

ESTTA Tracking number: **ESTTA621281**

Filing date: **08/13/2014**

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	Harby's Corporation N. V.
Granted to Date of previous extension	08/13/2014
Address	De Ruyterkade 58A Curacao, NETHERLANDS

Attorney information	Joseph Villapol Ladas & Parry LLP 1040 Avenue of the Americas New York, NY 10018-3738 UNITED STATES jvillapol@ladas.com, rroa@ladas.com, alloyd@ladas.com Phone: (212) 708-1865
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**Applicant Information**

Application No	85909280	Publication date	04/15/2014
Opposition Filing Date	08/13/2014	Opposition Period Ends	08/13/2014
Applicant	Yang, Jessica Ching Ping Flat A 20/F BLK2 Phasel Bel-Air Pok Fu Lam, HONG KONG		

**Goods/Services Affected by Opposition**

<p>Class 003. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Cosmetics; nail polish; perfume and cologne; personal cleansing and bath products, namely, soaps, skin scrubs, shower gels, bath oils, and bubble bath; hair care products, namely, shampoo, conditioner, and hair styling preparations; personal care products, namely, skin moisturizer and face and body powder; tanning oils and non-medicated suncare preparations; facial and skin care products, namely, masks, moisturizers, beauty serums, skin toners, lip moisturizers, and face cleansers</p>
<p>Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Clothing, namely, shirts, sweatshirts, tee shirts, tank tops, blouses, vests, coats, jackets, leather jackets, pants, jeans, shorts, skirts, dresses, socks, underwear, hats and caps, scarves, and gloves</p>
<p>Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Retail store services, online retail store services, mail order retail services, and wholesale retail store services, all featuring clothing and apparel, leather goods, fashion accessories, jewelry, footwear, cosmetics, personal care products, eyewear, luggage and housewares</p>

## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	Applicant lacked a bonafide intent to use the mark at the time of application.

## Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1443757	Application Date	11/08/1982
Registration Date	06/23/1987	Foreign Priority Date	NONE
Word Mark	ALYSSA ASHLEY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1976/09/28 First Use In Commerce: 1976/09/28 Cosmetics-Namely, Perfume, Cologne, Bath Oil, Talcum Powder, Dusting Powder, [Face Powder, ]Body Talc, Bubble Bath, [Sachet, Skin Rouge], Face and Skin Cream,[Brilliantine, Hair Spray] and Personal Deodorant		

Attachments	Notice of Opposition - Jessica Yang.pdf(1317015 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	/Joseph J. Villapol/
Name	Joseph Villapol
Date	08/13/2014

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

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HARBY'S CORPORATION N.V.,	:	
	:	
Opposer,	:	Opposition No. _____
	:	
v.	:	Serial No. 85/909,280
	:	
YANG, JESSICA CHING PING,	:	
	:	
Applicant.	:	
-----X	:	

**NOTICE OF OPPOSITION**

In the matter of Application Serial No. 85/909,280, filed on April 19, 2013 by Yang, Jessica Ching Ping, a citizen of China with an address at Flat A 20/F BLK2 Phasel Bel-Air Pok Fu Lam, Hong Kong ("Applicant"), in International Classes 3, 25 and 35 seeking registration on the Principal Register of the mark ALICE ASHLEY in connection with the following goods and services, which application was published for opposition on April 19, 2013, with an extension of time to oppose granted up to, and including, August 13, 2014:

(IC 003) Cosmetics; nail polish; perfume and cologne; personal cleansing and bath products, namely, soaps, skin scrubs, shower gels, bath oils, and bubble bath; hair care products, namely, shampoo, conditioner, and hair styling preparations; personal care products, namely, skin moisturizer and face and body powder; tanning oils and non-medicated suncare preparations; facial and skin care products, namely, masks, moisturizers, beauty serums, skin toners, lip moisturizers, and face cleansers

(IC 025) Clothing, namely, shirts, sweatshirts, tee shirts, tank tops, blouses, vests, coats, jackets, leather jackets, pants, jeans, shorts, skirts, dresses, socks, underwear, hats and caps, scarves, and gloves

(IC 035) Retail store services, online retail store services, mail order retail services, and wholesale retail store services, all featuring clothing and apparel, leather goods, fashion accessories, jewelry, footwear, cosmetics, personal care products, eyewear, luggage and housewares;

Harby's Corporation, a Netherlands corporation with an address at De Ruyterkade 58A, Curacao, Netherlands ("Opposer"), believes that it is or will be damaged by the registration of Application No. 85/909,280 for the mark ALICE ASHLEY and hereby opposes registration of the mark on the following grounds:

1. Opposer is the owner of the famous trademark ALYSSA ASHLEY, including incontestable U.S. Registration No. 1,443,757, and of the goodwill associated with such mark (the "ALYSSA ASHLEY Mark").
2. Opposer adopted and has continuously used the ALYSSA ASHLEY Mark in connection with fragrance, cosmetic and personal care products, including perfume, cologne, eau de toilette, hand and body lotion, and bath and shower gel, since long prior to the filing date of Applicant's ALICE ASHLEY application.
3. Opposer has advertised, promoted, marketed, and otherwise publicized its fragrance, cosmetic and personal care products, such that consumers have come to know and recognize the ALYSSA ASHLEY Mark as identifying goods which originate with, are authorized by, or otherwise identify, Opposer.
4. Applicant's use of the mark ALICE ASHLEY in connection with the goods and services covered by its Application No. 85/909,280 constitutes use of a mark confusingly similar to Opposer's ALYSSA ASHLEY Mark. The ASHLEY element of Applicant's mark is identical to that in Opposer's ALYSSA ASHLEY Mark, and the terms ALICE and ALYSSA in the respective marks are virtually identical in both appearance and pronunciation. Applicant's mark is likely to be perceived by purchasers

as either a variation or another of Opposer's ALYSSA ASHLEY Marks.

5. Applicant's goods and services are also identical and/or closely related to the fragrance, cosmetic and personal care products marketed and sold by Opposer under its ALYSSA ASHLEY Mark. Indeed, to the extent Applicant's goods and services are not identical to those of Opposer, consumers are likely to mistakenly believe that Opposer has expanded its use of the ALYSSA ASHLEY Mark to related and/or complimentary goods and services within Opposer's zone of natural expansion.

6. Applicant's mark is likely to be confused with Opposer's ALYSSA ASHLEY Mark such that the average consumer is likely to be confused and deceived into believing that Applicant's goods and services originate with, are in some way associated with, or are connected, sponsored or authorized by, Opposer.

7. Opposer has been using its AYLSSA ASHLEY Mark in the United States and in many countries throughout the world for more than four decades and has invested substantial time, money and effort in the advertising, promotion and marketing of its goods under the AYLSSA ASHLEY Mark, annual sales of which are substantial.

8. At the time Applicant filed the subject application, Opposer's AYLSSA ASHLEY Mark was "famous" within the meaning of Lanham Act § 43(c) among the general consuming public of the United States.

9. Applicant's ALICE ASHLEY mark dilutes the distinctive quality of Opposer's famous ALYSSA ASHLEY Mark.

10. The subject application for Applicant's ALICE ASHLEY mark was filed on an intent-to-use basis and covers a wide spectrum of fragrance, cosmetic and personal care products as well as numerous clothing articles and retail store, online, mail-order and

wholesale services featuring, among others, cosmetic and personal care products.

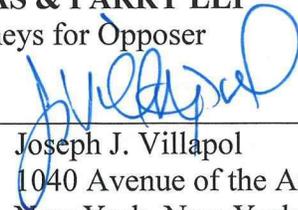
11. Upon information and belief, Applicant is an individual with no known manufacturing capabilities or other means for producing the dozens of goods listed in Application No. 85/909,280 and lacked a *bona fide* intent-to-use the ALICE ASHLEY mark at the time such application was filed. Upon information and belief, Applicant applied to register the ALICE ASHLEY mark with knowledge of Opposer's famous ALYSSA ASHLEY mark solely to impermissibly reserve rights to which it is not legally entitled to under the Lanham Act and/or to preempt and frustrate Opposer's registration of its ALYSSA ASHLEY Mark.

WHEREFORE, Opposer requests that the opposition be sustained and that Application No. 85/909,280 be refused registration.

Respectfully submitted,

**LADAS & PARRY LLP**  
Attorneys for Opposer

By: \_\_\_\_\_

  
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(Our Ref: C14659698)

Dated: August 13, 2014

**CERTIFICATE OF TRANSMISSION**

I, Reinaldo M. Roa, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** is being electronically transmitted to the United States Patent and Trademark Office on the date indicated:

Dated: August 13, 2014



Reinaldo M. Roa

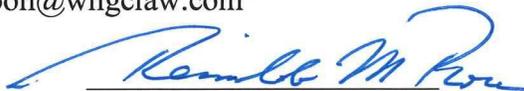
**CERTIFICATE OF SERVICE**

I, Reinaldo M. Roa, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was served on the person(s) listed below by First-Class Mail, postage prepaid, on the date indicated below:

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Dated: August 13, 2014



Reinaldo M. Roa