

ESTTA Tracking number: **ESTTA744815**

Filing date: **05/06/2016**

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	'47 Brand, LLC
Granted to Date of previous extension	05/08/2016
Address	15 Southwest Park Westwood, MA 02090 UNITED STATES
Party who filed Extension of time to oppose	Twins Enterprise Inc.
Relationship to party who filed Extension of time to oppose	Because #47 Brand, LLC is has acquired the relevant trademark rights from Twins Enterprise Inc. through a merger, #47 Brand, LLC is in privity with Twins Enterprise Inc., and is therefore entitled to file this notice of opposition pursuant to TBMP 303.05(b) and 37 CFR Â§ 2.102(b). Specifically, Twins Enterprise Inc. merged with #47 Brand, LLC effective December 17, 2015, with #47 Brand, LLC as the surviving entity. Thus, all trademark registrations and applications previously owned by Twins Enterprise Inc. are now owned by #47 Brand, LLC. The Merger document and associated change of ownership has been recorded with the USPTO in the underlying trademark applications and registrations relevant to this proceeding. Attached as Exhibit A to the Notice of Opposition is the Assignment Cover Sheet recorded with the USPTO.

Attorney information	Lisa M. Tittlemore Sunstein Kann Murphy & Timbers LLP 125 Summer Street Boston, MA 02110 UNITED STATES ltittlemore@sunsteinlaw.com, ssternberg@sunsteinlaw.com
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Applicant Information

Application No	86624753	Publication date	11/10/2015
Opposition Filing Date	05/06/2016	Opposition Period Ends	05/08/2016
Applicant	Stewart-Haas Racing, LLC 6001 Haas Way Kannapolis, NC 28081 UNITED STATES		

Goods/Services Affected by Opposition

Class 012. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: License plate frames and license plate holders

<p>Class 016. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Printed material, namely, brochures, magazines, newsletters, pamphlets, souvenir programs, all the foregoing in the field of motorsports; paper magazine covers, decals, static decals, stickers, trading cards, and window decals</p>
<p>Class 021. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Housewares, namely, shot glasses, drinking glasses, cups, mugs and drinking steins, coffee cups, and pet feeding dishes; coasters not made of paper or cloth, bottle openers, portable beverage coolers, thermal insulated cooler bags for beverages, insulated portable sports coolers, thermal insulated containers for can beverages, plastic sports bottles sold empty, and plastic water bottles sold empty</p>
<p>Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Clothing marketed as goods associated with a stock car racing team and sold to stock car racing fans through specialized outlets featuring motorsports racing merchandise and paraphernalia, namely, crew neck shirts, fashion shirts, golf shirts, hats, caps, jackets, jerseys, sportshirts, polo shirts, pullover shirts, long pants, sweatshirts, T-shirts, tank tops, toboggan-type knit caps, coats, pajamas</p>
<p>Class 028. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Miniature toys, namely, automobiles, toy model automobiles; automobile, truck, and all-terrain vehicle toy banks; golf balls, toy cars of plastic and metal, toy vehicle haulers, toy model cars and related accessories sold as a unit, diecast toy cars, and diecast toy vehicle haulers; replica toy driver helmets</p>
<p>Class 041. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Entertainment services in the nature of participating in professional automobile races and auto racing exhibitions</p>

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.	4277350	Application Date	12/22/2010
Registration Date	01/15/2013	Foreign Priority Date	NONE
Word Mark	47		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2008/07/31 First Use In Commerce: 2008/07/31 Athletic uniforms; baby bibs not of paper; baseball caps and hats; bottoms; caps; cardigans; ear bands; ear muffs; gloves; hats; headwear; jackets; jeans; jerseys; mittens; pants; pullovers; shirts; shorts; socks; sweaters; sweatpants; sweatshirts; tank tops; tops; track jackets; track pants; underwear		

