

ESTTA Tracking number: **ESTTA534589**

Filing date: **04/26/2013**

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	MichelleSavitt
Granted to Date of previous extension	04/27/2013
Address	12 East 86th StreetApt 429 New York, NY 10028 UNITED STATES

Correspondence information	MichelleSavitt 12 East 86th StreetApt 429 New York, NY 10028 UNITED STATES michellesavitt@gmail.com Phone:310-986-0015
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Applicant Information

Application No	85721117	Publication date	02/26/2013
Opposition Filing Date	04/26/2013	Opposition Period Ends	04/27/2013
Applicant	Janis Savitt Apt. 12B 200 West 58th Street New York, NY 10019 UNITED STATES		

Goods/Services Affected by Opposition

Class 014. All goods and services in the class are opposed, namely: Jewelry
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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.	3022631	Application Date	08/09/2004
Registration Date	12/06/2005	Foreign Priority Date	NONE
Word Mark	M+J SAVITT		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 014. First use: First Use: 1972/10/00 First Use In Commerce: 1972/10/00 jewelry		
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U.S. Application No.	85852617	Application Date	02/18/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	S M & J SAVITT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 1984/03/01 First Use In Commerce: 1984/05/01 Jewelry		

U.S. Application No.	85852669	Application Date	02/18/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SAVITT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 1984/03/01 First Use In Commerce: 1984/03/01 Jewelry		

Attachments	SKMBT_C36013042614160.pdf (3 pages)(972621 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	/Michelle Savitt/
Name	MichelleSavitt
Date	04/26/2013

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

In the matter of trademark application Serial Number ... 85721117

For the mark: ... JANIS BY JANIS SAVITT

Published in the Official Gazette on: ... February 26, 2013

MICHELLE SAVITT

v.

JANIS SAVITT

NOTICE OF OPPOSITION

MICHELLE SAVITT, 12 E. 86th St. # 429 New York, NY 10028

The above-identified Opposer believes that she 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:

FACTS:

1. The Opposer, Michelle Savitt, and the Applicant, Janis Savitt, are Shareholders, Officers and Directors of a New York corporation formed in 1972, named M+J Savitt, Inc.
2. For many years the Opposer and the Applicant worked as Officers, Employees, and jewelry designers for the said corporation.
3. In the four decades since its founding in 1972, M+J Savitt, Inc. has become one of the leading names in designing, manufacturing and wholesaling fine and semi-precious designer jewelry. Its clients included names such as Cartier, Michael Kors, and Ralph Lauren, and its own brands were carried by retailers such as Nieman Marcus, Bergdorf Goodman, Saks Fifth Avenue, Barneys New York and other specialty and high-end retailers.

LIKELIHOOD OF CONFUSION WITH REGISTERED TRADEMARK

4. The said corporation M+J Savitt, Inc. owns a trademark *M+J Savitt* which has been continuously used in jewelry trade since 1972.

5. The said trademark *M+J Savitt* was duly registered in 2005, Serial Number 76606395, Registration Number 3022631.

6. The Applicant's mark pertains to the same class of goods and contains the same surname. Moreover, "J" in the trademark *M+J Savitt* means "Janis Savitt". Thus, the registered mark is known to be associated with Janis Savitt.

7. Since the goods are identical and the marks are very similar, registration of the Applicant's mark will inevitably create confusion among consumers as to the source of the goods.

LIKELIHOOD OF CONFUSION WITH COMMON LAW TRADEMARKS

8. Aside from the Mark, Registrant owned two other registered marks: *Savitt* (Serial Number 76548233, Registration Number 2941210) and *S M + J Savitt* (Serial Number 76606395, Registration Number 3022631).

9. At some point, the Applicant decided to start a competing business venture and devised a comprehensive scheme of deception designed to maximize all advantages she could derive from M+J Savitt, Inc. before revealing her competitive plans.

10. On October 31, 2006, the Applicant, while an Officer and Director of M+J Savitt, Inc. and without consent from said corporation, applied in her individual name for registration of the trademark *Janis Savitt*, Serial Number 77033657.

11. Said application was refused by the USPTO Examining Attorney on the grounds that the mark sought was likely to be confused with M+J Savitt, Inc. registered trademarks and would infringe on the corporation vested trademark rights.

12. The Applicant, acting alone or in concert with others, appears to have allowed two registered marks *S M+J Savitt* and *Savitt* to be cancelled in order to reapply for her own mark.

13. The law firm of Stephen E. Feldman, P.C. had been retained to file Declarations of Use under Section 8 and Declarations of Incontestability under Section 15 for all three marks.

14. Said law firm of Stephen E. Feldman, P.C. failed to duly file said Declarations by filing an improper specimen in all three cases and not correcting said error.

15. As a result of said failure, the marks *Savitt* and *S M + J Savitt* were cancelled.

16. Said law firm of Stephen E. Feldman, P.C. was duly discharged for allowing the marks *Savitt* and *S M + J Savitt* to be cancelled.

17. After said cancellations of the marks *Savitt* and *S M+J Savitt*, the Applicant Janis Savitt applied for the mark *Janis by Janis Savitt* in question believing that now there were no other obstacles to registration of her own mark.

18. The Applicant effectively usurped management of M+J Savitt, Inc. and prevented the Opposer from day-to-day operations of the corporation. The Opposer was not informed of cancellations of the *Savitt* and *S M+J Savitt* marks

19. The Applicant's misrepresentations, deceptive acts, and unfair competition with M+J Savitt, Inc. led to a legal action by M+J Savitt, Inc. and Michelle Savitt against her and her accomplices filed in the Supreme Court of the State of New York, New York County.

20. M+J Savitt, Inc. continued using marks *Savitt* and *S M + J Savitt* in trade after cancellation of their registrations and possesses common law rights in these trademarks.

21. The mark *M + J Savitt* was cancelled on January 29, 2013.

22. The Registrant of the mark, M+J Savitt, Inc. duly petitioned the Director of the USPTO for revival of the mark *M + J Savitt*.

23. Said Petition was granted on March 21, 2013, and *M + J Savitt* was reinstated on March 26, 2013.

24. On March 18, 2013 M+J Savitt, Inc. reapplied for federal registration of said marks *Savitt* and *S M + J Savitt*.

25. The Applicant's mark pertains to the same class of goods and contains the same surname. Moreover, "J" in the trademark *S M+J Savitt* means "Janis Savitt". Thus, the registered mark is known to be associated with Janis Savitt.

26. Since the goods are identical and the marks are very similar, registration of the Applicant's mark will inevitably create confusion among consumers as to the source of the goods.

Respectfully Submitted April 26, 2013

Michelle Savitt - April 26, 2013

Michelle Savitt

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