



06-05-2003

U.S. Patent & TMOfo/TM Mail Rcpt Dt. #22

File No. 2518-130

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

In the matter of Application Serial Number 76/191,748, for the mark "TUTU FRENCH & DESIGN", published March 25, 2003, in the Official Gazette at page TM 271:

----- X		
DUCA VISCONTI DI MODRONE	:	
VELVIS S.P.A.	:	
	:	
Opposer,	:	
vs.	:	Opposition No.:
	:	
TUTU FRENCH LLC	:	
	:	
Applicant.	:	
	:	
----- X		

06/09/2003 EPINA1 00000028 76191748
01 FC:6402 300.00 OP

NOTICE OF OPPOSITION

Commissioner of
Patents and Trademarks
2900 Crystal Dive
Arlington, Virginia 22202-3513

Attn: Box TTAB FEE

Commissioner:

DUCA VISCONTI DI MODRONE VELVIS, S.P.A., a joint stock company of Italy, located at Via Garibaldi 18, 13013 Coggiola Biella, Italy (hereinafter "OPPOSER"), believes that it will be damaged by registration of the mark "TUTU FRENCH & DESIGN" for women's

and men's clothing namely, formal wear in the nature of women's cocktail dresses, women's long and short dresses, skirts, tops, jackets, evening dresses, women's pants and shawls and long skirts, men's ties, cummerbunds, bow ties and suspenders; sportswear, namely t-shirts, pants, blouses, tops, skirts, shorts and bathing suits as set forth in Application Serial Number 76/191,748, filed January 9, 2001, and published March 25, 2003, owned by Tutu French LLC, (hereinafter "Applicant") a limited liability corporation of the State of Connecticut, having a business address of 15 Agawam Avenue, Fenwick, Old Saybrook, Connecticut 06475, and hereby opposes that application.

As grounds for opposition, it is alleged that:

1. Prior to January 9, 2001, the filing date of application serial number 76/191,748, Opposer established rights in the mark "BOZZALLA & LESNA & DESIGN" pursuant to registration of that mark with the United States Trademark Office under Registration Number 1,872,540. Attached at Exhibit A is a copy of the Certificate of Registration.

2. Opposer's registration number 1,872,540 for "BOZZALLA & LESNA & DESIGN" is registered in connection with clothing, namely, shirts, pants, jackets, suits, sweaters and trousers in class 25.

3. The Opposer's rights in its "BOZZALLA & LESNA & DESIGN" date back to September 14, 1992, as identified on U.S. Registration Number 1,872,540. (See Exhibit A).

4. Opposer's U.S. Registration Number 1,872,540 remains valid and has become incontestable pursuant Trademark Act § 15.

5. Upon information and belief, Applicant has made no use of its "TUTU FRENCH & DESIGN" mark in connection with the goods listed in application serial number 76/191,748.

6. Simultaneous use of Applicant's "TUTU FRENCH & DESIGN" mark and Opposer's "BOZZALLA & LESNA & DESIGN" mark in connection with their respective class 25 clothing articles is likely to cause confusion, deception, or mistake based upon the similar design features contained within both marks, all to the damage of Opposer.

7. Opposer will be damaged by registration of "TUTU FRENCH & DESIGN" because it will cause confusion and uncertainty in the industry and handicap and damage the legitimate present and future activities of Opposer, placing Applicant in a position to raise doubts as to the right of Opposer to use its "BOZZALLA & LESNA & DESIGN" trademark in connection with clothing, namely, shirts, pants, jackets, suits, sweaters and trousers in class 25. As a result, Opposer will eventually be deprived of all distinctiveness in its mark, since use of Applicant's mark will blur Opposer's mark and the goods identified with said mark, such that the association with which said mark has come to convey will be tarnished.

WHEREFORE, Duca Visconti Di Modrone Velvis, S.p.A., hereby requests that registration of Application Serial Number 76/191,748 be denied and this Opposition be sustained.

Respectfully Submitted,

DUCA VISCONTI DI MODRONE VELVIS, S.P.A.

