

ESTTA Tracking number: **ESTTA777035**

Filing date: **10/17/2016**

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	Next Retail Limited
Granted to Date of previous extension	10/19/2016
Address	Desford Road Enderby, LE194AT UNITED KINGDOM

Attorney information	MITCHELL E. RADIN COLLEN IP INTELLECTUAL PROPERTY LAW P C THE HOLYOKE-MANHATTAN BUILDING, 80 SOUTH HIGHLAND AVENUE OSSINING, NY 10562 UNITED STATES ogelber@collenip.com, mradin@collenip.com, docket@collenip.com Phone:(914) 941-5668
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Applicant Information

Application No	86889170	Publication date	06/21/2016
Opposition Filing Date	10/17/2016	Opposition Period Ends	10/19/2016
Applicant	Zhang Xianlan Yuejin Group,Xiehe Village,Bolin Town, Anhui,, CHINA		

Goods/Services Affected by Opposition

Class 025. First Use: 2015/04/10 First Use In Commerce: 2015/04/10 All goods and services in the class are opposed, namely: Bath robes; Caps; Dresses; Gloves as clothing; Hosiery; Knit dresses; Knit shirts; Leggings; Masquerade costumes; Outerjackets; Overalls; Pajamas; Scarfs; Shirts; Sports jackets; Sweaters; Tops; Trousers; Underpants; Vests; Waterproof jackets and pants; Children's and infant's apparel, namely, jumpers, overall sleepwear, pajamas, rompers and one-piece garments

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.	2912202	Application Date	06/19/2003
Registration Date	12/21/2004	Foreign Priority Date	NONE

Word Mark	NEXT
Design Mark	NEXT
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1997/12/00 First Use In Commerce: 1997/12/00 clothing, namely, t-shirts, fleece shirts, denim shirts, jackets, pants and hats

U.S. Registration No.	4553715	Application Date	10/22/2008
Registration Date	06/24/2014	Foreign Priority Date	NONE

Word Mark	NEXT DIRECTORY
Design Mark	NEXT DIRECTORY
Description of Mark	NONE
Goods/Services	<p>Class 025. First use: First Use: 0 First Use In Commerce: 0 Clothing, namely, socks; stockings; tights; scarves; gloves; mittens; belts; outerwear, namely, coats, overcoats and raincoats; sports coats; suits; jackets; trousers; pants; jeans; shorts; shirts; T-shirts; polo-shirts; tops; pullovers; sweaters; jerseys; cardigans; jumpers; fleeces, namely, pullovers, jackets and vests; braces; underwear; vests; dinner jackets; ties; cravats; swimsuits; dressing gowns; pajamas; footwear and headwear</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0 Retail store services, online retail store services, mail order catalogue services, online catalog services and online trading services in the fields of clothing, headgear and footwear, jewelry, fashion accessories, household articles, towels, bedding, textiles, furniture, lighting apparatus, toys, electrical products, cosmetics, non-medicated toilet preparations, eyewear, carrying cases, handbags and all manner of bags, kitchenware, paints, wallpaper and other products for decorating the home, pictures, picture frames, electrical products cameras; providing consulting and advice in relation to the aforesaid retail services relating to the aforesaid goods; business management consultancy, namely, offering technical and business management assistance in the establishment and operation of retail stores in the field of the aforesaid goods</p>