U.S. Registration No.	4239368	Application Date	12/22/2010
Registration Date	11/06/2012	Foreign Priority Date	NONE
Word Mark	FORTY SEVEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2008/07/31 First Use In Commerce: 2008/07/31 Athletic uniforms; Baby bibs not of paper; Baseball caps and hats; Bottoms; Caps; Cardigans; Ear muffs; Earbands; Gloves; Hats; Headwear; Jackets; Jeans; Jerseys; Mittens; Pants; Pullovers; Shirts; Shorts; Sweat pants; Sweaters; Sweatshirts; Tank tops; Tops; Track jackets; Trackpants; Underwear		

U.S. Registration No.	4223433	Application Date	04/12/2011
Registration Date	10/09/2012	Foreign Priority Date	NONE
Word Mark	47 Â· FORTY SEVEN Â· BRAND		
Design Mark			
Description of Mark	The mark consists of concentric circles in which a stylized "47" appears in the center circle. The outer ring of the circle contains the words "FORTY SEVEN BRAND" and two dots.		

Goods/Services	Class 025. First use: First Use: 2008/07/31 First Use In Commerce: 2008/07/31 Athletic uniforms; baby bibs not of paper; baseball caps and hats; bottoms; caps; cardigans; ear muffs; earbands; gloves; hats; headwear; jackets; jeans; jerseys; mittens; pants; pullovers; shirts; shorts; socks; sweat pants; sweaters; sweatshirts; tank tops; tops; track jackets; track pants; underwear; footwear
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U.S. Application No.	85889137	Application Date	03/28/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	47		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 0 First Use In Commerce: 0 Stationery, stickers, paper pennants Class 018. First use: First Use: 0 First Use In Commerce: 0 Back packs, duffle bags, and umbrellas Class 024. First use: First Use: 0 First Use In Commerce: 0 Baby blankets; bed blankets; blanket throws; blankets for outdoor use; lap blankets; pet blankets; wearable blankets in the nature of blankets with sleeves; yoga blankets; towels; cloth pennants; felt pennants Class 025. First use: First Use: 0 First Use In Commerce: 0 Flip flops, sneakers, ties, socks, boxers, swimwear, belts, dress shirts, blazers		

U.S. Application No.	85889148	Application Date	03/28/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FORTY SEVEN		
Design Mark			
Description of Mark	NONE		

Goods/Services	<p>Class 016. First use: First Use: 0 First Use In Commerce: 0 Stationery, stickers, paper pennants</p> <p>Class 018. First use: First Use: 0 First Use In Commerce: 0 Back packs, duffle bags, and umbrellas</p> <p>Class 024. First use: First Use: 0 First Use In Commerce: 0 Baby blankets; bed blankets; blanket throws; blankets for outdoor use; lap blankets; pet blankets; wearable blankets in the nature of blankets with sleeves; yoga blankets; towels; cloth pennants; felt pennants</p> <p>Class 025. First use: First Use: 0 First Use In Commerce: 0 Flip flops, sneakers, ties, socks, boxers, swimwear, belts, dress shirts, blazers</p>
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U.S. Application No.	85889167	Application Date	03/28/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	47 FORTY SEVEN BRAND
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Description of Mark	The mark consists of concentric circles in which a stylized "47" appears in the center circle. The outer ring of the circle contains the words "FORTY SEVEN BRAND" and two dots.
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Goods/Services	<p>Class 016. First use: First Use: 0 First Use In Commerce: 0 Stationery, stickers, paper pennants</p> <p>Class 018. First use: First Use: 0 First Use In Commerce: 0 Back packs, duffle bags, and umbrellas</p> <p>Class 024. First use: First Use: 0 First Use In Commerce: 0 Baby blankets; bed blankets; blanket throws; blankets for outdoor use; lap blankets; pet blankets; wearable blankets in the nature of blankets with sleeves; yoga blankets; towels; cloth pennants; felt pennants</p> <p>Class 025. First use: First Use: 0 First Use In Commerce: 0 Flip flops, sneakers, ties, socks, boxers, swimwear, belts, dress shirts, blazers</p>
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U.S. Application	86480084	Application Date	12/15/2014
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No.			
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	47		
Design Mark			
Description of Mark	The mark consists of an apostrophe before the stylized number "47" inside a circle.		
Goods/Services	<p>Class 016. First use: First Use: 0 First Use In Commerce: 0 Stationery, stickers, paper pennants</p> <p>Class 018. First use: First Use: 0 First Use In Commerce: 0 Back packs, duffle bags, and umbrellas</p> <p>Class 024. First use: First Use: 0 First Use In Commerce: 0 Cloth pennants; felt pennants</p> <p>Class 025. First use: First Use: 0 First Use In Commerce: 0 Athletic uniforms; baby bibs not of paper; baseball caps and hats; bottoms; caps; cardigans; ear bands; ear muffs; gloves; hats; headwear; jackets; jeans; jerseys; mittens; pants; pullovers; shirts; shorts; socks; sweaters; sweatpants; sweatshirts; tank tops; tops; track jackets; track pants; underwear; flip flops, sneakers, ties, socks, boxers, swimwear, belts, dress shirts, blazers; bandanas; pajamas</p>		

