

ESTTA Tracking number: **ESTTA375373**

Filing date: **10/27/2010**

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	Sweet People Apparel, Inc.		
Entity	Corporation	Citizenship	California
Address	4715 S. Alameda Street Los Angeles, CA 90058 UNITED STATES		

Attorney information	Louis S. Ederer Arnold & Porter LLP 399 Park Avenue New York, NY 10022 UNITED STATES trademarkdocketing@aporter.com Phone:212-715-1000
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Applicant Information

Application No	77942874	Publication date	10/12/2010
Opposition Filing Date	10/27/2010	Opposition Period Ends	11/11/2010
Applicants	James Caridi 8327 SW 17th Lane Gainesville, FL 32607 UNITED STATES Michael J. Maimone 100-121 Baker Court Island Park, NY 11558 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Apparel, namely, bandanas, handkerchiefs, shirts, jackets, coats, gloves, hats, t-shirts, sweat shirts, sweat jackets and sweat pants
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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)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration	3116485	Application Date	02/22/2005
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No.			
Registration Date	07/18/2006	Foreign Priority Date	NONE
Word Mark	MISS ME		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2001/01/22 First Use In Commerce: 2001/01/22 MEN'S, WOMEN'S, CHILDREN'S APPAREL NAMELY SHIRTS, BLOUSES, JEANS, TROUSERS, SLACKS, COATS AND DRESSES		

U.S. Registration No.	3651168	Application Date	11/23/2005
Registration Date	07/07/2009	Foreign Priority Date	NONE
Word Mark	MISS ME		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2004/09/01 First Use In Commerce: 2004/09/01 Blouses; Camisoles; Cardigans; Coats for men and women; Dresses; Jackets; Jeans; Men and women jackets, coats, trousers, vests; Pants; Scarves; Shirts; Skirts and dresses; Slacks; Sweaters; Swim wear for gentlemen and ladies; T-shirts; Trousers; Vests		

U.S. Registration No.	3288934	Application Date	11/23/2005
Registration Date	09/04/2007	Foreign Priority Date	NONE
Word Mark	M MISS ME JEANS		

Design Mark			
Description of Mark	The mark consists of THE LETTER "M", THE WORDS "MISS ME" AND THE WORD "JEANS" IN STYLIZED SCRIPT FORM.		
Goods/Services	Class 025. First use: First Use: 2006/12/11 First Use In Commerce: 2006/12/11 Jackets; Jeans; Pants; Shirts; Skirts and dresses		

U.S. Registration No.	3288933	Application Date	11/23/2005
Registration Date	09/04/2007	Foreign Priority Date	NONE
Word Mark	M MISS ME GIRLS		
Design Mark			
Description of Mark	The mark consists of THE LETTER "M", THE WORDS "MISS ME" AND THE WORD "GIRLS" IN STYLIZED SCRIPT FORM.		
Goods/Services	Class 025. First use: First Use: 2007/02/20 First Use In Commerce: 2007/02/20 Blouses; Camisoles; Cardigans; Dresses; Frocks; Jackets; Jeans; Pants; Scarves; Shirts; Skirts and dresses; Slacks; Sweaters; Swim wear; T-shirts; Trousers; Vests		

U.S. Registration No.	3790104	Application Date	10/02/2009
Registration Date	05/18/2010	Foreign Priority Date	NONE
Word Mark	MISS ME		

Design Mark	<h1>MISS ME</h1>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2008/01/15 First Use In Commerce: 2008/01/15 On-line retail store services featuring clothing and apparel		

U.S. Registration No.	3490718	Application Date	03/01/2006
Registration Date	08/19/2008	Foreign Priority Date	NONE
Word Mark	MISS ME		
Design Mark	<h1>Miss Me</h1>		
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2008/01/31 First Use In Commerce: 2008/01/31 All-purpose carrying bags; Beach bags; Book bags		

U.S. Registration No.	3633237	Application Date	02/28/2006
Registration Date	06/02/2009	Foreign Priority Date	NONE
Word Mark	MISS ME		
Design Mark	<h1>Miss Me</h1>		
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2009/03/05 First Use In Commerce: 2009/03/05 Calendars		

U.S. Application No.	85048520	Application Date	05/26/2010
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	DO YOU MISS ME?
Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2007/02/22 First Use In Commerce: 2007/02/22 Women's apparel

