

ESTTA Tracking number: **ESTTA390012**

Filing date: **01/25/2011**

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	Perfect Pearl & Stone, Inc. d/b/a Majestic Pearl Col		
Entity	Corporation	Citizenship	New York
Address	100 State Street Moonachie, NJ 07074 UNITED STATES		

Attorney information	Holly Pekowsky, Esq. Amster, Rothstein & Ebenstein LLP 90 Park Avenue New York, NY 10016 UNITED STATES ptodocket@arelaw.com Phone:212-336-8000		
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Applicant Information

Application No	85090958	Publication date	12/28/2010
Opposition Filing Date	01/25/2011	Opposition Period Ends	01/27/2011
Applicant	Majestic Pearl & Stone Inc. Floor 2 65 W 36th Street New York, NY 10018 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 1996/02/17 First Use In Commerce: 1996/02/17
All goods and services in the class are opposed, namely: Wholesale distributorships featuring pearls

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/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	MAJESTIC and MAJESTIC PEARL		
Goods/Services	JEWELRY		

Related Proceedings	Civil Action No. 10-CV-3998; Opposition No. 91197824; and Opposition No. 91198210
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Attachments	Notice of Opposition - TM - MAJESTIC - 85090958.pdf (4 pages)(145616 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 Overnight Courier on this date.

Signature	/Holly Pekowsky/
Name	Holly Pekowsky, Esq.
Date	01/25/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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PERFECT PEARL CO., INC. d/b/a/ MAJESTIC PEARL CO.,	:	
	:	
Opposer,	:	NOTICE OF OPPOSITION
	:	
v.	:	
	:	
MAJESTIC PEARL & STONE INC.,	:	
	:	
Applicant.	:	

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In the matter of U.S. Trademark Serial No. 85/090,958 for the trademark MAJESTIC for wholesale distributorships featuring pearls owned by Majestic Pearl & Stone Inc. (“Applicant”) alleging use since February 17, 1996 (the “Subject Application”).

As grounds for opposition of the above identified Subject Application, Opposer Perfect Pearl Co., Inc. d/b/a/ Majestic Pearl Co. (“Opposer”), by and through its attorneys, alleges as follows:

1. Opposer, a corporation organized and existing under the laws of the State of New York, having offices and places of business at 100 State Street, Moonachie, NJ 07074 and 389 5th Avenue, New York, New York, believes that it will be damaged by the registration of the Subject Application and hereby opposes the same.

2. Opposer has adopted, used and continues to use the inherently distinctive trade name, trademark and service marks MAJESTIC and MAJESTIC PEARL since 1986 in connection with the sale of jewelry (collectively, the “MAJESTIC Marks”).

3. Products sold under the MAJESTIC Marks are offered for sale and sold on the well known website, QVC.com, as well as other distribution channels.

4. Products sold under the MAJESTIC Marks have been promoted throughout the United States.

5. The MAJESTIC Marks have come to be known to the purchasing public throughout the United States as representing products of high quality, emanating from a single source. As a result thereof, the MAJESTIC Marks and the goodwill associated therewith have become assets of great value to Opposer.

6. By virtue of the renown acquired by the MAJESTIC Marks, the MAJESTIC Marks have developed a secondary meaning and significance in the minds of the purchasing public and products bearing such trademark are identified with a single source.

7. Long after Opposer commenced use of the MAJESTIC Marks, and long after the MAJESTIC Marks became well known to consumers, Applicant applied to register the Subject Application for the mark MAJESTIC (the "Infringing Mark"), alleging use since February 17, 1996.

8. By virtue of Opposer's use of the MAJESTIC Marks since 1986, Opposer has priority over the Subject Application both with respect to the filing date of the Subject Application, and the date of first use recited in the Subject Application.

9. The Infringing Mark is confusingly similar to the MAJESTIC Marks. The likelihood of confusion is exacerbated because the MAJESTIC Marks and the Infringing Mark are used in connection with pearls.

10. Based on the foregoing, the use and/or registration of the Infringing Mark by Applicant is likely to cause confusion and mistake in the minds of the purchasing public, and, in particular, will, upon information and belief, tend to falsely create the impression that the products sold under the Accused Mark are authorized, sponsored, or approved by Opposer when, in fact, they are not.

11. Accordingly, it is Opposer's belief that if Applicant is granted registration of the subject Application, Opposer will suffer irreparable harm and damage.

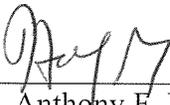
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WHEREFORE, Opposer respectfully requests that the mark shown in U.S. Trademark Application Serial No. 85/090,958 be refused registration and that this Opposition be sustained.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Opposer
Perfect Pearl Co., Inc. d/b/a/ Majestic Pearl Co.
90 Park Avenue
New York, New York 10016
(212) 336-8000

Dated: New York, New York
January 25, 2011

By: 

Anthony F. Lo Cicero
Holly Pekowsky

CERTIFICATE OF SERVICE

I hereby certify that true and complete copies of the foregoing NOTICE OF OPPOSITION have been served on Applicant by delivering said copies via Federal Express, overnight delivery, prepaid to Applicant and its attorney of record, as follows:

Applicant

Majestic Pearl & Stone Inc.
65 West 36th Street
2nd Floor
New York, NY 10018

Applicant's Attorney of Record

Jason R. Lee, Esq.
Lee, Lee & Associates, P.C.
2531 Jackson Road, Suite 234
Ann Arbor MI 48103

By: _____



Holly Pekowsky

Dated: January 25, 2011
New York, New York