

ESTTA Tracking number: **ESTTA622256**

Filing date: **08/19/2014**

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	Imagewear Apparel Corp.
Granted to Date of previous extension	08/20/2014
Address	3411 Silverside Road Wilmington, DE 19810 UNITED STATES

Attorney information	Paul J. Kennedy 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
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Applicant Information

Application No	76713170	Publication date	04/22/2014
Opposition Filing Date	08/19/2014	Opposition Period Ends	08/20/2014
Applicant	FREDRICK JAMES STAVES P.O. BOX 211 RIALTO, CA 92377 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Clothing, namely, PANTS, SHIRTS, JACKETS, SHOES, promoting and identifying membership in a car club of the same named source

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	No bona fide intent to use; 15 U.S.C. Â§ 1051(b)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1516495	Application Date	05/12/1988
Registration Date	12/13/1988	Foreign Priority Date	NONE
Word Mark	MAJESTIC		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1976/09/15 First Use In Commerce: 1976/09/15 ATHLETIC UNIFORMS, NAMELY BASEBALL/SOFTBALL, BASKETBALL, FOOTBALL, HOCKEY AND LACROSSE UNIFORMS; JERSEYS, TANK TOPS, GYM SUITS, JACKETS, WARM-UP SUITS, SHIRTS, SWEAT SHIRTS, CAPS, HATS, VESTS, [SKIRTS,] UNDERWEAR, JUMPSUITS, AND RAINWEAR

U.S. Registration No.	3154096	Application Date	11/28/2005
Registration Date	10/10/2006	Foreign Priority Date	NONE
Word Mark	MAJESTIC THREADS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2005/07/26 First Use In Commerce: 2005/07/26 Shirts, t-shirts, sweatshirts, tank tops, [jerseys, athletic uniforms,] athletic apparel, namely, jackets, [coats, sweatpants,] t-shirts, [shorts, turtlenecks, hats, caps, and team uniforms,] and jackets		

U.S. Registration No.	3158191	Application Date	11/16/2005
Registration Date	10/17/2006	Foreign Priority Date	NONE
Word Mark	MAJESTIC THREADS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2005/07/26 First Use In Commerce: 2005/07/26 Shirts, t-shirts, sweatshirts, tank tops, [jerseys, athletic uniforms,] athletic apparel, namely, jackets, [coats, sweatpants,] t-shirts, [shorts, turtlenecks, hats, caps, and team uniforms,] and jackets		

U.S. Registration No.	3826508	Application Date	03/07/2006
Registration Date	07/27/2010	Foreign Priority Date	NONE
Word Mark	MAJESTIC SELECT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2008/05/31 First Use In Commerce: 2008/05/31 Shirts, T-shirts, sweatshirts, fleece jackets		

U.S. Registration No.	3829702	Application Date	04/20/2006
Registration Date	08/03/2010	Foreign Priority Date	NONE
Word Mark	MAJESTIC SELECT		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2008/05/31 First Use In Commerce: 2008/05/31 Shirts, T-shirts, sweatshirts, fleece jackets

U.S. Registration No.	4584669	Application Date	07/26/2010
Registration Date	08/12/2014	Foreign Priority Date	NONE
Word Mark	MAJESTIC		
Design Mark			
Description of Mark	The mark consists of a design consisting of a triangle and two diagonal bars over the word "MAJESTIC" in stylized font.		
Goods/Services	Class 025. First use: First Use: 2010/12/15 First Use In Commerce: 2010/12/15 Athletic uniforms; Jackets; Pants; Shirts; Shorts; Sweat shirts		

U.S. Application No.	85452175	Application Date	10/20/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MAJESTIC BANGOR PENNSYLVANIA		
Design Mark			
Description of Mark	The mark consists of a design consisting of a triangle and two diagonal bars over the words "MAJESTIC BANGOR PENNSYLVANIA" in stylized font.		
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Athletic uniforms; Baseball caps; Jackets; Jerseys; Pants; Shirts; Shorts; Sweat shirts		

U.S. Application No.	85557203	Application Date	03/01/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TEAM MAJESTIC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Athletic uniforms; Baseball caps; Jackets; Jerseys; Pants; Shirts; Shorts; Sweat shirts		

