

ESTTA Tracking number: **ESTTA720313**

Filing date: **01/13/2016**

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	Brose Fahrzeugteile GmbH & Co. KG, Cobur
Granted to Date of previous extension	01/13/2016
Address	Ketschendorfer Strasse 38-50 Coburg, 96450 GERMANY
Party who filed Extension of time to oppose	Brose Fahrzeugteile GmbH & Co. KG, Coburg
Relationship to party who filed Extension of time to oppose	The name of the Opposer is Brose Fahrzeugteile GmbH & Co. KG, Coburg. The "g" in "Coburg" is missing because the ESTTA system does not allow sufficient characters in the name field. Accordingly, it is requested that the name of the Opposer be Brose Fahrzeugteile GmbH & Co. KG, Coburg, which is the same as the name used to file the previous extensions of time to oppose.

Attorney information	Michael M. Ballard Sunstone IP, PLLC 222 South Main Street Suite 500 Salt Lake City, UT 84101 UNITED STATES mbal- lard@sunstoneip.com, lbateman@sunstoneip.com, docketing@sunstoneip.com Phone: 801.893.3900
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**Applicant Information**

Application No	86626374	Publication date	09/15/2015
Opposition Filing Date	01/13/2016	Opposition Period Ends	01/13/2016
Applicant	Dillard's, Inc. 1600 Cantrell Road Little Rock, AR 72201 UNITED STATES		

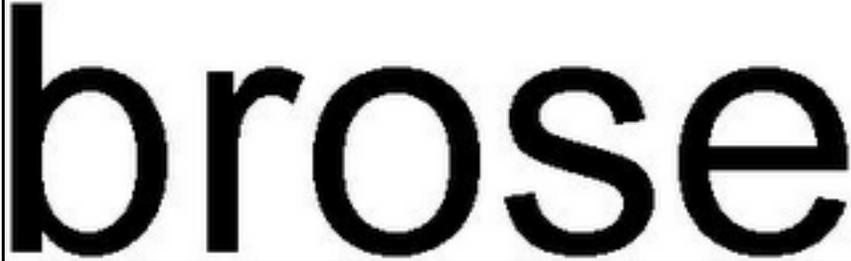
**Goods/Services Affected by Opposition**

Class 035. First Use: 2014/07/01 First Use In Commerce: 2014/07/01  
All goods and services in the class are opposed, namely: Retail store services, featuring clothing

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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## Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4820226	Application Date	02/11/2014
Registration Date	09/29/2015	Foreign Priority Date	08/14/2013
Word Mark	BROSE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 008. First use: First Use: 0 First Use In Commerce: 0 Cutlery, pocket knives and pocket tools, namely, wire cutters, screwdrivers, hand tools, namely, files, metal files, wood files, pliers; manicure sets, pedicure sets and shaving cases</p> <p>Class 009. First use: First Use: 0 First Use In Commerce: 0 Measuring instruments and apparatus formeasuring, namely, graduated rulers foroffice and stationery; calculating machines, pocket calculators; thermometers not for medical purposes, barometers and digital weather forecast stations comprised of thermometer, barometer and clock,sold together as a unit; cell phone cases</p> <p>Class 011. First use: First Use: 0 First Use In Commerce: 0 Electric pocket torches for lighting, electric headlamps in the nature of outdoor portable lights; key ring flashlights</p> <p>Class 014. First use: First Use: 0 First Use In Commerce: 0 Jewelry; tie pins, tie clips; cuff links; horological and chronometric instruments, in particular wristwatches and watches; watch straps; watch chains; watch cases; key rings of precious metal</p> <p>Class 016. First use: First Use: 0 First Use In Commerce: 0 Printed matter, in particular calendars; business cards; photographic prints; stationery, in particular writing pads, writing or drawing books, note pads and notebooks; writing paper, postcards, writing instruments and writing cases sets, pencil cases; paperweights; letter openers; desktop business card holders; holders for paper identity cards, document holders and holders for checkbooks, also with clips, and with clips with winding mechanism; bags, envelopes, pouches, of paper or plastics, for packaging; paper goods, namely, tablemats, tablecloths, flags, stickers, sun visors</p> <p>Class 018. First use: First Use: 0 First Use In Commerce: 0 Leather trunks and travelling bags; briefcases; pouch baby carriers; beach bags; pocket wallets; bags for campers, namely, backpacks; shopping bags made of leather, canvas, textile or mesh; purses; handbags; infant carriers worn on the body; travelling bags; rucksacks; school bags; sport bags, not included in other classes; vanity cases, not fitted; toilet bags sold empty; business and credit card cases; umbrellas and parasols; walkingsticks</p> <p>Class 021. First use: First Use: 0 First Use In Commerce: 0 Household or kitchen utensils, namely, containers for household or kitchen use;combs and sponges for household purposes; brushes, namely, bath</p>		

