

ESTTA Tracking number: **ESTTA36339**

Filing date: **06/21/2005**

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

### Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

#### Opposer Information

<b>Name</b>	M & S Trading, Inc.
<b>Granted to Date of previous extension</b>	06/22/2005
<b>Address</b>	3042 S. Orange Avenue Santa Ana, CA 92707 UNITED STATES

<b>Attorney information</b>	Cynthia A. Bonner Christie, Parker & Hale, LLP P.O. Box 7068 Pasadena, CA 91109-7068 UNITED STATES pto@cph.com Phone:626.795.9900
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#### Applicant Information

<b>Application No</b>	78411126	<b>Publication date</b>	02/22/2005
<b>Opposition Filing Date</b>	06/21/2005	<b>Opposition Period Ends</b>	06/22/2005
<b>Applicant</b>	Shank, Ken 1545 Victory Boulevard, #103 Glendale, CA 91201		

UNITED STATES
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**Goods/Services Affected by Opposition**

Class 025.

All goods and services in the class are opposed, namely: hats, shirts, pants, shoes, jackets, sweat suits, lingerie, gloves, belts and underwear; sportswear, namely, baseball jerseys, hockey jerseys, football jerseys, sport tank shirts, basketball shirts, sweat pants, sweat shirts, bike shorts, shorts, BMX pants, BMX shirts

<b>Attachments</b>	opposition.pdf ( 3 pages )
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<b>Signature</b>	/Cynthia A. Bonner/
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<b>Name</b>	Cynthia A. Bonner
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<b>Date</b>	06/21/2005
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application **Serial No. 78/411,126**  
For the mark SEVEN D  
Published in the Trademark *Official Gazette* on February 22, 2005

M & S Trading, Inc.	Opposer,	Opposition No.
v.		NOTICE OF OPPOSITION
Ken Shank	Applicant.	

M & S Trading, Inc., a corporation organized and existing under the laws of the State of California, located and doing business at 3042 S. Orange Avenue, Santa Ana, California 92707 (hereinafter referred to as "Opposer"), believes that it will be damaged by registration of the mark SEVEN D. as shown in application Serial No. 78/411,126 filed April 30, 2004 by applicant Ken Shank (hereinafter "Applicant") and hereby opposes the same.

As grounds for opposition, Opposer alleges that:

1. For twenty five years, Opposer has been continuously engaged in the distribution and sale of clothing in the United States.
2. Since prior to Applicant's priority date herein, Opposer has continuously used in commerce the word mark SEVEN D for a line of clothing. As a result of such use and the advertising and promotion of same, the SEVEN D Mark has acquired an extremely valuable goodwill and reputation in the United States identifying Opposer as the source of such goods.

3. Opposer is the owner of Registration No. 2,877,867 for the mark 7 DIAMONDS, issued August 24, 2004 for clothing for men, women, boys, and girls; namely, shirts, pants, jeans, shorts, sweaters, jackets, and swim wear. Said registration is valid and subsisting.

4. Sam S. Khalil is the president and sole owner of Opposer.

5. Sam S. Khalil is the owner of Registration No. 2,512,808 for the mark 7 DIAMONDS, issued November 27, 2001 for clothing, namely shirts. Said registration is valid and subsisting.

6. The goods for which the Applicant seeks to register the mark SEVEN D, namely hats, shirts, pants, shoes, jackets, sweat suits, lingerie, gloves, belts and underwear; sportswear, namely, baseball jerseys, hockey jerseys, football jerseys, sport tank shirts, basketball shirts, sweat pants, sweat shirts, bike shorts, shorts, BMX pants, and BMX shirts are identical or closely related to Opposer's clothing, sold under the SEVEN D and 7 DIAMONDS Marks since a date prior to Applicant's priority date.

7. Applicant's mark SEVEN D so resembles Opposer's SEVEN D Mark, continuously used in commerce in the United States by Opposer from a date prior to Applicant's priority date herein and not abandoned, as to be likely, when applied to the goods of Applicant, to cause confusion, or to cause mistake or to deceive.

8. The mark SEVEN D, which Applicant seeks to register, so resembles Opposer's 7 DIAMONDS Marks, previously registered by Opposer and not abandoned, as to be likely, when applied to the goods of applicant, to cause confusion, or to cause mistake, or to deceive.

9. Opposer is informed and believes that Applicant did not use the mark SEVEN D for clothing, namely, hats, shirts, pants, shoes, jackets, sweat suits, lingerie, gloves, belts and underwear; sportswear, namely, baseball jerseys, hockey jerseys, football jerseys, sport tank shirts, basketball shirts, sweat pants, sweat shirts, bike shorts, shorts, BMX pants, and BMX shirts, prior to the filing date of Applicant's intent-to-use application for the SEVEN D mark, namely, April 30, 2004.

10. Opposer would be damaged by the issuance to Applicant of a registration of the mark SEVEN D for the goods set forth in Serial No. 78/411,126.

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**Docket No. 110.2\*1/CAB/M856**

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WHEREFORE, Opposer prays that this opposition be sustained and that the registration of Application Serial No. 78/411,126 be refused.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

Date 6/21/05

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