

ESTTA Tracking number: **ESTTA360431**

Filing date: **07/28/2010**

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	Fetish Group, Inc.
Granted to Date of previous extension	09/01/2010
Address	3864 Santa Fe Avenue Vernon, CA 90058 UNITED STATES

Correspondence information	Diane M. Reed Knobbe, Martens, Olson & Bear, LLP 2040 Main Street, 14th Floor Irvine, CA 92614 UNITED STATES efiling@kmob.com Phone:(949) 760-0404
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Applicant Information

Application No	77436823	Publication date	05/04/2010
Opposition Filing Date	07/28/2010	Opposition Period Ends	09/01/2010
Applicant	TAG/The Apparel Group of New York Inc. 15001 S. Figueroa Street Gardena, CA 90248 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2008/02/05 First Use In Commerce: 2008/02/05 All goods and services in the class are opposed, namely: blouses, capris, dresses, jeans, shirts, knit shirts, long-sleeved shirts, short sleeved shirts, sleepwear, skirts and underwear

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. Registration No.	3007352	Application Date	02/11/2004
Registration Date	10/18/2005	Foreign Priority Date	NONE
Word Mark	TAG+		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2004/01/16 First Use In Commerce: 2004/01/16 Clothing, namely jeans, pants, jackets, woven and knit sweaters and tops, belts, t-shirts, and shorts, headwear and footwear		

U.S. Registration No.	3241522	Application Date	12/01/2005
Registration Date	05/15/2007	Foreign Priority Date	NONE
Word Mark	TAG+ JEANS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2004/01/16 First Use In Commerce: 2004/01/16 Clothing, namely, jeans, pants, jackets, skirts, woven and knit sweaters and tops, belts, t-shirts, and shorts		

U.S. Registration No.	1993714	Application Date	09/26/1991
Registration Date	08/13/1996	Foreign Priority Date	NONE
Word Mark	TAG RAG		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1991/02/00 First Use In Commerce: 1991/02/00 clothing; namely, T-shirts, shorts, denim jeans, pants, woven and knitted tops, shirts, sweaters, and headwear		

Attachments	78366108#TMSN.jpeg (1 page)(bytes) 78764671#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (6 pages)(182933 bytes) EXHIBIT A.pdf (2 pages)(41812 bytes) EXHIBIT B.pdf (2 pages)(43780 bytes) EXHIBIT C.pdf (2 pages)(39456 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	/Diane M. Reed/
Name	Diane M. Reed
Date	07/28/2010



A description of the Application is as follows:



Mark:

Serial No.: 77/436823

Goods: Blouses, capris, dresses, jeans, shirts, knit shirts, long-sleeved shirts, short sleeved shirts, sleepwear, skirts and underwear

Class: 25

Filed: April 1, 2008

Filing Basis: 1(a)

As grounds for opposition, it is alleged:

1. Opposer provides clothing items in connection with the marks TAG+, TAG+ JEANS, and TAG RAG.
2. On April 1, 2008, Applicant filed or caused to be filed Application Serial No.



77/436823 for the mark covering goods in International Class 25 (the "Application"). The Application was filed pursuant to Section 1(a) based on use of the mark in commerce.

3. Opposer owns and relies on U.S. Trademark Registration 3007352 for the mark TAG+ for goods in International Class 25, which registration issued October 18, 2005, and is based on an application filed in the United States Patent and Trademark Office ("PTO") on February 11, 2004. U.S. Trademark Registration 3007352 was filed prior to the filing date of the Application. A true and correct copy of the Registration Certificate for U.S. Trademark Registration 3007352

is attached as Exhibit A and made of record.

4. Opposer owns and relies on U.S. Trademark Registration 3241522 for the mark TAG+ JEANS for goods in International Class 25, which registration issued May 15, 2007, and is based on an application filed in the PTO on December 1, 2005. U.S. Trademark Registration 3241522 was filed prior to the filing date of the Application. A true and correct copy of the Registration Certificate for U.S. Trademark Registration 3241522 is attached as Exhibit B and made of record.

5. Opposer owns and relies on U.S. Trademark Registration 1993714 for the mark TAG RAG for goods in International Class 25, which registration issued August 13, 1996, and is based on an application filed in the PTO on September 26, 1991. U.S. Trademark Registration 1993714 was filed prior to the filing date of the Application. A true and correct copy of the Registration Certificate for U.S. Trademark Registration 1993714 is attached as Exhibit C and made of record.

