

ESTTA Tracking number: **ESTTA722821**

Filing date: **01/26/2016**

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	Luxe Hospitality Company, LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	11461 Sunset Blvd Los Angeles, CA 90049 UNITED STATES		

Correspondence information	Daniel P. Mullarkey Novak Druce Connolly Bove + Quigg, LLP 1875 Eye Street, NW 11th Floor Washington, DC 20006 UNITED STATES trademark@novakdruce.com Phone:2026590100		
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**Applicant Information**

Application No	86471878	Publication date	12/29/2015
Opposition Filing Date	01/26/2016	Opposition Period Ends	01/28/2016
Applicant	Preferred Hotel Group, Inc. 311 S. Wacker Dr., Suite 1900 Chicago, IL 60606 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Hotel services; resort hotel services; reservation of temporary accommodation; provision of hotel accommodation; provision of hotel venues for meetings and conferences; providing advice and information to tourists and travelers on destination hotels; hotel reservation and booking services
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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.	3548611	Application Date	02/09/2007
Registration Date	12/23/2008	Foreign Priority Date	NONE
Word Mark	LUXE		

Design Mark	<b>LUXE</b>
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 1999/02/00 First Use In Commerce: 1999/02/00 hotel services

U.S. Registration No.	4177255	Application Date	06/01/2011
Registration Date	07/17/2012	Foreign Priority Date	NONE
Word Mark	LUXE HOTELS		
Design Mark	<b>LUXE HOTELS</b>		
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 2011/02/15 First Use In Commerce: 2011/02/15 Health spa services for health and wellness of the body and spirit, namely, providing massage, facial and body treatment services, cosmetic body care services		

U.S. Registration No.	4212420	Application Date	06/13/2011
Registration Date	09/25/2012	Foreign Priority Date	NONE
Word Mark	LUXE WORLDWIDE HOTELS		

Design Mark	<b>LUXE WORLDWIDE HOTELS</b>		
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2000/04/00 First Use In Commerce: 2000/04/00 Hotel accommodation services; Hotel, restaurant and bar services		

U.S. Registration No.	4212421	Application Date	06/13/2011
Registration Date	09/25/2012	Foreign Priority Date	NONE

Word Mark	LUXE
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Design Mark			
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Description of Mark	The mark consists of the word "LUXE" with a stylized "X".		
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Goods/Services	Class 043. First use: First Use: 2008/05/00 First Use In Commerce: 2008/05/00 Hotel, bar and restaurant services		
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Related Proceedings	Central District of California Case 8:16-cv-00110-JLS- DFM		
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Attachments	76672491#TMSN.png( bytes ) 85334841#TMSN.png( bytes ) 85344198#TMSN.png( bytes )		
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	85344211#TMSN.png( bytes ) LVX Notice of Opposition.pdf(861290 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	/daniel mullarkey/
Name	Daniel P. Mullarkey
Date	01/26/2016

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

In the Matter of Application No. 86/471,878

Filed: December 4, 2014

Published: December 29, 2015



Luxe Hospitality Company, LLC	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
Preferred Hotel Group, Inc.	)	
	)	
Applicant.	)	

NOTICE OF OPPOSITION

Luxe Hospitality Company, LLC is a Limited Liability Company organized under the laws of Delaware, having an address of 11461 Sunset Boulevard, Los Angeles, CA, 90049 (hereinafter “Luxe” or “Opposer”) believes it will be damaged by the registration of the above-identified mark and hereby opposes same. The statutory opposition filing fee of \$300 is submitted herewith. Please charge any additional fees or credit any overpayment to Deposit Account No. 14-1437.

