

ESTTA Tracking number: **ESTTA724293**

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	The H.D. Lee Company, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	3411 Silverside Road 200 Hanby Building Wilmington, DE 19810 UNITED STATES		

Attorney information	Paul J. Kennedy PEPPER HAMILTON LLP 3000 Two Logan Square Eighteenth and Arch Streets Philadelphia, PA 19103-2799 UNITED STATES kennedyp@pepperlaw.com, catalant@pepperlaw.com Phone:215-981-4194		
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Applicant Information

Application No	86574884	Publication date	01/05/2016
Opposition Filing Date	02/02/2016	Opposition Period Ends	02/04/2016
Applicant	Hinds, John Alexander 4A Azalea Court Eatontown, NJ 07724 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: Dresses; Footwear; Gloves; Headwear; Jackets; Pants; Shirts; Shorts; Skirts; Socks; Sweaters; Swimwear; Tennis wear; Underwear; Warm-up suits; Wristbands
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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.	3443520	Application Date	12/08/2006
Registration Date	06/10/2008	Foreign Priority Date	NONE
Word Mark	INSTANTLY SLIMS YOU		

Design Mark	INSTANTLY SLIMS YOU
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2006/05/23 First Use In Commerce: 2006/05/23 pants, jackets, shirts, capris

Attachments	77059770#TMSN.png(bytes) 02-02-2016 Notice of Opposition (H.D. Lee v. Hinds, INSTANTLY FIT).pdf(198253 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	/Paul J. Kennedy/
Name	Paul J. Kennedy
Date	02/02/2016

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

THE H.D. LEE COMPANY, INC.	:	
	:	
	:	Opposition No.
	:	
Opposer	:	Mark: INSTANTLY FIT
	:	
v.	:	Application Serial No.: 86/574884
	:	
JOHN ALEXANDER HINDS	:	Published in <i>Official Gazette</i>: January 5, 2016
	:	
	:	Filed: March 24, 2015
	:	
Applicant	:	
	:	

NOTICE OF OPPOSITION

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

The H.D. Lee Company, Inc., a Delaware corporation, with offices at 3411 Silverside Road, 200 Hanby Building, Wilmington, Delaware 19810 (“Opposer”), believes it will be damaged by the issuance of a trademark registration to John Alexander Hinds, an individual, with a mailing address at 4A Azalea Court, Eatontown, New Jersey 07724 (“Applicant”), for the mark INSTANTLY FIT (Serial No. 86/574884) in International Class 25, and hereby opposes the application.

As grounds for the opposition, Opposer alleges that:

1. Applicant is seeking to obtain, under the provisions of the Trademark Act of 1946, as amended, registration on the Principal Register of the mark INSTANTLY FIT for “dresses; footwear; gloves; headwear; jackets; pants; shirts; shorts; skirts; socks; sweaters; swimwear; tennis wear; underwear; warm-up suits; wristbands” in International Class 25 (“Applicant’s Mark”).

2. Applicant is not now, and never was, entitled to registration on the Principal Register of Applicant’s Mark either on March 24, 2015, the date of Applicant's filing of the intent-to-use based application, or on January 5, 2016, the date of publication in the *Official Gazette*.

3. Opposer is the owner of the trademark INSTANTLY SLIMS YOU (Registration No. 3443520), for “pants, jackets, shirts, capris” in International Class 25, and has made use of the mark since as early as 2006 on apparel (“Opposer’s Mark”).

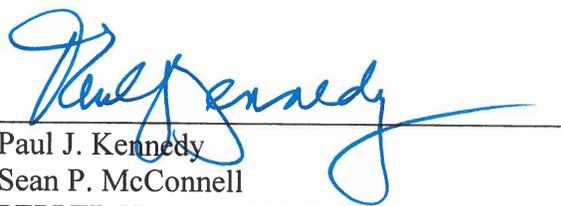
4. Opposer has, since long prior to the filing date of Applicant’s application, sold in commerce its goods under Opposer’s Mark. Through usage by Opposer, the Opposer’s Mark has become well-known to consumers and potential customers as a trademark of Opposer and as an origin and source indicator of the goods sold and provided by Opposer.

5. Because Applicant’s Mark contains the exact and dominant mark INSTANTLY as owned by Opposer, the marks “SLIMS” and “FIT” connote the same or similar meaning, and the fact that Applicant’s proposed mark is or will ultimately be used on the same or similar products as those of the Opposer, and within the same classification, Applicant’s Mark is likely to cause confusion, mistake, or deception amongst the general and consuming public as to

whether Applicant's goods are being offered by, or in affiliation with, Opposer, hence causing damage to Opposer.

Accordingly, Opposer requests that registration of the mark INSTANTLY FIT (Serial No. 86/574884) be denied to Applicant and this opposition be sustained.

DATE: February 2, 2016



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*Attorneys for Opposer,
The H.D. Lee Company, Inc.*

CERTIFICATE OF SERVICE

I, Paul J. Kennedy, hereby certify that on February 2, 2016, a true and correct copy of the foregoing Notice of Opposition was served via electronic mail (tms@rldpc.com) and U.S. First Class Mail, postage prepaid, upon the following:

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Attorneys for Applicant


Paul J. Kennedy