6. Opposer's Registrations Nos. 3007352, 3241522, 1993714 are valid, subsisting, unrevoked and uncanceled; as such they constitute *prima facie* evidence of the validity of the registered marks and of the registrations thereof, and of Opposer's ownership of the marks shown therein. Opposer's registrations also constitute notice to Applicant of Opposer's claim of ownership of the mark shown therein as provided in Sections 7(b), 22 and 33(a) of the Trademark Act.

7. Since at least before the filing date of the Application, Opposer has continuously used and promoted the TAG+, TAG+ JEANS, and TAG RAG marks (the "TAG Marks") in interstate commerce in connection with its goods and services. By virtue of Opposer's continuous and substantial use, the TAG Marks have become an identifier of Opposer and its

goods and services, and distinguish Opposer's goods and services from the goods and services of others. As a result, Opposer has built up, at great expense and effort, valuable goodwill in the TAG Marks. As such, in addition to the protection afforded Opposer by the federal trademark registrations, Opposer has extensive common law rights in the TAG Marks throughout the United States. Further, Opposer's common law rights in the TAG Marks predate the filing date of the Application.

8. Opposer's rights in its TAG Marks are prior and superior to Applicant's rights in

its  mark.

9. Opposer will be damaged by the registration of the Application for the

 mark in that the  mark so resembles Opposer's TAG Marks previously registered in the PTO and used by Opposer as to be likely, when used on or in connection with the goods identified in the Application, as to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d). If Applicant's application is permitted to register, Applicant's corresponding *prima facie* exclusive

right to use the  mark in nationwide commerce will conflict with Opposer's lawful and *prima facie* exclusive right to use its TAG Marks nationwide. Thus, Applicant is not entitled



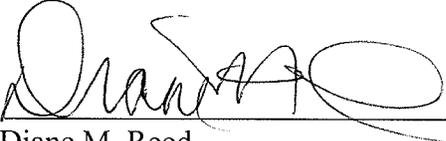
to registration of the  mark as seen in Application Serial No. 77/436823 pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer prays that U.S. Trademark Application Serial No. 77/436823 be rejected and stricken, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 28, 2010

By: 

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Attorney for Opposer

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing Notice of Opposition upon Applicant's counsel by depositing one copy thereof in the United States Mail, first-class postage prepaid, on July 28, 2010, addressed as follows:

Gerald E. Hespos
Hespos & Porco LLP
Suite 2501
110 West 40th Street
New York NY 10018



Moira Timney

9314211
070710

EXHIBIT A

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,007,352

Registered Oct. 18, 2005

**TRADEMARK
PRINCIPAL REGISTER**

TAG+

FETISH GROUP, INC. (CALIFORNIA CORPORATION)
5050 SANTA FE AVENUE
VERNON, CA 90058

FOR: CLOTHING, NAMELY JEANS, PANTS, JACKETS, WOVEN AND KNIT SWEATERS AND TOPS, BELTS, T-SHIRTS, AND SHORTS, HEADWEAR AND FOOTWEAR, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 1-16-2004; IN COMMERCE 1-16-2004.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,993,714 AND 2,379,817.

SER. NO. 78-366,108, FILED 2-11-2004.

ESTHER A. BORSUK, EXAMINING ATTORNEY

EXHIBIT B

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,241,522

Registered May 15, 2007

**TRADEMARK
PRINCIPAL REGISTER**

TAG+ JEANS

FETISH GROUP, INC. (CALIFORNIA CORPORATION)

5050 SANTA FE AVENUE

VERNON, CA 90058

FOR: CLOTHING, NAMELY, JEANS, PANTS, JACKETS, SKITS, WOVEN AND KNIT SWEATERS AND TOPS, BELTS, T-SHIRTS, AND SHORTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 1-16-2004; IN COMMERCE 1-16-2004.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 3,007,352.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "JEANS", APART FROM THE MARK AS SHOWN.

SER. NO. 78-764,671, FILED 12-1-2005.

DAYNA BROWNE, EXAMINING ATTORNEY

EXHIBIT C

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 1,993,714

Registered Aug. 13, 1996

**TRADEMARK
PRINCIPAL REGISTER**

TAG RAG

**FETISH GROUP, INC. (CALIFORNIA CORPORATION)
2325 E. 55TH STREET
VERNON, CA 90058**

**FOR: CLOTHING; NAMELY, T-SHIRTS,
SHORTS, DENIM JEANS, PANTS, WOVEN
AND KNITTED TOPS, SHIRTS, SWEATERS,**

**AND HEADWEAR, IN CLASS 25 (U.S. CLS. 22
AND 39).**

**FIRST USE 2-0-1991; IN COMMERCE
2-0-1991.**

SN 74-207,583, FILED 9-26-1991.

KATHERINE STOIDES, EXAMINING ATTORNEY