

ESTTA Tracking number: **ESTTA515987**

Filing date: **01/14/2013**

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	Forever 21, Inc.
Granted to Date of previous extension	03/20/2013
Address	3880 N. Mission Rd. Los Angeles, CA 90031 UNITED STATES

Correspondence information	Forever 21, Inc. 3880 N. Mission Rd. Los Angeles, CA 90031 UNITED STATES dana.a@forever21.com, alejandra.s@forever21.com
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**Applicant Information**

Application No	85659218	Publication date	11/20/2012
Opposition Filing Date	01/14/2013	Opposition Period Ends	03/20/2013
Applicant	Cherry Stix Ltd. Rm 1503 1407 Broadway New York, NY 10018 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. First Use: 2012/01/01 First Use In Commerce: 2012/01/01 All goods and services in the class are opposed, namely: Blouses; Dresses; Pullovers; Shirts; Sweaters; Sweatshirts
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**Grounds for Opposition**

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 No.	2858425	Application Date	01/16/2002
Registration Date	06/29/2004	Foreign Priority Date	NONE
Word Mark	XXI FOREVER		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 003. First use: First Use: 2001/08/03 First Use In Commerce: 2001/08/03 Cosmetics</p> <p>Class 009. First use: First Use: 2001/08/03 First Use In Commerce: 2001/08/03 Eyewear, namely, sunglasses</p> <p>Class 014. First use: First Use: 2001/08/03 First Use In Commerce: 2001/08/03 Jewelry, namely, bracelets, earrings, necklaces, rings and watches</p> <p>Class 018. First use: First Use: 2001/08/03 First Use In Commerce: 2001/08/03 Handbags</p> <p>Class 025. First use: First Use: 2001/08/03 First Use In Commerce: 2001/08/03 Clothing, namely, pants, shirts, jackets, skirts, dresses, gowns, scarfs, belts, robes, pajamas, vests and hats; tube tops, tank tops, corsets, bras, underwear, shoes, and shawls</p> <p>Class 035. First use: First Use: 2001/08/03 First Use In Commerce: 2001/08/03 Retail store services featuring cosmetics; eyewear, namely, sunglasses; jewelry, namely, bracelets, earrings, necklaces, rings and watches; accessories, shoes, handbags; and clothing, namely, pants, shirts, jackets, skirts, dresses, gowns, scarfs, belts, robes, pajamas, vests and hats; tube tops, tank tops, corsets, bras, underwear and shawls</p>

U.S. Registration No.	4022660	Application Date	02/11/2011
Registration Date	09/06/2011	Foreign Priority Date	NONE
Word Mark	FOREVER 21		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 2001/10/01 First Use In Commerce: 2001/10/01		

	Bracelets; Charms; Earrings; Necklaces; Rings		
U.S. Registration No.	3900668	Application Date	06/01/2010
Registration Date	01/04/2011	Foreign Priority Date	NONE
Word Mark	F21		
Design Mark			
Description of Mark	The mark consists of Stylized logo design, consisting of the letter "F", number "2", and number "1" in a pre-determined arrangement.		
Goods/Services	Class 025. First use: First Use: 2008/12/15 First Use In Commerce: 2008/12/15 Boots; Footwear; Heels; Sandals; Shoes; Slippers		
U.S. Registration No.	2913132	Application Date	11/17/2003
Registration Date	12/21/2004	Foreign Priority Date	NONE
Word Mark	FOREVER 21		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1998/03/01 First Use In Commerce: 1998/03/01 RETAIL STORE SERVICES FEATURING COSMETICS; EYEWEAR, NAMELY, SUNGLASSES; JEWELRY, NAMELY, BRACELETS, EARRINGS, NECKLACES, RINGS AND WATCHES; ACCESSORIES, SHOES, HANDBAGS; AND CLOTHING, NAMELY, PANTS, SHIRTS, JACKETS, SKIRTS, DRESSES, SWEATERS, HATS, GOWNS, SCARFS, BELTS, ROBES, PAJAMAS, VESTS AND HATS; TUBE TOPS, TANK TOPS, CORSETS, BRAS, UNDERWEAR AND SHAWLS		
U.S. Registration No.	2067637	Application Date	03/14/1995

Registration Date	06/03/1997	Foreign Priority Date	NONE
Word Mark	FOREVER 21		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1989/03/01 First Use In Commerce: 1995/10/11 retail store services featuring clothing and accessories, jewelry, handbags, and wallets		

