

ESTTA Tracking number: **ESTTA637020**

Filing date: **11/05/2014**

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 | Uptown Wink LLC | | |
| Entity | limited liability company | Citizenship | Tennessee |
| Address | Santa Monica Blvd. #480 Santa Monica, CA 90401 UNITED STATES | | |

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|----------------------|---|--|--|
| Attorney information | William J. Seiter Seiter Legal Studio 2500 Broadway, Bldg F, Suite F-125 Santa Monica, CA 90404 UNITED STATES williamjseiter@seiterlegalstudio.com | | |
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Applicant Information

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|------------------------|--|------------------------|------------|
| Application No | 86276533 | Publication date | 11/04/2014 |
| Opposition Filing Date | 11/05/2014 | Opposition Period Ends | 12/04/2014 |
| Applicant | Procop International NV Abraham de Veerstraat 2 Willemstad, NETHERLANDS | | |

Goods/Services Affected by Opposition

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| Class 035. First Use: 2014/04/01 First Use In Commerce: 2014/04/01 All goods and services in the class are opposed, namely: promoting the goods and services of others by providing a website featuring advertisements, banners and links to the websites of others in the field of adult-themed products, services and entertainment; providing dissemination of advertising for the goods and services of others via a global computer network; providing commercial directory information in the area of adult-themed products, services and entertainment via a global computer network; providing an on-line computer database in the field of locating and describing adult-themed products via a global computer network |
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Grounds for Opposition

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| Priority and likelihood of confusion | Trademark Act section 2(d) |
| Dilution | Trademark Act section 43(c) |

Marks Cited by Opposer as Basis for Opposition

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| U.S. Registration No. | 2648569 | Application Date | 04/09/2001 |
| Registration Date | 11/12/2002 | Foreign Priority | NONE |

| | | | |
|---------------------|---|------|--|
| | | Date | |
| Word Mark | PRETTY WOMAN | | |
| Design Mark | PRETTY WOMAN | | |
| Description of Mark | NONE | | |
| Goods/Services | <p>Class 003. First use: First Use: 1998/09/15 First Use In Commerce: 1998/09/15 Nail and manicure products, namely, artificial fingernails, [nail glue remover; nail treatment preparations, namely, nail strengtheners, nail sealer for use over fingernail polish or bare nails, nail hardener and topcoat;] nail enhancement kits comprised of [adhesive strengthener for applying artificial nails and nail tips, nail polish,] fingernail art and design products for use on fingernails, namely, [foils, glitters, striping tape, water decals,] stickers, [charms, dangles, airbrush stencils; and paints and acrylic sculpturing kits comprised of liquid acrylic nails, acrylic nail powder, primer, nail glue and acrylic nailforms, lipsticks, lip liners and other related products]</p> <p>Class 008. First use: First Use: 1998/09/15 First Use In Commerce: 1998/09/15 Manicure implements, namely, [tweezers, artificial nail cutters, scissors for cutting nails,] fingernail files and buffers, [cuticle pushers, cuticle scissors, cuticle cutters, eyebrow curlers, eyelash curlers,] artificial nail applicator sticks, pedicure files and buffers, [toe nail clippers, sapphire file, slanted nail cutter, manicure and pedicure blocks, artificial nail removal applicator, nail polish remover applicator] and adhesive applicator stick</p> | | |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 4226100 | Application Date | 09/04/2005 |
| Registration Date | 10/16/2012 | Foreign Priority Date | NONE |
| Word Mark | PRETTY WOMAN | | |
| Design Mark | PRETTY WOMAN | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 003. First use: First Use: 2009/08/00 First Use In Commerce: 2009/08/00 Fragrances for personal use, perfumes, toilet water | | |

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|-----------------------|------------|------------------|------------|
| U.S. Registration No. | 3424942 | Application Date | 09/04/2005 |
| Registration Date | 05/06/2008 | Foreign Priority | NONE |

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|---------------------|--|------|--|
| | | Date | |
| Word Mark | PRETTY WOMAN | | |
| Design Mark | <p style="text-align: center; font-size: 2em; font-weight: bold;">PRETTY WOMAN</p> | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 025. First use: First Use: 2007/04/00 First Use In Commerce: 2007/04/00 Clothing, namely, shirts, t-shirts, blouses, sweaters, footwear, hats, caps, gloves, skirts, shorts, pants, trousers, coats, jackets, swim wear, suits, and dresses | | |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 3915205 | Application Date | 04/09/2007 |
| Registration Date | 02/01/2011 | Foreign Priority Date | NONE |
| Word Mark | PRETTY WOMAN | | |
| Design Mark | <p style="text-align: center; font-size: 2em; font-weight: bold;">PRETTY WOMAN</p> | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 004. First use: First Use: 2009/05/00 First Use In Commerce: 2009/05/00 Candles | | |