U.S. Application No.	85463777	Application Date	11/03/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NEXT		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 Accessories for clothing and fashion, namely, sunglasses</p> <p>Class 011. First use: First Use: 0 First Use In Commerce: 0 Accessories for home and house, namely, toilet seats, decorative lanterns</p> <p>Class 014. First use: First Use: 0 First Use In Commerce: 0 Accessories for clothing and fashion, namely, wedding cravat pins, necklaces, bracelets, bangles, rings, earrings, jewelry holders</p> <p>Class 016. First use: First Use: 0 First Use In Commerce: 0 Accessories for home and house, namely, wall stickers, framed and unframed art pictures, framed and unframed art prints and framed and unframed art reproductions, chalk boards and memorandum boards, greetings cards, paper gift wrap</p> <p>Class 018. First use: First Use: 0 First Use In Commerce: 0 Accessories for clothing and fashion, namely, purses, handbags, wallets, clutch-bags, tote bags, umbrellas</p> <p>Class 020. First use: First Use: 0 First Use In Commerce: 0 Accessories for home and house, namely, drawer units, towel racks, shelves, mirrors, decorative wall plaques made of plastics or wood; Accessories for bedding, namely, pillows, cushions, mattress toppers</p> <p>Class 021. First use: First Use: 0 First Use In Commerce: 0 Accessories for home and house, namely, chopping boards for kitchen use, bread bins, dish drying racks, pasta bowls, household containers for foods, saucepans, cake stands, bowls, bottles sold empty, vases, candle holders, drinking glasses, waste and refuse bins for household use, laundry bins, towel rails and rings, toilet brushes, toilet roll holders, soap dispensers, toothbrush holders, pet feeding and drinking bowls, bird feeders, planters for domestic gardening, laundry hampers; accessories for the home and house, namely, ornaments of china, ornaments of porcelain and ornaments of glass; accessories for the home and house, namely, decorative wall plaques of china, porcelain or glass</p> <p>Class 022. First use: First Use: 0 First Use In Commerce: 0 Accessories for home and house, namely, laundry bags</p> <p>Class 024. First use: First Use: 0 First Use In Commerce: 0 Accessories for home and house, namely, wall hangings of textile, curtains of textile, shower curtains, oven gloves and mitts, bath towels, textile tablecloths, tea towels, textile place mats, cork placemats, leather placemats, synthetic</p>		

	<p>placemats; Accessories for bedding, namely, sheets, pillow covers, duvets, blankets, bed sets composed of duvet covers and pillowcases, children's bed sets composed of duvet covers and pillowcases, fitted sheets, bed linens, throws, fabric valances</p> <p>Class 025. First use: First Use: 0 First Use In Commerce: 0</p> <p>Clothing, namely, various types of clothing for men, women and children and notprofessional uniforms, namely, t-shirts, pants, dresses, skirts, tops, shirts, shorts, jeans, knitwear in the nature ofjumpers, sweaters, cardigans, dresses, hats, and scarves; footwear in the nature of trainers, boots, tights, joggers, hoodies, shorts, t-shirts, jackets, leggings, polo shirts, jumpers, sweat tops, track suits, hats, vests, bras, socks, leotards, swimsuits, trunks; coats, jackets, waist-coats, tights, underwear, lingerie, sleepwear, bras, socks, suits, bridesmaid dresses, ties, bow ties, beachwear, scarves, gloves, ponchos; footwear, head-wear, headbands; accessories for clothing and fashion, namely, belts</p> <p>Class 027. First use: First Use: 0 First Use In Commerce: 0</p> <p>Accessories for home and house, namely,bathmats, rugs, rug grippers, floor runners, door mats, wallpaper</p> <p>Class 028. First use: First Use: 0 First Use In Commerce: 0</p> <p>Accessories for play, namely, play tents, toys, namely, dolls, puzzles, plush toys, bath toys, rattles, toy tea sets, toy harmonica, toy clarinet, toy recorder, play sets for dolls, play sets for instruments; accessories for holidays, namely, Christmas tree decorations</p>
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U.S. Application No.	85463975	Application Date	11/03/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NEXT DIRECT		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 2009/05/00 First Use In Commerce: 2009/05/00</p> <p>Retail services, namely, retail store services, online retail store services, mail order catalogue services, online catalog services, online trading services in which seller posts products to be purchased by buyers via Internet, and wireless retail store services through wireless electronic devices and applications all featuring a wide variety of consumer goods; online retail store services, mailorder catalogue services, online catalog services, online trading services in which seller posts products to be purchased by buyers via Internet, and wireless retail store services through wireless electronic devices and applications all in the fields of clothing, headgear and footwear, jewelry, fashion accessories, household articles, towels, bedding, textiles, toys, eyewear, carrying cases, handbags and all manner of bags, kitchenware, wallpaper and other products for decorating the home, pictures, picture frames</p>		

