

ESTTA Tracking number: **ESTTA375771**

Filing date: **10/28/2010**

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	RBR, LLC
Granted to Date of previous extension	10/31/2010
Address	4599 District Boulevard Vernon, CA 90058 UNITED STATES
Attorney information	STEVEN J SOLOMON PEARNE & GORDON LLP 1801 EAST 9TH STREET , SUITE 1200 CLEVELAND, OH 44114 UNITED STATES tmdocket@pearne.com,dklett@pearne.com,ssolomon@pearne.com Phone:2165791700

**Applicant Information**

Application No	77893626	Publication date	05/04/2010
Opposition Filing Date	10/28/2010	Opposition Period Ends	10/31/2010
Applicant	Kitty Likes to Scratch Productions, Inc. Ste 2040 11601 Wilshire Blvd. Los Angeles, CA 90025 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 014. All goods and services in the class are opposed, namely: Jewelry and costume jewelry, rings, bracelets, necklaces, tie bars, scarf rings, pendants, ear clips, tie clips, cufflinks of precious metal, earrings, key holders made of precious metals, brooches, lapel pins, clocks, watches, chronographs for use as watches, chronometers
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Mark Cited by Opposer as Basis for Opposition**

U.S. Application No.	77824894	Application Date	09/11/2009
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	THE BOYFRIEND
Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2008/07/00 First Use In Commerce: 2008/07/00 Jeans, pants

Attachments	77824894#TMSN.jpeg ( 1 page )( bytes ) DGRT-O1135-Notice Opposition-01-SJS.pdf ( 6 pages )(73267 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	/stevenjsolomon/
Name	STEVEN J SOLOMON
Date	10/28/2010

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

RBR, LLC

Opposer,

v.

KITTY LIKES TO SCRATCH  
PRODUCTIONS, INC.

Applicant.

Opposition No.: \_\_\_\_\_

Application No.: 77/893,626

Mark: BOYFRIEND

Appl'n Filed: December 15, 2009

Published: May 4, 2010

Trademark Trial and Appeal Board  
PO Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

Sir:

RBR, LLC (hereafter "RBR" or "Opposer"), believes it will be damaged by Kitty Likes to Scratch Productions, Inc.'s (hereinafter "KLTSP" or "Applicant") registration of the mark BOYFRIEND pursuant to application No. 77/893,626, and accordingly opposes the registration thereof. In support of its opposition, the Opposer avers as follows:

**Background**

1. The Applicant's mark in the '626 application was published for opposition on May 4, 2010. On June 2, 2010, Opposer timely filed a request for a 90-day extension of time to oppose registration of Applicant's mark (Docket No. 1). Opposer's request was granted, and the deadline for Opposer to file its Notice of Opposition was extended to September 1, 2010 (Docket No. 2). On August 25, 2010 and with the consent of the

Applicant, Opposer timely filed a request for a further 60-day extension of time to oppose registration of Applicant's mark (Docket No. 4). This request was granted, and the deadline for Opposer to file its Notice of Opposition was extended to October 31, 2010 (Docket No. 5). Accordingly, the present Notice of Opposition is timely filed by that date.

### **The Parties**

2. RBR is a limited-liability company organized and existing under the laws of the state of California, and has a principal place of business at 4599 District Boulevard, Vernon, California 90058.

3. On information and belief, Kitty Likes to Scratch Productions, Inc. is a corporation organized and existing under the laws of the state of California, and has a principal place of business at 11601 Wilshire Boulevard, Suite 2040, Los Angeles, California 90025.

### **Opposer's THE BOYFRIEND Mark**

4. Opposer is the owner of U.S. Trademark Application Serial No. 77/824,894 for THE BOYFRIEND in connection with "jeans, pants," in International Class 25.

5. The Opposer's '894 application was filed on September 11, 2009 under Section 1(a) of the Lanham Act (15 USC § 1051(a)) based on actual-use in commerce.

