

ESTTA Tracking number: **ESTTA56585**

Filing date: **12/07/2005**

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**

Name	The H.D. Lee Company, Inc.
Granted to Date of previous extension	12/07/2005
Address	3411 Silverside Road 201 Baynard Building Wilmington, DE 19810 UNITED STATES

Correspondence information	Paul J. Kennedy Pepper Hamilton LLP 18th and Arch Streets Philadelphia, PA 19103-2799 UNITED STATES kennedyp@pepperlaw.com, nathanwdean@pepperlaw.com, mulligar@pepperlaw.com Phone:2159814194
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**Applicant Information**

Application No	78363351	Publication date	08/09/2005
Opposition Filing Date	12/07/2005	Opposition Period Ends	12/07/2005
Applicant	Maidenform, Inc. 200 Madison Avenue New York, NY 10016 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. First Use: 2001/12/13 First Use In Commerce: 2001/12/13  
All goods and services in the class are opposed, namely: foundation garments, panties, and brassieres

Attachments	ONE.PDF ( 3 pages )
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Signature	/Paul J. Kennedy/
Name	Paul J. Kennedy
Date	12/07/2005

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

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The H.D. Lee Company, Inc.	:	Opposition No. _____
	:	Mark: ONE FABULOUS FIT
Opposer,	:	
	:	Application Serial No. 78/363,351
v.	:	
	:	Published in Official Gazette: August 9, 2005
Maidenform, Inc.	:	
Applicant	:	Filed: February 5, 2004

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**NOTICE OF OPPOSITION**

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Dear Sir/Madam:

The H.D. Lee Company, Inc., a Delaware corporation with offices at 3411 Silverside Road, Wilmington, Delaware 19810 (“Opposer”) believes it will be damaged by the issuance of a trademark registration to Maidenform, Inc. (“Applicant”), a corporation, with an address of 200 Madison Avenue, New York, New York 10016 for the mark ONE FABULOUS FIT (Serial No. 78/363,351) in International Class 25, and hereby opposes the application.

As grounds for the opposition, Opposer alleges that:

1. Applicant is seeking to obtain, under the provisions of the Trademark Act of 1946, as amended, registration on the Principal Register of the mark ONE FABULOUS FIT for “foundation garments, panties, and brassieres” in International Class 25.

2. Applicant is not now, and never was, entitled to registration on the Principal Register of the mark ONE FABULOUS FIT either on February 5, 2004, the date of Applicant's filing of the application, or on August 9, 2005, the date of publication in the Official Gazette.

3. Opposer is the owner of numerous FIT marks in International Class 25 including THE BRAND THAT FITS (73/532,709) for "men's, women's and children's outer clothing—namely, jeans, jackets, vests, skirts, shirts, blouses, pants, slacks, trousers, shorts, sweatshirts, sweatpants, bib overalls, one-piece work suits, tee-shirts and men's and boys' undershirts, undershorts and socks."

4. Opposer has, since long prior to the filing date of Applicant's use-based application, sold in commerce in the United States its products under the trademark THE BRAND THAT FITS. Through usage by Opposer, THE BRAND THAT FITS has become well-known to customers and potential customers as a trademark of Opposer, and as an origin and source of the goods sold and provided by Opposer.

5. Because of the great similarity between the Opposer's mark and Applicant's mark, and the fact that some of the respective goods of the parties are closely related in the clothing field, Applicant's mark is likely to cause confusion, mistake, or deception amongst the general and consuming public as to whether Applicant's goods are being offered by, or in affiliation with, Opposer causing damage to Opposer.

6. Applicant's registration and use of ONE FABULOUS FIT also will dilute the distinctive quality of Opposer's mark, which became famous before the filing date of Applicant's use-based application and before its claimed date of first use in commerce, thereby lessening the ability of Opposer's famous mark to distinguish Opposer's goods and services and causing damage to Opposer.

7. Accordingly, Opposer requests that registration of the mark ONE FABULOUS FIT, Serial No. 78/363,351, be denied to Applicant and this opposition be sustained.

PEPPER HAMILTON LLP



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Attorneys for Opposer

Dated: December 7, 2005