

ESTTA Tracking number: **ESTTA350672**

Filing date: **06/02/2010**

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	Vanity Fair, Inc.
Granted to Date of previous extension	06/02/2010
Address	One Fruit of the Loom Drive Legal Department Bowling Green, KY 42103 UNITED STATES

Attorney information	Paul J. Kennedy PEPPER HAMILTON LLP 3000 Two Logan Square Eighteenth and Arch Streets Philadelphia, PA 19103-2799 UNITED STATES kennedyp@pepperlaw.com, mulligar@pepperlaw.com, catalant@pepperlaw.com Phone:215-981-4194
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Applicant Information

Application No	77816818	Publication date	02/02/2010
Opposition Filing Date	06/02/2010	Opposition Period Ends	06/02/2010
Applicant	Booker, Sylvester R., Jr. 164-03 109th Ave. Jamaica, NY 11433 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 025. All goods and services in the class are opposed, namely: Apres-ski shoes; Athletic shoes; Ballet shoes; Baseball shoes; Bath slippers; Bathing caps; Bathing costumes; Bathing costumes for women; Bathing suits; Bathing suits for men; Bathing trunks; Beach footwear; Beach shoes; Belts; Belts for clothing; Belts made from imitation leather; Belts made of leather; Belts made out of cloth; Belts of textile; Bermuda shorts; Bikinis; Blazers; Board shorts; Bomber jackets; Boxer briefs; Boxer shorts; Boxing shoes; Boxing shorts; Bras; Briefs; Button-front aloha shirts; Camouflage jackets; Camouflage pants; Camouflage shirts; Camp shirts; Canvas shoes; Cap visors; Capri pants; Caps; Caps with visors; Cargo pants; Coats; Coats for men and women; Coats made of cotton; Coats of denim; Crew neck sweaters; Cycling shoes; Denim jackets; Denims; Down jackets; Dress shirts; Dress suits; Dresses; Dressing gowns and bath robes; Fabric belts; Fishermen's jackets; Fishing shirts; Fleece shorts; Garter belts; Golf caps; Golf pants, shirts and skirts; Golf shirts; Golf shoes; Golf shorts; Gym shorts; Gym suits; Gymnastic shoes; Hat bands; Hats; Heavy coats; Heavy jackets; Hockey shoes; Hooded sweat shirts; Hunting jackets; Hunting pants; Hunting shirts; Jogging pants; Jogging suits; Jumpsuits; Knit shirts; Knitted caps; Ladies' suits; Leather belts; Leather coats; Leather jackets; Leather pants; Leather shoes; Leisure suits; Long jackets; Long-sleeved shirts; Lounge pants; Men's and women's jackets, coats, trousers, vests; Men's dress socks; Men's socks; Men's</p>

suits; Men's suits, women's suits; Mock turtle-neck sweaters; Moisture-wicking sports pants; Money belts; Motorcycle jackets; Night shirts; Nurse pants; Open-necked shirts; Outer jackets; Over coats; Over shirts; Padded jackets; Panties; Panties, shorts and briefs; Pants; Paper hats for use as clothing items; Party hats; Pique shirts; Polo shirts; Rain coats; Rain hats; Rain jackets; Rainproof jackets; Reversible jackets; Rubber shoes; Rugby shirts; Sandals; Sandals and beach shoes; Shell jackets; Shirts; Shirts and short-sleeved shirts; Shirts for infants, babies, toddlers and children; Shirts for suits; Shoes; Short trousers; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Shorts; Ski jackets; Ski pants; Ski suits; Skirt suits; Skirts; Skirts and dresses; Skull caps; Sleep shirts; Sleeved or sleeveless jackets; Smoking jackets; Snow suits; Snowboard pants; Soccer shoes; Socks; Socks and stockings; Sport coats; Sport shirts; Sports bra; Sports bras; Sports jackets; Sports pants; Sports shirts; Sports shirts with short sleeves; Strapless bras; Stretch pants; Suede jackets; Suit coats; Suits; Suits of leather; Suspender belts; Suspender belts for men; Suspender belts for women; Sweat jackets; Sweat pants; Sweat shirts; Sweat shorts; Sweat suits; Sweaters; Swim caps; T-shirts; Tee shirts; Tennis dresses; Tennis shoes; Thermal socks; Thongs; Track and field shoes; Track jackets; Track pants; Track suits; Training shoes; Trench coats; Triathlon clothing, namely, triathlon tights, triathlon shorts, triathlon singlets, triathlon shirts, triathlon suits; Turtle neck shirts; Turtleneck sweaters; Turtlenecks; Tuxedo belts; Underwear, namely, boy shorts; V-neck sweaters; Vested suits; Volleyball shoes; Waist belts; Walking shorts; Warm up outfits; Warm up suits; Waterproof jackets and pants; Wearable garments and clothing, namely, shirts; Wind pants; Wind resistant jackets; Wind shirts; Wind-jackets; Women's shoes; Woolly hats; Work shoes and boots; Yoga pants; Yoga shirts; Zoot suits

