

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

In the Matter of Application Registration No. 76/372,550 ARDENBEAUTY.

THE WET SEAL, INC.,

Opposer,

v.

FD MANAGEMENT, INC.,

Applicant.

§
§
§
§
§
§
§
§



06-30-2003

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

Opposition No. _____

NOTICE OF OPPOSITION

Commissioner for Trademarks
Box TTAB – FEE
2900 Crystal Drive
Arlington, Virginia 22202-3514

Madam:

IN THE MATTER OF application for trademark registration, Serial No. 76/372,550,
filed February 5, 2002, by FD Management, Inc. (“Applicant”), for the mark ARDENBEAUTY
published on page TM239 of the Official Gazette on June 3, 2003;

THE WET SEAL, INC., a California corporation, having its principal office or place of
business at 26972 Burbank, Foothill Ranch, California 92610 (“Opposer”), believes that it would
be damaged by the grant of registration of such application, and hereby opposes the registration
of the mark covered by Application No. 76/372,550.

As grounds for such opposition, it is alleged that:

07/10/2003 SEDWARDS 00000105 76372550

01 FC:6402

300.00 OP

NOTICE OF OPPOSITION – PAGE 1

1. Upon information and belief, and according to the records of the United States Patent and Trademark Office, Applicant, FD Management, Inc., is the owner of Application Serial No. 76/732,550.

2. Upon information and belief, Applicant had not used the mark ARDENBEAUTY in the United States for the goods set out in Application Serial No. 76/372,550, prior to February 5, 2002, the date of filing of Applicant's intent-to-use application for this mark.

3. Opposer is presently using, and has been continuously using the mark ARDEN B, from a date long prior to February 5, 2002, the date of filing of Applicant's intent-to-use application for the mark ARDENBEAUTY and a date long prior to any date of first use that can be relied upon by Applicant for the mark ARDENBEAUTY, in connection with the promotion and sale of women's jewelry, clothing including outerwear, underwear, swimwear, headwear, footwear, purses and bags, hair ornaments and the operation of retail apparel stores featuring women's clothing, footwear, hats and clothing accessories. Opposer's mark ARDEN B is symbolic of extensive goodwill and consumer recognition built up by Opposer through substantial amounts of advertising and promotion of its goods and services throughout the United States under the mark ARDEN B.

4. As a consequence, the relevant trade and purchasing public have come to know and associate the mark ARDEN B with clothing and accessories and stores selling clothing and accessories having their source of origin from, and originating with, Opposer. This identification and association with Opposer occurred long prior to the date of filing of Applicant's Application Serial No. 76/372,550 and long prior to any date of first use that can be relied upon by Applicant for the mark ARDENBEAUTY.

5. The trademark made the subject of Application Serial No. 76/372,550 and sought to be registered by Applicant consists of a mark which is so similar to Opposer's mark identified above and previously used by Opposer, and not abandoned, as to be likely, when applied to the goods of the Applicant, to cause confusion or to cause mistake, or to deceive.

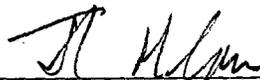
6. Opposer will be damaged by the registration of Applicant's mark made the subject of Application Serial No. 76/372,550.

PRAYER

WHEREFORE, Opposer prays that Applicant be required to answer this Notice of Opposition; that Application Serial No. 76/372,550 be denied; that registration of the mark covered by that application be refused; and that Opposer be granted such other and further relief as may be deemed just and proper.

DATED this 25 day of June, 2003.

Respectfully submitted,



John M. Cone
Akin Gump Strauss Hauer & Feld, LLP
P.O. Box 688
Dallas, Texas 75313-0688
1700 Pacific Avenue, Suite 4100
Dallas, Texas 75201
Telephone: (214) 969-4214
Facsimile: (214) 969-4343
jccone@akingump.com

ATTORNEYS FOR OPPOSER
THE WET SEAL, INC.

Certificate of Mailing Under 37 C.F.R. 1.8

Date of Deposit: 6-25-03

I hereby certify that the papers enclosed herein are being deposited with the United States Postal Service as first class mail on the date indicated above in an envelope and addressed to: Commissioner for Trademarks, Box TTAB-No Fee, 2900 Crystal Drive, Arlington, VA 22202-3513.

VICKI MARTIN

(Typed or printed name of person mailing paper or fee)

Vicki Martin

(Signature of person mailing paper or fee)

TTAB

**AKIN GUMP
STRAUSS HAUER & FELD LLP**

Attorneys at Law



06-30-2003

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

JOHN M. CONE
214-969-4214/Fax: (214) 969-4343
jcone@akingump.com

06/30/03
TTAB

June 25, 2003

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

Re: U.S. Trademark Application No. 76/372,550 ARDENBEAUTY
Our Reference No. 031458.0011

Dear Sirs:

Enclosed for filing in duplicate is The Wet Seal, Inc.'s Notice of Opposition against FD Management, and a check for \$300.00 for the filing fee.

Please address all correspondence to JOHN M. CONE of the firm AKIN GUMP STRAUSS HAUER & FELD LLP, P. O. Box 688, Dallas, Texas 75313-0688.

The Commissioner of Patents & Trademarks is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 01-0657. A duplicate copy of this letter is enclosed for that purpose.

Best regards,

John M. Cone

JMC/vm
Enclosures