turf, transforming robotic toys, twirling batons, ventriloquists' dummies, water pistols, water squirting toys, windsocks for decorative and toy purposes, windup toys, yo-yos" in November 1992, the date of first use recited in the Application, nor was the Mark in use by Applicant in connection with such goods on August 17, 2000, the date that Applicant declared under oath that it was using the Mark. As such, Applicant is not entitled to a registration for the HOTTIE mark under Sections 1(a) and 13 of the Trademark Act, 15 U.S.C. §§ 1051(a) and 1063.

10. Upon information and belief, the Mark was not in use by Applicant in commerce in connection with "HOBBY CRAFT KITS, namely, Easter egg coloring kits, egg decorating

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 16

kits, Halloween pumpkin decorating kits, kits consisting of toy looms and thread, kits for building outdoor play equipment, kits for catching and studying insects, kits for decorating clothing with charms and rhinestones and sequins, kits for growing crystals, kits for making and decorating craft items, namely, clocks, desk sets, desk top drawers, framed mirrors, jewelry boxes, photo frames and toy mobiles, kits for making aprons, kits for making art and craft items out of beads, kits for making art and craft items out of precut wood pieces, kits for making art and craft items out of sand, kits for making art and craft items out of wire, kits for making baskets, kits for making braided lanyards, kits for making candles, kits for making Christmas tree decorations and ornaments except confectionery and illumination articles, kits for making fragrances using essential oils, kits for making glass etchings, kits for making hair clips and hair wraps, kits for making handbags, kits for making jewelry, kits for making pottery, kits for making soap, kits for making stained glass sun catchers, kits for making wood carvings, kits for molding clay, plaster or plastic to make art and craft items, kits for pressing and drying flowers and leaves to be used for arts and crafts, toy model hobby craft kits” in November 1992, the date of first use recited in the Application, nor was the Mark in use by Applicant in connection with such goods on August 17, 2000, the date that Applicant declared under oath that it was using the Mark. As such, Applicant is not entitled to a registration for the HOTTIE mark under Sections 1(a) and 13 of the Trademark Act, 15 U.S.C. §§ 1051(a) and 1063.

11. Upon information and belief, the Mark was not in use by Applicant in commerce in connection with “CHRISTMAS GOODS, namely, artificial Christmas garlands, artificial Christmas trees, artificial Christmas wreaths, Christmas stockings, Christmas tree decorations and ornaments except confectionery and illumination articles, Christmas tree skirts, Christmas tree stands” in November 1992, the date of first use recited in the Application, nor was the Mark

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 17

in use by Applicant in connection with such goods on August 17, 2000, the date that Applicant declared under oath that it was using the Mark. As such, Applicant is not entitled to a registration for the HOTTIE mark under Sections 1(a) and 13 of the Trademark Act, 15 U.S.C. §§ 1051(a) and 1063.

12. Upon information and belief, Applicant is not currently using the Mark in commerce in the normal course of business in connection with any of the goods recited in the Application. In fact, Applicant told Opposer in a face-to-face meeting on May 8, 2002 that he has never used in interstate commerce any of the products or services covered by the 24 federal trademark applications relating to HOTTIE that Applicant has filed, except for computer consulting.

13. Upon information and belief, Applicant has not licensed any third party to use the Mark in connection with any of the goods recited in the Application.

14. Upon information and belief, Applicant has not acquired any rights in the Mark in connection with any of the goods recited in the Application under the common law, whether through direct use of the Mark or through use of the Mark by a controlled licensee.

15. Upon information and belief, Applicant did not have a bona fide intention to use the Mark in commerce in connection with the goods recited in the Application when it executed and filed the Application with the United States Patent and Trademark Office.

16. Upon information and belief, Applicant's sole purpose when it executed and filed this Application with the United States Patent and Trademark Office, and 23 other applications for the mark HOTTIE covering approximately 5,241 different products and services, was to extort money from legitimate trademark owners. Opposer believes that Applicant has had dishonest motives for filing these applications. Opposer is not aware of any company in the

