

ESTTA Tracking number: **ESTTA77571**

Filing date: **04/24/2006**

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	Jantzen Apparel Corp.
Granted to Date of previous extension	04/29/2006
Address	3000 N.W. 107th Avenue Miami, FL 33172 UNITED STATES
Party who filed Extension of time to oppose	PEI Licensing, Inc.
Relationship to party who filed Extension of time to oppose	PEI Licensing, Inc. was mistakenly identified as the Opposer in the original Request To Extend Time To File An Opposition. Instead, Jantzen Apparel Corp. is the appropriate Opposer. PEI Licensing, Inc. and Jantzen Apparel Corp. are both wholly owned subsidiaries of Perry Ellis International, Inc. and in privity with each other. Accordingly, Jantzen Apparel Corp. requests that it be substituted as Opposer pursuant to U.S. Trademark Law Rules Of Procedure §2.102 (b).
Correspondence information	Kim Kolback Attorney Sarah Steinbaum, PA 44 West Flagler Street Suite 2175 Miami, FL 33130 UNITED STATES kkolback@bellsouth.net Phone:305 858 2627

Applicant Information

Application No	78512665	Publication date	02/28/2006
Opposition Filing Date	04/24/2006	Opposition Period Ends	04/29/2006
Applicants	Cuyler, Devin Rainey 195 Santa Rosa Ave. Sausalito, CA 94965 UNITED STATES Pecot, Alia Aresa 195 Santa Rosa Ave. Sausalito, CA 94965 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and seVICES in the class are opposed, namely: Apparel, namely, baseball caps, hats, shirts, sweatshirts, underwear, scarves and pants.
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Class 035.

All goods and services in the class are opposed, namely: On-line retail store featuring a variety of consumer goods including baseball caps, t-shirts, shirts, sweatshirts, scarves, pants; paper goods and printed material such as bumper stickers, stationery, postcards, posters, memo pads, stickers and decals; pins and bracelets; banners; cups, mugs and glasses.

Attachments	opposition.txt (1 page)(2041 bytes)
Signature	/s/ Kim Kolback
Name	Kim Kolback
Date	04/24/2006

1. Since 1986, Opposer and its predecessor (hereafter collectively referred to as "Opposer") have engaged in the manufacture, sale, distribution and/or licensing of a famous line of clothing and related products pursuant to a family of REDSAND word and design registered and common law trademarks (hereafter referred to as the "REDSAND Marks"). The trademarks include, but are not limited to, U.S. Trademark Registration Nos. 1506035, 1762943 and 3017832 attached hereto as composite Exhibit 1. In fact, Registration Nos. 1506035 and 1762943 are incontestable as defined under the Federal Trademark Act and related statutes.

2. For the past two decades:

- a. Opposer has made a substantial investment in developing, advertising and promoting the sales and goodwill in relation to the Opposer's REDSAND Marks;
- b. Opposer has extensively used, advertised, promoted and offered for sale to the public through various channels of trade and commerce, products displaying the REDSAND Marks;
- c. Opposer's customers, and the public in general, have come to know and recognize the REDSAND Marks and associate these Marks with Opposer and the goods sold by Opposer; and,
- d. Opposer intends to expand the family of REDSAND Marks to include new marks, designs and products.

3. Pursuant to U.S. Trademark Application Serial Number 78/512665, Applicant seeks registration of the word mark RED STATE in International Classes 025 and 035. The mark was published for opposition in the Official Gazette on February 28, 2006. The Trademark Trial And Appeal Board grant an extension in which Opposer could file a Notice Of Opposition until April 29, 2006.

4. Opposer will be damaged if Applicant is granted registration of the RED STATE word mark in International Classes 025 and 035 because: such registration will likely be confused, individually and as a family, with Opposer's registered and common law REDSAND Marks; and, Applicant's mark will result in niche market dilution of Opposer's REDSAND Marks.