

ESTTA Tracking number: **ESTTA209684**

Filing date: **05/07/2008**

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	Wrangler Apparel Corp.
Granted to Date of previous extension	05/07/2008
Address	3411 Silverside Road Wilmington, DE 19810 UNITED STATES

Attorney information	Paul J. Kennedy PEPPER HAMILTON LLP EIGHTEENTH AND ARCH STREETS 3000 TWO LOGAN SQUARE PHILADELPHIA, PA 19103-2799 UNITED STATES kennedyp@pepperlaw.com, catalant@pepperlaw.com, mulligar@pepperlaw.com Phone:215-981-4194
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Applicant Information

Application No	78653468	Publication date	01/08/2008
Opposition Filing Date	05/07/2008	Opposition Period Ends	05/07/2008
Applicant	Nooch, Peter 1722 1/2 N. Normandie Avenue Los Angeles, CA 90027 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Footwear, headwear, underwear and clothing, namely, denim pants, jackets, shirts and skirts
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Grounds for Opposition

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

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	634868	Application Date	05/17/1955
Registration Date	09/25/1956	Foreign Priority Date	NONE
Word Mark	W		

Design Mark	
Description of Mark	NONE
Goods/Services	Class U039 (International Class 025). First use: First Use: 1948/11/06 First Use In Commerce: 1948/11/06 MEN'S, LADIES', BOYS', AND GIRLS' WESTERN STYLE DUNGAREES, WESTERN STYLE JACKETS, AND WESTERN STYLE SHIRTS

U.S. Registration No.	3322277	Application Date	09/18/2006
Registration Date	10/30/2007	Foreign Priority Date	NONE
Word Mark	W		
Design Mark			
Description of Mark	The mark consists of Stitching in shape of W.		
Goods/Services	Class 025. First use: First Use: 1969/11/30 First Use In Commerce: 1969/11/30 jeans, casual pants, shorts, skirts, shirts, blouses, vests, jackets, diaper covers		

Attachments	71687673#TMSN.gif (1 page)(bytes) 77001748#TMSN.jpeg (1 page)(bytes) NOTICE OF OPPOSITION (WRANGLER-FRMR).PDF (4 pages)(95130 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	/Paul J. Kennedy/
Name	Paul J. Kennedy
Date	05/07/2008

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

WRANGLER APPAREL CORP.	:	
	:	Opposition No.
	:	
	:	Mark: FRMR & "W" Stitch Design
Opposer	:	
v.	:	Application Serial No. 78/653468
	:	
PETER NOOCH	:	Published in <i>Official Gazette</i> : January 8, 2008
	:	
	:	Filed: June 17, 2005
Applicant	:	

NOTICE OF OPPOSITION

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

Wrangler Apparel Corp., a Delaware corporation with offices at 3411 Silverside Road, Wilmington, Delaware 19810, ("Opposer") believes it will be damaged by the issuance of a trademark registration to Peter Nooch ("Applicant"), an individual with an address at 1722 ½ N. Normandie Avenue, Los Angeles, California 90027 for FRMR & "W" Stitch Design (Serial No. 78/653468) in International Class 25, and hereby opposes the intent-to-use application.

As grounds for the opposition, Opposer alleges that:

1. Applicant is seeking to obtain, under the provisions of the Trademark Act of 1946, as amended, registration on the Principal Register of the mark FRMR & "W" Stitch

Design for “footwear, headwear, underwear and clothing, namely, denim pants, jackets, shirts and skirts” in International Class 25 (“Applicant’s Proposed Mark”).

2. Applicant is not now, and never was, entitled to registration on the Principal Register of Applicant’s Proposed Mark either on June 17, 2005, the date of Applicant’s filing of the application, or on January 8, 2008, the date of publication in the *Official Gazette*.

3. Opposer is the owner of the federal trademark registration for mark W stitch design (Registration No. 634868, for “men’s, ladies’, boys’, and girls’ western style dungarees, western style jackets and western style shirts” in International Class 25, which has been in use since 1948 and registered since 1956; and W stitch design (Registration No. 3322277), for “jeans, casual pants, shorts, skirts, shirts, blouses, vests, jackets, diaper covers” in International Class 25, which has been in use since 1969 and registered since 2007 (“Opposer’s Marks”).

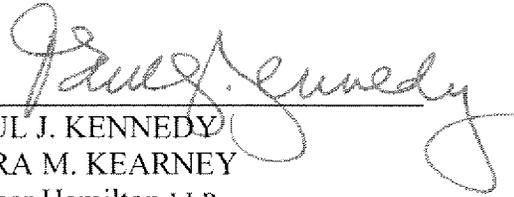
4. Opposer has, since long prior to the filing date of Applicant’s intent-to-use application, sold in commerce its goods under Opposer’s Marks. Through usage by Opposer, the Opposer’s Marks have become well-known to consumers and potential customers as trademarks of Opposer and as an origin and source indicator of the goods sold and provided by Opposer.

5. Because of the great similarity between Opposer’s Marks, which are stitching designs in the shape of a W to represent Wrangler, and Applicant’s Proposed Mark, which contains a stitching design in the shape of a W and the fact that Applicant’s Proposed Mark will ultimately be used on the same or similar products as those of the Opposer, and within the same classification, Applicant’s Proposed Mark is likely to cause confusion, mistake, or deception amongst the general and consuming public as to whether Applicant’s goods are being offered by, or in affiliation with, Opposer, hence causing damage to Opposer.

6. Applicant's registration and use of Applicant's Mark will also dilute the distinctive quality of Opposer's Marks, which became famous before the filing date of Applicant's intent-to-use application, thereby lessening the ability of Opposer's famous marks to distinguish Opposer's goods and services and causing damage to Opposer.

Accordingly, Opposer requests that registration of the mark FRMR & "W" Stitch Design (Serial No. 78/653468) be denied to Applicant and this opposition be sustained.

PEPPER HAMILTON LLP



PAUL J. KENNEDY
CARA M. KEARNEY
Pepper Hamilton LLP
3000 Two Logan Square
Eighteenth and Arch Streets
Philadelphia, PA 19103-2799
(215) 981-4000

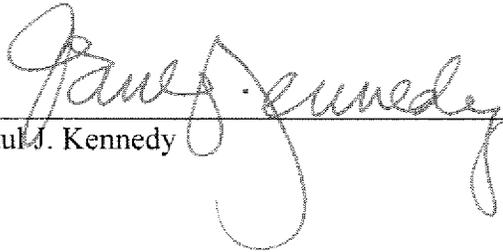
DATE: May 7, 2008

*Attorneys for Opposer
Wrangler Apparel Corp.*

CERTIFICATE OF SERVICE

I, Paul J. Kennedy, hereby certify that on May 7, 2008 a true and correct copy of the foregoing Notice of Opposition was served via U.S. First Class Mail, postage prepaid, upon the following:

James E. Brunton, Esquire
BRUNTON & JAGGER
700 N. Brand Boulevard, Suite 430
Glendale, CA 91203-4277
Attorneys for Applicant



Paul J. Kennedy