

ESTTA Tracking number: **ESTTA126734**

Filing date: **02/26/2007**

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	Gabrielle Studio, Inc.
Granted to Date of previous extension	02/25/2007
Address	550 Seventh Avenue New York, NY 10018 UNITED STATES

Attorney information	Heather L. Jensen Cowan Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036-6799 UNITED STATES Trademark@cll.com, hlj@ccl.com, jzk@ccl.com Phone:212-790-9200
----------------------	--

Applicant Information

Application No	76651612	Publication date	08/29/2006
Opposition Filing Date	02/26/2007	Opposition Period Ends	02/25/2007
Applicant	FLIGHT CLUB NEW YORK LTD. 254 Greene Street New York, NY 10003 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. All goods and services in the class are opposed, namely: retail store services featuring footwear and clothing
--

Attachments	Opposition to FCNY.pdf (4 pages)(25365 bytes)
-------------	--

Signature	/Heather L. Jensen/
Name	Heather L. Jensen
Date	02/26/2007

17684.202

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

In the Matter of Application Serial No. 76/651,612
Filed: December 5, 2005
For Mark: FCNY (stylized)
Published in the Official Gazette: August 29, 2006

----- X
GABRIELLE STUDIO, INC.,

Opposer,

Opposition No.

-against-

NOTICE OF OPPOSITION

FLIGHT CLUB NEW YORK LTD.,

Applicant.

----- X

Gabrielle Studio, Inc. ("Opposer"), a New York corporation having an address at 550 7th Avenue, New York, New York, 10018, believes that it will be damaged by registration of the mark FCNY (stylized), shown in Application Serial Number 76/651,612 for "retail store services featuring footwear and clothing" in International Class 35, and having been granted extensions of time to oppose up to and including February 25, 2006, hereby opposes the same.

As grounds of opposition, it is alleged that:

1. Beginning in 1989, Opposer, through its affiliated companies, predecessors-in-interest and authorized licensees, has been in the business of designing, producing, selling and distributing fashion, footwear, fragrance, accessory, home and lifestyle products under trademarks consisting of the term DKNY, used either alone or in conjunction with other words or design elements ("Opposer's DKNY Marks").

2. Opposer's DKNY Marks have been used in connection with a wide range of clothing, footwear and lifestyle products. Opposer also operates numerous DKNY retail stores throughout the United States and elsewhere featuring clothing and footwear.

3. The DKNY lifestyle brand designated by Opposer's DKNY Marks has been a phenomenal commercial success. Sales of DKNY branded merchandise in the United States have totaled many millions of dollars per year.

4. Millions of dollars are also spent each year in advertising Opposer's DKNY Marks through various media, including magazines, newspapers, in-store displays, outdoor advertising, internet websites and similar media prominently promoting Opposer's DKNY Marks and associated brand imagery.

5. The extensive advertisement and promotion of Opposer's DKNY Marks, coupled with the brand's potent commercial success since 1989, have resulted in Opposer's DKNY Marks acquiring tremendous goodwill and secondary meaning among the consuming public. DKNY has become one of the most renowned designer and retail brands in the world today, and Opposer's DKNY Marks are famous and highly distinctive.

6. Opposer is the owner of numerous Federal trademark registrations and applications for Opposer's DKNY Marks, including without limitation Registration Nos. 2640659, 2592463, 2358744, 2601327, 1958158, 1598391, 2594717, 1607425, 1951022, 1586768, 2636433, 1646910, 1586886, 2470110, 1554808, 2203071, 2681622, 1609650, 2579817, 2992294, 2579723, 1784213, 2897303, 2737125, 3069068, 3086192 and 2659025, and Application Serial Nos. 78/390539, 78/547565, 78/625536, 78/679323, 78/278340, 78/570959, 78/752168, 78/829868, 78/830170, 78/859971 and 78/817957, covering goods and services in classes 3, 9, 14, 16, 18, 24, 25, 35 and 42. Registration Nos. 2358744, 1958158, 1598391,

1607425, 1951022, 1586768, 1646910, 1586886, 1554808, 2203071 and 1609650 are incontestable.

7. On or about December 5, 2005, Flight Club New York Ltd. ("Applicant") filed an intent-to-use application in the United States Patent and Trademark Office, Serial No. 76/651,612 (the "Application"), to register the mark FCNY (stylized) ("Applicant's FCNY Mark") for "retail store services featuring footwear and clothing" in International Class 35.

8. Upon information and belief, Applicant did not use Applicant's FCNY Mark prior to its constructive first use date of December 5, 2005.

9. The services covered by the Application are identical and/or closely related to the services and goods offered in connection with Opposer's DKNY Marks.

10. Applicant's FCNY Mark so resembles Opposer's DKNY Marks as to be likely, when applied to Applicant's services, to cause confusion, or to cause mistake or to deceive prospective consumers of Applicant's services into believing that those services are provided, approved, endorsed or sponsored by Opposer or are otherwise associated, affiliated or connected with Opposer in some way.

11. Opposer's DKNY Marks are distinctive and famous and have enjoyed such distinctiveness and fame since long prior to Applicant's filing of its intent-to-use application to register Applicant's FCNY Mark.

12. Applicant's use of Applicant's FCNY Mark will dilute the distinctiveness of Opposer's DKNY Marks.

WHEREFORE, Opposer, by its attorneys, respectfully prays that its opposition be sustained and that the application for registration be denied.

Please recognize as attorneys for Opposer in this proceeding Jonathan Z. King, Jeffrey H. Epstein and Antonio Borrelli and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Dated: New York, New York
February 26, 2007

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys For Opposer

By: /Jonathan Z. King/
Jonathan Z. King
Jeffrey H. Epstein
Antonio Borrelli
1133 Avenue of the Americas
New York, NY 10036-6799
(212) 790-9200