

ESTTA Tracking number: **ESTTA650405**

Filing date: **01/15/2015**

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	VERTIGO HOLDINGS, LLC		
Entity	LLC	Citizenship	Delaware
Address	1717 Figueroa Street Los Angeles, CA 90015 UNITED STATES		

Attorney information	Farhad Novian Novian & Novian, LLP 1801 Century Park East Suite 1201 Los Angeles, CA 90067 UNITED STATES joseph@novianlaw.com, sharon@novianlaw.com		
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Applicant Information

Application No	86348214	Publication date	12/16/2014
Opposition Filing Date	01/15/2015	Opposition Period Ends	01/15/2015
Applicant	James Cunningham 2308 Oak Ave Manhattan Beach, CA 90266 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: Men's and Women's sportswear, namely tank tops, t-shirts, sweatshirts, sweatpants and jackets
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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. Registration No.	1937397	Application Date	02/02/1995
Registration Date	11/21/1995	Foreign Priority Date	NONE
Word Mark	VERTIGO		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 025. First use: First Use: 1984/11/00 First Use In Commerce: 1984/11/00 jackets, pants, skirts, coats, underwear, shorts, bras, swimsuit		
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U.S. Registration No.	2809622	Application Date	09/18/1995
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Registration Date	02/03/2004	Foreign Priority Date	NONE
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Word Mark	VERTIGO		
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Design Mark			
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Description of Mark	NONE		
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Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 eyeglasses, sunglasses, and parts thereof</p> <p>Class 014. First use: First Use: 0 First Use In Commerce: 0 jewelry, earrings, necklaces, bracelets, rings</p> <p>Class 018. First use: First Use: 0 First Use In Commerce: 0 handbags, wallets, briefcases</p> <p>Class 020. First use: First Use: 0 First Use In Commerce: 0 [furniture]</p> <p>Class 021. First use: First Use: 0 First Use In Commerce: 0 [houseware, namely, drinking glasses and glass ware]</p> <p>Class 024. First use: First Use: 0 First Use In Commerce: 0 [sheets, comforters, pillows, drapes]</p> <p>Class 025. First use: First Use: 0 First Use In Commerce: 0 hats, shoes, leather clothing, namely, leather jackets, leather coats, leather pants, leather skirts, belts, scarves, furs, namely, fur coats, fur jackets fakefur coats and jackets and trimmings made of fur and fake fur for various items of clothing</p> <p>Class 028. First use: First Use: 0 First Use In Commerce: 0 [sporting goods, namely, golf equipment, namely, golf clubs, golf accessory pouches, golf bag covers, golf bag tabs, golf bags, golf balls golf ball markers, golf ball retrievers, non-motorized golfcarts, golf gloves, golf putters, golf tees, and tennis equipment, namely, tennis balls, tennis rackets, tennis racket covers and tennis racket strings]</p>		
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U.S. Registration No.	2102606	Application Date	11/02/1995
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Registration Date	10/07/1997	Foreign Priority Date	NONE
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Word Mark	VERTIGO		
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Design Mark			
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Description of Mark	NONE		
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Goods/Services	Class 025. First use: First Use: 1984/11/00 First Use In Commerce: 1984/11/00 men's and women's sportswear, namely, shirts, blouses and trousers; jackets, pants, skirts, coats, underwear, shorts, bras, swimsuits, [hats,] shoes, belts, scarves, furs, namely, fur jackets, fur coats and fur trimmings for clothing and-fake furs [and suspenders]		
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U.S. Registration No.	2064529	Application Date	09/18/1995
Registration Date	05/27/1997	Foreign Priority Date	NONE
Word Mark	VERTIGO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1984/12/00 First Use In Commerce: 1989/06/00 retail store services featuring clothing, handbags and accessories		

U.S. Registration No.	2987946	Application Date	11/30/2000
Registration Date	08/23/2005	Foreign Priority Date	NONE
Word Mark	VERTIGO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2004/12/07 First Use In Commerce: 2004/12/07 Perfumes, toilet water, lotions for the skin, face, hands and body; bath gels		

Attachments	75013894#TMSN.png(bytes) 76977647#TMSN.png(bytes) 2015.01.15 Opposition to Verdego.pdf(27207 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 A. Lopez/
Name	Joseph A. Lopez
Date	01/15/2015

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

VERTIGO HOLDINGS, LLC,
Opposer,

v.

HSU RUEI CHUN
Applicant.