Attachments	78572189#TMSN.jpeg (1 page)(bytes) 78760331#TMSN.jpeg (1 page)(bytes) 78760513#TMSN.jpeg (1 page)(bytes) 78760496#TMSN.jpeg (1 page)(bytes) 77840720#TMSN.jpeg (1 page)(bytes) 78980436#TMSN.jpeg (1 page)(bytes) 78825892#TMSN.jpeg (1 page)(bytes) 85048520#TMSN.jpeg (1 page)(bytes) Notice of Opposition - DO YOU MISS ME YET.pdf (10 pages)(102743 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	/Maxwell C. Preston/
Name	Maxwell C. Preston
Date	10/27/2010

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

In the Matter of Application Serial No. 77/942,874
Published in the *Official Gazette* on October 12, 2010
For the mark: DO YOU MISS ME YET?

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SWEET PEOPLE APPAREL, INC.,	:	
	:	
<i>Opposer,</i>	:	OPPOSITION NO.:
	:	
- against -	:	
	:	
JAMES CARIDI and MICHAEL J. MAIMONE,	:	
	:	
<i>Applicants.</i>	:	
	:	
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NOTICE OF OPPOSITION

Opposer, Sweet People Apparel, Inc. (hereinafter "Opposer"), located at 4715 S. Alameda St., Los Angeles, California 90058, believes that it will be damaged by registration of the mark DO YOU MISS ME YET?, Serial Number 77/942,874 (hereinafter "Applicants' Mark"), filed on February 23, 2010 by James Caridi, an individual located at 8327 SW 17th Lane, Gainesville, Florida 32607, and Michael J. Maimone, an individual located at 100-121 Baker Court, Island Park, New York 11558 (jointly, hereinafter "Applicants"), which mark was published for opposition in the *Official Gazette* on October 12, 2010, and hereby opposes the same.

The grounds for opposition are as follows:

1. Since 2001, Opposer has manufactured, distributed, and sold in commerce, within the United States, high-quality men's, women's, and children's apparel, and various related

accessory products, bearing the well-known MISS ME trademark and other trademarks containing the words MISS ME.

2. Opposer is the owner of the following valid and subsisting U.S. trademark registrations for trademarks containing the words MISS ME:

<u>Mark</u>	<u>Reg. No.</u>	<u>International Class – Goods</u>	<u>Reg. Date</u>
MISS ME	3,116,485	025 – Men’s, women’s, and children’s apparel, namely shirts, blouses, jeans, trousers, slacks, coats and dresses	7/18/2006
<i>Miss Me</i>	3,651,168	025 – Blouses; camisoles; cardigans; coats for men and women; dresses; jackets; jeans; men and women jackets, coats, trousers, vests; pants; scarves; shirts; skirts and dresses; slacks; sweaters; swim wear for gentlemen and ladies; t-shirts; trousers; vests	7/7/2009
<i>Miss Me jeans</i>	3,288,934	025 – Jackets, jeans, pants, shirts, skirts, and dresses	9/4/2007
<i>Miss Me girls</i>	3,288,933	025 – Blouses, camisoles, cardigans, dresses, frocks, jackets, jeans, pants, scarves, shirts, skirts and dresses, slacks, sweaters, swim wear, t-shirts, trousers, and vests	9/4/2007
MISS ME	3,790,104	035 – On-line retail store services featuring clothing and apparel	5/18/2010
<i>Miss Me</i>	3,490,718	018 – All-purpose carrying bags, beach bags, and book bags	8/19/2008
<i>Miss Me</i>	3,633,237	016 – Calendars	6/2/2009

3. Additionally, Opposer is the owner of the following trademark applications for trademarks containing the words MISS ME:

<u>Mark</u>	<u>Ser. No.</u>	<u>International Class – Goods</u>	<u>App. Date</u>	<u>First Use/ Intent-to- Use (ITU)</u>
<i>Miss Me</i>	78/825,861	003 – After sun creams, after-shave balms, after-shave creams, after-shave gel, after-shave lotions, antiperspirants, bath gels, bath powder, beauty creams, beauty lotions, body and beauty care preparations, body creams, body oils, body powder, body scrub, cold creams, cologne, cologne water, cosmetic soaps, cosmetic sun-tanning preparations, deodorants and antiperspirants, eau de cologne, eau de perfume, eau de toilette, eye make-up, face creams for cosmetic use, face powder, hair care preparations, lipstick, liquid perfumes, make-up products for the face and body, nail enamels, nail polish, perfumes, pre-shave creams, shaving creams, shaving gels, Shower gels, skin cleansers, skin conditioners, skin lotions, styling lotions, sun screen preparations, talcum powders, and wrinkle removing skin care preparations	2/26/2006	ITU
MISS ME	77/903,556	035 – On-line retail store services featuring men, women and children's clothing; retail apparel stores; retail clothing boutiques; and retail clothing stores	12/31/2009	ITU