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|----------------------|--------------|-----------------------|------------|
| U.S. Application No. | 86273783 | Application Date | 05/07/2014 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | PRETTY WOMAN | | |

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| Design Mark | PRETTY WOMAN |
| Description of Mark | NONE |
| Goods/Services | Class 025. First use: First Use: 0 First Use In Commerce: 0 Clothing, namely, t-shirts, shirts, tank tops, sweat shirts, sweat pants, sweat suits, jeans, pants, shorts, overalls, jumpsuits, skirts, dresses, blouses, jackets, sweaters, vests, swimwear, bathingsuits, cover-ups, sleepwear, pajamas, robes, nightgowns, leotards, lingerie, panties, bras, boxer shorts, underwear, scarves, belts, socks, stockings, tights, leggings, gloves; outerwear, namely, coats and raincoats; headgear, namely, hats, caps, headbands, visors and bandanas; footwear, namely, shoes, slippers, boots, sandals, flip-flops, and athletic shoes |

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| U.S. Application No. | 85930608 | Application Date | 05/13/2013 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | PRETTY WOMAN | | |
| Design Mark | PRETTY WOMAN | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 003. First use: First Use: 0 First Use In Commerce: 0 Nail polish; nail enamels; nail polish top coat; nail polish base coat; nail care preparations; cuticle oils; cuticle cream; nail conditioning lotions; hand creams; nail hardeners; nail polish remover; lipstick; lip gloss; lip liner; lip balm | | |

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| Attachments | 76237553#TMSN.png(bytes) 78706717#TMSN.png(bytes) 78706716#TMSN.png(bytes) 77981058#TMSN.png(bytes) 86273783#TMSN.png(bytes) 85930608#TMSN.png(bytes) Notice of Opposition (US TM App 86276533).pdf(169109 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 | /wjs/ |
| Name | William J. Seiter |
| Date | 11/05/2014 |

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

In the Matter of Application Serial No. 86276533
Mark: PrettyWoman
Published: November 4, 2014

Uptown Wink LLC)
(a Tennessee limited liability company))
)
Opposer,)
)
v.) Opposition No. _____
)
Procop International NV)
(a Curaçao naamloze vennootschap (nv))
)
Applicant.)

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NOTICE OF OPPOSITION

Opposer Uptown Wink LLC, a limited liability company organized under the laws of Tennessee (“Opposer”), located and doing business at 201 Santa Monica Blvd. #480, Santa Monica, California 90401, believes that it would be damaged by the issuance of a registration for the trademark PrettyWoman as applied for by Applicant Procop International NV, a Curaçao naamloze vennootschap (nv) (“Applicant”), in Application Serial No. 86276533, and therefore opposes the application as to all of the applied for services in International Class 35. As grounds for its opposition, Opposer, by its attorneys Seiter Legal Studio, alleges as follows:

1. Opposer is the owner of the following trademarks:
 - a. U.S. Trademark Registration No. 2648569, registered November 12, 2002, for the mark PRETTY WOMAN for “Nail and manicure products, namely, artificial fingernails; nail enhancement kits comprised of

fingernail art and design products for use on fingernails, namely, stickers,” in International Class 3, and for “Manicure implements, namely, fingernail files and buffers, artificial nail applicator sticks, pedicure files and buffers, and adhesive applicator stick” in International Class 8, based on use in commerce under Section 1(a) of the Trademark Act, 15 U.S.C. Section 1051(a). The mark was applied for under U.S. Trademark Application Serial No. 76237553, with a filing date of April 9, 2001, and was first used for the applied for goods at least as early as September 15, 1998, and first used in United States commerce at least as early as September 15, 1998;

- b. PRETTY WOMAN under U.S. Trademark Registration No. 4226100, applied for filed September 4, 2005 and registered October 16, 2012, in International Class 3 for “Fragrances for personal use, perfumes, toilet water” which Opposer has used since at least as early as August 2009, and has used in U.S. commerce since at least as early as August 2009;
- c. PRETTY WOMAN under U.S. Trademark Registration No. 3424942, applied for on September 4, 2005, and registered May 6, 2008, in International Class 25, for “Clothing, namely, shirts, t-shirts, blouses, sweaters, footwear, hats, caps, gloves, skirts, shorts, pants, trousers, coats, jackets, swim wear, suits, and dresses,” which Opposer has used since at least as early as April 2007, and has used in U.S. commerce since at least as early as April 2007;

