

ESTTA Tracking number: **ESTTA398803**

Filing date: **03/18/2011**

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	St. Eve Komar Acquisition, LLC		
Entity	Limited Liability Company	Citizenship	New York
Address	16 East 34th Street New York,, NY 10018 UNITED STATES		

Attorney information	Stephen L. Baker Baker and Rannells, PA 575 Route 28 Raritan, NJ 08869 UNITED STATES n.friedman@br-tmlaw.com,d.comunale@br-tmlaw.com,K.Hnasko@br-tmlaw.com,officeactions@br-tmlaw.com Phone:908-722-5640		
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Applicant Information

Application No	85081527	Publication date	03/15/2011
Opposition Filing Date	03/18/2011	Opposition Period Ends	04/14/2011
Applicant	CHO, KYU-HAK NA-G01 BEOLJANG VILLA 50-43 GAEBONG-DONG, GURO-GU SEOUL, KOREA, REPUBLIC OF		

Goods/Services Affected by Opposition

Class 025. First Use: 2010/02/19 First Use In Commerce: 2010/02/19 All goods and services in the class are opposed, namely: Brassieres; adhesive bras; mini bras; undergarment accessories, namely, removable buttock enhancer pads
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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.	1290132	Application Date	10/06/1980
Registration Date	08/14/1984	Foreign Priority Date	NONE
Word Mark	MS. EVE		

Design Mark	MS.EVE		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1980/08/26 First Use In Commerce: 1980/08/26 Men's and Children's Undergarments; and Women's Undergarments-Namely, Panties, Bras, Lingerie, Slips and Nightgowns		

U.S. Registration No.	1375960	Application Date	03/30/1984
Registration Date	12/17/1985	Foreign Priority Date	NONE
Word Mark	INTIMATE EVE		
Design Mark	<i>Intimate Eve</i>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1983/01/15 First Use In Commerce: 1983/01/15 LADIES' AND CHILDREN'S LINGERIE AND SLEEPWEAR, NAMELY, PANTIES, BRAS, SLIPS, NIGHTGOWNS AND PAJAMAS		

U.S. Registration No.	1378156	Application Date	10/17/1983
Registration Date	01/14/1986	Foreign Priority Date	NONE
Word Mark	ST. EVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1976/04/05 First Use In Commerce: 1976/04/05 WOMEN'S AND GIRLS' PANTIES, BRAS, TANK TOPS, BODY SUITS, SLEEP SHIRTS, PAJAMAS AND SWEAT SUITS		

U.S. Registration No.	1998430	Application Date	11/01/1995
Registration Date	09/03/1996	Foreign Priority Date	NONE
Word Mark	INVISIBLES BY ST. EVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1994/07/01 First Use In Commerce: 1994/07/01 women's and girls' panties, bras, tank tops, body suits, sleep shirts, pajamas, sweat suits		

U.S. Application No.	85116452	Application Date	08/26/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	PRINCESS EVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2003/01/00 First Use In Commerce: 2003/01/00 ladies' sleepwear, namely, nightgowns and pajamas; children's underwear and sleepwear, namely, panties, bras, nightgowns and pajamas		

U.S. Application No.	77911976	Application Date	01/14/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ST. EVE KIDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 020. First use: sleeping bags, bed pillows Class 024. First use: children's bedding, namely, blankets; bath towels Class 025. First use: children's clothing, namely, sleepwear, flame resistant sleepwear, thermal underwear, underwear, tank tops, undershirts, camisoles, boxer shorts, bras, sweat suits, hosiery; socks; shower wraps, swimsuits; footwear, namely, bath slippers; children's layette, namely, one-piece underwear suits, rompers, and union suits		

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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	/Stephen L. Baker/
Name	Stephen L. Baker
Date	03/18/2011

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

ST. EVE KOMAR ACQUISITION, LLC,	Opp. No.	_____
Opposer,	Mark:	EVE'S BRA
v.	Serial No.	85081527
KYU-HAK CHO	Filed:	July 9, 2010
Applicant.		