U.S. Registration No.	2583457	Application Date	07/07/2000
Registration Date	06/18/2002	Foreign Priority Date	NONE
Word Mark	FOREVER 21		
Design Mark	<b>FOREVER 21</b>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2001/01/04 First Use In Commerce: 2001/01/04 Men's, women's and children's clothing, namely, t-shirts, shirts, blouses, pants, shorts, skirts, dresses, vests, sweaters, jackets and coats		

U.S. Registration No.	2836546	Application Date	03/26/2003
Registration Date	04/27/2004	Foreign Priority Date	NONE
Word Mark	FOREVER 21		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2002/06/19 First Use In Commerce: 2002/06/19 Cosmetics		

U.S. Registration No.	3689946	Application Date	10/22/2007
Registration Date	09/29/2009	Foreign Priority Date	NONE
Word Mark	FOREVER STATIONERY		

Design Mark	<b>FOREVER STATIONERY</b>
Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 2008/01/10 First Use In Commerce: 2008/01/10 Address books, diaries

Attachments	76359489#TMSN.gif ( 1 page )( bytes ) 85240534#TMSN.jpeg ( 1 page )( bytes ) 85052199#TMSN.jpeg ( 1 page )( bytes ) 78328871#TMSN.jpeg ( 1 page )( bytes ) 76085191#TMSN.gif ( 1 page )( bytes ) 77310222#TMSN.jpeg ( 1 page )( bytes ) Forever Cute! Opposition.pdf ( 6 pages )(71036 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	/Dana Arak/
Name	Forever 21, Inc.
Date	01/14/2013

Attorney Docket: 12-5125  
Mark: FOREVER CUTE!, Application Serial No 85/659218

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**  
**IN RE SERIAL NO. 85/659218**

FOREVER21, INC.,	)	Opposition No.:
	)	
Opposer,	)	
	)	
vs.	)	
	)	
CHERRY STIX LTD.,	)	
	)	
Applicant.	)	
_____	)	

**NOTICE OF OPPOSITION**

VIA Electronic Filing  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Dear Sir or Madam:

In the matter of the application of CHERRY STIX LTD., of New York State (hereinafter “Applicant”) for registration of the trademark FOREVER CUTE!, Application Serial No 85/659218, published in the Official Gazette of November 20, 2012. FOREVER 21, INC., a Delaware corporation with offices at 3880 N. Mission Rd., Los Angeles, CA 90031 (hereinafter “Opposer”), believes that it will be damaged by registration of the mark shown in Application Serial No 85/659218 and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is and has been for many years engaged in extensive development, advertising, and marketing of a variety of wearing apparel and accessories including, but not limited to, shirts, dresses, sweatsuits, hats, shorts, skirts, footwear, jewelry, sunglasses and eyeglasses, tote and duffle bags, skin cleansing soaps and gels, towels, sporting goods, address books and diaries, and retail store services. In connection therewith, Opposer has used, filed, or registered several federal applications with an intent to use and/or continue to use, in interstate commerce, including the marks FOREVER 21, XXI FOREVER, FOREVER STATIONARY, and F21 (hereinafter collectively referred to as the FOREVER TRADEMARKS) for the aforementioned goods since long prior to Applicant's filing date of the Application Serial No 85/659218 for the mark FOREVER CUTE!.

2. Since at least as early as 1989, Opposer has made use its FOREVER 21 trademarks throughout the United States in interstate commerce. Since adoption of its FOREVER 21 trademarks, Opposer has continuously used those marks throughout the United States in interstate commerce.

3. Since at least as early as 2001, Opposer has made use of its XXI FOREVER trademarks throughout the United States in interstate commerce. Since adoption of its XXI FOREVER trademarks, Opposer has continuously used those marks throughout the United States in interstate commerce.

4. Since at least as early as 2008, Opposer has made use of its FOREVER STATIONARY trademarks throughout the United States in interstate commerce. Since adoption of its FOREVER STATIONARY trademarks, Opposer has continuously used those marks throughout the United States in interstate commerce.

5. Since at least as early as 2001, Opposer has made use of its XXI FOREVER trademarks in International Class 25 for clothing and accessories, including shoes, throughout the United States in interstate commerce. Since adoption of its XXI FOREVER trademarks, Opposer has continuously used those marks throughout the United States in interstate commerce. Opposer has obtained United States Trademark Registration No. 2858425, registered June 29, 2004, for the goods and services set forth in that registration

6. Since at least as early as 2001, Opposer has made use its FOREVER 21 trademark in International Class 14 for bracelets, charms, earrings, necklaces, and rings throughout the United States in interstate commerce. Since adoption of its FOREVER 21 International Class 14 trademark, Opposer has continuously used the mark throughout the United States in interstate commerce. Opposer has obtained United States Trademark Registration No. 4022660, registered September 6, 2011, for the goods and services set forth in that registration.