Dated: 6/2/03

BY: Brooks R. Bruneau

Brooks R. Bruneau
MATHEWS, COLLINS, SHEPHERD & MCKAY, P.A.
100 Thanet Circle, Suite 306
Princeton, New Jersey 08540-3662
(609) 924-8555
Attorneys for Opposer

/brb

Encl. Check in the amount of \$300

Copy of United States Trademark Registration Number 1,872,540 [Exhibit "A"]

Acknowledgment Postcard

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner For Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, Attn: *TTAB Fee*

6/2/03
(Date of Deposit)

Brooks R. Bruneau
(Signature)

6/2/03
(Date of Signature)

EXHIBIT A

Int. Cl.: 25

Prior U.S. Cl.: 39

United States Patent and Trademark Office

Amended

Reg. No. 1,872,540

Registered Jan. 10, 1995

OG Date Feb. 27, 2001

TRADEMARK
PRINCIPAL REGISTER


BOZZALLA & LESNA

LANIFICIO VALSESSERA S.P.A. IN
LIQUIDAZIONE (ITALY, AN ITALIAN
JOINT STOCK COMPANY),
13013 COGGIOLA BIELLA
VIA GARIBALDI 18
PROVINCE OF VERCELLI, ITALY, BY
CHANGE OF NAME BOZZALLA & LESNA
S.P.A. (ITALY JOINT STOCK COMPANY)
13013 COGGIOLA, PROVINCE OF
VERCELLI, ITALY

PRIORITY CLAIMED UNDER SEC. 44(D)
ON ITALY APPLICATION NO. T092C001770,
FILED 9-14-1992, REG. NO. 00578431,
DATED 10-16-1992.

OWNER OF U.S. REG. NO. 1,723,880.

FOR: CLOTHING; NAMELY, SHIRTS,
PANTS, JACKETS, SUITS, SWEATERS, AND
TROUSERS, IN CLASS 25 (U.S. CL. 39).

SER. NO. 74-366,242, FILED 3-9-1993.



*In testimony whereof I have hereunto set my hand and
caused the seal of The Patent and Trademark Office to
be affixed on Feb. 27, 2001.*

Nicholas P. Galbi

COMMISSIONER OF PATENTS AND TRADEMARKS

TTAB

MATHEWS, COLLINS, SHEPHERD & MCKAY, P.A.

ATTORNEYS AT LAW
100 THANET CIRCLE, SUITE 308
PRINCETON, NEW JERSEY 08540-3874
(609) 924-8555
FACSIMILE: (609) 924-3038
WEB SITE: www.mathewslaw.com
E-MAIL: attorneys@mathewslaw.com

ROBERT G. SHEPHERD
DIANE DUNN MCKAY
BROOKS R. BRUNEAU
PHILIP B. ABRAMOWITZ*
TODD A. DENYS
DAVID F. KRIVOSHIK
KRISTINE BUTLER-HOLSTON
PATRICK H. HIGGINS**
TODD L. MAYOVER
GREGORY HOUGHTON***

BRUCE M. COLLINS, COUNSEL

PATENTS
TRADEMARKS
COPYRIGHTS
UNFAIR COMPETITION
LICENSING
COMPUTER AND HIGH
TECHNOLOGY MATTERS
RELATED LITIGATION

RONALD GOULD, OF COUNSEL

H. HUME MATHEWS (1911-1989)

June 2, 2003

* ADMITTED IN NEW YORK, NEVADA & FLORIDA
** ADMITTED IN PENNSYLVANIA & CALIFORNIA
*** ADMITTED IN PENNSYLVANIA


06-05-2003
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

Commissioner of Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

Attn: Box TTAB FEE

RE: DUCA VISCONTI DI MODRONE
VELVIS S.P.A. v.
TUTU FRENCH LLC
Opposition of "TUTU FRENCH & DESIGN"
Our File Number: 2518-130

Dear Sir/Madam:

Enclosed please find the following:

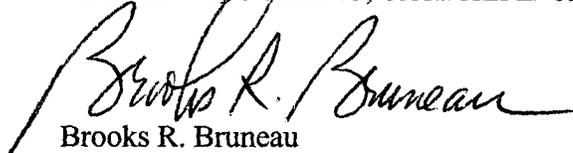
1. An original and three copies of a Notice of Opposition;
2. Transmittal Letter;
3. Our check in the amount of Three Hundred Dollars (\$300.00) to cover the U.S. Government Filing Fee;
4. One (1) return receipt post card. The return receipt post card should be date stamped and provided with a serial number and returned to us as soon as possible.

MATHEWS, COLLINS, SHEPHERD & MCKAY, P.A.

IN THE EVENT THE FEE TENDERED HERewith IS DEEMED INADEQUATE, AUTHORITY IS HEREBY GIVEN TO CHARGE ANY SUCH DEFICIENCY OR ANY OVERPAYMENT TO DEPOSIT ACCOUNT NUMBER 13-2165 MATHEWS, COLLINS, SHEPHERD & MCKAY. THE EXAMINER IS INVITED TO CONTACT THE UNDERSIGNED IF FURTHER INFORMATION IS REQUIRED

Very truly yours,

MATHEWS, COLLINS, SHEPHERD & MCKAY



Brooks R. Bruneau

BRB:dm
Enclosures