

ESTTA Tracking number: **ESTTA325589**

Filing date: **01/06/2010**

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	Belmont Brands Limited
Granted to Date of previous extension	01/06/2010
Address	Oliaji Trade Centre 12 Victoria, SEYCHELLES

Attorney information	Kathleen A. Costigan HEDMAN & COSTIGAN, PC 1185 Avenue of the Americas New York, NY 10036 UNITED STATES ipdocket@hgcpatent.com, kcostigan@hgcpatent.com Phone:2123028989
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**Applicant Information**

Application No	78268123	Publication date	09/08/2009
Opposition Filing Date	01/06/2010	Opposition Period Ends	01/06/2010
Applicant	LES BOXERS BOYZ INC. 385 LOUVAIN STREET WEST MONTREAL, PQ H2N 2J1 CANADA		

**Goods/Services Affected by Opposition**

Class 025. First Use: 2003/11/00 First Use In Commerce: 2003/11/00 All goods and services in the class are opposed, namely: Ski apparel, namely, ski jackets, ski pants, ski suits, outerwear jackets, outerwear pants, outerwear suits, snowboard jackets, snowboard pants, snowboard suits, fleece jackets, fleece tops, sweaters, gloves, mitts, hats
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**Grounds for Opposition**

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)
Other	Opposers will be injured and damaged by the registration of the mark shown in the Application, because such mark, when applied to the goods of Applicant: is likely to cause confusion, or to cause mistake, or to deceive (Trademark Act section 2(d), 15 USC & sect1052(d).)Opposers common law rights will

	be injured and damaged by the registration of the mark shown in the Application, because such mark, when applied to the goods of Applicant: is likely to cause confusion, or to cause mistake, or to deceive
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2884711	Application Date	12/20/2001
Registration Date	09/14/2004	Foreign Priority Date	NONE
Word Mark	D2DSQUARED2		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1997/00/00 First Use In Commerce: 1998/00/00 Ordinary spectacles; sunglasses; spectacle lenses; spectacle cases; spectacle frames; contact lenses; and containers for contact lenses</p> <p>Class 014. First use: First Use: 1997/00/00 First Use In Commerce: 1998/00/00 Jewelry; precious gemstones; horological and chronometric instruments, namely chronometers, watches, wrist watches, wall clocks, automobile clocks; cases for clocks and watches</p> <p>Class 018. First use: First Use: 1997/00/00 First Use In Commerce: 1998/00/00 Traveling bags, umbrellas, parasols, walking sticks, hand bags, luggage, shoulder bags, beach bags, credit cards cases, document cases, keycases and wallets</p> <p>Class 025. First use: First Use: 1997/00/00 First Use In Commerce: 1998/00/00 Clothing and leather clothes, namely, shirts, blouses, skirts, tailleurs, jackets, trousers, shorts, vests, T-shirts, pajamas, socks, stockings, tank tops, corsets, garter-belts, underpants, panties, bras, petticoats, foulards, ties, raincoats, overcoats, coats, swimwear, track suits, wind-resistant jackets, ski-pants, belts, furs, scarves, gloves, dressing gown, housecoats, footwear and headwear</p>		

U.S. Registration No.	3538951	Application Date	08/03/2006
Registration Date	11/25/2008	Foreign Priority Date	NONE
Word Mark	DSQUARED2		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2002/01/18 First Use In Commerce: 2002/01/18 Laundry soaps, bleaching products, namely, bleaching preparations for cosmetic		

