

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

71/598,262

-----X
200 Kelsey Associates, LLC,

Petitioner,

v.

One Step Up Ltd., successor in interest to
Delan Enterprises,

Registrant.
-----X

Cancellation No.: 92/044,571

**NOTICE OF FILING OF
TESTIMONIAL DEPOSITION**

PETITIONER'S NOTICE OF FILING TESTIMONIAL DEPOSITION

Pursuant to Rule 2.125(C) of the Trademark Rules of Practice, Petitioner, 200 Kelsey Associates, LLC, hereby gives notice of the filing of the transcript of the testimonial deposition of Michael Reich, dated July 30, 2007, and exhibits 1 through 4 introduced in connection therewith.

Dated: September 24, 2007

THE PETITIONER,

By: 
Edmund J. Ferdinand, III, Esq.
Grimes & Battersby, LLP
488 Main Avenue, Third Floor
Norwalk, CT 06851
(203) 849-8300
Attorneys for 200 Kelsey Associates, LLC



09-24-2007

CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing was served on the Registrant on the date indicated below by depositing the same with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to, with a courtesy copy via electronic means:

Harlan M. Lazarus, Esq.
Lazarus & Lazarus, P.C.
240 Madison Avenue, 8th Floor
New York, NY 10016

Dated: September 24, 2007



Edmund J. Ferdinand, III

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

- - - - -X

200 KELSEY ASSOCIATES, LLC,
Petitioner,

- against -

DELAN ENTERPRISES succeeded by
ONE STEP UP LIMITED,

ORIGINAL

Registrant.

- - - - -X

Cancellation No.: 92/044.571

TRIAL TESTIMONY MICHAEL REICH,, taken
pursuant to Notice at the offices of Grimes &
Battersby, LLP, 488 Main Avenue, Third Floor,
Norwalk, Connecticut, on Monday, July 30, 2007
at 11:00, before Shelley Ann Keyes, CSR, RMR.

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A P P E A R A N C E S :

FOR THE PETITIONER:

GRIMES & BATTERSBY, LLP
488 Main Avenue, Third Floor
Norwalk, CT 06851

BY: EDMUND J. FERDINAND, III, ESQ.

FOR THE REGISTRANT:

LAZARUS & LAZARUS, P.C.
240 Madison Avenue, 8th Floor
New York, NY 10016.

BY: HARLAN M. LAZARUS, ESQ.

(Appearing by telephone)

1 (Plaintiff's Exhibit 1, Notice; 2,
2 Trademark/Service Mark application; 3, U.S.
3 Patent and Trademark Office document dated
4 3-24-07; 4, One Step Up, Ltd.'s verified
5 responses, was marked for identification.)

6 M I C H A E L R E I C H, a witness for the
7 Petitioner herein, having been duly sworn by
8 Shelley Ann Keyes, a Notary Public within and
9 for the State of Connecticut, was examined and
10 testified as follows:

11 DIRECT EXAMINATION

12 BY ATTORNEY FERDINAND:

13 Q. Please state your name for the record?

14 A. Michael Reich.

15 Q. Would you please state your business address?

16 A. One Radison Plaza, Suite 100, New Rochelle,
17 New York 105 -- I forgot.

18 ATTORNEY FERDINAND: Why don't we enter
19 appearances as well. This is Edmund Ferdinand, on
20 behalf of the Petitioner 200 Kelsey Associates,
21 LLC and I'm with Grimes & Battersby, OLP.

22 ATTORNEY LAZARUS: This is Harland Lazarus
23 for the registrant, One Step Up Ltd., Lazarus &
24 Lazarus P.C., 240 Madison Avenue, New York City,
25 New York 10016.

1 ATTORNEY FERDINAND: Before we begin, let me
2 put on the record what the court reporter asked us
3 to, which is; that this is trial testimony, that
4 the witness will read and sign the transcript. I
5 will provide a copy to Mr. Lazarus and that the
6 objections are not reserved. But since this is
7 trial, all objections will be made on the record
8 today.

9 Q. Good morning, again, Mr. Reich. My name as
10 you know is Ed Ferdinand. I'm acting on behalf of 200
11 Kelsey Associates in this proceeding, in which the
12 company has sought to petition to cancel two federal
13 trademark registrations now owned by One Step Up, Ltd.
14 Before we begin, let me give you a brief set of
15 instructions which is that this is trial testimony.
16 You understand that you have taken an oath to tell the
17 truth and that your testimony today is governed by the
18 same standards as if you were testifying in a court of
19 law?

