

ESTTA Tracking number: **ESTTA558939**

Filing date: **09/11/2013**

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	Just Cuts Franchising Pty Ltd
Granted to Date of previous extension	09/11/2013
Address	21st Floor, 4-6 The Kingsway, Cronulla Sydney, NSW 2230 AUSTRALIA

Attorney information	Mark Sommers Finnegan, Henderson, Farabow, Garrett & Dunner, LLP 901 New York Avenue, NW Washington, DC 20001 UNITED STATES mark.sommers@finnegan.com, docketing@finnegan.com, judy.valusek@finnegan.com, jacob.mersing@finnegan.com
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Applicant Information

Application No	85802384	Publication date	05/14/2013
Opposition Filing Date	09/11/2013	Opposition Period Ends	09/11/2013
Applicant	Juscuts, Inc. 300 Wai Nani Way, Apt. 1104 Honolulu, HI 96815 UNITED STATES		

Goods/Services Affected by Opposition

Class 044. All goods and services in the class are opposed, namely: Hair salon services; Beauty salon services; Nail care salons; Skin care salons

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	JUSTCUTS		
Goods/Services	hairdressing and beauty salon franchise services		

Attachments	Notice of Opposition.pdf(282556 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	/Mark Sommers/
Name	Mark Sommers
Date	09/11/2013

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

<p>JUST CUTS FRANCHISING PTY. LTD.</p> <p style="text-align: center;">Opposer</p> <p style="text-align: center;">v.</p> <p>JUSCUTS, INC.,</p> <p style="text-align: center;">Applicant.</p>	<p>Opposition No.</p> <p>Mark: JUSCUTS Serial No.: 85802384 Filing Date: December 13, 2012</p>
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NOTICE OF OPPOSITION

Just Cuts Franchising Pty Ltd, a proprietary limited company organized under the laws of Australia, having a business address at 21st Floor, 4-6 The Kingsway, Cronulla, Sydney, NSW 2230, Australia, (“Opposer”) believes that it is being and will be damaged by Juscuts, Inc.’s (“Applicant”) registration of the above-identified mark.

As grounds for opposition, Opposer alleges that, upon actual knowledge with respect to its own acts, and upon information and belief as to other matters:

Opposer and its Business

1. Opposer operates one of the largest hairdressing and beauty salon franchises in the world under the trademark JUSTCUTS. Since opening its first franchised salon in Australia in 1990, Opposer has grown to an international network of 175 salons that employs over 1,500 hairdressers.

2. The goodwill, reputation, and fame of the JUSTCUTS trademark and franchise system extends worldwide, including to the United States.

Applicant and its Application

3. Juscuts, Inc. is the listed owner of intent-to-use Application Serial No. 85802384, filed on December 13, 2012, for the mark JUSCUTS for “hair salon services; beauty salon services; nail care salons; skin care salons” in Class 44.
4. Upon information and belief, Applicant was aware of the prior reputation and fame of Opposer’s JUSTCUTS mark for hairdressing and beauty salon franchise services when Applicant filed its application for JUSCUTS.
5. Upon information and belief, Applicant intends to trade off the valuable goodwill that Opposer has established in its JUSTCUTS mark.
6. On December 13, 2012, Applicant’s counsel signed the verified declaration under 18 U.S.C. Section 1001 in support of the application as shown below.

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Raj Abhyanker/ Date: 12/13/2012
Signatory's Name: Raj Abhyanker
Signatory's Position: Attorney of record, CA bar member
RAM Sale Number: 6156
RAM Accounting Date: 12/14/2012

Serial Number: 85802384
Internet Transmission Date: Thu Dec 13 18:15:46 EST 2012
TEAS Stamp: USPTO/BAS-27.251.65.162-2012121318154665
4193-85802384-490e697e3d6f648c8b18ec9c38
a7295fe2f-CC-6156-20121213180720290243

7. Applicant’s counsel declared, under penalty of fine or imprisonment, that he believes that Applicant is entitled to use the JUSCUTS mark in commerce; and that “no other person, firm, corporation, or association has the right to use the mark in

commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive.”

Count 1: Likelihood of Confusion, 15 U.S.C. § 1052(d)

8. Opposer repeats and realleges each and every allegation set forth above.

9. The worldwide renown of Opposer’s JUSTCUTS mark existed well before the filing date of the opposed application and any date of first use that may be alleged by Applicant.

10. Applicant’s mark JUSCUTS is virtually identical visually and aurally to Opposer’s prior-used JUSTCUTS mark. In addition, the services covered by the opposed application are virtually identical to the services offered under Opposer’s well-known and prior-used JUSTCUTS mark.

11. Opposer’s JUSTCUTS mark is well-known and entitled to a wide latitude of legal protection.

12. In view of the substantial similarity of the parties’ marks and the identical and/or closely related nature of the parties’ services, Applicant’s mark so resembles Opposer’s previously used JUSTCUTS mark, as to be likely to cause confusion, or to cause mistake, or to deceive in violation of Section 2(d), 15 U.S.C. § 1052(d).

Count 2: Fraud in Signing, Filing, and Prosecuting the Application Before PTO

13. Opposer repeats and realleges each and every allegation set forth above.

14. On or about December 13, 2012, Applicant’s counsel signed a declaration under Section 1101 of Title 18 of the United States Code in support of the Application stating, inter alia, that Applicant believes that it is entitled to use the mark in commerce

and that no other person, firm, corporation, or association, to the best of its knowledge and belief, has the right to use such mark in commerce either in the identical form or in such near resemblance thereto as to be likely to cause confusion, or to cause mistake, or to deceive, and that all statements are true.

15. Applicant knew of Opposer's prior fame and rights in the JUSTCUTS mark at the time Applicant filed its application for JUSCUTS. At the time Applicant, by and through its counsel, signed the declaration and filed its application before the PTO, Applicant knew or acted in a reckless disregard of the truth that it was not the owner of the JUSCUTS mark, and that it was not entitled to use such mark in commerce.

16. At the time Applicant, by and through its counsel, signed the declaration and filed its application before the PTO, Applicant knew or acted in a reckless disregard of the truth that Opposer was the owner of the JUSTCUTS mark, and that Opposer had superior and exclusive rights in and to such mark.

17. Applicant is not now and has never been the owner of the JUSTCUTS mark. Opposer has never given Applicant permission to use or register any of its names and marks.

18. Applicant knew or acted in a reckless disregard of the truth that a likelihood of confusion would result from Applicant's registration of its confusingly similar mark or it had no reasonable basis for believing otherwise.

19. At the time Applicant, by and through its counsel, signed the declaration and filed its application before the PTO, Applicant knew or acted in a reckless disregard of the truth that its claims that Applicant is "entitled to use such mark in commerce," and

