

ESTTA Tracking number: **ESTTA356502**

Filing date: **07/06/2010**

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	Maggy London International, Ltd.
Granted to Date of previous extension	07/07/2010
Address	530 Seventh Avenue New York, NY 10018 UNITED STATES

Attorney information	Thomas M. Furth Kudman Trachten Aloe LLP 350 Fifth Avenue, Suite 4400 New York, NY 10118 UNITED STATES tfurth@kudmanlaw.com Phone:212 868-1010
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Applicant Information

Application No	77815374	Publication date	03/09/2010
Opposition Filing Date	07/06/2010	Opposition Period Ends	07/07/2010
Applicant	Maggi Fashion Wholesale, Inc. 1400 S. Main St. Los Angeles, CA 90015 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2009/03/01 First Use In Commerce: 2009/04/03 All goods and services in the class are opposed, namely: On-line wholesale and retail store services featuring clothing, jewelry, and accessories

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.	3485598	Application Date	12/28/2006
Registration Date	08/12/2008	Foreign Priority Date	NONE
Word Mark	MAGGY		

Design Mark	<h1>Maggy</h1>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2008/01/11 First Use In Commerce: 2008/01/11 Women's clothing, namely, dresses

U.S. Registration No.	1512801	Application Date	02/04/1988
Registration Date	11/15/1988	Foreign Priority Date	NONE
Word Mark	MAGGY LONDON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1979/10/25 First Use In Commerce: 1979/10/25 ONE-PIECE DRESSES, TWO PIECE DRESSES, BLOUSES, PANTS, SKIRTS, JACKETS OF MISSY AND PETITE SIZES		

U.S. Application No.	77072911	Application Date	12/28/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MAGGY LONDON		
Design Mark	<h1>Maggy London</h1>		
Description of Mark	NONE		
Goods/Services	Class 003. First use: Cosmetics, namely, foundation makeup, lipstick, eye shadow, eye pencils, mascara, rouge, and nail polish; toiletries, namely, facial cleansing gel, facial exfoliating scrub, after shave lotions, shaving creams, shaving gels, hand and body soaps, hand and body lotions, shower gels, and perfumes		

	<p>Class 009. First use: Eyeglasses, eye glass frames and sunglasses</p> <p>Class 014. First use: Jewelry</p> <p>Class 018. First use: Leather goods, namely, briefcase type portfolios, attache cases, clutch bags, wallets, handbags, pocket books, luggage, umbrellas, and purses</p> <p>Class 025. First use: Accessories, namely, scarves, lingerie, hosiery, shoes and hats</p>
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U.S. Registration No.	1488567	Application Date	06/01/1987
Registration Date	05/17/1988	Foreign Priority Date	NONE
Word Mark	MAGGY LONDON PETITES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1981/09/20 First Use In Commerce: 1981/09/20 ONE-PIECE AND TWO-PIECE DRESSES IN PETITE SIZES		

U.S. Registration No.	2714222	Application Date	01/08/2001
Registration Date	05/06/2003	Foreign Priority Date	NONE
Word Mark	MAGGY L		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/05/00 First Use In Commerce: 2000/05/00 Women's clothing, namely, dresses,[blouses, pants, skirts, and jackets]		

U.S. Registration No.	3465362	Application Date	04/18/2007
Registration Date	07/15/2008	Foreign Priority Date	NONE
Word Mark	MAGGY BOUTIQUE		

Design Mark	MAGGY BOUTIQUE
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1982/11/25 First Use In Commerce: 1982/11/25 Dresses

Attachments	77072930#TMSN.jpeg (1 page)(bytes) 77072911#TMSN.jpeg (1 page)(bytes) 76190127#TMSN.gif (1 page)(bytes) 77160064#TMSN.jpeg (1 page)(bytes) Notice of Opposition for Maggi Fashion 7-6-10.pdf (5 pages)(71454 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	/tmfurth/
Name	Thomas M. Furth
Date	07/06/2010

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

In the matter of Trademark
Application Serial No. 77/815,374 (MAGGI FASHION WHOLESale)

Published in the *Official Gazette*
on March 9, 2010

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Maggi Fashion Wholesale, Inc., :
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NOTICE OF OPPOSITION

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

In the matter of trademark application Serial No. 77/815,374 for the trademark MAGGI FASHION WHOLESale for on-line wholesale and retail store services featuring clothing, jewelry, and accessories in International Class 35 filed August 28, 2009, and published in the Official Gazette on March 9, 2010.

Maggy London International, Ltd. ("Maggy London"), a corporation organized under the laws of the State of New York and having a place of business at 530 Seventh Avenue, New York, NY 10018, believes it will be damaged by registration of the mark shown in the above identified application and hereby opposes the same.

The grounds for the opposition are as follows:

1. Maggy London is the owner of U.S. Trademark Registration No. 3,485,598 for the mark MAGGY for women's clothing, namely, dresses. Maggy London and its predecessor in interest have used the mark in commerce on women's apparel continuously since at least as early as November 1, 2008. Maggy London's predecessor in interest filed an intent to use application for registration of the MAGGY mark on December 28, 2006.