20 A. I do.

21 Q. I am going to ask you a series of questions.
22 Then I'm going to tender you to Mr. Lazarus, who will
23 then ask you questions on behalf of the registrant.
24 If you don't understand a question, please, let me
25 know and I will rephrase. If you don't indicate to me

1 that you don't understand, I will assume that you do
2 and will expect you to answer. And, finally, I would
3 just ask you to provide a verbal response so that the
4 court reporter can take down your testimony. She
5 cannot record a nod or a shake of the head. Do you
6 understand those instructions?

7 A. I do.

8 Q. Who is your current employer?

9 A. 200 Kelsey Associates, LLC.

10 Q. What is your position with that company?

11 A. Managing member.

12 Q. Are you the company's founder?

13 A. I am.

14 Q. When did you found the company?

15 A. About four years ago.

16 Q. What is the business of 200 Kelsey
17 Associates?

18 A. It's a brand management and licensing
19 company.

20 Q. Okay. And just so we can get some
21 background. Can you please describe your educational
22 background for me?

23 A. Lehigh University, bachelors of arts. And I
24 attended the Baruch School of City College thereafter.

25 Q. What was the study at the Baruch School?

1 A. Finance, marketing, economics.

2 Q. Were those graduate level courses?

3 A. Yes.

4 Q. Did you get a degree from Baruch?

5 A. I do not.

6 Q. Okay. If you could, describe your work
7 history after your educational background was
8 completed?

9 A. I owned a cosmetic manufacturing concern,
10 Cosrich Incorporated.

11 Q. How many years did you own Cosrich?

12 A. 1964 until I sold it in 1992.

13 Q. And I know you described it as a cosmetics
14 manufacturing concern. Can you give me more details,
15 be more specific on that?

16 A. Yes. We manufactured and marketed a broad
17 range of cosmetics and toiletries, both under brand
18 names that we owned and brand names that we licensed.

19 Q. Can you give me some examples of the brands
20 that you licensed?

21 A. We were the Disney licensing in children's
22 toiletries. We were the Old Spice licensee in shaving
23 and grooming accessories. We licensed Vidal Sassoon
24 and made a range of manicure and nail care products.
25 We were a licensee of Bain de Soleil. We made bath

1 accessories. We had an ethnic cosmetic line called
2 Honey and Spice, which was our own brand. And we had
3 numerous other children's toiletry licenses. So it
4 was a fairly broad range of products.

5 Q. Were the products limited to cosmetics or did
6 you do other products?

7 A. Cosmetics, toiletries, and accessories, but
8 all in that category.

9 Q. During the time that you ran and operated the
10 Cosrich industries, what if any interaction did you
11 have with brand owners?

12 A. Considerable.

13 Q. Can you describe that for me?

14 A. By virtue of the fact that we licensed these
15 brands, we had to negotiate the license agreement with
16 the owner of the brand.

17 Q. And during the time that you ran and operated
18 Cosrich, what interaction if any did you have with
19 retailers?

20 A. Considerable, again. Because those were our
21 customers. Our customers were the retail chains,
22 primarily.

23 Q. And during the time that you owned and
24 operated Cosrich, was it your practice to attend trade
25 shows?

1 A. Yes.

2 Q. Can you give me examples of trade shows you
3 would have attended?

4 A. We were exhibitors at a number of trade shows
5 annually. We were probably involved with half a dozen
6 trade shows, the housewares, show, the cosmetic and
7 toiletries shows, et cetera.

8 Q. And you've testified that you sold the
9 company in 1992. What have you been doing since then?

10 A. Both owning real estate, industrial real
11 estate, warehouse buildings, and doing the brand
12 management that we are discussing today.

13 Q. As a housekeeping measure, let me show you
14 what has been marked as Plaintiff's Exhibit 1. And
15 the title of the document is Notice of Testimonial
16 Deposition. Just ask you to please look at that
17 document confirm that you are testifying here today on
18 behalf of 200 Kelsey Associates pursuant to the Notice
19 of Testimonial Deposition?

