

ESTTA Tracking number: **ESTTA602900**

Filing date: **05/07/2014**

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	Wrangler Apparel Corp.
Granted to Date of previous extension	05/07/2014
Address	3411 Silverside Road Wilmington, DE 19810 UNITED STATES
Attorney information	Paul J. Kennedy, Esquire PEPPER HAMILTON LLP 3000 Two Logan Square Eighteenth and Arch Streets Philadelphia, PA 19103-2799 UNITED STATES kennedyp@pepperlaw.com, catalant@pepperlaw.com Phone:215-981-4194

### Applicant Information

Application No	86045408	Publication date	01/07/2014
Opposition Filing Date	05/07/2014	Opposition Period Ends	05/07/2014
Applicant	CHICO'S BRANDS INVESTMENTS, INC. 11215 METRO PARKWAY FORT MYERS, FL 33966 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. First Use: 2013/01/20 First Use In Commerce: 2013/01/20  
All goods and services in the class are opposed, namely: Bottoms; Dresses; Leggings; Skirts

### 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. Application No.	86264804	Application Date	04/29/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	INSTANTLY SLIMMING		

Design Mark	<b>INSTANTLY SLIMMING</b>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2007/12/28 First Use In Commerce: 2007/12/28 Bottoms; Capris; Jeans; Pants

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	INSTANTLY SLIMMING		
Goods/Services	Apparel		

Attachments	86264804#TMSN.jpeg( bytes ) 05-07-2014 Notice of Opposition (Wrangler v. Chico's).pdf(67450 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	/Paul J. Kennedy/
Name	Paul J. Kennedy, Esquire
Date	05/07/2014

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

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<b>WRANGLER APPAREL CORP.</b>	:	
	:	
	:	<b>Opposition No.</b>
	:	
<b>Opposer</b>	:	<b>Mark: INSTANTLY SLIMMING</b>
	:	
<b>v.</b>	:	<b>Application Serial No.: 86/045408</b>
	:	
<b>CHICO'S BRANDS INVESTMENTS, INC.</b>	:	<b>Published in <i>Official Gazette</i>: January 7, 2014</b>
	:	
	:	<b>Filed: August 22, 2013</b>
	:	
<b>Applicant</b>	:	
	:	

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**NOTICE OF OPPOSITION**

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Dear Sir or Madam:

Wrangler Apparel Corp., a Delaware corporation, with offices at 3411 Silverside Road, Wilmington, Delaware 19810 ("Opposer"), believes it will be damaged by the issuance of a trademark registration to Chico's Brands Investments, Inc., a Florida corporation, with a mailing address at 11215 Metro Parkway, Fort Myers, Florida 33966 ("Applicant"), for the mark INSTANTLY SLIMMING (Serial No. 86/045408) in International Class 25, and hereby opposes the application.

As grounds for the opposition, Opposer alleges that:

1. Applicant is seeking to obtain, under the provisions of the Trademark Act of 1946, as amended, registration on the Principal Register of the mark INSTANTLY SLIMMING for “bottoms; dresses; leggings; skirts” in International Class 25 (“Applicant’s Mark”).

2. Applicant is not now, and never was, entitled to registration on the Principal Register of Applicant’s Mark either on August 22, 2013, the date of Applicant's filing of the application, or on January 7, 2014, the date of publication in the *Official Gazette*.

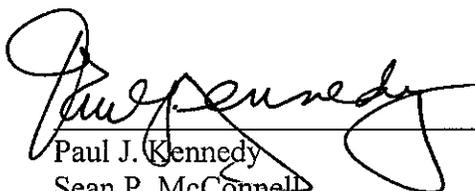
3. Opposer is the owner of the trademark INSTANTLY SLIMMING, and has made use of the mark since as early as 2007 on apparel. Opposer’s mark INSTANTLY SLIMMING is the subject of a pending federal trademark application (Serial No. 86/264804) for “bottoms; capris; jeans; pants” in International Class 25 (“Opposer’s Mark”).

4. Opposer has, since long prior to the filing date of Applicant’s application, sold in commerce its goods under Opposer’s Mark. Through usage by Opposer, the Opposer’s Mark has become well-known to consumers and potential customers as a trademark of Opposer and as an origin and source indicator of the goods sold and provided by Opposer.

5. Because Applicant’s Mark contains the exact mark INSTANTLY SLIMMING as owned by Opposer, and the fact that Applicant’s proposed mark is or will ultimately be used on the same or similar products as those of the Opposer, and within the same classification, Applicant’s Mark is likely to cause confusion, mistake, or deception amongst the general and consuming public as to whether Applicant’s goods are being offered by, or in affiliation with, Opposer, hence causing damage to Opposer.

Accordingly, Opposer requests that registration of the mark INSTANTLY SLIMMING (Serial No. 86/045408) be denied to Applicant and this opposition be sustained.

DATE: May 7, 2014

A handwritten signature in black ink, appearing to read "Paul J. Kennedy", is written over a horizontal line. The signature is stylized and cursive.

Paul J. Kennedy  
Sean P. McConnell  
PEPPER HAMILTON LLP  
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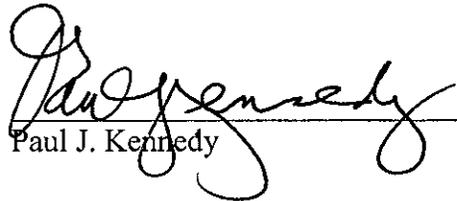
*Attorneys for Opposer,  
Wrangler Apparel Corp.*

**CERTIFICATE OF SERVICE**

I, Paul J. Kennedy, hereby certify that on May 7, 2014, a true and correct copy of the foregoing Notice of Opposition was served via U.S. First Class Mail, postage prepaid, upon the following:

Jennifer L. Morris, Esquire  
CHICO'S FAS, INC.  
11215 Metro Parkway  
Fort Myers, FL 33966-1206

*Attorney for Applicant*

  
Paul J. Kennedy