	<p>brushes, brushes for footwear; glassware, porcelain and earthenware not included in other classes, in the form of beverage ware and tableware, namely, coffee services, tea services</p> <p>Class 022. First use: First Use: 0 First Use In Commerce: 0</p> <p>Bags, envelopes, pouches of textile, for packaging; cotton bags, for the transport and storage of materials in bulk</p> <p>Class 024. First use: First Use: 0 First Use In Commerce: 0</p> <p>Bed covers; bed linen; towels</p> <p>Class 025. First use: First Use: 0 First Use In Commerce: 0</p> <p>Clothing, namely, blouses, shirts, dresses, jackets, vests, pants, socks; footwear; headgear, namely, caps, hats</p> <p>Class 026. First use: First Use: 0 First Use In Commerce: 0</p> <p>Ribbons and braid; ornamental novelty badges and buttons; ornamental cloth patches and appliques as haberdashery</p> <p>Class 028. First use: First Use: 0 First Use In Commerce: 0</p> <p>Golf gloves; golf clubs; golf bags, with or without wheels; golf tees; golf balls; bags specially adapted for sport equipment</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0</p> <p>Online retail store services for do-it-yourself products and garden products, hobby needs and handicraft supplies, sound recording carriers, data media, watches and jewelry, printed matter, stationery, office requisites, leather goods, household, furniture and decoration goods, clothing, shoes and textiles, toys, sporting goods; advertising services; development of advertising and marketing concepts as well as advertising and marketing for sports events and sports clubs; arranging of advertising and sponsored contracts for others</p> <p>Class 036. First use: First Use: 0 First Use In Commerce: 0</p> <p>Financial sponsorship of sports events and sports clubs</p>
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Attachments	<p>79154703#TMSN.png( bytes )</p> <p>1073.16.1 - 2016-01-13 - Notice of Opposition (Pro Se').pdf(152610 bytes )</p>
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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 USPS Express Mail Post Office to Addressee on this date.

Signature	/Michael M. Ballard/
Name	Michael M. Ballard
Date	01/13/2016

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

In the matter of:

Application Serial No.: 86/626,374

International Class: 035

Application Filing Date: 05/12/2015

Date of Publication: 09/15/2015

Mark: **PRO SE'**

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Brose Fahrzeugteile GmbH & Co. KG, Coburg	)	
	)	
Opposer,	)	
	)	Opposition No. _____
v.	)	
	)	
Dillard's, Inc.,	)	
	)	
Applicant.	)	
	)	
	)	

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**NOTICE OF OPPOSITION**

Opposer Brose Fahrzeugteile GmbH & Co. KG, Coburg (“Brose” or “Opposer”), a limited partnership in Germany with a principle place of business at Ketschendorfer Strasse 38-50, 96450 Coburg, Germany, believes it will be damaged by the issuance of a registration for the mark PRO SE’ (the “PRO SE’ Mark” or “Applicant’s Mark”), for International Class 035, as applied for in U.S. Application Serial No. 86/626,374, filed on May 12, 2015 by Dillard’s, Inc., a corporation organized in Delaware with an address of 1600 Cantrell Road, Little Rock, Arkansas 72201.

As grounds for opposition, it is alleged that:

1. Opposer is an internationally recognized automotive supplier producing mechatronics systems as well as other goods, such as clothing. Opposer offers its products in the United States under its BROSE mark, which is registered under various U.S. Registrations, including U.S. Registration No. 4,820,226 (“Opposer’s Mark”).

2. Opposer is the owner of U.S. Registration No. 4,820,226 for the mark BROSE in connection with, *inter alia*, “clothing, namely, blouses, shirts, dresses, jackets, vests, pants, socks; footwear; headgear, namely, caps, hats” in International Class 025 (“Opposer’s Goods”), which registered on September 29, 2015.