20 A. Yes, I am.

21 Q. Okay.

22 ATTORNEY LAZARUS: If I may, to clarify.
23 That is a two-page document?

24 ATTORNEY FERDINAND: Yes. Two-page document
25 dated June 6, 2007 and the deposition was

1 originally scheduled for June 29th but was
2 adjourned due to scheduling difficulties until
3 today.

4 ATTORNEY LAZARUS: Very good, thank you.

5 Q. What knowledge, if any, do you have about the
6 apparel industry?

7 A. I'm familiar with the apparel industry
8 because it's a consumer good product. It was somewhat
9 adjunct to cosmetics and toiletries, in that it was in
10 the main or at least my familiarity to a large extent
11 was with the women's apparel business. I have a
12 familiarity with that.

13 Q. What is the basis of your knowledge?

14 A. The marketplace, the retailers, the
15 advertisers, et cetera.

16 Q. What knowledge do you possess, if any, about
17 the history of the Jonathan Logan brand?

18 A. I was aware of its existence. I was aware
19 that it was in its day one of the major apparel brands
20 in the U.S., a heavy advertiser, and distributed
21 widely.

22 Q. And you say in its day. What knowledge, if
23 any, do you have about the state of the Jonathan Logan
24 brand after the year 2000?

25 A. My general assumption was that it was no

1 longer in the marketplace.

2 Q. What's the basis of that statement?

3 A. I didn't see the product in stores. I no
4 longer saw it advertised.

5 Q. I'm gonna show you what's been marked as
6 Plaintiff's Exhibit 2. The title of the document is
7 Trademark/Service Mark Application Principal Register.
8 It's actually two documents combined into one. One is
9 a three-page document dated August 19th, 2004. And
10 the second is another three-page document also dated
11 August 19th, -- sorry, a two-page document that's
12 dated August 19th which is an e-mail, and the final
13 page is also dated August 19th, 2004. It's a filing
14 receipt from the Patent and Trademark Office. I'd
15 like to show you what's been marked as Plaintiff's
16 Exhibit 2 and get you to confirm that that is the
17 trademark application for Jonathan Logan that was
18 filed on behalf of 200 Kelsey Associates?

19 A. Yes. So it would appear.

20 ATTORNEY LAZARUS: If I may for clarity now I
21 want to be certain, the Exhibit 2 is the document
22 off the website, Trademark/Service Mark
23 Application Principal Register and at the upper
24 right-hand corner it reads Page 1 of 1, Page 2 of
25 3, and Page 3 of 3?

1 ATTORNEY FERDINAND: Mine actually says page
2 1 of 3.

3 ATTORNEY LAZARUS: I apologize, 1 of 3. Go
4 ahead.

5 ATTORNEY FERDINAND: I've stapled together
6 three documents, all from the same day to make it
7 easier for the identification process.

8 ATTORNEY LAZARUS: I understand. I just want
9 to make sure I know what it is. We have 1 of 3, 2
10 of 3, 3 of 3.

11 ATTORNEY FERDINAND: Next document is the
12 e-mail.

13 ATTORNEY LAZARUS: August 19th.

14 ATTORNEY FERDINAND: August 19th. That is a
15 two-page document. And the final page says Page 1
16 of 1 at the top. It's a filing receipt from the
17 Patent and Trademark Office.

18 ATTORNEY LAZARUS: Very good. I've got it.

19 ATTORNEY FERDINAND: That's Exhibit 2. I
20 don't recall, did you confirm this was filed on
21 behalf of 200 Kelsey.

22 A. I did.

23 Q. Again, at the time that this application was
24 filed, what knowledge, if any, did you have about
25 current sales of Jonathan Logan products in the U.S.

1 marketplace?

2 ATTORNEY LAZARUS: Objection, asked and
3 answered.

4 ATTORNEY FERDINAND: You can answer.

5 A. I was under the impression that it was no
6 longer in the marketplace and that there were no
7 sales.

8 Q. Other than the investigation that you've
9 testified to, did you seek to undertake any other
10 investigation before you filed the trademark
11 application to determine the status of the Jonathan
12 Logan trademark?

13 ATTORNEY LAZARUS: Objection to the form of
14 the question.

15 Q. What efforts did you undertake prior to
16 filing the trademark application to determine the
17 status of the Jonathan Logan trademark?