U.S. Application No.	86504697	Application Date	01/15/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NEXT DIRECT		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 0 First Use In Commerce: 0</p> <p>Clothing for men, women and children and not professional uniforms, namely, suits, trousers, pants, jeans, leggings, shorts, shirts, T-shirts, blouses, dresses, bridesmaid dresses, skirts, polo-shirts, tops, pullovers, sweaters, jerseys, cardigans, jumpers, vests, ponchos, kaftans, swimsuits, swim trunks, beachwear, playsuits, jumpsuits, rompers, pullovers, tights, sweaters, jerseys, cardigans, jumpers, tunics, fleeces, namely, pullovers and tops, sweatshirts, hoodies, leggings, shorts leggings, polo shirts, sweattops, track suits, leotards, body suits, hats, socks, sleepwear, bridesmaid dresses, joggers, namely, jogging suits, footwear, headwear, headbands, and outerwear namely, jackets, waistcoats, sport coats, coats, overcoats, windbreakers, ponchos, and raincoats; knitwear, namely, jackets, coats, tops, shirts, skirts, bottoms, dresses, jumpers, sweaters, cardigans, hats, and scarves; a full line of clothing; intimate apparel, namely, underwear, lingerie, sleepwear, bras, shapewear, slips, dressing gowns, and pajamas; accessories for clothing and fashion, namely, ties, bowties, cravats, belts, suspenders, scarves, socks, stockings, tights, gloves, mittens, caps, and hats</p>		

Attachments	76523925#TMSN.png(bytes) 77597681#TMSN.png(bytes) 85463777#TMSN.png(bytes) 85463975#TMSN.png(bytes) 86504697#TMSN.png(bytes) U763 Notice of Opposition.pdf(186761 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	/Oren Gelber/
Name	Oren Gelber
Date	10/17/2016

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

Applicant : Zhang Xianlan
Serial No. : 86889170
Filed : January 28, 2016
For : NEXT CLASS and Design
Published : June 21, 2016

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313

NOTICE OF OPPOSITION

The Opposer, Next Retail Limited, a limited liability company located at Desford Road, Enderby, United Kingdom LE194AT (referred to as "Next Retail" or "Opposer"), files this Notice of Opposition against Zhang Xianlan ("Applicant") because it believes that it would be damaged by the registration of the above-identified mark in International Class 025 and hereby opposes same, pursuant to 15 U.S.C. § 1063 and 37 C.F.R. § 2.104.

As grounds for opposition, it is alleged that:

1) Next Retail is the owner of U.S. Trademark Registration No. 2912202 for NEXT for clothing, namely, t-shirts, fleece shirts, denim shirts, jackets, pants and hats in International Class 025.

See Exhibit 1.

2) Next Retail is the owner of U.S. Trademark Registration No. 4553715 for NEXT DIRECTORY for clothing, namely, socks; stockings; tights; scarves; gloves; mittens; belts; outerwear, namely, coats, overcoats and raincoats; sports coats; suits; jackets; trousers; pants; jeans; shorts; shirts; T-shirts; polo-shirts; tops; pullovers; sweaters; jerseys; cardigans; jumpers; fleeces, namely, pullovers, jackets and vests; braces; underwear; vests; dinner jackets; ties; cravats; swimsuits; dressing gowns; pajamas; footwear and headwear in International Class 025 and for retail store services, online retail store

services, mail order catalogue services, online catalog services and online trading services in the fields of clothing, headgear and footwear, jewelry, fashion accessories, household articles, towels, bedding, textiles, furniture, lighting apparatus, toys, electrical products, cosmetics, non-medicated toilet preparations, eyewear, carrying cases, handbags and all manner of bags, kitchenware, paints, wallpaper and other products for decorating the home, pictures, picture frames, electrical products cameras; providing consulting and advice in relation to the aforesaid retail services relating to the aforesaid goods; business management consultancy, namely, offering technical and business management assistance in the establishment and operation of retail stores in the field of the aforesaid goods in International Class 035.

See Exhibit 2.

3) Next Retail is the owner of the following U.S. Trademark Applications:

NEXT	Ser. No. 85463777	Exhibit 3
NEXT DIRECT	Ser. No. 85463975	Exhibit 4
NEXT DIRECT	Ser. No. 86504697	Exhibit 5

4) Next Retail's Registrations are *prima facie* proof of ownership of the NEXT and NEXT DIRECTORY marks, pursuant to 15 U.S.C. § 1057(b), and of the exclusive right to use the registered marks in commerce.

