

ESTTA Tracking number: **ESTTA309005**

Filing date: **09/30/2009**

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	LFP IP, LLC		
Entity	Limited Liability Company	Citizenship	California
Address	8484 Wilshire Boulevard Suite 900 Beverly Hills, CA 90211 UNITED STATES		

Attorney information	Jonathan W. Brown Lipsitz Green Scime Cambria LLP 42 Delaware Avenue, Suite 120 Buffalo, NY 14202 UNITED STATES ip@lglaw.com Phone:716-849-1333 Ext. 371		
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### Applicant Information

Application No	77620945	Publication date	09/01/2009
Opposition Filing Date	09/30/2009	Opposition Period Ends	10/01/2009
Applicant	Legal Hustlers 9102 Kerrville Rosemark Rd Millington, TN 38053 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. First Use: 2006/07/01 First Use In Commerce: 2007/07/01  
All goods and services in the class are opposed, namely: Long-sleeved shirts; Short-sleeved shirts

### 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)
Dilution	Trademark Act section 43(c)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2689852	Application Date	10/16/2000
Registration Date	02/25/2003	Foreign Priority Date	NONE
Word Mark	HUSTLER		

Design Mark	<b>HUSTLER</b>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1998/12/03 First Use In Commerce: 1998/12/03 clothing, namely, beach wear, blouses, coats, coveralls, dresses, head wear, jackets, jeans, jogging suits, jumpers, leg warmers, leggings, lingerie, lounge wear, neckwear, pants, scarves, shirts, ski wear, slacks, sleep wear, tank tops, socks, vests

U.S. Registration No.	3149102	Application Date	03/11/2003
Registration Date	09/26/2006	Foreign Priority Date	NONE

Word Mark	HUSTLER
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 025. First use: First Use: 2006/06/10 First Use In Commerce: 2006/06/10 footwear, namely, all types of shoes, boots, slippers, thongs and socks
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U.S. Registration No.	2318186	Application Date	07/23/1998
Registration Date	02/15/2000	Foreign Priority Date	NONE

Word Mark	HUSTLER HOLLYWOOD
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 035. First use: First Use: 1998/12/03 First Use In Commerce: 1998/12/03 retail store services relating to books and prerecorded video cassettes
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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	/Jonathan W. Brown/
Name	Jonathan W. Brown
Date	09/30/2009

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

*In re* Application No. 77620945  
Filed: November 24, 2008  
Published: September 1, 2009 in the Official Gazette  
For: **LEGAL HUSTLERS**

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LFP IP, LLC,

Opposer,

**NOTICE OF OPPOSITION**

vs.

Opposition No. \_\_\_\_\_

LEGAL HUSTLERS,

Applicant.

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Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

LFP IP, LLC (“LFP”), a Delaware limited liability company, located and doing business at 8484 Wilshire Boulevard, Suite 900, Beverly Hills, California 90211, believes that it will be damaged by the registration on the principal register of the mark “**LEGAL HUSTLERS**” shown in Application Serial No. 77629845. Said Application was filed by Legal Hustlers (“Applicant”), upon information and belief, a limited liability company, with a mailing address of 9102 Kerrville Rosemark Road, Millington, TN 38053, and published for opposition in the Official Gazette; LFP hereby opposes registration thereof.

As grounds for opposition, LFP alleges:

1. LFP is the owner of Registration No. 2689852 for **HUSTLER** for “clothing, namely, beach wear, blouses, coats, coveralls, dresses, head wear, jackets, jeans, jogging suits, jumpers, leg warmers, leggings, lingerie, lounge wear, neckwear, pants, scarves, shirts, ski wear, slacks, sleep wear, tank tops, socks, vests.” LFP’s application for said registration was filed on October 16, 2000, and progressed to registration on February 25, 2003, and is now deemed incontestable. LFP has used the mark **HUSTLER** on and in connection with the sale of the aforementioned goods since at least as early as December 3, 1998.

2. LFP is also the owner of Registration No. 3149102 for **HUSTLER** for “footwear, namely, all types of shoes, boots, slippers, thongs and socks.” LFP’s application for said registration was filed on March 11, 2003, and progressed to registration on September 26, 2006. LFP has used the mark **HUSTLER** on and in connection with the sale of the aforementioned goods since at least as early as June 10, 2006.