U.S. Application No.	85838291	Application Date	02/01/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MAJESTIC FAN FASHION		
Design Mark			
Description of Mark	The mark consists of the word "MAJESTIC" on top of the words "FAN FASHION" with a stylized mountain above "MAJESTIC" and a curved line between "MAJESTIC" and "FAN FASHION".		
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0		

	Athletic uniforms; Baseball caps; Coats; Hats; Jackets; Jerseys; Pants; Shirts; Shorts; Sweatpants; Sweatshirts; Turtlenecks
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U.S. Application No.	85745840	Application Date	10/04/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MAJESTIC		
Design Mark			
Description of Mark	The mark consists of Stylized mountain design with the word "MAJESTIC" underneath.		
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Athletic uniforms; Baseball caps; Jackets; Jerseys; Pants; Shirts; Shorts; Sweat pants; Sweat shirts		

U.S. Application No.	86233849	Application Date	03/27/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MAJESTIC		
Design Mark			
Description of Mark	The mark consists of a stylized mountain design with the word "MAJESTIC" underneath, all on a stylized depiction of a baseball field, consisting of two triangles with arced lines and a pentagon representing a baseball home plate.		
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Athletic uniforms; Baseball caps; Jackets; Jerseys; Pants; Shirts; Shorts; Sweat shirts		

Attachments	78761528#TMSN.png(bytes) 78755312#TMSN.png(bytes) 78831013#TMSN.png(bytes) 78865983#TMSN.png(bytes) 85092960#TMSN.png(bytes) 85452175#TMSN.png(bytes) 85557203#TMSN.png(bytes) 85838291#TMSN.png(bytes) 85745840#TMSN.png(bytes) 86233849#TMSN.png(bytes) 08-19-2014 Notice of Opposition (Imagewear v. Staves).pdf(119076 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
Date	08/19/2014

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

IMAGEWEAR APPAREL CORP.	:	
	:	
	:	Opposition No.
	:	
Opposer	:	Mark: MAJESTICS & Design
	:	
v.	:	Application Serial No.: 76/713170
	:	
FREDRICK JAMES STAVES	:	Published in <i>Official Gazette</i>: April 22, 2014
	:	
	:	Filed: January 7, 2013
	:	
Applicant	:	
	:	

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:

Imagewear 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 Fredrick James Staves, an individual citizen of the State of California, with a mailing address stated as P.O. Box 211, Rialto, California 92377 (“Applicant”), for the mark MAJESTICS & Design (Serial No. 76/713170) 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 MAJESTICS & Design for “clothing, namely, pants, shirts, jackets, shoes, promoting and identifying membership in a car club of the same named source” 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 January 7, 2013, the date of Applicant’s filing of the intent-to-use based application, or on April 22, 2014, the date of publication in the *Official Gazette*.

3. Opposer is the owner of several federal trademark registrations and pending applications, as follows:

a. MAJESTIC[®] (Registration No. 1516495) (1988), for “athletic uniforms, namely baseball/softball, basketball, football, hockey and lacrosse uniforms; jerseys, tank tops, gym suits, jackets, warm-up suits, shirts, sweat shirts, caps, hats, vests, underwear, jumpsuits and rainwear” in International Class 25;

b. MAJESTIC THREADS and Design[®] (Registration No. 3154096) (2006), for “shirts, t-shirts, sweatshirts, tank tops, athletic apparel, namely jackets, t-shirts and jackets” in International Class 25;

c. MAJESTIC THREADS[®] (Registration No. 3158191) (2006), for “shirts, t-shirts, sweatshirts, tank tops, athletic apparel, namely jackets, t-shirts and jackets” in International Class 25;

d. MAJESTIC SELECT[®] (Registration No. 3826508) (2010), for “shirts, t-shirts, sweatshirts, fleece jackets” in International Class 25;

e. MAJESTIC SELECT (Stylized)[®] (Registration No. 3829702) (2010), for “shirts, t-shirts, sweatshirts, fleece jackets” in International Class 25;

f. MAJESTIC & Design[®] (Registration No. 4584669) (2014), for “athletic uniforms; jackets; pants; shirts; shorts; sweat shirts” in International Class 25;