Related Proceedings	Opposition related to Serial No. 86/624,765
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Attachments	<p>85977294#TMSN.png(bytes)</p> <p>85977645#TMSN.png(bytes)</p> <p>85977452#TMSN.png(bytes)</p> <p>85889137#TMSN.png(bytes)</p> <p>85889148#TMSN.png(bytes)</p> <p>85889167#TMSN.png(bytes)</p> <p>86480084#TMSN.png(bytes)</p> <p>41 plus design Notice of Opposition.pdf(131550 bytes)</p> <p>Ex A - Recordal of Name Change with PTO.pdf(341777 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 First Class Mail on this date.

Signature	/Lisa M. Tittlemore/
Name	Lisa M. Tittlemore
Date	05/06/2016

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

In the Matter of Application:

Serial No.: 86/624,753
Filed: May 11, 2015
Applicant: Stewart-Haas Racing, LLC
Mark: 41 (plus design)
For: License plate frames and license plate holders in International Class 12; Printed material, namely, brochures, magazines, newsletters, pamphlets, souvenir programs, all the foregoing in the field of motorsports; paper magazine covers, decals, static decals, stickers, trading cards, and window decals in International Class 16; Housewares, namely, shot glasses, drinking glasses, cups, mugs and drinking steins, coffee cups, and pet feeding dishes; coasters not made of paper or cloth, bottle openers, portable beverage coolers, thermal insulated cooler bags for beverages, insulated portable sports coolers, thermal insulated containers for can beverages, plastic sports bottles sold empty, and plastic water bottles sold empty in International Class 21; Clothing marketed as goods associated with a stock car racing team and sold to stock car racing fans through specialized outlets featuring motorsports racing merchandise and paraphernalia, namely, crew neck shirts, fashion shirts, golf shirts, hats, caps, jackets, jerseys, sport shirts, polo shirts, pullover shirts, long pants, sweatshirts, T-shirts, tank tops, toboggan-type knit caps, coats, pajamas in International Class 25; Miniature toys, namely, automobiles, toy model automobiles; automobile, truck, and all-terrain vehicle toy banks; golf balls, toy cars of plastic and metal, toy vehicle haulers, toy model cars and related accessories sold as a unit, diecast toy cars, and diecast toy vehicle haulers; replica toy driver helmets in International Class 28; Entertainment services in the nature of participating in professional automobile races and auto racing exhibitions in International Class 41
Published: November 10, 2015

'47 Brand, LLC

Opposer,

v.

STEWART-HAAS RACING, LLC

Applicant.

