

ESTTA Tracking number: **ESTTA345837**

Filing date: **05/05/2010**

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	LFP IP, LLC
Granted to Date of previous extension	05/15/2010
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	77846197	Publication date	03/16/2010
Opposition Filing Date	05/05/2010	Opposition Period Ends	05/15/2010
Applicants	Torrance L. Hampton 1318 W. Broad St, Ste.A Richmond, VA 23220 UNITED STATES Caleb K. Sawyer 1318 W. Broad St., Ste. A Richmond, VA 23220 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2007/10/17 First Use In Commerce: 2007/10/17 All goods and services in the class are opposed, namely: (Based on Use in Commerce) Knit shirts; Long-sleeved shirts; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; T-shirts(Based on Intent to Use) Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Hats; Headgear, namely, dress hats fedora and athletic ball caps; Hooded sweat shirts; Shirts for suits
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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)

Dilution	Trademark Act section 43(c)
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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			
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		
Design Mark			
Description of Mark	NONE		
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		

U.S. Registration No.	2318186	Application Date	07/23/1998
Registration Date	02/15/2000	Foreign Priority Date	NONE
Word Mark	HUSTLER HOLLYWOOD		

Design Mark	HUSTLER HOLLYWOOD
Description of Mark	NONE
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

Attachments	76146601#TMSN.gif (1 page)(bytes) 76495943#TMSN.gif (1 page)(bytes) 75524462#TMSN.gif (1 page)(bytes) _0505161905_001.pdf (6 pages)(164490 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	/Jonathan W. Brown/
Name	Jonathan W. Brown
Date	05/05/2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE

TRADEMARK TRIAL AND APPEAL BOARD

In re Application No. 77846197
Filed: October 11, 2009
Published: March 16, 2010 in the Official Gazette
For: **HC HUSTLERSCODE.COM**

LFP IP, LLC,

Opposer,

NOTICE OF OPPOSITION

vs.

Opposition No. _____

TORRANCE L. HAMPTON and
CALEB K. SAWYER,

Applicants.

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 “**HC HUSTLERSCODE.COM**” shown in Application Serial No. 77846197. Said Application was filed by Torrance L. Hampton and Caleb K. Sawyer (“Applicants”), with a mailing address of 1318 W. Broad St., Ste. A, Richmond, Virginia 23220, 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" or the "**HUSTLER** Marks".

5. As a result of LFP's extensive advertising, sales, and marketing of goods bearing LFP's Marks, the **HUSTLER** 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.

7. On October 11, 2009, Applicant filed U.S. Trademark Application Serial No. 77846197, based on their intent to use the mark "**HC HUSTLERSCODE.COM**" in connection with "knit shirts; long-sleeved shirts; short-sleeved or long-sleeved t-shirts; short-sleeved shirts; t-shirts (based on intent to use) athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; hats; headgear, namely, dress hats fedora and athletic ball caps; hooded sweat shirts; shirts for suits." Applicants' mark referred to hereinabove will be referred to collectively as "Applicants' mark" or the "Application."

8. The goods identified in the Application are highly related to the goods and services bearing the **HUSTLER** Marks.

9. Applicants' "**HC HUSTLERSCODE.COM**" mark incorporates LFP's entire **HUSTLER** mark.

10. On information and belief, Applicants 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 Applicants' mark

and Applicants' goods with LFP, and thereby blurring and tarnishing LFP's valuable trademarks.

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 October 11, 2009 filing date for the Application.

12. As a result of the similarity between LFP's Marks and Applicants' mark and the highly related nature of the goods at issue, Applicants' 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.

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

14. Among other things, registration of Applicants' 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 Applicants' mark is permitted to obtain registration, the registration would presumptively entitle Applicants to *prima facie* exclusive ownership and rights to Applicants' mark. Such registration would cause confusion among consumers as to the separate and distinct sources of Applicants' goods and LFP's goods and services, and the relationship of LFP to Applicants. Accordingly, such registration will damage LFP's goodwill in LFP's Marks, dilute the value thereof, and will result 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. 77846197 be denied.

Dated: May 5, 2010

Respectfully submitted,

LFP IP, LLC, by its counsel
Lipsitz Green Scime Cambria LLC

By: Jonathan W. Brown/
Jonathan W. Brown, Esq.
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CERTIFICATE OF FILING AND SERVICE

I, Jonathan W. Brown, hereby certify that on May 5, 2010, 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 Applicants, Torrance L. Hampton and Caleb K. Sawyer, by United States First Class Mail addressed to 1318 W. Broad St., Ste. A, Richmond, VA 23220.

Dated: May 5, 2010

/Jonathan W. Brown/

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