g. MAJESTIC BANGOR PENNSYLVANIA & Design[™] (Serial No. 85/452175) (allowed), for “athletic uniforms; baseball caps; jackets; jerseys; pants; shirts; shorts; sweat shirts” in International Class 25;

h. TEAM MAJESTIC[™] (Serial No. 85/557203) (allowed), for “athletic uniforms; baseball caps; jackets; jerseys; pants; shirts; shorts; sweat shirts” in International Class 25;

i. MAJESTIC FAN FASHION & Design[™] (Serial No. 85/838291) (allowed), for “athletic uniforms; baseball caps; coats; hats; jackets; jerseys; pants; shirts; shorts; sweatpants; sweatshirts; turtlenecks” in International Class 25;

j. MAJESTIC & Design[™] (Serial No. 85/745840) (allowed), for “athletic uniforms; baseball caps; jackets; jerseys; pants; shirts; shorts; sweat pants; sweat shirts” in International Class 25; and

k. MAJESTIC & Design[™] (Serial No. 86/233849) (allowed), for “athletic uniforms; baseball caps; jackets; jerseys; pants; shirts; shorts; sweat shirts” in International Class 25, (collectively, “Opposer’s Marks”).

4. Opposer has, since long prior to the filing date of Applicant’s application, sold in commerce its goods under Opposer’s Marks. Through usage by Opposer, the Opposer’s

Marks have become well-known to consumers and potential customers as trademarks of Opposer and as an origin and source indicator of the goods sold and provided by Opposer.

COUNT I - LIKELIHOOD OF CONFUSION

5. The allegations set forth in Paragraphs 1 through 4 are incorporated herein as if set forth at length.

6. Because Applicant's Mark is stylized as presenting the word "MAJESTICS" which is nearly the exact mark of Opposer's Mark alone, or in conjunction with other terms ("MAJESTIC"), and the fact that Applicant's proposed mark 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.

COUNT II - LACK OF *BONA FIDE* INTENT TO USE

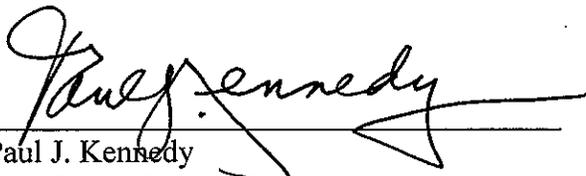
7. The allegations set forth in Paragraphs 1 through 6 are incorporated herein as if set forth at length.

8. Upon information and belief, Applicant did not have a *bona fide* intent to use Applicant's Mark in United States commerce on or in connection with the goods he identified in the Application, namely, "clothing, namely, pants, shirts, jackets, shoes, promoting and identifying membership in a car club of the same named source," when he filed the Application on January 7, 2013.

9. The Application is, therefore, void *ab initio*, pursuant to 15 U.S.C. § 1051(b) and the Application should be refused accordingly.

Accordingly, Opposer requests that registration of the mark MAJESTICS & Design (Serial No. 76/713170) be denied to Applicant and this opposition be sustained.

DATE: August 19, 2014



Paul J. Kennedy
Sean P. McConnell
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Eighteenth and Arch Streets
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(215) 981-4000

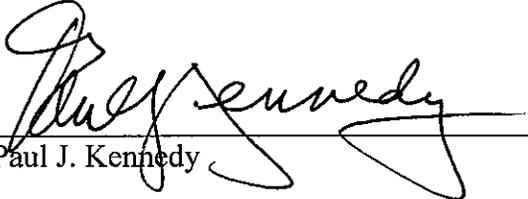
*Attorneys for Opposer,
Imagewear Apparel Corp.*

CERTIFICATE OF SERVICE

I, Paul J. Kennedy, hereby certify that on August 19, 2014, a true and correct copy of the foregoing Notice of Opposition was served via electronic mail (ogpublishing@yahoo.com) and by U.S. First Class Mail, postage prepaid upon the following:

Fredrick J. Staves
OG Publishing & Apparel
P.O. Box 211
Rialto, CA 92377-0211

Applicant/Correspondent for Applicant


Paul J. Kennedy