

ESTTA Tracking number: **ESTTA725498**

Filing date: **02/08/2016**

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	Ancco, Inc.
Granted to Date of previous extension	03/02/2016
Address	7 Times Square New York, NY 10036 UNITED STATES

Attorney information	Laura Popp-Rosenberg Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza New York, NY 10017 UNITED STATES lpopp-rosenberg@fzlj.com, fkohn@fzlj.com Phone:(212) 813-5900
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Applicant Information

Application No	86636287	Publication date	11/03/2015
Opposition Filing Date	02/08/2016	Opposition Period Ends	03/02/2016
Applicant	Ortiz, Ramses 2842 Spring Breeze Way Kissimmee, FL 34744 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2015/04/15 First Use In Commerce: 2015/04/20 All goods and services in the class are opposed, namely: Fitness apparel, namely, t-shirts, pants, hats, underwear, shorts, yoga pants, tank tops, sweatshirts, sweatpants

Grounds for Opposition

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

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3488664	Application Date	01/12/2006
Registration Date	08/19/2008	Foreign Priority Date	NONE
Word Mark	LOFT		

Design Mark	<h1>LOFT</h1>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1995/03/02 First Use In Commerce: 1995/03/02 CLOTHING, NAMELY, DRESSES, SKIRTS, SUITS, JEANS, SWEATERS, SHIRTS, T-SHIRTS, TANK TOPS, [BODYSUITS,] JUMPERS, VESTS, GLOVES, SLEEP WEAR, [ROBES,] SWIMSUITS, BLOUSES, PANTS, SHORTS, JACKETS, COATS, SOCKS, HOSIERY, BELTS, SCARVES, [UNDERWEAR;] HEAD WEAR; AND FOOTWEAR

U.S. Registration No.	3703017	Application Date	08/06/2008
Registration Date	10/27/2009	Foreign Priority Date	NONE

Word Mark	LOFT
Design Mark	<h1>LOFT</h1>

Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1999/02/00 First Use In Commerce: 1999/02/00 SUNGLASSES AND SUNGLASS CASES Class 014. First use: First Use: 1998/05/14 First Use In Commerce: 1998/05/31 JEWELRY Class 018. First use: First Use: 1998/08/31 First Use In Commerce: 1998/08/31 HANDBAGS, SHOULDER BAGS, EVENING HANDBAGS, COSMETIC CASES SOLD EMPTY, WALLETTS, CLUTCH PURSES, TOTE BAGS, UMBRELLAS

U.S. Registration No.	3359615	Application Date	01/12/2006
Registration Date	12/25/2007	Foreign Priority Date	NONE
Word Mark	LOFT		

Design Mark	<h1>LOFT</h1>
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 1995/03/02 First Use In Commerce: 1995/03/02 [ON-LINE AND IN STORE RETAIL STORE SERVICES IN THE FIELDS OF CLOTHING, FOOTWEAR, HANDBAGS, SMALL LEATHER ACCESSORIES, TOILETRIES, CONSUMABLE BATH PRODUCTS AND COSMETIC PRODUCTS] * ON-LINE AND IN STORE RETAIL STORE SERVICES IN THE FIELDS OF CLOTHING, FOOTWEAR, HANDBAGS; ((IN STORE RETAIL STORE SERVICES IN THE FIELD OF COSMETIC PRODUCTS)) *

Attachments	78790275#TMSN.png(bytes) 77540499#TMSN.png(bytes) 78790622#TMSN.png(bytes) Notice of Opposition (F1872633x96B9E).pdf(250760 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	/Laura Popp-Rosenberg/
Name	Laura Popp-Rosenberg
Date	02/08/2016

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

ANNCO, INC.,

Opposer,

-against-

RAMSES ORTIZ,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Opposer Annco, Inc. (“Opposer”), a Delaware corporation with its principal place of business at 7 Times Square, New York, New York 10036, believes that it will be damaged by the issuance of a registration for the trademark LIFT as applied for by applicant Ramses Ortiz (“Applicant”) in Application Serial No. 86/636,287 (the “Application”), filed on May 20, 2015, for identified goods in International Class 25, and therefore opposes the same. As grounds for this opposition, Opposer, by its counsel, Fross Zelnick Lehrman & Zissu, P.C., states as follows:

FACTS

A. **Opposer and Opposer’s LOFT Mark**

1. Opposer, together with its related entities, is a leading national specialty retailer of women’s apparel, shoes, accessories, and related goods and services, sold primarily under the ANN TAYLOR and LOFT brands.

2. Opposer’s rich heritage dates back to 1954, when the first ANN TAYLOR store opened in New Haven, Connecticut. The company’s LOFT brand was developed as an extension of the ANN TAYLOR brand in the 1990s.

3. Since the time that the first store opened in 1995, the LOFT brand has evolved into a nationally famous brand for women's attire. Today, Opposer operates over 650 LOFT retail and outlet stores along with an active ecommerce site, www.loft.com.

4. Since 1995, Opposer has extensively used and promoted its LOFT mark in connection with a variety of clothing, shoes, accessories, jewelry, bags, retail and online store services, and related goods and services. Through this extensive promotion and use, and the success of Opposer's offerings under the mark, the LOFT mark has come to represent enormous goodwill of Opposer.

5. Long before any date upon which Applicant can rely, Opposer's LOFT mark became uniquely identified with Opposer and came to identify the products of Opposer exclusively.