MISS ME	77/903,548	018 – All purpose sport bags; all-purpose athletic bags; athletic bags; attache cases; backpacks; bags and holdalls for sports clothing; billfolds; briefbags; briefcases; carry-all bags; carry-on bags; clutch purses; cosmetic bags sold empty; cosmetic cases sold empty; credit card cases; duffel bags; duffel bags for travel; evening handbags; fanny packs; garment bags for travel; gym bags; handbags; handbags for men; handbags, purses and wallets; key cases; key-cases; key-cases of leather and skins; leather and imitation leather bags; leather bags and wallets; purses; shoulder bags; small bags for men; sport bags; sports bags; train cases; traveling bags; umbrellas; waist packs; wallets; and wallets with card compartments	12/31/2009	ITU
MISS ME	77/903,539	014 – Bracelets; broaches; clocks and watches; cuff links; ear clips; earrings; jewellery; jewellery and imitation jewellery; jewellery, clocks and watches; jewelry; jewelry and imitation jewelry; jewelry watches; necklaces; pocket watches; rings being jewelry; shirt studs; tie bars; tie clips; tie tacks; timepieces; watches; watches and jewellery; watches and jewelry; watches, clocks, jewelry and imitation jewelry; and wrist watches	12/31/2009	ITU

<p>MISS ME</p>	<p>77/903,524</p>	<p>009 – Cases for children's eye glasses; cases for eyeglasses and sunglasses; cases for spectacles and sunglasses; children's eye glasses; corrective glasses; eye glass cases; eye glasses; eyeglass frames; eyewear; eyewear accessories, namely, straps, neck cords and head straps which restrain eyewear from movement on a wearer; eyewear cases; reading eyeglasses; spectacle cases; spectacle frames; spectacle frames made of metal and of synthetic material; spectacle frames made of metal or a combination of metal and plastics; spectacle glasses; spectacles; spectacles and sunglasses; spectacles, frames and cases; and sun glasses</p>	<p>12/31/2009</p>	<p>ITU</p>
<p>MISS ME</p>	<p>77/950,845</p>	<p>024 – Afghans, bath linen, bath sheets, bath towels, beach towels, bed blankets, bed linen, bed sheets, bed skirts, bed spreads, blanket throws, children's blankets, children's towels, comforters, contour sheets, contoured mattress covers, curtains, dining linens, drapery, duvets, face cloths, face towels of textiles, felt and non-woven textile fabrics, hand towels, handkerchiefs, hooded towels, household linen, knitted fabrics, large bath towels, mattress covers, mattress pads, pillow cases, pillow shams, place mats of textile material, quilts, shower curtains, silk blankets, able linen, tea towels, terry towels, throws, washcloths, and woolen blankets</p>	<p>3/4/2010</p>	<p>ITU</p>

DO YOU MISS ME?	85/048,520	025 – Women’s apparel	5/26/2010	02/22/2007
DO YOU MISS ME?	85/050,158	003 – Cosmetics, namely, lipstick, lip gloss, lip balms, lip palettes, eye shadows, eye lining pencils, liquid eye liners, eye makeup, and mascara; and perfume 018 – Beach bags, tote bags, clutch purses, evening handbags, handbags, key cases, leather and imitation leather bags, wallets, purses, shoulder bags and wallets with card compartments	5/28/2010	ITU

4. A certified copy of each registration certificate for the registered trademarks listed above will be filed during Opposer’s testimony period. The trademarks that are the subject of Opposer’s registrations and applications for registration, as set forth above, shall hereinafter be referred to collectively as the “Miss Me Marks.”

5. Since 2001, Opposer has enjoyed substantial success selling articles of apparel and other products bearing the well-known Miss Me Marks in commerce in the United States, with sales of apparel products alone in the hundreds of millions of dollars.

6. During this same period, Opposer has heavily advertised, marketed, and promoted products bearing the Miss Me Marks throughout the United States, expending millions of dollars in advertising and sales promotion for apparel products alone.

