

ESTTA Tracking number: **ESTTA723999**

Filing date: **02/02/2016**

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	Regent Sutton LLC		
Entity	Limited Liability Company	Citizenship	New York
Address	1411 Broadway New York, NY 10018 UNITED STATES		

Attorney information	Howard F. Mandelbaum Levine Mandelbaum PLLC 222 Bloomingdale Road, Suite 203 White Plains, NY 10605 UNITED STATES mail@levman.com Phone:(914) 421-0500		
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Applicant Information

Application No	85528193	Publication date	01/12/2016
Opposition Filing Date	02/02/2016	Opposition Period Ends	02/11/2016
Applicant	Fresh, LLC 163 E. Main St. Little Falls, NJ 07424 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: Button down shirts; Collared shirts; Denim jackets; Down jackets; Dress pants; Dress shirts; Hats; Heavy jackets; Hooded sweatshirts; Jackets; Jeans; Leather jackets; Men's and women's jackets, coats, trousers, vests; Pants; Short-sleeved or long-sleeved t-shirts; Sweatshirts; T-shirts

Applicant Information

Application No	85553038	Publication date	01/12/2016
Opposition Filing Date	02/02/2016	Opposition Period Ends	02/11/2016
Applicant	Fresh, LLC 163 E. Main St. Little Falls, NJ 07424 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: Button down shirts; Cargo pants; Collared
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shirts; Denim jackets; Denims; Down jackets; Dress pants; Dress shirts; Fur jackets; Golf shirts; Heavy jackets; Hooded sweat shirts; Jeans; Jeggings, namely, pants that are partially jeans and partially leggings; Jogging pants; Pants; Polo shirts; Rugby shirts; Shell jackets; Shirts; Ski jackets; Sweat jackets; Sweat pants; Sweat shirts; T-shirts; Wind-jackets

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution by blurring	Trademark Act section 43(c)
Dilution by tarnishment	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85781586	Application Date	11/16/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FRESH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2005/00/00 First Use In Commerce: 2005/00/00 sweaters and knit tops		

Attachments	85781586#TMSN.png(bytes) JACQ2150US_NoticeofOpposition.pdf(13037 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	/Howard F. Mandelbaum/
Name	Howard F. Mandelbaum
Date	02/01/2016

items including knit tops, sweaters, vests, pants and jackets.

3. Plaintiff has applied to register the trademark FRESH in the Patent and Trademark Office, under Serial No. 85/781,586 for sweaters and knit tops.

4. On March 12, 2013 the Examining Attorney suspended Plaintiff's Application Serial No. 85/781,586 on the ground that if the marks in Defendant's Applications Serial Nos. 85/528,193 and 85/553,038 register, the mark in Plaintiff's application may be refused registration under Section 2(d) of the Trademark Law as likely to be confused with the aforementioned marks of the Defendant.

5. Defendant seeks to register FRESH (Serial No. 85/528,193) based on intent to use the mark on "Button down shirts; Collared shirts; Denim jackets; Down jackets; Dress pants; Dress shirts; Hats; Heavy jackets; Hooded sweatshirts; Jackets; Jeans; Leather jackets; Men's and women's jackets, coats, trousers, vests; Pants; Short-sleeved or long-sleeved t-shirts; Sweatshirts; T-shirts".

6. Defendant seeks to register FRESH and Design (Serial No. 85/553,038) based on intent to use the mark on "Button down shirts; Cargo pants; Collared shirts; Denim jackets; Denims; Down jackets; Dress pants; Dress shirts; Fur jackets; Golf shirts; Heavy jackets; Hooded sweat shirts; Jeans; Jeggings, namely, pants that are partially jeans and partially leggings;

Jogging pants; Pants; Polo shirts; Rugby shirts; Shell jackets; Shirts; Ski jackets; Sweat jackets; Sweat pants; Sweat shirts; T-shirts; Wind-jackets".

7. On information and belief, Plaintiff's first use of the trademark FRESH (Serial No. 85/781,586) precedes or will precede Defendant's first use of the trademarks FRESH (Serial No. 85/528,193) and FRESH and Design (Serial No. 85/553,038).

8. Upon information and belief, Defendant's wearing apparel is so closely related to Plaintiff's wearing apparel that use and registration by Defendant of FRESH, and FRESH and Design, for goods so closely related to Plaintiff's goods will impair Plaintiff's free use of its trademark FRESH, is likely to cause confusion or mistake, or to deceive purchasers as to the origin or sponsorship of the goods of the parties, and will result in damage to the good will Plaintiff has acquired with respect to its trademark, all to Plaintiff's damage.

WHEREFORE, Plaintiff prays that the registrations for which Defendant's applications have been made be disallowed, and that this opposition be sustained.

/Howard F. Mandelbaum/
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