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 18

United States that has actual use of such a broad and diverse assortment of products and services. The approximately 5,241 different products and services included in the 24 applications for the mark HOTTIE filed by the Applicant include this amazing assortment: toy weapons, metal key chains, guacamole, motor oil, motion picture films, contact lenses, metal detectors, baseball batting helmets, radon detectors, fencing masks, rocking horses, kits for making braided lanyards, artificial Christmas trees, items made of precious metal, flutes, suit coats, bed frames, antlers, air mattresses for use when camping, portable electrically heated paraffin baths not for medical purposes, ice cube making machines, artificial climbing holds for climbing wall systems, dripper irrigation systems, modeling for advertising or sales promotion, steam generators, gymnasium exercise mats, electric manicure sets, chopsticks, hunting knives, body glitter, dart point sharpeners, foot deodorant spray, baby oil, javelins, toupees, footlockers, saddlery, fur coats, automatic guided vehicles, frizzy dice, boat engines, processed edible seeds, chop suey, balloon pants, cosmetic electrolysis, portrait photography, restaurant franchising, bikinis, low calorie and non-carbonated soft drinks, beauty schools, sledgehammers, live Christmas trees, body briefers and shapers, cuttlebones for birds, pine cones, bicycle storage racks, mosquito nets, fabric impervious to gases for aeronautical balloons, crib blankets, greeting cards, indoor terrariums for plant cultivation or terrestrial animals, beer, disposable diapers, body paint stencils, shrimp deveiners, cloth diapers, candy, air conditioners, tortilla chips, ice axes, maple syrup, adhesives for attaching artificial eyelashes, children's books, tartar sauce, degreasing preparations not used in manufacturing process for use on automobile engines, lemon squeezers, jugs, mugs, toilet paper, and over 5,000 others. Attached as Exhibit A is a chart showing all 24 HOTTIE applications filed by Applicant. Attached as Exhibit B are copies of the products and services covered by the 24 HOTTIE applications filed by Applicant.

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 19

17. Upon information and belief, Applicant transmits threats and scare tactics in interstate commerce to legitimate trademark owners in an attempt to scare them and extort money and other things of value from them. Applicant threatens injury to the person of others. Applicant threatens injury to the property of others. Applicant threatens injury to the reputation of others. Opposer has received a barrage of emails and faxes from Applicant containing a wide variety of threats. Upon information and belief, Applicant has also left a veiled death threat for Opposer on voice mail. Opposer believes that Applicant has harassed him and threatened his life. Applicant has indicated to Opposer that Applicant owns a lot of guns and fits the profile of persons who attack U.S. Presidents. Applicant has indicated it will use abortion clinic tactics in fighting Opposer. The communications include the following quotes (emphasis added):

“Or fight me and be prepared to accept the full brunt of a lifelong attack. I’m prepared to accept the full brunt of a lifelong attack. **I’m prepared to accept 100% loss including that of everything I own and my life, are you?”**

“Litigation will destroy our licensing effort but it’ll destroy your franchise too. You have more to lose. At worst I go live on a beach in Thailand for \$2 a day. Your company has \$1 million on the table to lose. We have the least to lose. Therefore, we’re in the strongest position. Litigation is not the answer.”

“I’m at the stage in life where I don’t have a family, lost the girl I wanted to marry to a big tall ugly Mexican guy. **I own so many guns I’ve lost count.** I really don’t care what happens anymore to me. Look at my profile. Single guy, short, no relationships, owner of many guns. **I have the exact same profile of guys who usually attack U.S. presidents.** You don’t ever want to fight someone with this attitude. You have far more to lose.”

“I don’t like your continued threats of litigation. **We are in a situation similar to the Cuba Missile Crisis. In that situation I would have just launched the missiles and blown Cuba away and not cared what the world community thought.** When I’m threatened I don’t back down, I fight. Don’t start a fight unless you can weather the full brunt of the attack. You have \$1 million on the table to lose. You have investors and potential franchisees which will get angry with you and pull out. You have far more to lose than I do. This is NOT an attack you want to start. If you do so, it will be lifelong and will be your ruin and your undoing. You saw how mobile I am. I go on a trip for a

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 20

couple days and don't even take clothes. I go hiking for a week and don't even take food. I have nothing tying me down. If you attack, I'll move to Atlanta and start the picketing of your doughnut shop."

"I'll create a web page similar to any franchise name you use explaining why people shouldn't buy into your franchise. What you don't realize is **I'll picket and attack any franchise and company you start under any name, not just HOTTIES**. We'll fight for years in court. You think you are just fighting me. I'm in discussions with a \$100 million company to come into this. If they or a giant such as United Media or Nintendo takes over HOTTIE good luck!"

"The worst you can do is ruin my licensing effort. I'm already willing to accept 100% total loss. **Are you willing to accept a lifelong enemy and life ruination?** Like I said, if my finger was on the missiles during the Cuban Missile Crisis I would have launched. You have more to lose than I do. Your life is too comfortable and nice right now to ruin on this foolishness. Maybe your wife can talk some sense into you. Think carefully before you start an attack that you can't back out of. **Once you cross a line it will be too late for the rest of your life.**"

The following email was sent to employees and investors of Opposer's company: "If you follow your CEO down this path you'll squander hundreds of thousands of dollars on this futile fight and it'll go on for years. We'll never stop fighting you once you start this attack!!! That'll put you in limbo. You won't be able to franchise. If you do franchise **we'll sue you and your franchisees for 3 times gross plus attorney's fees**. Your franchisees will then turn around and sue you. Bill Windsor thinks the courts will quickly resolve this case. They won't. It will go on for years and years. You'll be in limbo the entire time. In the end you'll lose. If your company attacks us and changes its name you can count on us attacking any company or franchise you have in the future regardless of the name. It is a path of self destruction your CEO is on."

