

ESTTA Tracking number: **ESTTA297689**

Filing date: **07/28/2009**

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	Excelled Sheepskin & Leather Coat Corp.		
Entity	Corporation	Citizenship	New Jersey
Address	1400 Broadway New York, NY 10018 UNITED STATES		

Attorney information	Michael A. Grow Arent Fox LLP 1050 Connecticut Avenue, NW Washington, DC 20036 UNITED STATES henrye@arentfox.com, TMDocket@arentfox.com, grow.michael@arentfox.com Phone:202 857 6389		
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### Applicant Information

Application No	77713053	Publication date	07/21/2009
Opposition Filing Date	07/28/2009	Opposition Period Ends	08/20/2009
Applicant	RML Jackson, LLC 8899 Beverly Blvd., Suite 510 Los Angeles, CA 90048 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Beachwear; Belts; Blouses; Boots; Bottoms; Caps; Coats; Dresses; Footwear; Foul weather gear; Gloves; Hats; Headwear; Hosiery; Jackets; Jeans; Lingerie; Mittens; Neckties; Neckwear; Nightwear; Pajamas; Pants; Pullovers; Rainwear; Robes; Scarves; Shirts; Shoes; Shorts; Skirts; Skorts; Slippers; Sneakers; Socks; Sweat shirts; Sweaters; Swimwear; T-shirts; Ties; Track suits; Undergarments; Vests; Visors
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### Applicant Information

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## Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3346559	Application Date	11/15/2004
Registration Date	12/04/2007	Foreign Priority Date	NONE
Word Mark	ROGUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1999/12/01 First Use In Commerce: 1999/12/01 men's, ladies' and children's clothing, namely, coats, jackets, vests, shirts and pants		

U.S. Registration No.	2815985	Application Date	04/19/2000
Registration Date	02/24/2004	Foreign Priority Date	NONE
Word Mark	REILLY OLMES ROGUE LEATHER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/02/18 First Use In Commerce: 2000/02/18 Men's, women's and children's clothing made in whole or in substantial part of leather, namely, coats, vests, shirts and pants		

U.S. Registration No.	2790074	Application Date	04/19/2000
Registration Date	12/09/2003	Foreign Priority Date	NONE

Word Mark	ROGUE LEATHER BY REILLY OLMES
Design Mark	<b>ROGUE LEATHER BY REILLY OLMES</b>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2000/01/10 First Use In Commerce: 2000/01/10 Men's, women's and children's clothing made in whole or in substantial part of leather, namely, coats, vests, shirts and pants

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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 A. Grow/
Name	Michael A. Grow
Date	07/28/2009

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

In re Application No. 77/713053, BORN ROGUE, and Application No. 77/713054,  
BORNROGUE, both published on July 21, 2009

EXCELLED SHEEPSKIN & LEATHER COAT CORP. :  
: :  
Opposer : :  
: :  
v. : Opp. No. \_\_\_\_\_  
: :  
RML JACKSON, LLC : :  
: :  
Applicant :

**NOTICE OF OPPOSITION**

Opposer Excelled Sheepskin & Leather Coat Corp. believes that it will be damaged by the registration of the above-identified mark and hereby opposes the same under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, it is alleged that:

1. Opposer is the owner of all rights, title and interest in and to a family of marks containing the word ROGUE (“Opposer’s Marks”)for clothing.
2. Opposer’s Marks have become well-known and famous through extensive use and advertising, and they have become a highly valuable symbol of Opposer’s goodwill.
3. Since at least as early as 1999, Opposer has been using the mark ROGUE in connection with the advertising and sale of clothing.
4. The Patent and Trademark Office has recognized Opposer’s exclusive right to use its Mark by issuing the following registrations:

Reg. No. 3346559, ROGUE, dated December 4, 2007

Reg. No. 2815985, REILLY OLMES ROGUE LEATHER, dated February 24, 2004

Registration No. 2790074, ROGUE LEATHER BY REILLY OLMES, dated December 9, 2003

5. Opposer's registrations are valid and they provide prima facie evidence of Opposer's ownership of and exclusive right to use Opposer's Marks in commerce.
6. Opposer has developed a well known business reputation throughout the United States and Opposer's Marks have been and continues to be widely publicized through substantial advertising expenditures.
7. As a result of the substantial advertising expenditures and extensive sales of services, Opposer's Marks have become well known and famous as a distinctive source indicator and valuable symbol of Opposer's goodwill.
8. Notwithstanding Opposer's prior established rights in its Marks, Applicant filed the above referenced applications for registration of the marks BORN ROGUE and BORNROGUE for clothing, footwear and accessories.
9. Opposer has used ROGUE continuously on or in connection with its goods in interstate commerce since long prior to Applicant's filing date and any first use date that Applicant may claim.
10. Upon information and belief, Applicant made no use of its alleged marks in commerce prior to the filing date of its application.
11. Applicant had actual knowledge of Opposer's prior rights in Opposer's Marks before Applicant filed its applications and Applicant had even place orders for products bearing these marks prior to filing.
12. Applicant has also filed an application for registration of the mark ROGUE, which has been denied because it was deemed confusingly similar to Opposer mark ROGUE.