3. LFP is also the owner of Registration No. 2318186 for **HUSTLER HOLLYWOOD** for “retail store services relating to books and prerecorded video cassettes.” LFP’s application for said registration was filed on July 23, 1998, and progressed to registration on February 15, 2000. LFP has used the mark **HUSTLER HOLLYWOOD** on and in connection with the aforementioned services since as early as December 3, 1998. The **HUSTLER HOLLYWOOD** retail stores are found nationwide and sell, among other things, **HUSTLER**-brand clothing. **HUSTLER**-brand clothing is also sold on the Internet and in other retail stores found throughout the United States.

4. LFP's marks referred to hereinabove will be collectively referred to as "LFP's Marks."

5. As a result of LFP's extensive advertising, sales, and marketing of goods bearing LFP's Marks, said Marks have become famous and well-known to purchasers.

6. By virtue of LFP's extensive use and promotion of LFP's Marks, LFP has established valuable goodwill in the Marks, and the public has come to associate LFP's Marks with LFP and its famous founder, Larry Flynt. As such, the public has come to know LFP's Marks as an indication of goods and services that originate from LFP or "Larry Flynt Publications," and their affiliated companies.

7. On November 24, 2008, Applicant filed U.S. Trademark Application Serial No. 77620945, based on its intent to use the mark "**LEGAL HUSTLERS**" in connection with "long-sleeved shirts; short-sleeved shirts." Applicant's mark referred to hereinabove will be referred to collectively as "Applicant's mark" or the "Application."

8. The goods identified in the Application are highly related to the goods and services identified in LFP's registrations and applications for its **HUSTLER** Mark, and with which LFP has been using its **HUSTLER** Mark for many years.

9. Applicant's "**LEGAL HUSTLERS**" Mark includes LFP's entire **HUSTLER** Mark.

10. On information and belief, Applicant selected the **HUSTLER** portion of its mark as a direct reference to LFP's **HUSTLER** Mark, which was intended to profit from LFP's name and goodwill by creating a misleading association of Applicant's mark and Applicant's goods with LFP, and thereby blurring and tarnishing LFP's valuable Marks.

11. LFP began use of its **HUSTLER** Mark in connection with its clothing goods at least as early as 1998, which is well prior to Applicant's November 24, 2008 filing date for the Application.

12. As a result of the similarity between LFP's Marks and Applicant's mark and the highly related nature of the goods and services identified by the parties' marks, Applicant's mark is likely to cause confusion, mistake or deception in the trade and among ordinary purchasers as to the source, origin or sponsorship of the parties' respective goods and services.

13. Registration of the mark in the Application and use of Applicant's mark is likely to dilute and tarnish LFP's famous **HUSTLER** Marks.

14. Registration of Applicant's mark will result in damage to LFP under the provisions of 15 U.S.C. §§ 1114, 1115 and 1125, pursuant to the allegations stated above, and registration should be denied pursuant to 15 U.S.C. § 1052(d).

15. If the Applicant's mark is permitted to obtain registration, the registration would presumptively entitle Applicant to *prima facie* exclusive ownership and rights to the "**LEGAL HUSTLERS**" mark. Such registrations would cause confusion among consumers as to the separate and distinct sources of Applicant's goods and services and LFP's goods and services and the relationship of LFP to Applicant, thereby damaging LFP's goodwill in LFP's Marks, diluting the value thereof, and resulting in irreparable harm to LFP's business and reputation, all to the detriment of LFP which has expended considerable sums and effort in promoting LFP's Marks.

WHEREFORE, LFP prays that this Opposition be sustained and that registration of U.S. Trademark Application Serial No. 77620945 be denied.

Dated: September 30, 2009

Respectfully submitted,

LFP IP by its counsel  
Lipsitz Green Scime Cambria LLC

By: /Jonathan W. Brown/  
Jonathan W. Brown, Esq.  
42 Delaware Avenue, Suite 120  
Buffalo, NY 14202  
(716) 849-1333 Ext. 371

**CERTIFICATE OF FILING AND SERVICE**

I, Jonathan W. Brown, hereby certify that on September 30, 2009, I caused a true copy of the foregoing Notice of Opposition to be filed electronically with the United States Patent and Trademark Office and served upon Applicant, Legal Hustlers, by United States First Class Mail addressed to 9102 Kerrville Rosemark Road, Millington, TN 38053.

Dated: September 30, 2009

\_\_\_\_\_/Jonathan W. Brown/\_\_\_\_\_  
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