

ESTTA Tracking number: **ESTTA142134**

Filing date: **05/23/2007**

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	Promgirl, Inc.
Granted to Date of previous extension	05/23/2007
Address	311 Fawn Hill Lane Narberth, PA 19072-1106 UNITED STATES
Attorney information	Susan Okin Goldsmith Duane Morris LLP 744 Broad Street, Suite 1200 Newark, NJ 07102 UNITED STATES sogoldsmith@duanemorris.com Phone:9734242064

Applicant Information

Application No	78875952	Publication date	01/23/2007
Opposition Filing Date	05/23/2007	Opposition Period Ends	05/23/2007
Applicant	Promgirl, LLC c/o David Wilkenfeld 200 Park Avenue South, Suite 1308 New York, NY 10003 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Dress shirts; Dress suits; Dresses; Dressing gowns; Evening dresses; Evening gowns; Footwear, namely, pumps; Gowns; Pumps; Shoes; Tops; Women's shoes
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Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
Other	See Notice of Opposition attached hereto

Attachments	Promgirl Notice of opp.pdf (3 pages)(14625 bytes)
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Signature	/Susan Goldsmith/
Name	Susan Okin Goldsmith
Date	05/23/2007

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

In the matter of Trademark Application Serial No. 78/875,952
Filed: May 3, 2006
For the mark: PROMGIRL
Published in the Official Gazette on: January 23, 2007

PROMGIRL, INC.	:
	:
Opposer,	:
	:
v.	:
	:
PROMGIRL, LLC	:
	:
Applicant.	:

NOTICE OF OPPOSITION

Opposer, Promgirl, Inc. ("Promgirl" or "Opposer"), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, having an address at 311 Fawn Hill Lane, Narberth, Pennsylvania 19072, believes that it will be damaged by registration of the alleged trademark PROMGIRL (and Design) in International Class 25, as shown in Application Serial No. 78/875,952, for the goods set forth therein, and hereby opposes registration of the same by Promgirl, LLC. ("Applicant").

As grounds for the opposition, Opposer, through its counsel, alleges that:

1. Since at least as early as 1999, Opposer has used continuously in the United States the name "Promgirl" in connection with the sale of its prom dresses, evening gowns, ball gowns, homecoming dresses and formal dresses. Opposer registered the Uniform Resource

Locator ("URL") <www.promgirl.net> on March 1, 1999 and made a first sale of goods from its <www.promgirl.net> website on March 21, 1999.

2. Opposer's goods and services have gained nationwide and international recognition, and are offered to customers in the United States and all over the world through the website at <www.promgirl.net>.

3. Applicant's Application Serial No. 78/875,952 seeks registration of the alleged PROMGIRL (and Design) mark for "Dress shirts; Dress suits; Dresses; Dressing gowns; Evening dresses; Evening gowns; Footwear, namely pumps; Gowns; Pumps; Shoes; Tops; Women's shoes" in International Class 25.

4. Applicant's Application Serial No. 78/875,952 was filed based on a bona fide intent to use the mark in connection with all of the goods identified in the application. No amendment to allege use has been filed to date.

5. The term "prom girl" has been recognized for many decades as the common term for a girl who goes to a prom.

6. The Applicant's alleged mark merely describes the intended user of substantially all the goods identified in Applicant's application, namely dress shirts, dress suits, dresses, evening dresses, evening gowns, footwear, namely pumps, gowns, pumps, shoes, tops, and women's shoes, as the mark is used on prom dresses and other items for prom girls.

7. Applicant's alleged mark, PROMGIRL (and Design), as shown in Application Serial No. 78/875,952, is substantially identical to the Opposer's business name, Promgirl, Inc., and the name used in its business directed to prom girls and conducted through the website <www.promgirl.net>.

8. Applicant is seeking registration of a mark that is identical to Opposer's business name, for use on goods which are similar or related to those sold by Opposer, and which are used by both parties to provide goods and/or services to prom girls.

9. Applicant is seeking registration of a mark that is descriptive of the goods and/or services offered by both Applicant and Opposer. As a result, the grant of registration to Applicant will cause substantial damage and injury to Opposer.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that Application Serial No. 78/875,952 for the registration of PROMGIRL (and Design) be denied.

Respectfully submitted,
DUANE MORRIS LLP

Dated: May 23, 2007

By: /Susan Goldsmith/
Susan Okin Goldsmith

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