NOTICE OF OPPOSITION
PURSUANT TO 15 U.S.C. § 1063

Opposer, St. Eve Komar Acquisition, LLC, by its attorneys Baker and Rannells, PA, alleges on knowledge as to its own acts and otherwise on information and belief and as grounds for opposition as follows:

1. Opposer believes that allowing Application Serial No. 85081527 for the mark EVE'S BRA in International Class 25 to proceed to registration will cause Opposer damage.
2. Opposer, St. Eve Komar Acquisition, LLC, is a limited liability company organized and existing under the laws of the State of New York, doing business at 16 East 34th Street, New York, NY 10018.
3. Applicant, Kyu-Hak Cho, is an individual residing at NA-G01 Beoljang Villa 50-43 Gaebong-Dong, Guro-Gu, Seoul, Republic of Korea.
4. On July 9, 2010, Applicant filed an Application, namely Serial No. 85081527 for the mark EVE'S BRA ("Applicant's Mark"), as a trademark for "brassieres; adhesive bras; mini bras; undergarment accessories, namely, removable buttock enhancer pads" in International

Class 25 (“Applicant’s Goods”), which was published for opposition in the Official Gazette on March 15, 2011.

5. Opposer is the owner of a number of trademark registrations and applications for EVE based marks and variations thereof (hereinafter “Opposer's Marks”) in International Class 25 as trademarks, and as service marks, including the following:

<u>MARK</u>	<u>Trademark Reg. No./Serial No.</u>
MS. EVE	1,290,132
INTIMATE EVE	1,375,960
ST. EVE	1,378,156
INVISIBLES BY ST. EVE	1,998,430
PRINCESS EVE	85116452
ST. EVE KIDS	77911976

Hereinafter the goods and services recited in Opposer’s Marks and registrations are referred to collectively as “Opposer’s Goods and Services.”

6. Opposer’s Goods and Services have been offered for sale and sold throughout the United States under Opposer’s Marks.

7. Opposer is now and has been for many years trading as and known by Opposer's Marks, identifying Opposer as the source of quality clothing products.

8. Applicant’s Goods are the same or substantially related to Opposer’s Goods and Services and/or are within Opposer’s natural progression of goods and services and channels of trade.

9. Opposer is now and has been, for many years prior to any date which may be claimed by Applicant, engaged in the use of Opposer’s Marks for Opposer’s Goods and Services.

10. Since long prior to any date which may be claimed by Applicant, Opposer on its own behalf has been, and is now engaged in the sale of quality clothing products and other goods and services under Opposer's Marks in interstate commerce.

11. The use by Opposer of Opposer's Marks for Opposer's Goods and Services alleged herein is long prior to any date which may be lawfully claimed by Applicant, and Opposer has priority.

12. It is presumed that Applicant distributes Applicant's Goods through the same channels of trade as Opposer and as a result Applicant is now, or will be, directing its respective goods and services to the same ultimate consumer as Opposer.

13. Opposer's Marks and Applicant's Mark are substantially identical and confusingly similar when applied to the goods of the parties.

14. The goods and services of Applicant and Opposer are the same or substantially similar or within Opposer's natural progression of goods and services and channels of trade and Applicant's use of Applicant's Mark in connection with such goods and services is without the consent or permission of Opposer.

15. Since Opposer owns Opposer's Marks by virtue of prior use, confusion, mistake or deception as to the source of origin of the goods will arise and will injure and damage the Opposer and its goodwill.

16. The registration of Applicant's Mark to Applicant will cause the relevant purchasing public to erroneously assume and thus be confused, misled, or deceived, that Applicant's Goods are made by, licensed by, controlled by, sponsored by, or in some way connected, related or associated with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), all to Opposer's irreparable damage.

17. Issuance of registration for Applicant's Mark to Applicant would create a cloud on Opposer's rights to use Opposer's Marks for Opposer's Goods and Services.

WHEREFORE, Opposer prays that the application for registration of Applicant's Mark, Serial No. 85081527 be denied and that this Opposition be sustained.

Dated: March 18, 2011

Respectfully submitted for
St. Eve Komar Acquisition, LLC

By: / Neil B. Friedman/
Stephen L. Baker
Neil B. Friedman
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Opposer's Notice of Opposition was forwarded by first class postage prepaid mail by depositing the same with the U.S. Postal Service on this 18th day of March, 2011 to Counsel for the Applicant at the following address:

John C. Nishi, Esq.
Dickinson Wright, PLLC
1875 Eye St NW Ste 1200
Washington, DC 20006-5420

/ Neil B. Friedman/
Neil B. Friedman