"We've seen major error after error made by your company. Are you sure this is the company you want to be invested in? Bubba doesn't want to lose his \$100,000. I'm sure the rest of you also don't want to lose your money. Most importantly, you don't want to go through a **negative hellish experience** when this was supposed to be something nice for a group of friends. Bill Windsor wants to go head to head with Krispy Kreme. They were in business most of last century. You have no experience running a doughnut shop, no experience running a franchise. Don't think these facts won't be noticed by future franchisees of yours if we create a web page advertising the fact. Bill Windsor has your company on a path of self destruction. We kindly ask you to rethink your position before you cross a line in which there's no going back. If you back off now, we'll back off and we'll each go our own way. Well have a truce. Otherwise, let your CEO go ahead with his crazed obsession over HOTTIES and pay the consequences."

"If you proceed to go to war with our corporation, we'll do the same with your corporation. You have \$1 million riding on the table plus fraternity brother friendships.

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 21

You act like this will be fought in a sterile vacuum. It won't. You're going to have to change your franchise name. If we are being attacked by you we'll attack any franchise name you use. We'll create a website doing this under a corporation just for it. I'll move to Atlanta and start picketing your doughnut shop every day. I'll get the addresses of your directors from the Delaware Secretary of State. **I'll use the same tactics as people do who fight abortionists. I'll follow the wives of your investors.** I'll spread flyers where they get their hair done, at their clubs, churches, anywhere people know them. I'll use a bull horn. **I'll turn this into the most hellish experience they've ever had in their lives.** They'll want to pull out to save what money they can. Every time they think of Bill Windsor a very negative image will come to mind. Your obsession for the name HOTTIES (which you are trying to steal from us) will be the downfall of your business venture and these friendships. **It's one thing if this was just your money and your life.** But you will ruin it for your friends who believed and trusted in you. Roll the dice big boy! Cross the line and there's no going back."

Email to Opposer titled "I'm Your Huckleberry" – "We've now started to fight you. It's you that's screwed. Kiss your doughnut shop dream goodbye due to your crazed obsession of trying to steal a name that isn't yours. **Your investor's lives are going to be turned into hell.**" (I'm Your Huckleberry is a line from the movie "Tombstone" and may refer to bloodshed and death.)

"Can you say PriceWaterhouseCoopers? You haven't a clue of how far, wide and long we will attack you and your investors. Enjoy being the CEO of Hotties because it's not going to last. I'm tired of your threats, your attacks, your infringing and stealing. It's now time to put a bully in his place. Head's up big boy, you've now started the battle." (One of the investors in Opposer's business, Hotties, LLC, is employed by PriceWaterhouseCoopers.)

"Think twice before starting an attack that you can never stop, that **will cause life ruination.**"

On Tuesday, May 28, 2002 at 10:45 pm EDT, a voice mail message was left on Opposer's office number at 678-320-0057. It appears to be a portion of a movie talking about "**taking someone out**" and "shooting animals" with a gun.

18. Upon information and belief, Applicant has violated 18 USC § 875 of the U.S. criminal code by sending these communications to Opposer. Applicant has told Opposer that if Opposer pays a large amount of money to Applicant, Opposer will not have to be concerned with the actions that have been threatened.

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 22

19. Upon information and belief, Applicant has used similar tactics with others, including the Utah Transit Authority, in a matter involving a trademark opposition against Serial No. 75/651,521 for the mark UTA TRAX.

20. On June 6, 2002, the Honorable Richard Hicks, Superior Court Judge for Fulton County, Georgia, issued a Temporary Protective Order against Brian L. Roberts of Hottie Corporation. The Court ordered Brian L. Roberts to restrain from the following:

- a. Harassing and intimidating William M. Windsor and his immediate family;
- b. Having any direct or indirect contact with William M. Windsor or his immediate family;
- c. Approaching within 200 yards of William M. Windsor, the residence of William M. Windsor, or any place of business of HOTTIES, LLC;
- d. Further conduct of the type complained about in the Petition;

Brian L. Roberts has been further ordered by the Court:

- e. To receive appropriate psychiatric or psychological services;
- f. To pay costs and attorney fees of William M. Windsor.

A copy of the Application for the Temporary Protective Order and the Temporary Protective Order are attached hereto as Exhibit C.