NOTICE OF OPPOSITION (filed by Privy)

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

Sir or Madam:

'47 Brand, LLC ("Opposer"), a limited liability company organized and existing under the laws of the Delaware and having its principal place of business at 15 Southwest Park, Westwood, Massachusetts 02090, believes that it will be damaged by registration of the mark shown in Application Serial No. 86/624,753, filed on May 11, 2015.

Previously, a request to extend time to oppose Serial No. 86/624,753 was granted to Twins Enterprise Inc. Because '47 Brand, LLC is has acquired the relevant trademark rights from Twins Enterprise Inc. through a merger, '47 Brand, LLC is in privity with Twins Enterprise Inc., and is therefore entitled to file this notice of opposition pursuant to TBMP 303.05(b) and 37 CFR § 2.102(b). Specifically, Twins Enterprise Inc. merged with '47 Brand, LLC effective December 17, 2015, with '47 Brand, LLC as the surviving entity. Thus, all trademark registrations and applications previously owned by Twins Enterprise Inc. are now owned by '47 Brand, LLC. The Merger document and associated change of ownership has been recorded with the USPTO in the underlying trademark applications and registrations relevant to this proceeding. Attached as Exhibit A is the Assignment Cover Sheet recorded with the USPTO.

'47 Brand, LLC thus hereby opposes said application on the grounds that:

1. Application Serial No. 86/624,753, filed by Stewart-Haas Racing, LLC, on May 11, 2015, seeks registration of the mark 41 (plus design) in connection with:
 - a. License plate frames and license plate holders in International Class 12;
 - b. Printed material, namely, brochures, magazines, newsletters, pamphlets, souvenir programs, all the foregoing in the field of motorsports; paper magazine covers, decals, static decals, stickers, trading cards, and window decals in International Class 16;
 - c. Housewares, namely, shot glasses, drinking glasses, cups, mugs and drinking steins, coffee cups, and pet feeding dishes; coasters not made of paper or cloth, bottle openers, portable

- beverage coolers, thermal insulated cooler bags for beverages, insulated portable sports coolers, thermal insulated containers for can beverages, plastic sports bottles sold empty, and plastic water bottles sold empty in International Class 21;
- d. Clothing marketed as goods associated with a stock car racing team and sold to stock car racing fans through specialized outlets featuring motorsports racing merchandise and paraphernalia, namely, crew neck shirts, fashion shirts, golf shirts, hats, caps, jackets, jerseys, sport shirts, polo shirts, pullover shirts, long pants, sweatshirts, T-shirts, tank tops, toboggan-type knit caps, coats, pajamas in International Class 25;
 - e. Miniature toys, namely, automobiles, toy model automobiles; automobile, truck, and all-terrain vehicle toy banks; golf balls, toy cars of plastic and metal, toy vehicle haulers, toy model cars and related accessories sold as a unit, diecast toy cars, and diecast toy vehicle haulers; replica toy driver helmets in International Class 28; and
 - f. Entertainment services in the nature of participating in professional automobile races and auto racing exhibitions in International Class 41.
2. Application Serial No. 86/624,765, filed by Stewart-Haas Racing, LLC, on May 11, 2015, is based on intent to use the mark in commerce.
 3. Opposer is a well-known provider of sports apparel and headwear. Opposer sells premium apparel and headwear for Major League Baseball, as well as the NBA, the NHL, and other sporting leagues and teams, including hundreds of college teams, under the marks 47, FORTY SEVEN and 47 (plus design) (collectively, “the 47 Marks”).
 4. Opposer is the owner of numerous U.S. trademark registrations and applications for the 47 Marks, including:
 - a. A registration for the mark 47 for use in connection with “Athletic uniforms; baby bibs not of paper; baseball caps and hats; bottoms; caps; cardigans; ear bands; ear muffs; gloves;

hats; headwear; jackets; jeans; jerseys; mittens; pants; pullovers; shirts; shorts; socks; sweaters; sweatpants; sweatshirts; tank tops; tops; track jackets; track pants; underwear,” in Class 25, filed on December 22, 2010, registered on January 15, 2013, and assigned Registration No. 4,277,350;