Grounds for Opposition

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.	642681	Application Date	07/18/1956
Registration Date	03/12/1957	Foreign Priority Date	NONE
Word Mark	EXQUISITE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U039 (International Class 010, 025, 026). First use: First Use: 1945/08/23 First Use In Commerce: 1945/08/23 BRASSIERES [, GARTER BELTS,] AND GIRDLES		

U.S. Registration No.	1491241	Application Date	10/15/1987
Registration Date	06/07/1988	Foreign Priority Date	NONE
Word Mark	EXQUISITE FORM		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1987/08/31 First Use In Commerce: 1987/08/31 CLOTHING, NAMELY, BRASSIERES

U.S. Registration No.	2286196	Application Date	07/25/1997
Registration Date	10/12/1999	Foreign Priority Date	NONE
Word Mark	EXQUISITE FORM		
Design Mark	EXQUISITE FORM		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1996/06/30 First Use In Commerce: 1996/06/30 bras, [briefs, garter belts, panties, slips, half-slips, camisoles, swimwear, lounge wear, active wear, namely, sport bras, pants, skirts, tops, teddies, pettipants, bra slips, sleep wear, nightgowns, pajamas, baby dolls and peignoir sets]		

Attachments	73689812#TMSN.gif (1 page)(bytes) 75330755#TMSN.gif (1 page)(bytes) NOTICE OF OPPOSITION (VERY EXQUISITE STYLES).pdf (6 pages) (230062 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	/Paul J. Kennedy/
Name	Paul J. Kennedy
Date	06/02/2010

1. Applicant is seeking to obtain, under the provisions of the Trademark Act of 1946, as amended, registration on the Principal Register of the mark VERY EXQUISITE STYLES (“Applicant’s Mark”) for:

“Apres-ski shoes; Athletic shoes; Ballet shoes; Baseball shoes; Bath slippers; Bathing caps; Bathing costumes; Bathing costumes for women; Bathing suits; Bathing suits for men; Bathing trunks; Beach footwear; Beach shoes; Belts; Belts for clothing; Belts made from imitation leather; Belts made of leather; Belts made out of cloth; Belts of textile; Bermuda shorts; Bikinis; Blazers; Board shorts; Bomber jackets; Boxer briefs; Boxer shorts; Boxing shoes; Boxing shorts; Bras; Briefs; Button-front aloha shirts; Camouflage jackets; Camouflage pants; Camouflage shirts; Camp shirts; Canvas shoes; Cap visors; Capri pants; Caps; Caps with visors; Cargo pants; Coats; Coats for men and women; Coats made of cotton; Coats of denim; Crew neck sweaters; Cycling shoes; Denim jackets; Denims; Down jackets; Dress shirts; Dress suits; Dresses; Dressing gowns and bath robes; Fabric belts; Fishermen's jackets; Fishing shirts; Fleece shorts; Garter belts; Golf caps; Golf pants, shirts and skirts; Golf shirts; Golf shoes; Golf shorts; Gym shorts; Gym suits; Gymnastic shoes; Hat bands; Hats; Héavy coats; Heavy jackets; Hockey shoes; Hooded sweat shirts; Hunting jackets; Hunting pants; Hunting shirts; Jogging pants; Jogging suits; Jumpsuits; Knit shirts; Knitted caps; Ladies' suits; Leather belts; Leather coats; Leather jackets; Leather pants; Leather shoes; Leisure suits; Long jackets; Long-sleeved shirts; Lounge pants; Men's and women's jackets, coats, trousers, vests; Men's dress socks; Men's socks; Men's suits; Men's suits, women's suits; Mock turtle-neck sweaters; Moisture-wicking sports pants; Money belts; Motorcycle jackets; Night shirts; Nurse pants; Open-necked shirts; Outer jackets; Over coats; Over shirts; Padded jackets; Panties; Panties, shorts and briefs; Pants; Paper hats for use as clothing items; Party hats; Pique shirts; Polo shirts; Rain coats; Rain hats; Rain jackets; Rainproof jackets; Reversible jackets; Rubber shoes; Rugby shirts; Sandals; Sandals and beach shoes; Shell jackets; Shirts; Shirts and short-sleeved shirts; Shirts for infants, babies, toddlers and children; Shirts for suits; Shoes; Short trousers; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Shorts; Ski jackets; Ski pants; Ski suits; Skirt suits; Skirts; Skirts and dresses; Skull caps; Sleep shirts; Sleeved or sleeveless jackets;