6. Opposer owns numerous U.S. trademark registrations for the LOFT mark for a wide variety of goods and services, including but not limited to the following:

<u>Reg'n No.</u>	<u>Mark</u>	<u>Reg'n Date</u>	<u>Class and Goods/Services</u>
3488664	LOFT	Aug. 19, 2008	Class 25: clothing, namely, dresses, skirts, suits, jeans, sweaters, shirts, t-shirts, tank tops, jumpers, vests, gloves, sleep wear, swimsuits, blouses, pants, shorts, jackets, coats, socks, hosiery, belts, scarves, head wear; and footwear
3703017	LOFT	Oct. 27, 2009	Class 9: sunglasses and sunglass cases Class 14: jewelry Class 18: handbags, shoulder bags, evening handbags, cosmetic cases sold empty, wallets, clutch purses, tote bags, umbrellas
3359615	LOFT	Dec. 25, 2007	Class 35: on-line and in store retail store services in the fields of clothing, footwear, handbags; in store retail store services in the field of cosmetic products

The foregoing registrations are valid, subsisting and in full force and effect, and constitute evidence of the validity of the LOFT mark and of Opposer's exclusive right to use the LOFT mark for the goods and services identified in the registrations. In addition, U.S. Registration No. 3488664 has become incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065, and U.S. Registration No. 3359615 has also become incontestable with respect to on-line and in store retail store services in the fields of clothing, footwear, and handbags.

B. Applicant and His Application

7. Upon information and belief, Applicant is an individual with a place of residence at 2842 Spring Breeze Way, Kissimmee, Florida, 34744.

8. Upon information and belief, on May 20, 2015, Applicant filed as Application Serial No. 86/636,287 an application for the mark LIFT (Stylized) ("Applicant's Mark") for use in connection with "fitness apparel, namely, t-shirts, pants, hats, underwear, shorts, yoga pants, tank tops, sweatshirts, sweatpants" under Section 1(a) of the Lanham Act, 15 U.S.C. § 1125(a), claiming first use as of April 20, 2015.

9. Applicant is not connected to Opposer in any way, and has not been authorized by Opposer to use Applicant's Mark.

10. At the time that Applicant filed the Application herein opposed, Applicant was on constructive notice of Opposer's prior and exclusive rights in the LOFT mark by virtue of Opposer's federal registrations, pursuant to Section 22 of the Lanham Act, 15 U.S.C. § 1072.

11. Upon information and belief, at the time that Applicant filed the Application herein opposed, Applicant had actual knowledge of Opposer's prior and exclusive rights in the LOFT mark as a result of Opposer's extensive use and promotion of the LOFT mark and the fame of the LOFT mark accruing from such use and promotion.

COUNT 1:
PRIORITY AND LIKELIHOOD OF CONFUSION

12. Opposer incorporates by reference paragraphs 1 through 11 above as if fully set forth herein.

13. Upon information and belief, the first use date claimed in the Application is the earliest date on which Applicant can rely in connection with Applicant's Mark. This date is many years after Opposer's first use of the LOFT mark. As such, Opposer's rights in the LOFT mark are prior to and superior to any rights Applicant may claim in Applicant's Mark.

14. Applicant's Mark is highly similar to Opposer's LOFT mark in sight, sound, and commercial impression, differing by only a single, internal vowel.

15. The goods and services identified in the Application are identical or closely related to the goods and services offered by Opposer under the LOFT mark.

16. As a consequence of the above, and owing to the fame and renown of Opposer's LOFT mark, any use by Applicant of Applicant's Mark for the goods identified in the Application is likely to create the erroneous impression that Applicant's goods originate with, are sponsored or approved by, or are otherwise connected with Opposer or Opposer's goods and services. Any use of Applicant's Mark by Applicant is, therefore, likely to cause confusion, cause mistake or to deceive the public, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

17. Registration Applicant's Mark would be inconsistent with Opposer's prior exclusive rights in its LOFT mark and would threaten to destroy Opposer's investment and goodwill in the mark.

18. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's Mark.

COUNT 2:
DILUTION

19. Opposer incorporates by reference paragraphs 1 through 18 above as if fully set forth herein.

20. Opposer's LOFT mark is distinctive and famous, has been used in commerce and widely advertised throughout the United States, and is widely recognized by consumers as a symbol of Opposer and its goods and services.

21. Opposer's LOFT mark is and has been famous long prior to any date upon which Applicant can rely.

22. Owing to the fame of Opposer's LOFT mark, and the similarity between the LOFT mark and Applicant's Mark, registration of Applicant's Mark is likely to dilute the distinctive quality of Opposer's LOFT mark by lessening the capacity of that mark to identify and distinguish exclusively the goods and services of Opposer, in violation of Section 2(f) of the Lanham Act, 15 U.S.C. § 1052(f).

23. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's Mark.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that registration of the mark sought by Application Serial No. 86/636,287 in all respects be denied.

Dated: New York, New York
February 8, 2016

Respectfully submitted,

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 
Laura Popp-Rosenberg
Felicity Kohn

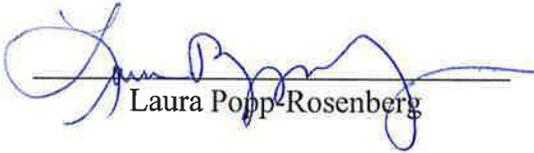
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fkohn@fzlj.com

Attorneys for Opposer Annco, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of February 2016, I caused a true and correct copy of the foregoing NOTICE OF OPPOSITION to be sent by First-Class Mail, postage pre-paid, in an envelope addressed to Applicant, as follows:

Mr. Ramses Ortiz
2842 Spring Breeze Way
Kissimmee, FL 34744


Laura Popp-Rosenberg