

ESTTA Tracking number: **ESTTA120017**

Filing date: **01/17/2007**

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	Premium Denim, LLC
Granted to Date of previous extension	01/17/2007
Address	10119 Jefferson Blvd. Culver City, CA 90232 UNITED STATES
Attorney information	James C. Hildebrand Ropers, Majeski, Kohn & Bentley 515 S. Flower St., Suite 1100 Los Angeles, CA 90071 UNITED STATES jhildebrand@ropers.com Phone:213-312-2000

Applicant Information

Application No	78668652	Publication date	09/19/2006
Opposition Filing Date	01/17/2007	Opposition Period Ends	01/17/2007
Applicant	Depew, Ashley P. 1616 Cahuenga Boulevard Los Angeles, CA 90028 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2001/05/11 First Use In Commerce: 2001/05/11 All goods and services in the class are opposed, namely: Clothing, namely, swimsuits, swimwear, pullovers, cardigans, sweaters, trousers, skirts, jackets, blouses, shirts, jeans, sweatpants, shorts, sweatshirts, suits, dresses, overcoats, coats, raincoats, belts, jerseys, neckwear, socks and stockings, tights, vests, waistcoats, jumpers, tracksuits, blousons, gymsuits, knickers, T-shirts, loungewear, underwear, beachwear, sleepwear, headwear, hats and caps, scarves, gloves, shoes, sandals, and boots
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Related Proceedings	Premium Denim, LLC v. Ashley Paige Depew, Case No. CV 06-4786 in United States Court for Central District of California
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Signature	/jamesc.hildebrand/
Name	James C. Hildebrand
Date	01/17/2007

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

In re Application Serial No. : 78/668652
For the Mark : ASHLEY PAIGE
Filing Date : July 12, 2005
Published in the Official Gazette : September 19, 2006

PREMIUM DENIM, LLC, a California
Limited Liability Company,

Opposer,

v.

DEPEW, ASHLEY P., an Individual,

Applicant.

Opposition No.:

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

NOTICE OF OPPOSITION

Opposer, Premium Denim, LLC, a California limited liability company located and doing business at 10119 Jefferson Blvd., Culver City, CA 90232, believes that it will be damaged by the registration of said mark "ASHLEY PAIGE" which is the subject of application Serial No. 78/668652, as published in the *Official Gazette* on September 19, 2006, and hereby opposes the same.

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As grounds for opposition, it is alleged that:

1. On or about July 12, 2005, applicant Ashley P. Depew (hereinafter "Applicant") filed an application to register the standard character mark "ASHLEY PAIGE" as a trademark in International Class 025 for "Clothing, namely, swimsuits, swimwear, pullovers, cardigans, sweaters, trousers, skirts, jackets, blouses, shirts, jeans, sweatpants, shorts, sweatshirts, suits, dresses, overcoats, coats, raincoats, belts, jerseys, neckwear, socks and stockings, tights, vests, waistcoats, jumpers, tracksuits, blousons, gymsuits, knickers, T-shirts, loungewear, underwear, beachwear, sleepwear, headwear, hats and caps, scarves, gloves, shoes, sandals, and boots," as evidenced by the publication of said mark in the *Official Gazette* on September 19, 2006. The application was filed on July 12, 2005 under § 1A.

2. Opposer is involved in the manufacture, distribution, and sale of clothing in International Class 025.

3. Applicant's alleged mark "ASHLEY PAIGE" does not function like a trademark as it is merely the name of an apparel designer.

4. Further, Opposer is informed that Applicant has not used the alleged mark "ASHLEY PAIGE" in commerce on many of the goods identified in application Serial No. 78/668652. Though Applicant seeks registration under § 1A with a claimed first use date of May 2001, Applicant has not in the past, and presently does not, use such mark on a number of goods listed, including, but not limited to, cardigans, jeans, blouses, overcoats, scarves, gloves, and sandals.

5. Applicant is not entitled to registration of the alleged mark in International Class 025 on those goods for which she has failed to use the alleged mark in commerce.

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6. Applicant's inclusion in her application of the goods referred to in Paragraph 4 above without actually using the subject mark in connection with such goods constitutes fraud on the Trademark Office and accordingly registration of the subject mark should be refused.

7. Finally, on or about August 1, 2006, Opposer commenced a civil declaratory relief action against Applicant. This civil action, entitled *Premium Denim, LLC., a California limited liability company v. Ashley Paige Depew, an individual*, and bearing Case No. CV 06-4786, is now pending in the United States District Court for the Central District of California (the "District Court Action"). Applicant filed a counter-claim against Opposer in the District Court Action, wherein Applicant asserted her ownership of application Serial No. 78/668652 against Opposer in that proceeding.

8. Opposer is likely to be damaged by registration of the "ASHLEY PAIGE" mark herein opposed in that the prima facie effect of such registration will impair Opposer's right to seek registration of its marks, including "PAIGE", and will impair the marketing of its own products in commerce.

WHEREFORE, Opposer prays that said application Serial No. 78/668652 be rejected, that no registration be issued thereon to Applicant, and that this Notice of Opposition be sustained and registration refused to Applicant.

Opposer hereby appoints James C. Hildebrand and James C. Potepan, members of the bar of the State of California, Ropers, Majeski, Kohn & Bentley, 515 So. Flower Street, Suite 1100, Los Angeles, CA 90071, to act as attorneys for Opposer herein, with the full power to prosecute said opposition, to transact all relevant business with the Patent and Trademark Office and in the

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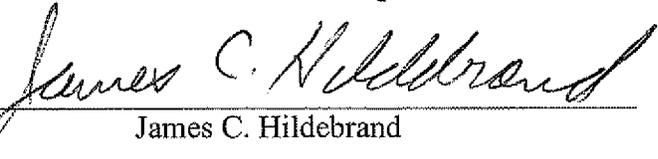
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United States courts connected with this opposition, and to receive all official communications in connection with this opposition.

Dated: January 17, 2007

Respectfully submitted by,

ROPERS, MAJESKI, KOHN & BENTLEY

By: 
James C. Hildebrand

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Attorneys for Opposer
PREMIUM DENIM, LLC, a California limited
liability company