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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. 76/253,477
filed May 9, 2001 for the mark LUCKY BOYS CONFUSION
Published in the Official Gazette of January 6, 2004

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LUCKY BRAND DUNGAREES, INC.,

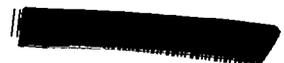
Opposer,

v.

Opposition No.

LUCKY BOYS CONFUSION, INC.

Applicant.



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05-10-2004
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #74

NOTICE OF OPPOSITION

Opposer LUCKY BRAND DUNGAREES, INC., a Delaware corporation located and doing business at 5233 Alcoa Avenue, Vernon, California, 90058, believes that it will be damaged by registration of the mark shown in the above-mentioned application Serial No. 76/253,477 in Class 25 and hereby opposes the same. As grounds for this opposition, it is alleged that:

1. Opposer is now, and at all times pertinent hereto has been, engaged in the business of manufacturing, selling and licensing a wide variety of clothing, accessories, fragrances and toiletries for men, women and children. In or about 1990, long before the filing date of Application Serial No. 76/253,477, opposer adopted and commenced use in commerce of the trademark LUCKY BRAND, and since 1990 has adopted and used numerous other trademarks including the word

“LUCKY,” on its goods and in connection with the advertising, offering for sale and selling of its products, primarily wearing apparel, in interstate commerce throughout the United States.

2. Opposer has obtained United States trademark registrations in connection with a large number of its “LUCKY” trademarks used on its apparel and other products. Attached hereto as Exhibit A is a schedule of the “LUCKY” trademarks registered by Opposer in International Class 25. Attached hereto as Exhibit B is a schedule of the “LUCKY” trademarks applied for by Opposer in International Class 25. Nearly all of said registrations owned by opposer were issued, and said applications filed, prior to the filing date of applicant’s intent-to-use application opposed herein.

3. By virtue of opposer's extensive and continuous use of its many “LUCKY” trademarks, e.g., the marks LUCKY BRAND and LUCKYVILLE, on goods sold throughout the United States, opposer’s “LUCKY” marks have become distinctive of opposer's products as indicating the source or origin of said products to consumers and the trade.

4. The goods identified by applicant as those to which it intends to apply the mark LUCKY BOYS CONFUSION in Class 25, namely, “clothing, namely, shirts, sweaters, pants, footwear, belts, t-shirts, socks, coordinated shirts, jackets, slacks, tennis shoes, sweat shirts, sweat pants, jerseys, shorts, jogging suits, hats, caps, scarves, bandanas, gloves, hosiery, neckties, rainwear, pajamas, robes, night shirts, thermal underwear, headbands and wristbands” are all in the same class of clothing products as those to which opposer has applied the trademarks LUCKY BRAND, LUCKYVILLE and its many other “LUCKY” marks. In fact, opposer has applied its “LUCKY” marks to goods coming within almost all of the apparel categories identified in the application sought to be opposed. Moreover, the goods identified in the application sought to be opposed are generally

sold through the same channels of commerce and to the same class of retail consumers to which opposer's similar products are sold.

5. Applicant's trademark LUCKY BOYS CONFUSION opposed herein is so similar in sound, appearance and connotation to the trademarks LUCKY BRAND, LUCKYVILLE and other of opposer's "LUCKY" trademarks previously used, registered and applied for by opposer, and not abandoned, that it is likely that when applicant's said mark is applied to the goods of applicant, confusion or mistake among purchasers and potential purchasers will result. Moreover, because opposer has used its family of "LUCKY" trademarks on hundreds of millions of dollars worth of apparel and accessory products sold throughout the United States and has extensively advertised those products, consumers and the trade are likely to believe that applicant's trademark LUCKY BOYS CONFUSION and any clothing products sold thereunder are associated with or sponsored by opposer.

6. Because of the confusion, mistake and deception which is likely to result from the concurrent use of opposer's trademarks LUCKY BRAND, LUCKYVILLE and other of its "LUCKY" marks and applicant's confusingly similar trademark LUCKY BOYS CONFUSION in connection with related goods, opposer's business and reputation will be seriously damaged and its rights under its aforesaid trademarks will be impaired by registration of the mark published. In addition, opposer's rights in its said trademarks will be diluted by registration of the mark published.

WHEREFORE, opposer demands judgment sustaining this opposition and adjudging that the applicant is not entitled to the registration of the trademark for which it has filed Application Serial No. 76/253,447.

Enclosed herewith is a check in the amount of \$300.00 in payment for the filing fee for this Notice of Opposition. If any additional fees are required, please charge them to our Deposit Account No. 11-1145.

LUCKY BRAND DUNGAREES, INC.

Dated: May 5, 2004

By 

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed:

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

on this 5th day of May, 2004.



David B. Kirschstein

OPPOSER'S "LUCKY" TRADEMARKS REGISTERED IN INT. CLASS 25

Reg. Number	Word Mark
2659819	LUCKY GIRLS
2598783	LUCKYVILLE
2469997	LUCKY ME
2383437	WEAR US BE LUCKY
2381638	LUCKY
2330052	LUCKY BRAND
2306342	LUCKY YOU
2306327	BE LUCKY
2176036	LUCKY BRAND ONE SIZE FITS HER T-SHIRTS
2174252	LUCKY BRAND T-SHIRTS ONE SIZE FITS HIM
2158107	LUCKY BRAND DUNGAREES OF AMERICA TOO TOUGH TO DIE
2099756	LUCKY WASH
1886118	LUCKY YOU
1739962	LUCKY YOU
1646123	LUCKY BRAND

EXHIBIT A

OPPOSER'S "LUCKY" TRADEMARKS APPLIED FOR IN INT. CLASS 25

Serial Number	Filed	Word Mark
78141675	7/7/02	LUCKY BRAND DUNGAREES
78185140	11/14/02	LUCKY BRAND BOYS
78185130	11/14/02	LUCKY BRAND BABY
76371537	2/19/02	LUCKY BRAND GIRL
76325328	10/15/01	LUCKY KING
76304138	8/23/01	LUCKY BRAND
75924261	2/22/00	LUCKY BRAND
75852779	11/16/99	LUCKY BRAND
75772126	8/9/99	LUCKY YOU
75542840	8/26/98	LUCKY KID
75542836	8/26/98	LUCKY BOY
75542835	8/26/98	LUCKY BRAND BABY
75542834	8/26/98	LUCKY BABY
75542827	8/26/98	LUCKY BRAND KIDS
75542826	8/26/98	LUCKY KIDS
75542825	8/26/98	LUCKY BRAND KID
75450494	3/16/98	LUCKYVILLE

EXHIBIT B