21. Upon information and belief, Applicant has intended to subvert the laws of the United States Patent and Trademark Office in a massive scheme to defraud the federal government and legitimate trademark owners. The trademark laws have been designed to keep people from taking actions such as this. Recent changes to the laws were designed to stop applicants from submitting bogus applications with token use. These changes allow applicants to submit intent-to-use applications. Applicant is well aware of the changes to the trademark law,

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 23

yet it submitted its applications claiming actual use since November 1992 in this Application and use as early as 1990 in some of its 23 other HOTTIE applications. When Opposer discussed with Applicant the fact that Applicant has not actually used the Mark in interstate commerce, Applicant said it could convert its applications to intent-to-use at any time and avoid having its applications denied on the basis of non-use in interstate commerce. Opposer believes Applicant is squatting on the HOTTIE trademark and intends to abuse the laws of the United States Patent and Trademark Office as part of its scheme.

22. Opposer is the owner of the following applications filed in the United States Patent and Trademark Office under Section 1(b) of the Trademark Act based upon Opposer's bona fide intent to use the mark HOTTIES:

Serial No. 78/094,560 filed on November 21, 2001 in connection with "soft drinks, seltzer water, spring water, soda water, fruit juices" in International Class 32;

Serial No. 78/094,570 filed on November 21, 2001 in connection with "retail food and restaurant services, on-line retail food services, franchise services, mail order services in the nature of providing food and drink" in International Class 35;

Serial No. 78/094,561 filed on November 21, 2001 in connection with "milk, chocolate milk, cream cheese" in International Class 29;

Serial No. 78/094,558 filed on November 21, 2001 in connection with "ice cream, ice cream cones, ice cream drinks, doughnuts, doughnut mixes, pudding, pudding mixes, pastries, pastry mixes, danish, danish mixes, bagels, bagel mixes, muffins, muffin mixes, pies, pie mixes, cakes, cake mixes, brownies, brownie mixes, cookies, cookie mixes, icing, icing mixes, coffee, coffee beans, tea, iced tea, espresso, espresso drinks, frozen yogurt, candy" in International Class 30; and

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 24

Serial No. 78/094,571 filed November 21, 2001 in connection with "take-out restaurant services, on-line retail food services" in International Class 42.

Opposer is also the owner of an application filed in the United States Patent and Trademark Office under Section 1(a) of the Trademark Act based upon Opposer's actual use of the mark HOTTIES in commerce, which was filed on December 17, 2001 in connection with "clothing, including, T-shirts, golf shirts, sweatshirts and caps" in International Class 25 and designated Serial No. 78/098,690 (collectively "Opposer's Applications"). Opposer plans to file additional trademark applications for HOTTIES. Opposer has spent a great deal of time, effort and money in connection with its actual use and intent to use the mark HOTTIES. Specifically, Opposer has developed a doughnut franchise and has selected HOTTIES as the name of the franchise and as the trademark for its associated goods and services.

23. The Mark Applicant seeks to register so resembles Opposer's HOTTIES mark that the United States Patent and Trademark Office is likely to refuse registration of one or more of Opposer's Applications under Section 2(d) of the Lanham Act, all to the detriment of Opposer.

24. Registration of Applicant's HOTTIE mark would be a further source of damage to Opposer, as it would confer upon Applicant various statutory presumptions to which it is not entitled.

25. Registration of Applicant's HOTTIE mark would be a source of damage to the general public, as it would confer upon Applicant various statutory presumptions to which it is not entitled. If the United States Patent and Trademark Office allows Applicant to obtain registered trademarks by filing false applications and without meeting the requirements, a dangerous precedent will be set, and legitimate trademark owners will be irreparably damaged.

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 25

WHEREFORE, Opposer prays that Application Serial No. 76/111,592 in International Class 28 be rejected, that the mark shown therein be refused and that the Application be deemed void *ab initio*.

A duplicate copy of this Notice of Opposition and the fee in the amount of \$300 as required in 37 C.F.R. §2.6(17) are enclosed herewith.

Please return the enclosed postcard to evidence receipt of this Notice of Opposition.

Respectfully submitted,

WILLIAM M. WINDSOR
D/B/A HOTTIES, INC.

Dated: _____

William M. Windsor
7675 Ball Mill Road
Atlanta, GA 30350
(678) 320-0057 telephone
(678) 320-9075 facsimile

Enclosures

Applicant : Hottie Corporation
Serial No. : 76/111,592
Filed: : August 17, 2000
Mark : HOTTIE
Page : 25

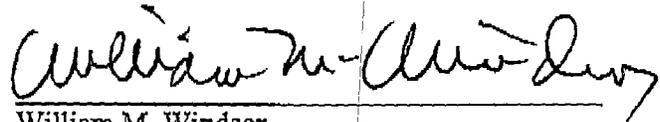
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