As grounds for this opposition it is alleged that:

1. Luxe has been and now is engaged in the business of providing hotel services under the trademark LUXE (“the Luxe Services”).
2. Luxe is the owner of the following trademark registrations:

Mark	SN or Registration No.	Goods and Services
LUXE	Reg. 3,548,611 Filing Date: Feb. 9, 2007 Reg. Date: Dec. 23, 2008	<u>Class 43</u> : Hotel Services

LUXE HOTELS	Reg. 4,177,255 Filing Date: June 1, 2011 Supp. Reg. Date: Jul. 17, 2011	<u>Class 44</u> : Health spa services for health and wellness of the body and spirit, namely, providing massage, facial and body treatment services, cosmetic body care services
LUXE WORLDWIDE HOTELS	Reg. 4,212,420 Filing Date: Jun. 13, 2011 Reg. Date: Sep. 25, 2012	<u>Class 43</u> : Hotel accommodation services; Hotel, restaurant and bar services
	Reg. 4,212,421 Filing Date: Jun. 13, 2011 Reg. Date: Sep. 25, 2012	<u>Class 43</u> : Hotel, bar and restaurant services

Luxe’s registration for LUXE, Registration No. 3,548,611 is incontestable. The TESS printouts are attached at Exhibit A-D.

3. Preferred Hotel Group, Inc. (hereinafter “Applicant” or “Preferred”), a Delaware Corporation, located at 311 S. Wacker Dr., Suite 1900, Chicago, IL, 60606, filed an intent-to-use



application Serial No. 86/471,878, on December 4, 2014 to register the mark

(“LVX Design Mark”) for “Hotel services; resort hotel services; reservation of temporary accommodation; provision of hotel accommodation; provision of hotel venues for meetings and conferences; providing advice and information to tourists and travelers on destination hotels; hotel reservation and booking services” in International class 43 (“Preferred Services”), which was published for opposition in the Official Gazette.

4. There is no issue as to priority. Applicant acquired no rights in the LVX Design Mark in the United States before Opposer acquired rights in the LUXE Mark.

5. Upon information and belief, Applicant acquired no rights in the LVX Design Mark in the United States before December 4, 2014.

6. The LUXE Mark is distinctive for the Luxe Services.

7. Applicant's mark is similar in sight, sound, connotation, and overall commercial impression to the LUXE Mark.

8. Applicant's Services are identical or highly related to the Luxe Services. The Preferred Services are identified without any limitations in intended uses or users and, on information and belief, will have at least some of the same uses and/or users, and/or will be distributed to at least some of the same classes of consumers and through at least some of the same channels of trade as the Luxe Services. As applied to such services, Applicant's LVX Design Mark so resembles the LUXE Mark as to be likely to cause confusion, or to cause mistake or to deceive as to the source of the goods.

9. Opposer will be damaged by Applicant's registration of the LVX Design Mark for the services identified in Application Serial No. 86/471,878 as a result of the aforementioned likelihood of confusion, mistake or deception as to the source of Applicant's services and has a direct and personal stake in the outcome of the proceeding.

WHEREFORE, Opposer prays that this Opposition be sustained, and the registration sought by Applicant be refused.

Dated: January 26, 2016

Respectfully submitted,

/ Daniel Mullarkey/

Daniel P. Mullarkey  
Breton Bocchieri  
NOVAK DRUCE CONNOLLY BOVE & QUIGG LLP  
1875 Eye Street, NW, 11<sup>th</sup> Floor  
Washington, DC 20006  
tmdocket@novakdruce.com

Attorneys for Opposer,  
Luxe Hospitality Company, LLC

Certificate of Service

This is to certify that on this 26th day of January 2016, a copy of the foregoing Notice of Opposition and exhibits was mailed by First Class mail, postage prepaid, to the following attorney of record:

Melanie Howard  
Loeb & Loeb LLP  
10100 Santa Monica Blvd., Suite 2200  
Los Angeles, CA 90067  
(310) 282-2143

/Daniel Mullarkey/  
Daniel P. Mullarkey

# **EXHIBIT A**



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# LUXE

<b>Word Mark</b>	LUXE
<b>Goods and Services</b>	IC 043. US 100 101. G & S: hotel services. FIRST USE: 19990200. FIRST USE IN COMMERCE: 19990200
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Trademark Search Facility Classification Code</b>	SHAPES-MISC Miscellaneous shaped designs
<b>Serial Number</b>	76672491
<b>Filing Date</b>	February 9, 2007
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	October 7, 2008
<b>Registration Number</b>	3548611
<b>Registration Date</b>	December 23, 2008