NOTICE OF OPPOSITION
Serial No. 86348214
Mark: VERDEGO

Vertigo Holdings, LLC, a limited liability company organized and existing under the laws of Delaware, which has its principal place of business at 1717 Figueroa Street, Los Angeles, CA 90015 (hereinafter referred to as "Opposer") hereby opposes Trademark Application Serial No. 86348214 for the word mark VERDEGO, in Class 25 for "Men's and Women's sportswear, namely tank tops, t-shirts, sweatshirts, sweatpants and jackets" (the "Applicant's Mark") owned by James Cunningham, an individual, having an address of 2308 Oak Ave, Manhattan Beach, California 90266 (hereinafter referred to as "Applicant"), believing Opposer has been and will be damaged by Applicant's Mark and hereby seeking to oppose registration of the same. The grounds for the opposition are as follows:

1. Opposer owns multiple federal registrations in the trademark VERTIGO, including, but not limited to: (1) Registration No. 1937397 in class 25 for "jackets, pants, skirts, coats, underwear, shorts, bras, swimsuit," issued by the USPTO on November 21, 1995, with a date of first use in November 1984, which mark includes a Section 15 affidavit for incontestability; (2) Registration No. 2809622 in class 9 for "eyeglasses, sunglasses, and parts thereof," class 14 for, "jewelry, earrings, necklaces, bracelets, rings," class 18 for "handbags, wallets, briefcases", and class 25 for "hats, shoes, leather clothing, namely, leather jackets, leather coats, leather pants, leather skirts,

belts, scarves, furs, namely, fur coats, fur jackets fake fur coats and jackets and trimmings made of fur and fake fur for various items of clothing” issued by the USPTO on February 3, 2004, which mark includes a Section 15 affidavit for incontestability; (3) Registration No. 2102606 in class 25 for “men's and women's sportswear, namely, shirts, blouses and trousers; jackets, pants, skirts, coats, underwear, shorts, bras, swimsuits, shoes, belts, scarves, furs, namely, fur jackets, fur coats and fur trimmings for clothing and fake furs,” issued by the USPTO on October 7, 1997, with a date of first use in November 1984, which mark includes a Section 15 affidavit for incontestability; (4) Registration No. 2064529 in class 41 for, “retail store services featuring clothing, handbags and accessories,” issued on May 27, 1997, with a date of first use in December, 1984, which mark includes a Section 15 affidavit for incontestability; and (5) Registration No. 2987946, in class 3 for “Perfumes, toilet water, lotions for the skin, face, hands and body; bath gels” issued by the USPTO on August 23, 2005, with a date of first use of December 7, 2004; (collectively, "Opposer's Marks").

2. Applicant's Mark was not filed until July 25, 2014 and was filed on a 1(b) intent-to-use basis, indicating that Applicant has not yet made use of Applicant's Mark in commerce;
3. Opposer is entitled to priority on this basis. The registrations of Opposer's Marks, including those in Class 25, pre-date Applicant's Mark by a decade or more.
4. Applicant's Mark is so similar to Opposer's Mark in appearance and sound as to be nearly identical. Applicant's goods and services include clothing in class 25, for which Opposer owns several pre-existing registrations.
5. Applicant's Mark so resembles Opposer's Marks, the goods and services of each are so closely related, and the trade channels so similar, that the use and registration of

Applicant's Mark is likely to cause confusion, mistake, and/or deception as to the source or origin of the services and goods with Opposer's Marks, whereby Opposer will be damaged.

6. The trade, the purchasing public, customers and potential customers of Opposer, upon learning of Applicant's goods and services marketed under Applicant's Mark, are likely to be confused and misled as to the source of origin, sponsorship, or approval of the services and commercial activities of Applicant, or to be confused or misled as to some association, connection, or affiliation between Applicant and Opposer, whereby Opposer will be damaged.
7. Confusion would be caused or would result by reason of the similarity between Applicant's Mark and Opposer's Marks. Many persons familiar with Opposer's Marks would be likely to mistake Applicant's goods and services as provided by, or associated with, the Opposer. Moreover, even if persons should notice any difference whatsoever between the Opposer's Marks and the Applicant's Mark they would nevertheless be likely to believe and would be justified in so believing that the Applicant's Mark and the Opposer's Marks are, in fact, companion marks used by the same provider of services or related goods and services. Any such confusion in trade might result in loss of sales to the Opposer. Furthermore, any defect, objection or fault found with Applicant's goods or services marketed under Applicant's Mark would necessarily reflect upon and seriously injure the reputation that the Opposer has established for its goods and services marketed under Opposer's Marks.

WHEREFORE, Opposer prays that Applicant's Mark not be issued either a Notice of Allowance or Certificate of Registration, but instead that the application be cancelled.

Dated: January 15, 2015

/Joseph A. Lopez/

JOSEPH A. LOPEZ

Attorney for Opposer

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Los Angeles, CA 90067

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing NOTICE OF OPPOSITION was served on Applicant on January 15, 2015 as follows:

BY FIRST CLASS MAIL

James Cunningham
2308 Oak Ave
Manhattan Beach, California 90266

/Amanda McGill/
Amanda McGill