	<p>purposes; softening products, namely, fabric softeners, fabric softeners for laundry use; cosmetics, namely, perfumes; solid perfumes; deodorant for body care; soaps; liquid soaps; toilet soaps; bath foams; toothpastes; shampoos; essential oils; hair lotions; permanent wave preparations; hair setting, namely, gels, creams and lotions for the hair; gels, namely, bath gels, eye gels, beauty gels; face creams; mascara; eye-liners; eye shadows; make-up pencils; face powder; lipsticks; foundation creams; body creams; nail varnishes; nail hardeners; nail-polish removers; tanning oil and creams</p> <p>Class 018. First use: First Use: 2002/01/18 First Use In Commerce: 2002/01/18 Traveling bags, umbrellas, parasols, walking sticks, handbags, luggage, shoulder bags, beach bags, credit cards cases, document cases, key cases and wallets</p> <p>Class 025. First use: First Use: 2002/01/18 First Use In Commerce: 2002/01/18 Clothing and leather clothing, namely, shirts, blouses, skirts, tailleurs, jackets, trousers, shorts, vests, t-shirts, pajamas, socks, stockings, tank tops, corsets, garter-belts, underpants, panties, bras, petticoats, foulards, ties, raincoats, overcoats, coats, swimwear, track suits, wind-resistant jackets, ski-pants, belts, fur jackets, scarves, gloves, dressing gown, housecoats, footwear and headwear</p>
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U.S. Application No.	77135741	Application Date	03/20/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	DSQUARED2		
Design Mark			
Description of Mark	The mark consists of a leaf design over the wording "DSQUARED2".		
Goods/Services	<p>Class 025. First use:</p> <p>Clothing and leather clothes, namely, shins, blouses, skirts, tailleurs, jackets, trousers, shorts, vests, T-shirts, pajamas, socks, stockings, tank tops, corsets, garter-belts, underpants, panties, bras, petticoats, foulards, ties, raincoats, overcoats, coats, swimwear, track suits, wind-resistant jackets, ski-pants, belts, fur coats, scarves, gloves, dressing gown, housecoats, footwear and headwear</p>		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	D2		
Goods/Services	<p>Clothing and leather clothes, namely, blouses, skirts, tailleurs, jackets, trousers, shorts, vests, T-shirts, pajamas, socks, stockings, tank tops, raincoats, overcoats, coats, swimwear, track suits, wind-resistant jackets, ski-pants, belts, fur coats, scarves, gloves, footwear and headwear</p>		

Attachments	76351966#TMSN.jpeg ( 1 page )( bytes ) 78944586#TMSN.gif ( 1 page )( bytes ) 77135741#TMSN.jpeg ( 1 page )( bytes ) 1011X966Notice.pdf ( 5 pages )(17307 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	/Kathleen A. Costigan/
Name	Kathleen A. Costigan
Date	01/06/2010

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

In the matter of Application Serial No.: 78268123  
Filed: June 27, 2003  
For the Mark: D2  
Published in the Official Gazette on September 8, 2009

BELMONT BRANDS LIMITED

Opposer,

v.  
LES BOXERS BOYZ INC.

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

Applicant.

NOTICE OF OPPOSITION

Opposer, BELMONT BRANDS LIMITED, (“Opposer”) pursuant to 15 U .S.C. §§1063 and 1068, and 37 CFR §2.101, hereby files its Notice of Opposition to U.S. Trademark Application Serial No. 78/268,123 (“the Application”) filed by LES BOXERS BOYZ INC., (“Applicant”). Opposer believes that it will be damaged by registration of the above-identified application, and hereby opposes same.

In support thereof, Opposer states as follows:

1. Opposer, is a Limited Liability Company organized and existing under the laws of the Republic of Seychelles, with offices located at Oliaji Trade Centre, First Floor, Victoria – Mahe, Republic of Seychelles.
2. On Information and belief, Applicant is a corporation organized and existing under the laws of Canada, with offices 385 Louvain Street West, Montreal, Quebec, H2N 2J1, CANADA.
3. Opposer has standing to oppose the published application based on its rights in its family of D2 trademarks. Since at least as early as January 1, 1998, Opposer has continuously used in interstate commerce marks consisting solely or in part of the mark DSQUARED2 D2 and design, as its trademark in its business of manufacturing, marketing and selling a wide variety of goods, including, but not limited to, jewelry, clothing, luggage, and fashion accessories.
4. Opposer is owner of United States Trademark Registration No. 2,884,711 for its trademark, DSQUARED2 D2, for use on various goods in International Classes 9, 14, 18 and 25 including clothing, namely, jackets, trousers, T-shirts, pajamas, socks, stockings, tank tops, raincoats, overcoats, coats, swimwear, track suits, wind-resistant jackets, ski-pants, belts, furs, scarves, gloves, dressing gown, footwear and headwear. The trademark was filed on November December 20, 2001 and registered on September 14, 2004. A copy of the registration is attached.
5. Opposer is owner of United States Trademark Registration No. 3,538,951 for its trademark, DSQUARED2 for use on various goods in International Classes 3, 18 and 25 including clothing, namely, jackets, trousers, T-shirts, pajamas, socks, stockings, tank tops, raincoats, overcoats, coats, swimwear, track suits, wind-resistant jackets, ski-pants, belts, fur jackets, scarves, gloves, footwear and headwear. A copy of the registration is attached.
6. Opposer is owner of United States Trademark Application No. 77,135,741 (the ‘741 application) for its trademark, DSQUARED2 and design for use on goods in International Class 25 including clothing, namely, jackets, trousers, T-shirts, pajamas, socks, stockings, tank tops, raincoats, overcoats,