b. A registration for the mark FORTY SEVEN for use in connection with “Athletic uniforms; baby bibs not of paper; baseball caps and hats; bottoms; caps; cardigans; ear muffs; earbands; gloves; hats; headwear; jackets; jeans; jerseys; mittens; pants; pullovers; shirts; shorts; sweat pants; sweaters; sweatshirts; tank tops; tops; track jackets; track pants; underwear” in Class 25, filed on December 22, 2010, registered on November 6, 2012, and assigned Registration No. 4,239,368;

c. A registration for the mark 47 (plus design) for use in connection with “Athletic uniforms; baby bibs not of paper; baseball caps and hats; bottoms; caps; cardigans; ear muffs; earbands; gloves; hats; headwear; jackets; jeans; jerseys; mittens; pants; pullovers; shirts; shorts; socks; sweat pants; sweaters; sweatshirts; tank tops; tops; track jackets; track pants; underwear; footwear,” in Class 25, filed on April 12, 2011, registered on October 9, 2012, and assigned Registration No. 4,223,433;

d. An application for the mark 47 for use in connection with “Stationery, stickers, paper pennants” in Class 16; “Back packs, duffle bags, and umbrellas” in Class 18; “Baby blankets; bed blankets; blanket throws; blankets for outdoor use; lap blankets; pet blankets; wearable blankets in the nature of blankets with sleeves; yoga blankets; towels; cloth pennants; felt pennants” in Class 24; and “Flip flops, sneakers, ties, socks, boxers, swimwear, belts, dress shirts, blazers” in Class 25, filed on March 28, 2013, and assigned Serial No. 85/889,137.

e. An application for the mark FORTY SEVEN for use in connection with “Stationery, stickers, paper pennants” in Class 16; “Back packs, duffle bags, and umbrellas” in Class 18; Baby

blankets; bed blankets; blanket throws; blankets for outdoor use; lap blankets; pet blankets; wearable blankets in the nature of blankets with sleeves; yoga blankets; towels; cloth pennants; felt pennants” in Class 24; and “Flip flops, sneakers, ties, socks, boxers, swimwear, belts, dress shirts, blazers” in Class 25, filed on March 28, 2013, and assigned Serial No. 85/889,148.

f. An application for the mark 47 (plus design) for use in connection with Stationery, stickers, paper pennants” in Class 16; “Back packs, duffle bags, and umbrellas” in Class 18; Baby blankets; bed blankets; blanket throws; blankets for outdoor use; lap blankets; pet blankets; wearable blankets in the nature of blankets with sleeves; yoga blankets; towels; cloth pennants; felt pennants” in Class 24; and “Flip flops, sneakers, ties, socks, boxers, swimwear, belts, dress shirts, blazers” in Class 25, filed on March 28, 2013, and assigned Serial No. 85/889,167.

g. An application for the mark 47 (plus design) for use in connection with “Stationery, stickers, paper pennants” in Class 16; “Back packs, duffle bags, and umbrellas” in Class 18; “Cloth pennants; felt pennants” in Class 24; and “Athletic uniforms; baby bibs not of paper; baseball caps and hats; bottoms; caps; cardigans; ear bands; ear muffs; gloves; hats; headwear; jackets; jeans; jerseys; mittens; pants; pullovers; shirts; shorts; socks; sweaters; sweatpants; sweatshirts; tank tops; tops; track jackets; track pants; underwear; flip flops, sneakers, ties, socks, boxers, swimwear, belts, dress shirts, blazers; bandanas; pajamas” in Class 25, filed on December 15, 2014, and assigned Serial No. 86/480,084.

5. Opposer has used and continues to use the 47 Marks in connection with apparel, headwear and related products since well before Applicant’s filing of its application for the opposed 41 (plus design) Mark. Opposer intends to continue using its 47 Marks with the same and/or related goods and services in the future.