3. On May 12, 2015, Applicant filed an application to register the mark PRO SE’ for, “Retail store services, featuring clothing” in International Class 035 (“Applicant’s Services”). Applicant’s application for the PRO SE’ mark was assigned Serial No. 86/626,374 and was published for opposition on September 15, 2015. (“Applicant’s Application”).

4. Opposer has constructive use of the BROSE mark in connection with Opposer’s Goods since at least as early as August 14, 2013.

**FIRST GROUND: PRIORITY**

5. Opposer incorporates by reference and re-alleges herein Paragraphs 1-4 above as if fully set forth herein.

6. Upon information and belief, Opposer’s use of Opposer’s Mark pre-dates the filing date of Applicant’s Application.

7. Upon opinion and belief, Applicant has not used Applicant’s Mark in U.S. commerce in connection with Applicant’s Goods prior to July 1, 2014, Applicant’s date of first use in commerce listed in Applicant’s Application.

8. Registration of Applicant's Mark in International Class 035 will disrupt and reduce Opposer's prior and superior rights.

9. Registration of Applicant's Mark in International Class 035 will damage Opposer within the meaning of 15 U.S.C. § 1063 because Applicant would gain statutory rights in Applicant's Mark, or confusingly similar variations thereof, in violation of Opposer's prior established rights in Opposer's Mark.

### **SECOND GROUND: LIKELIHOOD OF CONFUSION**

10. Opposer incorporates by reference and re-alleges herein Paragraphs 1-9 above as if fully set forth herein.

11. Applicant's PRO SE' mark for Applicant's Services so resembles Opposer's BROSE mark for Opposer's Goods, in sight and sound, that it is likely to cause confusion, to cause mistake, and/or to deceive consumers into believing that the goods or services marketed, sold or rendered with or under the PRO SE' mark are produced, sold, rendered, owned or sponsored by, or otherwise affiliated with, Opposer. *See* 15 U.S.C. § 1052(d).

12. Applicant's PRO SE' mark is highly similar to Opposer's BROSE mark in sound. For example, Applicant's Mark is pronounced \ 'prō-'sā, -'sē \. Similarly, Opposer's Mark is typically pronounced \ 'brō-sē, 'brō-zē \.

13. Applicant's PRO SE' mark is highly similar to Opposer's BROSE mark in sight. For example, Applicant's Mark is identical to Opposer's Mark with the exception of a single letter (the Applicant's Mark replaces the "B" in Opposer's Mark with a "P"), a space between the "O" and the "S", and a hyphen.

14. Applicant's Services are highly related to Opposer's Goods.

15. Applicant's Application contains no restrictions or limitations as to the Applicant's marketing channels or channels of trade. Accordingly, Opposer assumes that

Applicant intends to use its PRO SE' mark in all accepted channels of trade. Thus, in addition to an overlap in customer base, Applicant's channels of trade will overlap with Opposer's channels of trade in marketing and selling Applicant's Goods under the PRO SE' mark.

16. Consumers familiar with Opposer's Goods sold under the BROSE mark will likely perceive Applicant's Services as being associated or affiliated with, or otherwise sponsored by, Opposer.

17. Any defect, objection to or fault found with Applicant's Services rendered or sold under the PRO SE' mark will necessarily reflect on and thus injure the reputation that Opposer has established for its goods. Accordingly, Opposer believes that it will be harmed by registration of the mark shown in Application No. 86/626,374.

18. For at least the foregoing reasons, the similarity between Applicant's PRO SE' mark and Opposer's BROSE mark is likely to cause consumer confusion resulting in injury and damage to Opposer.

WHEREFORE, Opposer hereby requests that this Notice of Opposition be sustained and that United States Trademark Application No. 86/626,374 be refused.

DATED this 13th day of January, 2016.

By: /Michael M. Ballard/  
Michael M. Ballard  
Attorney for Opposer

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** regarding Brose Fahrzeugteile GmbH & Co. KG, Coburg v. Dillard's, Inc. has been served on the Applicant by mailing said copy on January 13, 2016, via at least First Class Mail, postage prepaid, in an envelope addressed to:

Dillard's, Inc.  
Attention: Legal  
1600 Cantrell Road  
Little Rock, Arkansas 72201-1145

DATED this 13th day of January, 2016.

By: /Lisa Bateman/  
Lisa Bateman