6. Opposer has used its THE BOYFRIEND mark on jeans and pants in U.S. commerce since at least as early as July, 2008.

7. Opposer also owns common-law rights in the mark THE BOYFRIEND in connection with jeans and pants based on its use of said mark in interstate commerce in the United States continuously since at least as early as July, 2008.

### **Applicant's BOYFRIEND Mark**

8. Applicant has filed U.S. Trademark Application serial No. 77/893,626 seeking to register the mark BOYFRIEND in connection with "jewelry and costume jewelry, rings, bracelets, necklaces, tie bars, scarf rings, pendants, ear clips, tie clips, cufflinks of precious metal, earrings, key holders made of precious metals, brooches, lapel pins, clocks, watches, chronographs for use as watches, chronometers," in International Class 14.

9. The Applicant's '626 application was filed on December 15, 2009 under Section 1(b) of the Lanham Act (15 USC § 1051(b)) on an intent-to-use basis.

10. On information and belief, Applicant has not used in commerce the BOYFRIEND mark that is the subject of its '626 application.

### **There Exists a Likelihood of Confusion Between Opposer's and Applicant's Marks**

11. Applicant's and Opposer's respective marks are essentially identical in sound, appearance and commercial impression. But for the article, THE, in Opposer's mark, the two marks are identical.

12. Applicant's and Opposer's respective goods will travel in the same or similar channels of trade, and will be marketed and sold to the same class of customers.

13. In particular, the Applicant's '626 application seeks to register BOYFRIEND in connection with numerous items of jewelry and clothing accessories (e.g. tie bars, scarf rings, pendants, tie clips, brooches and watches." These goods are closely related to the clothing articles sold in interstate commerce under the Opposer's mark.

14. Jewelry and accessories are routinely coordinated and sold together in sets with clothing articles. Such goods are also routinely sold together in the same stores to

customers who purchase them together to assemble a coordinated ensemble.

Accordingly, Applicant's and Opposer's goods will travel and be marketed through the same channels of trade, and will be encountered simultaneously by and sold to the same customers.

15. As a result of the similarity between Applicant's and Opposer's marks and between the goods in connection with which each is or will be used, there is a likelihood that U.S. consumers will be confused or deceived as to the source, origin, sponsorship or affiliation of Applicant's closely-related goods marked with its BOYFRIEND mark.

16. As a result of such confusion, those consumers will mistakenly believe that goods advertised or sold bearing the Applicant's BOYFRIEND mark are from or affiliated with or authorized by RBR, or related to RBR's THE BOYFRIEND branded goods.

17. Moreover, due to the similarity of the parties' marks and their respective goods, any perceived deficiency in quality or workmanship in goods sold under the Applicant's BOYFRIEND mark will be erroneously attributed to RBR.

### **Conclusion**

18. For at least the above reasons, the Opposer believes that it will be damaged should the Applicant's BOYFRIEND mark be permitted to register.

19. Opposer prays that registration be refused for the mark that is the subject of the '626 application for the goods specified therein, and that this opposition be sustained in favor of Opposer.

20. This Notice of Opposition is being filed electronically through the ESTTA system. The fee for opposing registration in one International Class is being paid on

filing through our Deposit Account. If any additional fees are required by the filing of this Notice of Opposition, or if the correct fee for opposing one Class was not paid on filing, then please charge all such fees to our Deposit Account No. 16-0820, and reference Order No. DGRT-O1135.

Respectfully submitted,

RBR, LLC

By: /stevenjsolomon/  
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*Attorneys for Opposer*

Certificate of Service

I hereby certify that on the date indicated below the foregoing Notice of Opposition was served on the Applicant via first-class mail, postage prepaid, in an envelope addressed as follows:

Jonathan Pollack, Esq.  
Morris Yorn Barnes and Levine  
2000 Avenue of the Stars, Fl 3  
Los Angeles, CA 90067-4700

Date: October 28, 2010

/stevenjsolomon/  
Steven J. Solomon  
*Attorney for Opposer*