- d. PRETTY WOMAN under U.S. Trademark Registration No. 3915205, applied for on April 9, 2007 and registered February 1, 2011, in International Class 4 for “candles” which Opposer has used since at least as early as May 2009, and has used in U.S. commerce since at least as early as May 2009;
- e. PRETTY WOMAN under U.S. Trademark Application No. 86273783, applied for on May 7, 2014, in International Class 25 for “Clothing, namely, t-shirts, shirts, tank tops, sweat shirts, sweat pants, sweat suits, jeans, pants, shorts, overalls, jumpsuits, skirts, dresses, blouses, jackets, sweaters, vests, swimwear, bathing suits, cover-ups, sleepwear, pajamas, robes, nightgowns, leotards, lingerie, panties, bras, boxer shorts, underwear, scarves, belts, socks, stockings, tights, leggings, gloves; outerwear, namely, coats and raincoats; headgear, namely, hats, caps, headbands, visors and bandanas; footwear, namely, shoes, slippers, boots, sandals, flip-flops, and athletic shoes; and
- f. PRETTY WOMAN under U.S. Trademark Application No. 85930608, applied for on May 13, 2013, in International Class 3 for “Nail polish; nail enamels; nail polish top coat; nail polish base coat; nail care preparations; cuticle oils; cuticle cream; nail conditioning lotions; hand creams; nail hardeners; nail polish remover; lipstick; lip gloss; lip liner; lip balm;”

(hereinafter, collectively, “Opposer’s Mark”).

2. Opposer's Mark has been promoted extensively and is well known to the consuming public. Opposer has invested substantial time, effort and money in promoting Opposer's Mark. As a result, Opposer's Mark have become distinctive of Opposer's goods in Classes 3, 4, 8 and 25, and has come to represent substantial goodwill for Opposer, widely recognized by the consuming public of the United States as a designation of source of the goods of Opposer.

3. On May 19, 2014, Applicant filed Application Serial No. 86276533 for the mark PrettyWoman in International Class 35 for "promoting the goods and services of others by providing a website featuring advertisements, banners and links to the websites of others in the field of adult-themed products, services and entertainment; providing dissemination of advertising for the goods and services of others via a global computer network; providing commercial directory information in the area of adult-themed products, services and entertainment via a global computer network; providing an on-line computer database in the field of locating and describing adult-themed products via a global computer network," claiming a date of first use and a date of first use in U.S. commerce of April 1, 2014.

4. Upon information and belief, Applicant made no use of the mark PrettyWoman in Application Serial No. 86276533 on or before September 15, 1998, the date of first use of the Opposer's mark PRETTY WOMAN under U.S. Trademark Registration No. 2648569.

5. Upon information and belief, Applicant made no use of the mark PrettyWoman in Application Serial No. 86276533 on or before April 9, 2001, the filing

date of Opposer's U.S. Trademark Application Serial No. 76237553 to register its mark PRETTY WOMAN resulting in U.S. Trademark Registration No. 2648569.

6. Upon information and belief, Applicant made no use of the mark in PrettyWoman in Application Serial No. 86276533 prior to any of the dates of first use, dates of first use in U.S. commerce, filing dates or registration dates of any of Opposer's afore-pled registrations or applications for Opposer's Mark.

7. Upon information and belief, Applicant made no use of the mark in Application Serial No. 86276533 prior to its filing date of May 19, 2014.

8. Upon information and belief, Applicant made no use of the mark in Application Serial No. 86276533 prior to its claimed first use date of April 4, 2014.

9. The mark that Applicant seeks to register is identical in sound, sight, meaning and commercial impression to Opposer's Mark, and is being used in connection with services closely related to Opposer's goods. Based on the confusing similarity of the two marks and identity or relatedness of the parties' respective services and goods, the public is likely to associate the goods of Applicant under the mark PrettyWoman with Opposer and/or its licensees or with Opposer's and/or its licensees' goods under its mark PRETTY WOMAN, or to believe that Applicant's goods are sponsored, endorsed or licensed by Opposer or its licensees, or that there exists some relationship between Applicant and Opposer and/or its licensees, when there is none.

10. For the above reasons, any use of the mark PrettyWoman by Applicant is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe that the services offered under the mark by Applicant emanate from or are

Suite F-125 Santa Monica
California 90404 USA
Phone: (424) 238 4333

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Opposition has been forwarded via First Class Mail, postage prepaid, to the Applicant, to the attention of its attorney of record:

JEFFREY M. FURR
FURR LAW FIRM
2622 DEBOLT RD
UTICA, OHIO 43080-9604
UNITED STATES

on this 5th day of November, 2014.

/s/
William J. Seiter