7. Since at least as early as 2008, Opposer has made use of its F21 trademarks in International Class 25 for boots, footwear, heels, sandals, shoes, and slippers throughout the United States in interstate commerce. Since adoption of its F21 trademarks, Opposer has continuously used those marks throughout the United States in interstate commerce. Opposer has obtained United States Trademark Registration No. 85052199, registered January 4, 2011, for the goods and services set forth in that registration

8. Since at least as early as 1998, Opposer has made use its FOREVER 21 trademark in International Class 35 for retail stores featuring clothing and accessories, including shoes throughout the United States in interstate commerce. Since adoption of its FOREVER 21 International Class 35 trademark, Opposer has continuously used the mark throughout the

United States in interstate commerce. Opposer has obtained United States Trademark Registration No. 2913132, registered December 21, 2004, for the goods and services set forth in that registration.

9. Opposer has expended considerable sums in exerting every effort to maintain the highest standard of quality for its products, and has created goodwill among the purchasing public under its FOREVER TRADEMARKS.

10. As a result of the continuous and extensive use of the FOREVER TRADEMARKS by Opposer, those marks have become and continue to function as a valuable business and marketing asset of Opposer, and serve to indicate to the trade and consuming public the products originating from Opposer and its authorized representative.

11. Opposer has obtained United States Trademark Registration no. 2067637, registered June 3, 1997, for the mark FOREVER 21 for the goods and/or services set forth in that registration.

12. Opposer has obtained United States Trademark Registration no. 2583457, registered June 18, 2002, for the mark FOREVER 21 for the goods and/or services set forth in that registration.

13. Opposer has obtained United States Trademark Registration no. 2836546, registered April 27, 2004, for the mark FOREVER 21 for the goods and/or services set forth in that registration.

14. Opposer has obtained United States Trademark Registration no. 3689946, registered September 29, 2009, for the mark FOREVER STATIONARY for the goods and/or services set forth in that registration.

15. These registrations are valid and subsisting and constitute prima facie evidence of the validity of the marks and registrations, and of Opposer's ownership and exclusive right to use its FOREVER TRADEMARKS in connection with the services set forth in the registrations. The registrations also provide constructive notice of Opposer's ownership of its FOREVER TRADEMARKS.

16. Further, Opposer has the intent to use in interstate commerce the mark FOREVER 18 as indicated in Application Serial Nos. 85/120852 and 85/120785 for the goods and/or services set forth in those applications, both filed September 1, 2010.

17. Notwithstanding Opposer's rights in and to said FOREVER TRADEMARKS, Applicant, on information and belief, filed an application for registration of FOREVER CUTE! on June 22, 2012. Said application was published for opposition in the Official Gazette of November 20, 2012.

18. Applicant's FOREVER CUTE! mark is confusingly similar to Opposer's FOREVER TRADEMARKS and its registration and use by Applicant on the goods claimed in the subject application is likely to cause confusion, deception, and mistake pursuant to section 2(d) of the Lanham Act, as amended, 15 U.S.C. § 1052(d).

19. Applicant's use of the mark FOREVER CUTE! interferes with Opposer's use of its FOREVER TRADEMARKS and registration of the mark FOREVER CUTE! by Applicant will seriously damage Opposer.

20. As a result of Opposer's extensive promotion of its goods and services under the FOREVER TRADEMARKS and the commercial success of those goods and services, Opposer's FOREVER TRADEMARKS are famous marks. Opposer's FOREVER TRADEMARKS became famous well prior to the filing of the application for FOREVER

CUTE! by Applicant. Applicant's application for the mark FOREVER CUTE!, if allowed to proceed to registration, would cause dilution of the distinctive quality of Opposer's famous FOREVER TRADEMARKS pursuant to section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

WHEREFORE, Opposer believes that it will be damaged by said registration and prays that registration of the mark FOREVER CUTE! to Applicant be denied.

DATE: January 14, 2013

Respectfully submitted,

s:/Dana Arak

Dana Arak  
In-house Counsel  
Forever 21, Inc.