2. Maggy London is the owner of U.S. Trademark Registration No. 1,512,801 for the mark MAGGY LONDON for one-piece dresses, two piece dresses, blouses, pants, skirts, jackets of missy and petite sizes. Maggy London has used the mark in commerce on women's apparel continuously since at least as early as October 25, 1979.

3. Maggy London is the owner of U.S. Trademark Application Serial No. 77/072,911 for the mark MAGGY LONDON for cosmetics, namely, foundation makeup, lipstick, eye shadow, eye pencils, mascara, rouge, and nail polish; toiletries, namely, facial cleansing gel, facial exfoliating scrub, after shave lotions, shaving creams, shaving gels, hand and body soaps, hand and body lotions, shower gels, and perfumes in Class 3; eyeglasses, eye glass frames and sunglasses in Class 9; jewelry in Class 14; leather goods, namely, briefcase type portfolios, attache cases, clutch bags, wallets,

handbags, pocket books, luggage, umbrellas, and purses in Class 18; and accessories, namely, scarves, lingerie, hosiery, shoes and hats in Class 25. This application was filed on December 28, 2006 and is presently pending.

4. Maggy London is the owner of U.S. Trademark Registration No. 1,488,567 for the mark MAGGY LONDON PETITES for one-piece and two-piece dresses in petite sizes. Maggy London has used the mark in commerce on women's apparel continuously since at least as early as September 20, 1981.

5. Maggy London is the owner of U.S. Trademark Registration No. 2,714,222 for the mark MAGGY L for women's clothing, namely, dresses. Maggy London has used the mark in commerce on women's apparel continuously since at least as early as May 2000.

6. Maggy London is the owner of U.S. Trademark Registration No. 3,465,362 for the mark MAGGY BOUTIQUE for dresses. Maggy London and its predecessor in interest have used the mark in commerce on women's apparel continuously since at least as early as November 25, 1982.

7. Maggy London has expended significant resources in the design, manufacturing and promotion of women's apparel sold under its MAGGY and MAGGY-formative marks. The marks have become well known as identifiers of Maggy London's high-quality goods.

8. Applicant's above identified mark MAGGI FASHION WHOLESALE is likely, when used on or in connection with Applicant's services, to cause confusion, or to cause mistake, or to deceive due to its similarity to MAGGY and its use in connection with goods similar to the goods sold by Opposer under its MAGGY and MAGGY-formative marks, and on goods which travel in the same channels of trade as goods sold under the MAGGY and MAGGY-formative marks.

9. Opposer has priority of use in commerce and priority of registration of the MAGGY and MAGGY-formative marks.

10. Applicant's mark consists of the distinctive term "MAGGI" as the initial and most prominent feature of the mark, followed by the descriptive, non-distinctive terms "FASHION" and "WHOLESALE." Both of the terms "fashion" and "wholesale" could easily be applied to Maggy London's goods which are sold under its MAGGY and MAGGY-formative marks. Applicant has disclaimed exclusive right to use the term "Fashion Wholesale" apart from the mark as shown.

11. Applicant's mark therefore has as its most prominent and only distinctive feature a term which is virtually identical to Maggy London's registered trademark MAGGY. The goods sold via applicant's services of on-line wholesale and retail store services are in part identical to the goods sold by applicant under its MAGGY and MAGGY-formative marks.

12. Applicant's mark is not registrable under Section 2(d) of the Lanham Act in view of Opposer's prior, continuous, ongoing and current use of its marks in commerce.

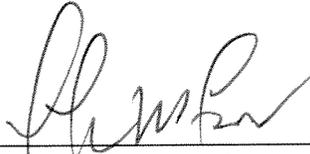
13. Maggy London's MAGGY-formative marks, and in particular its MAGGY LONDON mark, are famous marks within the meaning of Section 43(c) of the Lanham Act. Registration of the confusingly similar mark by Applicant will lessen the capacity of Maggy London's marks to identify and distinguish its goods, diluting the distinctive quality of Opposer's marks.

WHEREFORE, Opposer believes that it will be damaged by registration of said mark and prays that this opposition be sustained.

Dated: New York, New York
July 6, 2010

KUDMAN TRACHTEN ALOE LLP

Attorneys for Opposer

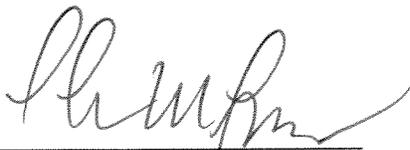
By: 

Thomas M. Furth
350 Fifth Avenue, Suite 4400
New York, New York 10118
(212) 868-1010

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing NOTICE OF OPPOSITION has been served by First Class Mail, postage prepaid, on Applicant on this 6th day of July 2010, by addressing the same to the correspondence address of record as follows:

Rokhsarzadeh, Mansour
1400 S. Main St.
Los Angeles CA 90015



Thomas M. Furth