18 A. I assumed that there was no product in the
19 marketplace. I don't specifically recall what I did
20 prior to the filing. But clearly at the time that we
21 agreed or that I instructed you to file, I was under
22 the impression that this was a mark that was no longer
23 active or in the market.

24 Q. As of the time you filed the Jonathan Logan
25 trademark applications, what efforts, if any, had you

1 undertaken to develop the Jonathan Logan brand?

2 A. Well, we did some market research.

3 ATTORNEY LAZARUS: I'm sorry. Objection,
4 irrelevant.

5 ATTORNEY FERDINAND: You can answer.

6 A. We did market research with respect to the
7 apparel market, Jonathan Logan in terms of what it had
8 done during its activity. We also explored which
9 prospective current apparel makers would be likely
10 candidates to license this brand.

11 Q. At the time you filed the trade -- I'm sorry,
12 at the time 200 Kelsey filed the trademark application
13 for the Jonathan Logan brand, what intent if any did
14 you have for the brand at that time?

15 ATTORNEY LAZARUS: Objection to the form of
16 the question. Objection to relevance.

17 ATTORNEY FERDINAND: You can answer.

18 THE WITNESS: Can you repeat the question?

19 ATTORNEY FERDINAND: Sure.

20 Q. Sure. At the time that 200 Kelsey filed the
21 trademark application for Jonathan Logan in 2004, what
22 was the intent of 200 Kelsey at that time?

23 A. We felt that it was a strong market and we
24 could succeed in licensing it for apparel.

25 Q. Do you know whether or not the Patent and

1 Trademark Office approved of your trade, approved of
2 200 Kelsey's trademark application?

3 A. I believe it was rejected.

4 ATTORNEY FERDINAND: For the record, I'm
5 gonna mark Plaintiff's Exhibit 3, which is a
6 six-page document dated March 24th, 2005,
7 consisting of an e-mail from the Patent and
8 Trademark Office attaching two computer printouts
9 of trademark registrations for Jonathan Logan that
10 were owned by Delan Enterprises.

11 Q. I'd like you to look at that document and
12 confirm that that is a document that was sent by the
13 Patent and Trademark Office.

14 ATTORNEY LAZARUS: Objection, no foundation.

15 Q. Have you seen this document before?

16 A. I have not.

17 ATTORNEY LAZARUS: I didn't hear the answer
18 to the question that you asked.

19 ATTORNEY FERDINAND: I was trying to lay a
20 foundation, since you objected on lack of
21 foundation.

22 ATTORNEY LAZARUS: But he didn't answer. In
23 any event, I will stipulate this in. I don't need
24 you to lay a foundation.

25 ATTORNEY FERDINAND: So he's going to

1 stipulate this came from the Patent and Trademark
2 Office. So we can move along.

3 ATTORNEY LAZARUS: That will now be file
4 Exhibit 3.

5 Q. At some point in time did 200 Kelsey commence
6 a proceeding to petition to cancel the Jonathan Logan
7 trademark? And that's the reason we are here today,
8 correct?

9 A. Yes, it is.

10 Q. At any point in time during the pendency of
11 what I will call the cancellation proceeding, did you
12 have occasion to conduct an investigation of the
13 retail marketplace with respect to the Jonathan Logan
14 brand?

15 A. Yes.

16 Q. Do you recall the details of that
17 investigation?

18 A. Only that we checked, I checked a number of
19 retailers and could not find any evidence of any
20 Jonathan Logan merchandise being sold.

21 Q. Do you remember which retailers you checked
22 with?

23 A. I recall one of them was Annie Sez. I recall
24 Burlington Coat Factory. I don't recall any others at
25 the moment.

1 Q. Do you recall when you conducted that
2 investigation?

3 A. It was sometime subsequent to having been
4 informed that the merchandise or the Jonathan Logan
5 brand was sold at some of those outlets.

6 Q. You mentioned two different stores in
7 particular. You mentioned Annie Sez and the
8 Burlington Coat Factory.

9 ATTORNEY LAZARUS: Objection. Hearsay, move
10 to strike.

11 ATTORNEY FERDINAND: Okay. I don't know
12 exactly what question you were referring to.

13 ATTORNEY LAZARUS: The one that -- if the
14 reporter would be good enough to read back the
15 last answer.

16 (Whereupon, the Court Reporter read the
17 last question and answer from the record.)