6. Through Opposer's significant and long-term promotional and sales activities, Opposer's 47 Marks identify Opposer as the source of the relevant goods to the relevant segment of purchasers, and embodies extensive goodwill and industry recognition.
7. The goods described in the Application are closely similar and/or related to the goods that Opposer provides and plans to provide in connection with Opposer's 47 Marks, and are likely to be sold through the related marketing channels to the same class of purchasers.
8. Applicant's claimed goods are related to Opposer's goods including apparel, headwear, and related products.
9. Applicant's 41 (plus design) Mark is confusingly similar to Opposer's 47 Marks.
10. Applicant's use and registration of the 41 (plus design) Mark will cause purchasers, prospective purchasers, users and others to be confused, mistaken or deceived into the belief, contrary to fact, that Applicant's goods emanate from or are sponsored or approved by Opposer or are related to Opposer's goods, thereby damaging Opposer.

WHEREFORE, Opposer prays that the present opposition be sustained and registration of the 41 (plus design) Mark sought by Applicant be refused.

Dated: May 6, 2015

'47 BRAND, LLC

By its attorneys,

/Lisa M. Tittlemore/

Lisa M. Tittlemore
Sharona H. Sternberg
SUNSTEIN KANN MURPHY & TIMBERS LLP
125 Summer Street
Boston, Massachusetts 02110-1618
(617) 443-9292
ltittlemore@sunsteinlaw.com
ssternberg@sunsteinlaw.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Karl S. Sawyer, Jr. , counsel of record for Applicant, by U.S. mail on the above date, to Nelson Mullins Riley & Scarborough LLP, 100 North Tryon Street Bank Of America Corporate Ctr., 42nd Fl., Charlotte NC, 28081.

/Sharona H. Sternberg/_____

03207/00527 2504477.1

Exhibit A

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM381215

SUBMISSION TYPE:	RESUBMISSION
NATURE OF CONVEYANCE:	MERGER
EFFECTIVE DATE:	12/17/2015
RESUBMIT DOCUMENT ID:	900359993

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Twins Enterprise, Inc.		12/17/2015	Corporation: MASSACHUSETTS

RECEIVING PARTY DATA

Name:	'47 Brand, LLC
Street Address:	15 Southwest Park
City:	Westwood
State/Country:	MASSACHUSETTS
Postal Code:	02090
Entity Type:	Limited Liability Company: DELAWARE

PROPERTY NUMBERS Total: 14

Property Type	Number	Word Mark
Serial Number:	85889137	47
Registration Number:	4277350	47
Serial Number:	86480084	47
Registration Number:	3397324	B
Serial Number:	86088557	BASEBALL UNITED
Serial Number:	86088543	BASEBALL UNITED A CAPSULE COLLECTION BYF
Serial Number:	86287363	CLOSER
Registration Number:	3712731	FAN FAVORITE
Serial Number:	85889148	FORTY SEVEN
Registration Number:	4239368	FORTY SEVEN
Serial Number:	85889167	47 FORTY SEVEN BRAND
Registration Number:	4223433	47 · FORTY SEVEN · BRAND
Serial Number:	86152483	LET YOUR YOU OUT
Registration Number:	3586944	THE FRANCHISE

CORRESPONDENCE DATA

Fax Number: 6174430004

TRADEMARK

Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.

Phone: 617-443-9292
Email: ltittlemore@sunsteinlaw.com
Correspondent Name: Lisa M. Tittlemore
Address Line 1: 125 Summer Street
Address Line 4: Boston, MASSACHUSETTS 02110

ATTORNEY DOCKET NUMBER:	3207/201
NAME OF SUBMITTER:	Lisa M. Tittlemore
SIGNATURE:	/Lisa M. Tittlemore/
DATE SIGNED:	04/20/2016

Total Attachments: 8

source=Tab 29_47 Brand _ Restructuring - _47 Brand - DE Certificate of Merger [FILED 12_17_15] (2)#page1.tif
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Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"TWINS ENTERPRISE, INC.", A MASSACHUSETTS CORPORATION,
WITH AND INTO "'47 BRAND, LLC" UNDER THE NAME OF "'47 BRAND, LLC", A LIMITED LIABILITY COMPANY ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE ON THE SEVENTEENTH DAY OF DECEMBER, A.D. 2015, AT 11:57 O`CLOCK A.M.




