

ESTTA Tracking number: **ESTTA193802**

Filing date: **02/20/2008**

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	Lorillard Licensing Company, LLC
Granted to Date of previous extension	02/27/2008
Address	1601 Wachovia Tower, 300 N. Greene St. Greensboro, NC 27401 UNITED STATES

Attorney information	James L. Lester MacCord Mason PLLC 1600 Wachovia Tower, 300 N. Greene St. Greensboro, NC 27401 UNITED STATES jlester@maccordmason.com, sdavis@maccordmason.com, cseyboth@maccordmason.com, dcottelli@maccordmason.com, amaccord@maccordmason.com Phone:336-273-4422
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Applicant Information

Application No	77199749	Publication date	10/30/2007
Opposition Filing Date	02/20/2008	Opposition Period Ends	02/27/2008
Applicant	Trademarks LLC 6601 West Broad Street Richmond, VA 23230 UNITED STATES		

Goods/Services Affected by Opposition

Class 034. Opposed goods and services in the class: Cigarettes

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1191816	Application Date	05/22/1980
Registration Date	03/09/1982	Foreign Priority Date	NONE
Word Mark	NEWPORT		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 034. First use: First Use: 1956/06/14 First Use In Commerce: 1956/06/14 Cigarettes

Related Proceedings	Opposition No. 91182532
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Attachments	73263210#TMSN.gif (1 page)(bytes) NOO174B.pdf (4 pages)(171557 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/James L. Lester/
Name	James L. Lester
Date	02/20/2008

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

In the Matter of Application Serial No.: 77/199,749
Published in the Official Gazette at TM Page 940 on October 30, 2007

For the Mark: **L&M FILTER MENTHOL 20 CLASS A CIGARETTES**

LORILLARD LICENSING CO., LLC.,)	
)	
Opposer,)	NOTICE OF OPPOSITION
)	
v.)	Opposition No. _____
)	
TRADEMARKS, LLC,)	
)	
Applicant.)	

Opposer, Lorillard Licensing Company, LLC, a North Carolina limited liability company, having its principal place of business at 300 North Greene Street, Greensboro, North Carolina [hereinafter “Lorillard Licensing”], believes it will be damaged by registration of the mark **L&M FILTER MENTHOL 20 CLASS A CIGARETTES** identified by Serial No. 77/199,749, published in the *Official Gazette* on October 30, 2007 (TM 940) for “cigarettes” (International Class 34), and hereby opposes same. Opposer was granted an extension of time up until 27 February 2008, as per ESTTA tracking number ESTTA 174235.

As grounds for opposition, it is alleged that:

1. Opposer is the assignee of a number of trademarks used by Lorillard Tobacco Company under license, including Newport®, Kent® and True®.
2. Opposer is also the owner of U.S. Trademark Registration No. 1,191,816 for the mark **NEWPORT** for cigarettes (International Class 34)[hereinafter “the Registered Mark”]. The Registered Mark was registered on the Principal Register on March 9, 1982 and was based on an application filed in the U.S. Patent and Trademark Office on May 22, 1980. The

Registered Mark is incontestable under 15 U.S.C. § 1065 and was renewed as of January 17, 2002. A copy of the registration is attached hereto as Exhibit A.

3. Lorillard Tobacco Company first used the Registered Mark in commerce in 1956. The Registered Mark is valid and subsisting and is conclusive evidence of Opposer's exclusive right to use said design mark in commerce on the goods specified in the registration.

4. For many years, and long prior to Applicant's filing date, Opposer has used the Registered Mark in interstate commerce throughout the United States in connection with the sale of cigarettes.

5. Ever since the adoption and use of the Registered Mark, Opposer has widely and extensively advertised and sold goods bearing the Registered Mark. Such use has inured to the benefit of Opposer and as a consequence of same, the consuming public and trade have come to recognize and do recognize the Registered Mark as being used by Opposer and by a single source, and to associate and identify the mark with Opposer. Opposer derives substantial good will and value from the identification and association of the Registered Mark with Opposer by the consuming public and trade. The Registered Mark is inherently distinctive for use with cigarettes, and has further developed distinctiveness in the minds of the public.

6. By the application herein opposed, Applicant seeks to register its design mark for "cigarettes" (International Class 34). The goods listed in Applicant's application are identical to and/or closely related to the goods identified for use with the Registered Mark.

7. Applicant's mark is confusingly similar to Opposer's Registered Mark.

8. When applied to Applicant's goods, Applicant's mark is likely to cause confusion and mistake and to deceive, with consequent injury to Opposer, the consuming public, and trade.

9. The Registered Mark, whether viewed alone or in combination with other Lorillard marks, is famous.

10. Opposer will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of Applicant's mark sought to be registered, will dilute Opposer's Registered Mark, and will give color and exclusive statutory right to Applicant in violation and derogation of prior and superior rights of Opposer.

WHEREFORE, Opposer believes it will be damaged by registration of Applicant's mark and prays that registration not be allowed.

The Commissioner is hereby authorized to charge fees which may be required, or credit any overpayment to Deposit Account No. 501923.

/James L. Lester/
James L. Lester
MACCORD MASON PLLC
P.O. Box 2974
Greensboro NC 27402
(336) 273-4422

ATTORNEY FOR OPPOSER

Date: February 20, 2008

File No.: 4800-174B

Int. Cl.: 34

Prior U.S. Cl.: 17

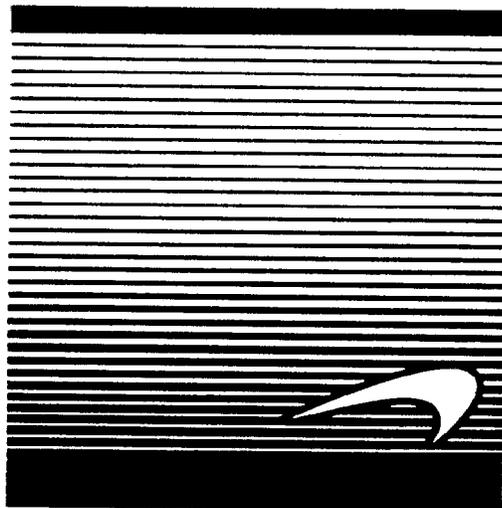
United States Patent and Trademark Office

Reg. No. 1,191,816

Registered Mar. 9, 1982

TRADEMARK
Principal Register

Newport



Loew's Theatres, Inc. (New York corporation), a.k.a.
Lorillard Division
666 5th Ave.
New York, N.Y. 10019

For: CIGARETTES, in CLASS 34 (U.S. Cl. 17).
First use Jun. 14, 1956; in commerce Jun. 14, 1956.
Owner of U.S. Reg. Nos. 871,160, 894,895 and
1,108,876.

The lining and/or stippling shown on the drawing
does not indicate color.

Ser. No. 263,210, filed May 22, 1980.

R. S. BREN, Primary Examiner