

ESTTA Tracking number: **ESTTA282320**

Filing date: **05/06/2009**

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	The 17/21 Group, LLC
Granted to Date of previous extension	06/17/2009
Address	4719 Boyle Avenue Vernon, CA 90058 UNITED STATES

Attorney information	Michael J. MacDermott CHRISTIE, PARKER & HALE, LLP P.O. Box 7068 Pasadena, CA 91109-7068 UNITED STATES pto@cph.com Phone:626-795-9900
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Applicant Information

Application No	77582414	Publication date	02/17/2009
Opposition Filing Date	05/06/2009	Opposition Period Ends	06/17/2009
Applicant	Fragile Freight, Inc. 348 Mill St Reno, NV 89501 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 025. All goods and services in the class are opposed, namely: Baby bodysuits; Baby bottoms; Baby doll pajamas; Baby tops; Bottoms; Button-front aloha shirts; Camp shirts; Capri pants; Caps; Cargo pants; Children's and infants' cloth bibs; Children's cloth eating bibs; Children's headwear; Cloth bibs; Cloth diapers; Clothing, namely, arm warmers; Clothing, namely, hand-warmers; Clothing, namely, khakis; Clothing, namely, knee warmers; Clothing, namely, neck tubes; Clothing, namely, thobes; Clothing, namely, wrap-arounds; Crew neck sweaters; Disposable underwear; Dress shirts; Hooded sweat shirts; Hoods; Infant and toddler one piece clothing; Infant cloth diapers; Infant diaper covers; Infant sleepers; Infant wear; Infants' shoes and boots; Infants' trousers; Jackets and socks; Jerseys; Knit shirts; Leotards and tights for women, men and children of nylon, cotton or other textile fibers; Long underwear; Long-sleeved shirts; Mock turtle-neck sweaters; Night gowns; Night shirts; Open-necked shirts; Pajama bottoms; Pajamas; Pants; Pique shirts; Plastic baby bibs; Polo shirts; Rugby shirts; Rugby tops; Short sets; Short trousers; Short-sleeved or long-sleeved t-shirts; Shorts; Skirts and dresses; Stretch pants; Swaddling clothes; Sweat jackets; Sweat pants; Sweat shirts; Sweat shorts; Sweat suits; Sweaters; T-shirts; Tank tops; Tap pants; Top coats; Tops; Turtleneck sweaters; Underwear; V-neck sweaters; Wearable garments and clothing, namely, shirts; Wind pants; Wraps; Yoga pants</p>

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	FRAGILE, alone and in combination		
Goods/Services	APPAREL		

Attachments	S1303-nop.pdf (3 pages)(100755 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	/Michael J. MacDermott/
Name	Michael J. MacDermott
Date	05/06/2009

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

In the matter of trademark application **Serial No. 77/582,414**
For the mark **FRAGILE FREIGHT**
Published in the Trademark *Official Gazette* on February 17, 2009 (the term for opposition
having been extended to June 17, 2009)

The 17/21 Group, LLC	Opposer,	Opposition No.
v.		NOTICE OF OPPOSITION
Fragile Freight, Inc.	Applicant.	

The 17/21 Group, LLC., a California limited liability company, whose address is 4719 Boyle Avenue, Vernon, California 90058, believes that it will be damaged by registration of the mark **FRAGILE FREIGHT** as shown in application Serial No. **77/582,414** (hereinafter "Applicant's Mark") and hereby opposes the same.

As grounds for opposition, Opposer alleges that:

1. Since prior to Applicant's priority date, Opposer has been continuously engaged in the distribution and sale of apparel.
2. Since long prior to Applicant's priority date, Applicant has continuously used in commerce the mark **FRAGILE**, alone and in combination with other terms, in connection with the distribution and sale of apparel.
3. Through the widespread use and advertising of its **FRAGILE** marks over a long period of time and by virtue of the quality of the goods sold in connection with the marks,

Opposer has built up a valuable good will and reputation in connection with said marks which would be jeopardized by Applicant's use and registration of the mark FRAGILE FREIGHT.

4. Applicant's goods for which it seeks to register the mark FRAGILE FREIGHT are baby bodysuits; baby bottoms; baby doll pajamas; baby tops; bottoms; button-front aloha shirts; camp shirts; capri pants; caps; cargo pants; children's and infants' cloth bibs; children's cloth eating bibs; children's headwear; cloth bibs; cloth diapers; clothing, namely, arm warmers; clothing, namely, hand-warmers; clothing, namely, khakis; clothing, namely, knee warmers; clothing, namely, neck tubes; clothing, namely, thobes; clothing, namely, wrap-arounds; crew neck sweaters; disposable underwear; dress shirts; hooded sweat shirts; hoods; infant and toddler one piece clothing; infant cloth diapers; infant diaper covers; infant sleepers; infant wear; infants' shoes and boots; infants' trousers; jackets and socks; jerseys; knit shirts; leotards and tights for women, men and children of nylon, cotton or other textile fibers; long underwear; long-sleeved shirts; mock turtle-neck sweaters; night gowns; night shirts; open-necked shirts; pajama bottoms; pajamas; pants; pique shirts; plastic baby bibs; polo shirts; rugby shirts; rugby tops; short sets; short trousers; short-sleeved or long-sleeved t-shirts; shorts; skirts and dresses; stretch pants; swaddling clothes; sweat jackets; sweat pants; sweat shirts; sweat shorts; sweat suits; sweaters; t-shirts; tank tops; tap pants; top coats; tops; turtleneck sweaters; underwear; v-neck sweaters; wearable garments and clothing, namely, shirts; wind pants; wraps; yoga pants, which are identical or closely related in nature to the apparel previously sold by Opposer under its FRAGILE marks.

5. Applicant's mark FRAGILE FREIGHT so resembles Opposer's FRAGILE marks, previously used in commerce by Opposer and not abandoned, as to be likely, when applied to the goods of Applicant, to cause confusion or to cause mistake or to deceive.

6. Opposer is informed and believes that Applicant did not make use of the mark FRAGILE FREIGHT for any of the goods in Application Serial No. 77/582,414 prior to its filing date of September 30, 2008.

Docket No. 110.2*2/S1303

WHEREFORE, Opposer prays that this Opposition be sustained and that registration of Application Serial No. **77/582,414** be refused.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

Date May 1 2009

By 

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