

ESTTA Tracking number: **ESTTA398386**

Filing date: **03/16/2011**

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	Saman Saedi		
Entity	Individual	Citizenship	UNITED STATES
Address	9454 Wilshire Boulevard Suite 707, c/o Gay L. Harwin, Esq. Beverly Hills, CA 90212 UNITED STATES		

Attorney information	Scoitt W. Kelley KELLY LOWRY & KELLEY, LLP 6320 Canoga Avenue Suite 1650 Woodland Hills, CA 91367 UNITED STATES scott@KLKPatentLaw.com Phone:818-347-7900		
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Applicant Information

Application No	77959161	Publication date	03/08/2011
Opposition Filing Date	03/16/2011	Opposition Period Ends	04/07/2011
Applicant	Perez, Helena One Grove Isle Drive, Apt 1410 Miami, FL 33133 UNITED STATES		

Goods/Services Affected by Opposition

Class 040. All goods and services in the class are opposed, namely: Imprinting Christian themed messages on wearing apparel, accessories and mugs
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Grounds for Opposition

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)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3076501	Application Date	04/07/2005
Registration Date	04/04/2006	Foreign Priority Date	NONE
Word Mark	MADE IN HEAVEN		

Design Mark	MADE IN HEAVEN
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1997/07/01 First Use In Commerce: 1997/07/01 CLOTHING, NAMELY, TANK TOPS, T-SHIRTS, TUNICS, SHIRTS, DRESSES, PANTS, CAPRI PANTS, SKIRTS, JACKETS, CARDIGANS, SHAWLS AND SCARVES

Attachments	78603768#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (3 pages)(577308 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	/Scott W. Kelley/
Name	Scott W. Kelley
Date	03/16/2011

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

In the matter of

March 16, 2011

Trademark Application Serial No. 77/959,161
For the mark MADE IN HEAVEN BY NANI PEREZ
Published in the Official Gazette on March 8, 2011

Saman Saedi, Opposer

v.

Helena Perez, Applicant

NOTICE OF OPPOSITION

Trademark Trial and Appeal Board
Commissioner for Trademarks
P.O. Box 1451
Alexandria, Va 22313-1451

Commissioner:

Saman Saedi, having his principal place of business at c/o Gay L. Harwin, Esq., 9454 Wilshire Boulevard, Suite 707, Beverly Hills, CA 90212, believes that he will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is a manufacturer of clothing, all of which are sold and distributed throughout the world. Such products are sold in the United States under the MADE IN HEAVEN trademark.
2. Opposer is the owner of U.S. Trademark Registration No. 3,076,501 for MADE IN HEAVEN for use with clothing, namely, tank tops, t-shirts, tunics, shirts, dresses, pants, capri pants, skirts, jackets, cardigans, shawls and scarves. The MADE IN HEAVEN mark was first used in commerce at least as early as July 1, 1997, and first used anywhere at least as early as July 1, 1997.
3. As Opposer has developed extensive goodwill with respect to its MADE IN HEAVEN mark, and has expended substantial sums in the advertising and promotion of its products, and by its efforts and its considerable expenditures for promotional activities, Opposer has developed an extensive and valuable reputation for its MADE IN HEAVEN trademark.
4. On or about March 15, 2010, Helena Perez (hereinafter "Applicant") filed an "intent-to-use" trademark application to register the mark MADE IN HEAVEN BY NANI PEREZ for imprinting Christian themed messages on wearing apparel, accessories and mugs, in International Class 40. The application was assigned Serial No. 77/959,161. Said trademark application was published in the Official Gazette of the U.S. Patent and Trademark Office on March 8, 2011.
5. Opposer believes that Applicant is attempting to benefit from the goodwill already established by Opposer in its mark, by using a mark for its goods which so closely resembles Opposer's mark so as to cause a likelihood of confusion and to confuse the purchasing public to believing that it is purchasing goods provided and/or sponsored by Opposer. Opposer is therefore informed and believes that Applicant's proposed mark is likely to confuse Opposer's customers, potential customers and the public generally in relation to its above-mentioned MADE IN HEAVEN mark.
6. By virtue of its efforts, and the expenditure of considerable sums for promotional activities, as well as the excellence of the quality of its products, Opposer has gained a valuable reputation through its above-identified MADE IN HEAVEN mark. Opposer's MADE IN HEAVEN mark is famous within the meaning of 14 UCC Section 1125(c).
7. Opposer is informed and believes that Applicant's use or intended use of the mark MADE IN HEAVEN BY NANI PEREZ began long after Opposer's MADE IN HEAVEN mark, which has become famous, and will dilute the strength of Opposer's mark by lessening the capacity of Opposer's mark to identify and distinguish Opposer's goods and services.

8. Opposer has not and does not consent in any way to Applicant's proposed use or registration of the alleged trademark.

WHEREFORE, Opposer respectfully requests that the registration of Applicant's mark under the above-identified application be refused and that this Opposition be sustained.

Respectfully submitted,

KELLY LOWRY & KELLEY, LLP

/Scott W. Kelley, Reg. No. 30762/

Scott W. Kelley
Attorney for Opposer

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