**Owner** (REGISTRANT) LUXE HOSPITALITY COMPANY LIMITED LIABILITY COMPANY DELAWARE  
11461 Sunset Boulevard Los Angeles CALIFORNIA 90049

**Attorney of Record** Foster Tepper

**Prior Registrations** 2425916

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL-2(F)

**Affidavit Text** SECT 15. SECT 8 (6-YR).

**Live/Dead Indicator** LIVE

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# **EXHIBIT B**



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# LUXE HOTELS

**Word Mark** LUXE HOTELS

**Goods and Services** IC 044. US 100 101. G & S: Health spa services for health and wellness of the body and spirit, namely, providing massage, facial and body treatment services, cosmetic body care services. FIRST USE: 20110215. FIRST USE IN COMMERCE: 20110215

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 85334841

**Filing Date** June 1, 2011

**Current Basis** 1A

**Original Filing Basis** 1A

**Date Amended to Current Register** January 31, 2012

**Registration Number** 4177255

**Registration Date** July 17, 2012

**Owner** (REGISTRANT) LUXE HOSPITALITY COMPANY LIMITED LIABILITY COMPANY DELAWARE 11461  
Sunset Boulevard Los Angeles CALIFORNIA 90049

**Attorney of Record** Michael A. Painter,

**Prior Registrations** 3548611

**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HOTELS" APART FROM THE MARK AS SHOWN

**Type of Mark** SERVICE MARK

**Register** SUPPLEMENTAL

**Live/Dead Indicator** LIVE

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# **EXHIBIT C**



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## LUXE WORLDWIDE HOTELS

<b>Word Mark</b>	LUXE WORLDWIDE HOTELS
<b>Goods and Services</b>	IC 043. US 100 101. G & S: Hotel accommodation services; Hotel, restaurant and bar services. FIRST USE: 20000400. FIRST USE IN COMMERCE: 20000400
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85344198
<b>Filing Date</b>	June 13, 2011
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	July 10, 2012
<b>Registration Number</b>	4212420
<b>Registration Date</b>	September 25, 2012
<b>Owner</b>	(REGISTRANT) LUXE HOSPITALITY COMPANY LIMITED LIABILITY COMPANY DELAWARE 11461 Sunset Boulevard Los Angeles CALIFORNIA 90049
<b>Attorney of Record</b>	Michael A. Painter, Esq.
<b>Prior</b>	3548611

**Registrations**

**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "WORLDWIDE HOTELS" APART FROM THE MARK AS SHOWN

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL-2(F)

**Live/Dead Indicator** LIVE

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**LUXE**

<b>Word Mark</b>	LUXE
<b>Goods and Services</b>	IC 043. US 100 101. G & S: Hotel, bar and restaurant services. FIRST USE: 20080500. FIRST USE IN COMMERCE: 20080500
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	26.11.01 - Rectangles as carriers or rectangles as single or multiple line borders
<b>Serial Number</b>	85344211
<b>Filing Date</b>	June 13, 2011
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	July 10, 2012
<b>Registration Number</b>	4212421
<b>Registration Date</b>	September 25, 2012
<b>Owner</b>	(REGISTRANT) LUXE HOSPITALITY COMPANY LIMITED LIABILITY COMPANY DELAWARE 11461 Sunset Boulevard Los Angeles CALIFORNIA 90049
<b>Attorney of Record</b>	Michael A. Painter, Esq.
<b>Prior Registrations</b>	3548611
<b>Description of Mark</b>	Color is not claimed as a feature of the mark. The mark consists of the word "LUXE" with a stylized "X".
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL-2(F)-IN PART
<b>Live/Dead Indicator</b>	LIVE

**Distinctiveness  
Limitation Statement** as to "LUXE"

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