Jeffrey W. Bullock, Secretary of State

5910078 8100M
SR# 20151403816

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 10654240
Date: 12-19-15

TRADEMARK
REEL: 005770 FRAME: 0021

State of Delaware

**Certificate of Merger of a Foreign Corporation
into a Domestic Limited Liability Company**

Pursuant to Title 6, Section 18-209 of the Delaware Limited Liability Company Act:

1. The constituent companies in the merger are Twins Enterprise, Inc., a Massachusetts corporation (the "Massachusetts Company"), and '47 Brand, LLC, a Delaware limited liability company (the "Delaware Company").
2. An Agreement and Plan of Merger (the "Merger Agreement") has been approved and executed by the Massachusetts Company and the Delaware Company.
3. The Delaware Company shall be the surviving limited liability company (the "Surviving Company"), and the name of the surviving limited liability company is '47 Brand, LLC, a Delaware limited liability company.
4. The executed Merger Agreement is on file at the principal place of business of the Surviving Company at 19 Yawkey Way, Boston, MA 02215.
5. A copy of the Merger Agreement will be furnished by the Surviving Company on request, without cost, to any member or stockholder of the constituent entities to the Merger Agreement or any person holding an interest in any other business entity which is to merge or consolidate.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Surviving Company has caused this certificate to be signed by an authorized person as of this 17th day of December, 2015.

'47 Brand, LLC,
a Delaware limited liability company

By: Twins Holdings, Inc., its Manager and sole Member

By: Anita D'Angelo
Name: Anita D'Angelo
Title: President, Treasurer and Secretary

[Signature Page to Certificate of Merger]

TRADEMARK
REEL: 005770 FRAME: 0023

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER, dated as of December 17, 2015 (this "Agreement"), is entered into between Twins Enterprise, Inc., a Massachusetts corporation ("Twins"), and '47 Brand, LLC, a Delaware limited liability company ("'47 Brand").

WITNESSETH:

WHEREAS, '47 Brand desires to acquire the properties and other assets, and to assume the liabilities and obligations, of Twins by means of a merger of Twins with and into '47 Brand (the "Merger"), following which '47 Brand shall be the surviving entity;

WHEREAS, Section 18-209 of the Delaware Limited Liability Company Act (the "Delaware Act") and Section 11.02 of the Massachusetts Business Corporation Act (the "MBCA"), authorize the merger of a Massachusetts corporation with and into a Delaware limited liability company;

WHEREAS, the certificate of formation and operating agreement of '47 Brand and the articles of organization and bylaws of Twins permit '47 Brand and Twins, respectively, to enter into this Agreement and to consummate the Merger;

WHEREAS, the Board of Directors of Twins has (i) determined that the Merger is in the best interests of Twins, (ii) approved and adopted this Agreement and all transactions contemplated hereby, including the Merger, and (ii) submitted this Agreement to Twins Holdings, Inc., a Delaware corporation ("Holdings"), the sole stockholder of Twins, for its approval;

WHEREAS, Holdings, in its capacity as the sole stockholder of Twins, has approved this Agreement and all transactions contemplated hereby, including the Merger;

WHEREAS, Holdings, in its capacity as the sole member of '47 Brand has approved this Agreement and all transactions contemplated hereby, including the Merger.

NOW THEREFORE, the parties hereto hereby agree as follows:

ARTICLE I – THE MERGER

SECTION 1.01. The Merger.

