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10-15-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #71

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

In re: The Cato Corporation, a Delaware corporation
Application Serial No.: 76/111230
Date of Filing: 18 August 2000 (Class 35)
Trademark: LOOK SMART. BUY SMART.
Date of Publication: 26 March 2002

| | | |
|------------------------------------|---|----------------------|
| Payless ShoeSource Worldwide, Inc. |) | |
| |) | |
| |) | |
| v. |) | Opposition No. _____ |
| |) | |
| The Cato Corporation, |) | |
| |) | |
| |) | |

NOTICE OF OPPOSITION

Payless ShoeSource Worldwide, Inc., (hereinafter the Opposer), a corporation duly organized and existing under the laws of the State of Kansas, having an address at 700 SW Jackson, Suite 202, Topeka, Kansas, 66603, believes it will be damaged by registration of the trademark shown in the above-identified application and hereby opposes the registration of the mark therein identified.

The grounds of opposition are as follows:

1. By the application herein opposed, The Cato Corporation (hereinafter the Applicant) seeks to obtain under the provisions of the Trademark Act of 1946, registration for the mark LOOK SMART. BUY SMART. in International Class 35 for "direct mail advertising" (Serial No. 76/111230).

2. The Applicant filed its application for the mark LOOK SMART. BUY SMART. on 18 August 2000 based on a date of first use of 2 March 2000.

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3. Opposer filed its application for the mark LOOK SMART. PAYLESS. on 10 December 2001, as an Intent to Use application. Opposer filed its Amendment to Allege Use on 24 March 2002. Opposer's application was published for opposition on 17 September 2002.

4. Opposer believes that Applicant's registration of LOOK SMART. BUY SMART. is likely to cause injury to Opposer and to its business reputation, and to injure and impair Opposer's rights in its LOOK SMART. PAYLESS. mark because the registration of LOOK SMART. BUY SMART. would afford Applicant a colorable exclusive right to use LOOK SMART. BUY SMART. to the damage and detriment of opposer and others.

WHEREFORE, Opposer prays that the Application Serial No. 76/111230 be rejected, and that registration of this mark for the services herein specified in International Classes 35 be denied and refused, and for such other relief as is appropriate and permitted under the circumstances.

Respectfully submitted,



Amy C. Kelly, Kansas Bar. No: 15232
Payless ShoeSource, Inc.
3231 SE Sixth Avenue
P.O. Box 1189
Topeka, KS 66601-1189
Phone: (785) 295-6640
Fax: (785) 295-6084

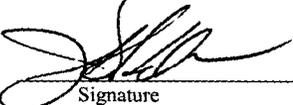
Counsel for Opposer

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.10

I hereby certify that, on the date shown below, this correspondence is being deposited with the United States Postal Service in an envelope addressed to Box: TTAB FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 with sufficient postage in conformance with 37 C.F.R. §1.10 as "Express Mail Post Office to Addressee".

EXPRESS MAIL NO. EV215521706US

Jennifer D. Keller, RP
Name of Depositor



Signature

October 15, 2002
Date



10-15-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #71

TTAB

PAYLESS SHOESOURCE, INC.

3231 EAST 6TH STREET
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EXECUTIVE OFFICES

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VIA EXPRESS MAIL NO. EV215521706US

October 15, 2002

Office of Assistant Commissioner For Trademarks
Box TTAB FEE
2900 Crystal Drive
Arlington, VA 22202-3513

Re: **LOOK SMART. BUY SMART. , 76/111,230**

The following are enclosed:

Enclosed for filing on behalf of Payless ShoeSource Worldwide, Inc. against the trademark application indicated above is a Notice of Opposition with Certificate of Express Mailing. Please date/time stamp and mail the attached prepaid and pre-addressed postcard.

Please charge the amount of \$300.00 to Deposit Account No. 501008 as payment for the required fee for this transaction. An additional copy of this letter is attached for this purpose.

Sincerely,

Jennifer D. Keller, RP
Paralegal

Enclosures as stated

DLB