

ESTTA Tracking number: **ESTTA334042**

Filing date: **02/24/2010**

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	J & N Sales, LLC
Granted to Date of previous extension	02/24/2010
Address	76 LaSalle Road West Hartford, CT 06107 UNITED STATES

Attorney information	James A Power Jr Power Del Valle LLP 233 W 72nd St New York, NY 10023 UNITED STATES jp@powerdel.com Phone:212-877-0100
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Applicant Information

Application No	77756144	Publication date	10/27/2009
Opposition Filing Date	02/24/2010	Opposition Period Ends	02/24/2010
Applicant	Jamin Jannard 45 Marisol Newport Coast, CA 92657 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: T-shirts and hats
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Grounds for Opposition

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

U.S. Application No.	78484891	Application Date	09/16/2004
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	JADE		

Design Mark	
Description of Mark	Applicant's mark is a design comprising the Chinese character "Yu" and the word Jade in stylized cursive which, together, form a circle.
Goods/Services	Class 025. First use: First Use: 2004/08/14 First Use In Commerce: 2004/08/14 women's and girls' apparel, namely, jeans, pants, skirts, shorts

U.S. Application No.	78403893	Application Date	04/19/2004
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	JADE		
Design Mark			
Description of Mark	The mark consists of the word JADE with a design depicting a Chinese character transliterated into English as "Jade".		
Goods/Services	Class 025. First use: First Use: 2004/08/18 First Use In Commerce: 2004/08/18 women's apparel, namely, jeans and pants		

U.S. Application No.	78484885	Application Date	09/16/2004
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	JADE JEANS		

Design Mark	JADE JEANS
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2004/12/23 First Use In Commerce: 2004/12/23 women's and girls' apparel, namely, t-shirts, sweatshirts, knit tops, shirts

Attachments	78484891#TMSN.jpeg (1 page)(bytes) 78403893#TMSN.jpeg (1 page)(bytes) 78484885#TMSN.jpeg (1 page)(bytes) Oppose Jayde.pdf (3 pages)(31378 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	/jpower/
Name	James A Power Jr
Date	02/24/2010

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

Att'y Ref. 256.604

_____)	
J & N SALES, LLC)	
)	
Opposer,)	In the Matter of:
)	
v.)	Application No. 77/756,144
)	Mark: JAYDE
Jamin JANNARD,)	
)	
Applicant.)	
_____)	

Commissioner for Trademarks
Arlington, Virginia 22202-3513

NOTICE OF OPPOSITION

Opposer J & L SALES, LLC, a Connecticut limited liability company having a place of business at 76 LaSalle Road, West Hartford, Connecticut 06107, believes that it will be damaged by the registration sought in the above identified application and hereby opposes such registration on the following grounds:

1. Pending in the United States Patent and Trademark Office are opposer's Applications Ser. No. 78/403,893, filed April 19, 2004, and 78/484,891, filed September 16, 2004, to register the mark JADE and design for "women's apparel, namely, jeans and pants," and "women's and girls' apparel, namely, jeans, pants, skirts and shorts," respectively, and Application Ser. No. 78/484,885, filed September 16, 2004, to register the mark JADE JEANS for "women's and girls' apparel, namely, t-shirts, sweatshirts, knit tops, shirts," each on the Principal Register in International Class 25, on the basis of use of the marks in commerce, pursuant to section 1(a) of the Lanham Act.

2. Applicant filed, on June 16, 2009, Application Ser. No. 77/756,144 to register the mark JAYDE on the Principal Register for t-shirts and hats in International Class 25, on the basis of a *bona fide* intent to use the mark in commerce, pursuant to section 1(b) of the Lanham Act.

3. Upon information and belief, applicant has not used the mark JAYDE in the United States or in Commerce in connection with the goods described in Application Ser. No. 77/756,144, or any other goods, at any time prior to its filing of that application or thereafter.

4. Since long prior to applicant's filing of its application to register JAYDE, opposer, itself or through its related company, Jade Marketing Group, LLC, has continuously and extensively used the marks JADE and design and JADE JEANS in commerce throughout the United States in connection with the sale of the apparel described in its applications.

5. Applicant's registration of the mark JAYDE would be inconsistent with opposer's exclusive rights to use and register the marks JADE and design and JADE JEANS for the goods identified in its pending applications for registration, would create an incorrect record, may be used unfairly as a basis for questioning opposer's lawful use of its marks and would, therefore, interfere with opposer's rights to use said mark in commerce.

6. Should applicant succeed in registering the mark JAYDE on the subject application, it may be cited against opposer's applications pursuant to section 2(d) of the Act, interfering with opposer's ability to register its previously used marks.

7. Examination of applicant's JAYDE application did not include the consideration of opposer's previously-filed JADE applications, though the Office had assigned "Jade" as its pseudo mark . A letter protesting the registration of JAYDE to applicant, filed just prior to publication of the application, was granted on the grounds of likelihood of confusion with, *inter alia*, the JADE marks of opposer's pending applications, but not in time to result in a refusal. A November 29, 2009 petition to the director to reverse the denial of a second letter of protest filed in TEAS on the ground that the marks of the same prior applications established a *prima facie* likelihood of confusion, was misplaced by the Office and not assigned for consideration by an attorney in the director's office until February 23, 2010, necessitating this opposition. Extensions to oppose the subject application amounting to 90 days expire today.

WHEREFORE, opposer prays that this opposition be sustained, that registration of the mark JAYDE to applicant be refused, and that it be granted such other and further relief as this Board deems just and proper.

J & N SALES, LLC

New York, New York
February 24, 2010

By: /jpower/
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