(a) After satisfaction or waiver of all conditions to the Merger, '47 Brand, which shall be the surviving entity, shall merge with Twins and shall file (i) a certificate of merger (the "Certificate of Merger") with the Secretary of State of the State of Delaware and (ii) articles of merger (the "Articles of Merger") with the Secretary of the Commonwealth of the Commonwealth of Massachusetts, and make all other filings or recordings required by Delaware law and Massachusetts law in connection with the Merger. The Merger shall become effective at such time as is specified in the Certificate of Merger filed with the Secretary of State of the State

of Delaware and the Articles of Merger with the Secretary of the Commonwealth of Massachusetts (the “Effective Time”).

(b) At the Effective Time, Twins shall be merged with and into ‘47 Brand, whereupon the separate existence of Twins shall cease, and ‘47 Brand shall be the surviving entity of the Merger (the “Surviving LLC”) in accordance with Section 18-209 of the Delaware Act and Section 11.07 of the MBCA.

SECTION 1.02. Effect on Capital Stock. All of the shares of capital stock of Twins outstanding immediately prior to the Effective Time shall, by virtue of the Merger, be cancelled and exchanged for one Class A Unit of the Surviving LLC in consideration for the Merger (the “Merger Consideration”).

ARTICLE II – THE SURVIVING LIMITED LIABILITY COMPANY

SECTION 2.01. Certificate of Formation and Operating Agreement. The certificate of formation and limited liability company operating agreement of ‘47 Brand in effect at the Effective Time shall be the certificate of formation and limited liability company operating agreement of the Surviving LLC unless and until amended in accordance with their respective terms and applicable law. The name of the Surviving LLC shall be ‘47 Brand, LLC.

ARTICLE III – FURTHER ASSURANCES

SECTION 3.01. Further Assurances. If at any time ‘47 Brand shall consider or be advised that any further assignment, conveyance or assurance is necessary or advisable to vest, perfect or confirm of record in the Surviving LLC the title to any property or right of Twins, or otherwise to carry out the provisions hereof, the proper representatives of Twins as of the Effective Time shall execute and deliver any and all proper deeds, assignments and assurances and do all things necessary or proper to vest, perfect or convey title to such property or right in the Surviving LLC, and otherwise to carry out the provisions hereof.

ARTICLE IV – TERMINATION

SECTION 4.01. Termination. Notwithstanding anything to the contrary in this Agreement, This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time:

- (a) by mutual consent of ‘47 Brand and the Board of Directors of Twins; or
- (b) by either ‘47 Brand or the Board of Directors of Twins, if there shall be any law or regulation that makes consummation of the Merger illegal or otherwise prohibited, or if any judgment, injunction, order or decree enjoining Twins or ‘47 Brand from consummating the Merger is entered and such judgment, injunction, order or decree shall become final and nonappealable.

ARTICLE V – MISCELLANEOUS

SECTION 5.01. Amendments; Waivers.

(a) Any provision of this Agreement may, subject to applicable law, be amended or waived prior to the Effective Time if, and only if, such amendment or waiver is in writing and signed by '47 Brand and by Twins.

(b) No failure or delay by any party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

SECTION 5.02. Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, provided, that no party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the other party hereto.

SECTION 5.03. Governing Law. This Agreement shall be governed by and construed in accordance the laws of the Commonwealth of Massachusetts, without regard to principles of conflict of laws.

SECTION 5.04. Counterparts. This Agreement may be executed in any number of counterparts (including by facsimile or other electronic transmission), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized representatives as of the day and year first above written.

'47 BRAND:

'47 BRAND, LLC

By: Twins Holdings, Inc., its Manager and
sole Member

By: Anita D'Angelo
Name: Anita D'Angelo
Title: President, Treasurer and Secretary

TWINS:

TWINS ENTERPRISE, INC.

By: Anita D'Angelo
Name: Anita D'Angelo
Title: President, Treasurer and Secretary

[Signature Page to Agreement and Plan of Merger]