5) Registration No. 2912202 is incontestable, pursuant to Section 15 of the Trademark Act. See 15 USC § 1065.

6) The registration dates of U.S. Trademark No. 2912202 and 4553715 pre-date the filing date of Applicant's Application Serial No. 86889170 ("Applicant's Application").

7) The registration dates of U.S. Trademark Nos. 2912202 and 4553715 pre-date the first use date alleged in Applicant's Application.

8) Next Retail has been engaged in the sale and marketing of goods and in the offering of services using NEXT trademarks which are the same or closely related to goods in Applicant's Application since a time prior to the filing of Applicant's Application.

9) Next Retail has used NEXT trademarks in commerce and has valuable goodwill in these marks.

10) The filing dates of Next Retail's NEXT DIRECT and NEXT applications are prior to the filing date of Applicant's Application.

11) Applicant seeks to register NEXT CLASS as a trademark for "Bath robes; Caps; Dresses; Gloves as clothing; Hosiery; Knit dresses; Knit shirts; Leggings; Masquerade costumes; Outer jackets; Overalls; Pajamas; Scarfs; Shirts; Sports jackets; Sweaters; Tops; Trousers; Underpants; Vests; Waterproof jackets and pants; Children's and infant's apparel, namely, jumpers, overall sleepwear, pajamas, rompers and one-piece garments" in International Class 025.

12) Applicant's Application Serial No. 86889170 is based upon Section 1(a), in use in interstate commerce. On information and belief, Applicant was not using in interstate commerce the mark NEXT CLASS in connection with all of the goods identified in Applicant's Application at the time Applicant submitted the 1(a) Declaration.

13) On information and belief, Applicant's mark, if used in connection with "Bath robes; Caps; Dresses; Gloves as clothing; Hosiery; Knit dresses; Knit shirts; Leggings; Masquerade costumes; Outer jackets; Overalls; Pajamas; Scarfs; Shirts; Sports jackets; Sweaters; Tops; Trousers; Underpants; Vests; Waterproof jackets and pants; Children's and infant's apparel, namely, jumpers, overall sleepwear, pajamas, rompers and one-piece garments", is likely to be confused with or mistaken for or cause deception with Next Retail's NEXT trademarks as used in connection with their respective goods and services.

14) On information and belief, if Applicant's mark is registered, Applicant's mark is likely to cause confusion or to cause mistake or to deceive.

15) On information and belief, Applicant's registration of NEXT CLASS for the goods identified in Applicant's Application would harm Next Retail.

NEXT RETAIL prays that this Application Serial No. 86889170 be refused, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Next Retail Limited.

Respectfully submitted for
Opposer, Next Retail, Ltd

By: Mitchell E. Radin
Mitchell E. Radin
Jeffrey Lindenbaum
Oren Gelber
COLLEN IP
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80 South Highland Ave.
Ossining, New York 10562
Tel: (914) 941-5668
Fax: (914) 941-6091

DATED: October 17, 2016
Enclosures: \$300 Filing Fee (1 Class)
Exhibits 1- 5

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 03-2465.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FILED THROUGH THE ELECTRONIC SYSTEM FOR TRADEMARK TRIAL AND APPEALS IN THE UNITED STATES PATENT AND TRADEMARK OFFICE.

COLLEN IP, THE HOLYOKE-MANHATTAN BUILDING, 80 SOUTH HIGHLAND AVENUE, OSSINING, NEW YORK 10562

By: Oren Gelber Date: October 17, 2016

CERTIFICATE OF SERVICE

I, Carina Scorcia, hereby certify that I caused a true and correct copy of the foregoing Notice of Opposition to be served upon Applicant's attorney/correspondent of record at the following address:

ZHANG XIANLAN
NO.259,WENSAN ROAD,
ROOM 604,NO.1,CHANGDI TORCH BLDG,
HANGZHOU, ZHEJIANG CHINA

via first-class mail, postage pre-paid on this 17th Day of October, 2016.

With a courtesy copy to:

daisywzmark@gmail.com
sll654143776@gmail.com


A handwritten signature in cursive script that reads "Carina Scorcia" is written over a horizontal line.