

ESTTA Tracking number: **ESTTA272460**

Filing date: **03/16/2009**

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	ARITZIA LP
Granted to Date of previous extension	03/15/2009
Address	No. 327 - 611 ALEXANDER STREET Vancouver, V6A 1E1 CANADA

Attorney information	Nancy V. Stephens Foster Pepper PLLC 1111 3rd Avenue Seattle, WA 98101 UNITED STATES stepn@foster.com Phone:206-447-8925
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Applicant Information

Application No	77304771	Publication date	09/16/2008
Opposition Filing Date	03/16/2009	Opposition Period Ends	03/15/2009
Applicant	Elias Moussan Smeke Correo Mayor # 97-2 Colonia Centro Distrito Federal, MEXICO		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Clothing, namely, jeans, pants, shirts, t-shirts, shorts, skirts, dresses, blouses, hats

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.	3562638	Application Date	06/01/2006
Registration Date	01/13/2009	Foreign Priority Date	NONE
Word Mark	TNA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 2007/11/08 First Use In Commerce: 2007/11/08 Bags, namely, leather and imitation leather bags, traveling bags, athletic bags, beach bags, handbags, shoulder bags, and tote bags; knapsacks, purses, wallets Class 025. First use: First Use: 2007/11/08 First Use In Commerce: 2007/11/08 Clothing, namely, sweatshirts, T-shirts, blouses, shorts, skirts, slacks, jeans, sweaters, vests, sport jackets, outer jackets, wind-resistant jackets, coats, overcoats, dresses, suits, shirts, sport shirts, dress shirts, hosiery, ties, belts, pants, tops, tank-tops, blazers, lingerie, overalls, sleepwear, socks, sweat pants, tights, underwear and scarves; all not including swimwear and beach cover-ups; headwear, namely, caps, hats, headbands, and toques; handwear, namely, gloves and mittens

U.S. Registration No.	3364047	Application Date	08/25/2003
Registration Date	01/08/2008	Foreign Priority Date	NONE
Word Mark	TNA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/11/00 First Use In Commerce: 2000/11/00 CLOTHING, NAMELY, BEACH COVERUPS, BELTS, DRESSES, HATS, LINGERIE, PANTS, SARONGS, SHOES, AND SHORTS		

U.S. Registration No.	3175775	Application Date	10/22/2002
Registration Date	11/28/2006	Foreign Priority Date	10/10/2002
Word Mark	TNA		

Design Mark	
Description of Mark	The mark consists of the letters "TNA" and a spiral design.
Goods/Services	Class 025. First use: WEARING APPAREL NAMELY T-SHIRTS, BLAZERS, BLOUSES, CAPS, COATS, DRESS SHIRTS, DRESSES, GLOVES, HATS, HOSIERY, JACKETS, JEANS, LINGERIE, OVER COATS, OVERALLS, PANTS, SCARVES, SHIRTS, SHORTS, SKIRTS, SLACKS, SLEEPWEAR, SOCKS, SPORT JACKETS, SPORT SHIRTS, SUITS, SWEATERS, SWEATSHIRTS, SWEATPANTS, TIES, TIGHTS, TOPS, TOQUES, UNDERWEAR, VESTS AND WIND RESISTANT JACKETS; FOOTWEAR NAMELY BOOTS, SANDALS, SHOES AND SLIPPERS

U.S. Registration No.	2259494	Application Date	06/02/1998
Registration Date	07/06/1999	Foreign Priority Date	NONE
Word Mark	TNA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1997/12/30 First Use In Commerce: 1997/12/30 clothing, namely, swimwear		

U.S. Application No.	78860548	Application Date	04/13/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TNA		
Design Mark			
Description of Mark	NONE		