7. As a result of Opposer’s extensive sales, advertising and promotion of products bearing the Miss Me Marks, and the substantial media coverage of such products, Opposer’s MISS ME mark has become famous in the United States, and has come to signify high-quality products originating from Opposer, and to symbolize goodwill of incalculable value.

8. Upon information and belief, on February 23, 2010, Applicants filed an application based on Section 1(b) of the Lanham Act to register the mark DO YOU MISS ME YET? in connection with “[a]pparel, namely, bandanas, handkerchiefs, shirts, jackets, coats, gloves, hats, t-shirts, sweat shirts, sweat jackets and sweat pants” in International Class 25. Such application was assigned Serial No. 77/942,874. Upon further information and belief, Applicants’ Mark was published for opposition in the *Official Gazette* on October 12, 2010.

9. Upon information and belief, Applicants have also filed applications, based on Section 1(b) of the Lanham Act, to register the mark DO YOU MISS ME YET? in connection with:

- a. All-purpose carrying bags, luggage, and luggage tags (Serial No. 77/942,671);
- b. Household linen (Serial No. 77/942,675);
- c. Novelty buttons and ornamental novelty bags (Serial No. 77/942,678);
- d. Clocks (Serial No. 77/942,653);
- e. Bumper stickers, calendars, note cards, paper stationery, postcards and greeting cards, and posters (Serial No. 77/942,667);
- f. Balloons, balls for games, and balls for sports (Serial No. 77/942,686);
- g. Beverage holders, namely, plastic cups, ceramic cups, glass cups, plastic mugs, ceramic mugs, glass mugs, insulated containers for beverage cans and bottles, and insulating sleeve holders for beverage cans and bottles; beverage glassware, dinnerware (Serial No. 77/942,882); and
- h. Magnets (Serial No. 77/942,649).

Opposer intends to oppose and/or seek cancellation of, in whole or in part, such additional applications to register the mark DO YOU MISS ME? filed by Applicants.

10. Applicants' Mark is confusingly similar to Opposer's famous MISS ME trademark and Opposer's Miss Me Marks, in that, as is the case with Opposer's marks, the distinctive words "Miss Me" are the primary focus of Applicants' Mark.

11. The goods for which Applicants seek to register Applicants' Mark are identical and/or closely related to goods for which Opposer has registered and used the Miss Me Marks.

12. Upon information and belief, Applicants' goods are marketed and/or will be marketed through the same channels of trade and to the same class of consumers as the goods of Opposer.

13. Prospective consumers of Applicants' goods are likely to erroneously believe that Applicants' goods are offered by or under the authority of Opposer, or to erroneously assume that there is some other connection between Opposer and Applicants.

14. Applicants' Mark so resembles Opposer's famous MISS ME mark and the Miss Me Marks such that when used on or in conjunction with the goods of Applicants:

- a. It is likely to cause confusion, or to cause mistake, or to deceive;
- b. It falsely suggests a connection with Opposer;
- c. It tends to damage Opposer's goodwill in the Miss Me Marks; and
- d. It is likely to dilute the distinctive qualities of the Miss Me Marks.

WHEREFORE, Opposer prays that the opposition be sustained and that registration of Applicants' Mark be refused.

The Commissioner is authorized to charge fees for the Notice of Opposition and any additional required fees to the undersigned firm's Deposit Account No. 502387.

Please recognize Louis S. Ederer, John Maltbie, and Maxwell C. Preston, who are members of the Bar of the State of New York and associated with the firm Arnold & Porter LLP, located at 399 Park Avenue, New York, New York 10022, as attorneys for Opposer.

Respectfully submitted,

ARNOLD & PORTER LLP

Dated: October 27, 2010

By:


Louis S. Ederer

John Maltbie

Maxwell C. Preston

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ATTORNEY FOR OPPOSER

Sweet People Apparel, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 27, 2010 a copy of the foregoing NOTICE OF OPPOSITION is being served upon Applicants, James Caridi at 8327 SW 17th Lane, Gainesville, Florida 32607, and Michael J. Maimone at 100-121 Baker Court, Island Park, New York 11558, and upon counsel for Applicants, G. Roxanne Elings, at Greenberg Traurig, LLP, 200 Park Avenue, New York NY 10166, the addresses designated by Applicants and said attorney for that purpose by depositing a true copy thereof with the United States Postal Service as First-Class Mail.

Dated: October 27, 2010



Maxwell C. Preston