

ESTTA Tracking number: **ESTTA203669**

Filing date: **04/09/2008**

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	Jacques Moret, Inc.		
Entity	Corporation	Citizenship	New York
Address	1411 Broadway New York, NY 10018 UNITED STATES		

Attorney information	Alan H. Levine Levine & Mandelbaum 444 Madison Avenue, 35th Floor New York, NY 10022 UNITED STATES mail@levman.com Phone:(212) 588-9800
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### Applicant Information

Application No	77130657	Publication date	03/11/2008
Opposition Filing Date	04/09/2008	Opposition Period Ends	04/10/2008
Applicant	Hartwell Industries, Inc. P.O. Box 1399 97 Winfield Circle Hartwell, GA 30643 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Breathable, moisture-wicking fabric incorporated in finished clothing; clothing, namely, shirts
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### 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.	2422256	Application Date	09/13/1999
Registration Date	01/16/2001	Foreign Priority Date	NONE
Word Mark	DRY F-X		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 025. First use: First Use: 1999/09/00 First Use In Commerce: 1999/09/00 WEARING APPAREL, NAMELY, LEGGINGS AND TOPS

Attachments	75797309#TMSN.gif ( 1 page )( bytes ) NotofOppJACQ1120US.pdf ( 2 pages )(46624 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	/Alan H. Levine/
Name	Alan H. Levine
Date	04/09/2008

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

In the matter of an application to register DRYEFX and Design, Serial No. 77/130,657, published for opposition on March 11, 2008, on Page TM 976 of the Official Gazette:

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JACQUES MORÉT, INC.	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No.
	:	
HARTWELL INDUSTRIES, INC.	:	
	:	
Applicant.	:	

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**NOTICE OF OPPOSITION**

Jacques Moret, Inc., a corporation of the State of New York, having a principal place of business at 1411 Broadway, New York, New York 10018, believes that it will be damaged by registration of the mark identified above, and hereby opposes such registration.

The grounds for the opposition are as follows:

1. Opposer is engaged in the manufacture, sale, and distribution of wearing apparel, especially, exercisewear and activewear.

2. Since 1999, Opposer has been using the trademark DRY F-X to identify its apparel items, and the fabric incorporated

into such clothing.

3. Opposer has registered the trademark DRY F-X in the Patent and Trademark Office, under the No. 2,422,256, for wearing apparel, namely, leggings, and tops.

4. Applicant seeks to register DRYEFX and design for "breathable, moisture-wicking fabric incorporated in finished clothing; clothing, namely, shirts".

5. Upon information and belief, Applicant's products are so closely related to Opposer's wearing apparel, and the fabric of which the apparel is made, that Applicant's use of a trademark so similar to Opposer's trademark is likely to cause confusion or mistake, or to deceive purchasers as to the origin of goods.

6. Upon information and belief, the registration by Applicant of DRYEFX and Design for goods so closely related to Opposer's goods will impair Opposer's free use of its trademark DRY F-X, is likely to cause confusion or mistake or deceive purchasers as to the origin of the goods of the parties, and will result in damage to the good will Opposer has acquired with respect to its trademarks, all to Opposer's damage.

WHEREFORE, Opposer prays that the registration for which application has been made be disallowed, and that this opposition be sustained.