Goods/Services	<p>Class 003. First use: Cosmetics, namely, eye and facial makeup; fragrances, namely, perfumes, cologne and eau de toilette; skin care, namely, body, eye, face, hand, shaving and skin cream; hair care preparations, namely, gel; soap; shower and bath gel; skin, facial and body lotion; essential oils for personal use</p> <p>Class 009. First use: Eyewear, namely, sunglasses; eyewear cases</p> <p>Class 014. First use: Jewelry; Jewelry accessories not made of precious metal, namely, bracelets, rings and necklaces; and watches</p> <p>Class 020. First use: Furniture; mirrors; and picture frames</p> <p>Class 026. First use: Hair accessories, namely, hair bands, hair barrettes, hair clips, hair pins, hair ruffles, namely scrunchies; headbands</p>
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U.S. Application No.	78980365	Application Date	04/13/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TNA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use: First Use: 2007/11/07 First Use In Commerce: 2007/11/07 Bags, namely, leather and imitation leather bags, traveling bags, athletic bags, beach bags, handbags, shoulder bags, and tote bags; purses, wallets</p> <p>Class 025. First use: First Use: 2007/11/07 First Use In Commerce: 2007/11/07 Clothing, namely, sweatshirts, T-shirts, blouses, shorts, skirts, slacks, jeans, sweaters, vests, sport jackets, outer jackets, wind-resistant jackets, coats, overcoats, dresses, suits, shirts, sport shirts, dress shirts, hosiery, ties, belts, pants, tops, tank-tops, lingerie, overalls, sleepwear, socks, sweat pants, tights, underwear and scarves, headwear, namely, caps, hats, headbands, and toques; handwear, namely, gloves and mittens</p> <p>Class 035. First use: First Use: 2007/11/07 First Use In Commerce: 2007/11/00 Retail store services featuring bags, clothing, headwear, handwear, footwear, and clothing accessories</p>		

Attachments	<p>78898069#TMSN.jpeg (1 page)(bytes)</p> <p>76539689#TMSN.gif (1 page)(bytes)</p> <p>76462531#TMSN.gif (1 page)(bytes)</p>
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	78860548#TMSN.jpeg (1 page)(bytes) 78980365#TMSN.jpeg (1 page)(bytes) TNM JEANS Notice of Opposition.pdf (5 pages)(134394 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 Facsimile or email (by agreement only) on this date.

Signature	/Nancy V. Stephens/
Name	Nancy V. Stephens
Date	03/16/2009

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

In the matter of Application Serial No. 77304771

Aritzia LP

Opposer

v.

Elias Moussan Smeke

Applicant

Opposition No. _____

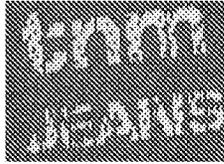
NOTICE OF OPPOSITION

Aritzia LP, a Canadian Limited Partnership, (the "Opposer"), whose principal place of business is No. 327 611 Alexander Street, Vancouver, Canada V6A 1E1 believes that it would be damaged by registration of the mark TNM JEANS (stylized) which is the subject of application Serial No. 77304771 and hereby opposes the same.

As grounds of opposition, it is alleged that:

1. Elias Moussan Smeke, an individual, seeks to register the mark TNM JEANS (stylized) as a trademark in *International Class 25* covering, "Clothing, namely, jeans, pants, shirts, t-shirts, shorts, skirts, dresses, blouses, hats" ("Opposed Application").

2. The Opposed Application was filed on October 15, 2007.
3. The Opposed Application was filed in the following stylization:



4. Opposer is the owner of the following US Registrations: (i) **US Registration No. 3562638 for tna** covering, “Clothing, namely, sweatshirts, T-shirts, blouses, shorts, skirts, slacks, jeans, sweaters, vests, sport jackets, outer jackets, wind-resistant jackets, coats, overcoats, dresses, suits, shirts, sport shirts, dress shirts, hosiery, ties, belts, pants, tops, tank-tops, blazers, lingerie, overalls, sleepwear, socks, sweat pants, tights, underwear and scarves; all not including swimwear and beach cover-ups; headwear, namely, caps, hats, headbands, and toques; handwear, namely, gloves and mittens in class 25” and “bags, namely, leather and imitation leather bags, traveling bags, athletic bags, beach bags, handbags, shoulder bags, and tote bags, knapsacks, purses, wallets in class 18. (ii) **U.S. Trademark Registration No. 3364047, for TNA in standard characters** covering, “clothing, namely, beach cover ups, belts, dresses, hats, lingerie, pants, sarongs, shoes, and shorts in class 25.” (iii) **U.S. Trademark Registration No. 3175775 for tna** covering, “wearing apparel namely t-shirts, blazers, blouses, caps, coats, dress shirts, dresses, gloves, hats, hosiery, jackets, jeans, lingerie, over coats, overalls, pants, scarves, shirts, shorts, slacks, sleepwear, socks, sport jackets, sport shirts, suits, sweaters, sweatshirts, sweatpants, ties, tights, tops, toques, underwear, vests and wind resistant jackets; footwear namely boots, sandals, shoes and slippers in class 25.” (iv) **U.S. Trademark Registration No. 2259494 for TNA in standard characters** covering, "clothing, namely, swimwear in class 25. Additionally, Aritzia holds the following US

trademark applications: (v) **US Trademark Application Serial No. 78860548 for TNA in standard characters**, covering, cosmetics, eyewear, jewelry, furniture and hair accessories in classes 3, 9, 14, 20 and 26 and (vi) **U.S. Trademark Application Serial No. 78980365 for TNA in standard characters** covering, clothing and clothing related accessories and services in classes 18, 25 and 35.

5. Opposer's predecessor in interest first made use of the mark TNA in interstate commerce in December 1997.

6. The use of the mark TNA by Opposer or its predecessor in interest has been continuous since 1997.

7. Opposer has developed considerable and valuable goodwill and reputation with respect to the trademark TNA.

8. The Opposed Application is substantially similar to Opposer's mark, differing in only one final letter.

9. The goods covered by the Opposed Application are substantially identical to those covered by Opposer's mark. Both cover jeans.

10. Given both marks cover apparel items, it is highly possible the marks will be used in same channels of trade and likely reach the same consumers.

11. Opposer's Mark has a filing date that precedes the Applicant's filing date.

12. Based on the priority of filing Opposer's rights in its trademark are superior to the Applicant's rights in and to the mark TNM JEANS which is likely to cause confusion with its mark TNA.

13. Based on its rights in the TNA mark, Opposer has expended energy and resources to develop marketing and promotional activities surrounding the TNA trademark.

14. The mark shown in the Opposed Application, if registered, will blur the distinctiveness of Opposer's trademark TNA for apparel and dilute the value of the mark as a source identifier.

15. If Applicant is permitted to register the mark TNA for apparel, damage and injury to Opposer will be caused and will result by reason of a likelihood of confusion between TNM JEANS and Opposer's mark TNA.

16. Opposer will be damaged by registration of the Opposed Application as registration will give Applicant prima facie evidence of its exclusive right to use a mark likely to cause confusion with Opposer's proprietary mark.

17. If Applicant is granted a registration for mark TNM JEANS in *International Class 25* covering clothing, it will not only likely create confusion in the marketplace but it will be inconsistent with Opposer's superior rights in and to the mark TNA.

WHEREFORE, the Opposer prays that the Application, Serial No. 77304771 be denied and refused.

Dated: March 16, 2009

/Nancy V. Stephens/

Nancy V. Stephens, WSBA No. 31510
J. Christopher Lynch, USPTO No. 34216
WSBA No. 17462

Foster Pepper PLLC
Attorneys for Opposer Aritzia LP

CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2009, I served the foregoing Notice of Opposition on the applicant by sending email correspondence as agreed to in advance by applicant to applicant's counsel as follows:

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/Nancy V. Stephens/
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