**LIKELIHOOD OF CONFUSION - §2(d)**

13. The marks that Applicant seeks to register are identical to or so closely resemble Opposer's Mark that the use and registration thereof is likely to cause confusion, mistake and deception as to the source or origin of Applicant's goods and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's Marks.

14. The goods of Applicant are so closely related to the goods of Opposer that the public is likely to be confused, to be deceived and to assume erroneously that Applicant's goods are those of Opposer or that Applicant is in some way connected with or sponsored by or affiliated with Opposer, all to Opposer's irreparable damage.

15. Likelihood of confusion in this case is enhanced by the fact that prospective purchasers of Applicant's goods are likely to associate Opposer's Mark with goods sold, approved or endorsed by Opposer; moreover, individuals purchasing Applicant's goods are prospective purchasers of Opposer's products and services.

16. Applicant is not affiliated or connected with nor is it approved, endorsed or sponsored by Opposer.

17. Similarly, Opposer has not approved any goods sold or intended for sale by Applicant under the marks BORN ROGUE or BORNROGUE, nor has Opposer granted Applicant permission to use said marks.

**DECEPTION/FALSE SUGGESTION OF CONNECTION - §2(a)**

18. Applicant's marks so closely resembles Opposer's Mark that they are likely to cause deception in violation of Section 2(a) of the Trademark Act, in that said marks misdescribe the nature or origin of the goods, purchasers are likely to believe that the misdescription actually

describes the nature or origin of the goods, and this is likely to materially alter purchasers' decisions to acquire Applicant's goods.

19. Applicant's alleged marks so closely resemble Opposer's Marks that they falsely suggest a connection with Opposer in violation of Section 2(a) of the Trademark Act, because Applicant's alleged marks point uniquely to Opposer, and purchasers will assume that goods sold under Applicant's alleged marks are connected with Opposer.

20. If Applicant's alleged marks are used on goods of the type described in its applications, Applicant's alleged marks will cause purchasers to refrain from purchasing Opposer's authorized goods based on the mistaken assumption that Opposer is endorsing, attempting to promote, or encouraging the sale of Applicant's goods by permitting Applicant to use said marks.

21. Applicant's marks are deceptive in that they falsely suggest a connection with, or approval by, Opposer.

22. Use and registration by Applicant of the marks will deprive Opposer of the ability to protect its reputation, persona and goodwill.

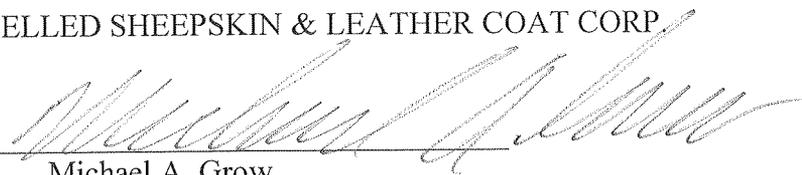
23. Likelihood of damage to Opposer's goodwill is enhanced by the fact that prospective customers who encounter defects in the quality of Applicant's goods will attribute those defects to Opposer and this will injure Opposer's reputation and goodwill.

24. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's alleged mark and registration should be refused.

WHEREFORE, Opposer prays that this opposition be sustained and that registration be denied.

EXCELLED SHEEPSKIN & LEATHER COAT CORP

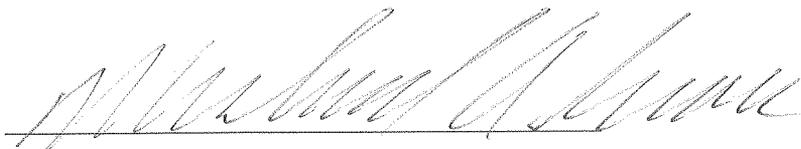
By



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Washington, DC 20036  
(202) 857-6000  
Attorney for Opposer

**CERTIFICATE OF SERVICE**

It is hereby certified that a copy of the foregoing is being served upon Applicant's counsel Diane L. Gardner of Mastermind IP Law P.C. at 421 Santa Marina Court, Escondido, California 92029, by first class mail, postage prepaid, on July 28, 2009.

A handwritten signature in cursive script, appearing to read "Michael A. Brown", is written over a horizontal line.