coats, swimwear, track suits, wind-resistant jackets, ski-pants, belts, fur coats, scarves, gloves, footwear and headwear. The '741 application has been suspended, pending disposition of the opposed application. A copy of the application is attached.

7. On information and belief, Applicant, is the owner of United States Trademark Application Serial No. 78/268,123 for D2 for use on ski apparel, namely ski jackets, ski pants, ski suits, outerwear jackets, outerwear pants, outerwear suits, snowboard jackets, snowboard pants, snowboard suits, fleece jackets, fleece tops, sweaters, gloves, mitts, hats in International Class 025.
8. On information and belief, the Application was filed on June 27, 2003 under Section 1(b) and 44 (d) recently amended to assert a basis under section 1(a) alleging a date of first use of November 2003, and published in the United States Patent and Trademark Office Official Gazette on September 8, 2009.
9. Opposer has promoted and sold its goods in interstate and intrastate commerce, and around the world, under its marks since at least as early as December 31, 1998 and long prior to any alleged use by Applicant of the mark shown in the Application.
10. As a result of the use, promotion, and advertising of Opposer's marks, said marks have become well known to the trade and to the public, and have accordingly acquired significant goodwill.
11. Opposer's trademarks identify and distinguish Opposer's goods from the goods of others, and identify the source and origin thereof to both the trade and the public.
12. Prior to Applicant's use of its mark in connection with the listed goods, if any, Opposer's marks have been used and promoted in such a way as to create a public perception of the D2 marks as an indication of source of goods in the clothing and apparel industry as well as in connection with relating accessories. Opposer's marks continue to be used and promoted in such a way.
13. Upon information and belief, Applicant has made no use of the mark shown in the Application, nor of any word, letter or design confusingly similar thereto, as a trademark or service mark, prior to the

date of first use of the marks of Opposer. Applicant's registration and use of its mark will cause dilution of the Opposer's marks.

14. Applicant's registration and use of the mark shown in the Application is likely to cause confusion in the minds of the trade and of the public that Applicant's goods emanate from or are licensed, sponsored or otherwise authorized by Opposer, whereas in fact they are not.

15. The mark shown in the Application so resembles Opposer's marks previously used in the United States by Opposer and not abandoned, as to be likely, when applied to Applicant's goods, to cause confusion or to cause mistake or to deceive, and is an attempt to deceive the public and to benefit from the reputation and goodwill developed by Opposer.

16. Opposer will be injured and damaged by the registration of the mark shown in the Application, because such mark, when applied to the goods of Applicant:

- a) is likely to cause confusion, or to cause mistake, or to deceive;
- b) falsely suggests a connection with Opposer; and
- c) will damage Opposer's valuable goodwill in its trademarks.

17. By reason of the foregoing, Applicant is not entitled to the registration of the mark shown in the Application.

#### REQUEST FOR RELIEF

Wherefore, Opposer requests that the Opposition be sustained and that registration of the mark shown in the Application be refused as to the goods identified in International Class 25.

Opposer authorizes the Commissioner for Trademarks to charge the fee of \$300 to Deposit Account 08 - 1540 for filing this Notice of Opposition. Opposer believes that no additional fees are now due;

however, the Commissioner for Trademarks is authorized to debit Deposit Account 08 -1540 for any additional fees which may be due.

Respectfully submitted,

Dated: January 6, 2010

/Kathleen A. Costigan/

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