Smoking jackets; Snow suits; Snowboard pants; Soccer shoes; Socks; Socks and stockings; Sport coats; Sport shirts; Sports bra; Sports bras; Sports jackets; Sports pants; Sports shirts; Sports shirts with short sleeves; Strapless bras; Stretch pants; Suede jackets; Suit coats; Suits; Suits of leather; Suspender belts; Suspender belts for men; Suspender belts for women; Sweat jackets; Sweat pants; Sweat shirts; Sweat shorts; Sweat suits; Sweaters; Swim caps; T-shirts; Tee shirts; Tennis dresses; Tennis shoes; Thermal socks; Thongs; Track and field shoes; Track jackets; Track pants; Track suits; Training shoes; Trench coats; Triathlon clothing, namely, triathlon tights, triathlon shorts, triathlon singlets, triathlon shirts, triathlon suits; Turtle neck shirts; Turtleneck sweaters; Turtlenecks; Tuxedo belts; Underwear, namely, boy shorts; V-neck sweaters; Vested suits; Volleyball shoes; Waist belts; Walking shorts; Warm up outfits; Warm up suits; Waterproof jackets and pants; Wearable garments and clothing, namely, shirts; Wind pants; Wind resistant jackets; Wind shirts; Wind-jackets; Women's shoes; Woolly hats; Work shoes and boots; Yoga pants; Yoga shirts; Zoot suits”

in International Class 25.

2. Applicant is not now, and never was, entitled to registration on the Principal Register of the mark VERY EXQUISITE STYLES either on August 31, 2009, the date of Applicant's filing of the application, or on February 2, 2010, the date of publication in the *Official Gazette*.

3. Opposer is the owner of several trademarks which contain “EXQUISITE” as part of the mark for products in International Class 25 (“Opposer’s Marks”). Opposer’s Marks are:

a. EXQUISITE (Reg. No. 642681) (1957) for “brassieres and girdles” and has used the mark since at least as early as 1945;

- b. EXQUISITE FORM (Stylized) (Reg. No. 1491241) (1988) for “clothing, namely, brassieres” and has used the mark since at least as early as 1987; and
- c. EXQUISITE FORM (Reg. No. 2286196) (1999) for “bras” and has used the mark since at least as early as 1996.

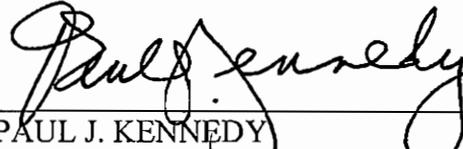
4. Opposer has, since long prior to the filing date of Applicant’s intent-to-use based application, sold in commerce in the United States its products using Opposer’s Marks. Through usage by Opposer, Opposer’s Marks have become well-known to customers and potential customers as trademarks of Opposer, and as an origin and source of the goods sold and provided by Opposer.

5. Because of the great similarity between Opposer’s Marks and Applicant’s Mark and the fact that Applicant is seeking registration of Applicant’s Mark for use with the clothing identified in Applicant’s intent-to-use based application, Applicant’s Mark is likely to cause confusion, mistake, or deception amongst the general and consuming public as to whether Applicant’s goods are being offered by, or in affiliation with, Opposer causing damage to Opposer.

6. Applicant’s registration and use of VERY EXQUISITE STYLES also will dilute the distinctive quality of Opposer’s Marks, which became famous before the filing date of Applicant’s intent-to-use based application, thereby lessening the ability of Opposer’s Marks to distinguish Opposer’s goods and causing damage to Opposer.

7. Accordingly, Opposer requests that registration of the mark VERY EXQUISITE STYLES (Serial No. 77/816818) be denied to Applicant and this opposition be sustained.

PEPPER HAMILTON LLP

A handwritten signature in black ink, appearing to read "Paul J. Kennedy", is written over a horizontal line.

PAUL J. KENNEDY
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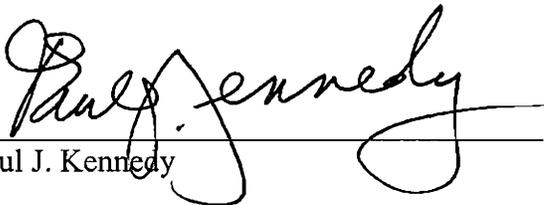
DATE: June 2, 2010

*Attorneys for Opposer
Vanity Fair, Inc.*

CERTIFICATE OF SERVICE

I, Paul J. Kennedy, hereby certify that on June 2, 2010, a true and correct copy of the foregoing Notice of Opposition was served via U.S. First Class Mail, postage prepaid, upon the following:

Richard C. Litman, Esquire
LITMAN LAW OFFICES, LTD.
P.O. Box 15035
Arlington, VA 22215-0035
Attorney for Applicant



Paul J. Kennedy