18 Q. What were you referring to when you testified
19 having been informed that it was being sold?

20 A. I believe we heard from the other side that
21 the Jonathan Logan merchandise could be found in X, Y,
22 and Z retail outlets.

23 Q. And you testified to visiting an Annie Sez
24 store and Burlington Coat Factory stores?

25 ATTORNEY LAZARUS: Objection.

1 Mischaracterization of the testimony.

2 Q. Did you personally visit those stores?

3 A. I did.

4 ATTORNEY FERDINAND: Harlan, the last
5 document I'm going to show him is your
6 interrogatory answers. I can avoid that if you're
7 going to stipulate to the admissibility. If not,
8 I can lay a foundation through him.

9 ATTORNEY LAZARUS: Well, I stipulate to the
10 admissibility. I'm not quite sure how he could
11 lay a foundation for it anyway, but I certainly --

12 ATTORNEY FERDINAND: For the record,
13 Plaintiff's Exhibit 4 now are the interrogatory
14 responses served by One Step Up, Ltd. as successor
15 in interest to Delan Enterprises dated January
16 17th, 2007.

17 Q. Mr. Reich, have you ever seen any evidence
18 that Jonathan Logan was being sold in the U.S. retail
19 marketplace during the time period 2001 to 2004?

20 ATTORNEY LAZARUS: Objection. No foundation.

21 ATTORNEY FERDINAND: You can answer.

22 A. No.

23 ATTORNEY FERDINAND: I have no further
24 questions. At this point I tender the witness and
25 move for admission of the documents marked 1

1 through 4 here today.

2 Do you want to take a few minutes?

3 ATTORNEY LAZARUS: No, no. I'm fine.

4 CROSS EXAMINATION

5 BY ATTORNEY LAZARUS:

6 Q. Good morning, Mr. Reich. How are you?

7 A. How are you, Mr. Lazarus?

8 Q. I will ask you only several brief questions.

9 At the time that 200 Kelsey was formed, were you aware
10 of the Jonathan Logan brand?

11 A. Yes.

12 Q. Was 200 Kelsey formed for the purpose of
13 filing a registration for Jonathan Logan?

14 ATTORNEY FERDINAND: Objection, relevance.

15 ATTORNEY LAZARUS: You may answer.

16 A. No.

17 Q. Does 200 Kelsey own other brand names?

18 ATTORNEY FERDINAND: Objection, relevance.

19 A. Yes.

20 Q. Is 200 Kelsey involved in any other
21 cancellation proceedings?

22 ATTORNEY FERDINAND: Objection, relevance.

23 A. I don't know. I'm not sure of the answer to
24 that.

25 Q. Other than yourself, does 200 Kelsey have any

1 employees?

2 A. Yes.

3 Q. How many employees does it have?

4 A. One.

5 Q. And who is that?

6 A. Secretarial/administrative.

7 Q. And what is that person's name?

8 A. Roseanna Morales.

9 Q. How many Burlington Coat Factory stores did
10 you visit in connection with the investigation that
11 you conducted after being advised by the United States
12 Patent and Trademark Office of the issues with respect
13 to your registration application for the Jonathan
14 Logan name?

15 A. Several.

16 Q. And how many is several, specifically?

17 A. Two to three.

18 Q. And where were those two to three locations?

19 A. One in Westchester, one or two in New Jersey.

20 Q. Was it one or was it two?

21 A. I don't know.

22 Q. Who does know?

23 A. Nobody.

24 Q. Just yourself?

25 A. Correct.

1 Q. And what record do you have with respect to
2 any of those visits?

3 A. They were visits. There's nothing
4 documented. There's nothing in writing.

5 Q. Did you attend the Burlington Coat Factory
6 visits with anybody accompanying you?

7 A. No.

8 Q. At the time that you made the visits to the
9 Burlington Coat Factory stores, did you make inquiry
10 of any Burlington Coat Factory representative at the
11 store level as to the presence of the brand or the
12 lack of presence of the brand?

13 A. Yes.

14 Q. What were those person's names?

15 A. No idea.

16 Q. Did you take any notes--

17 A. No.

18 Q. Please, let me finish the question. Did you
19 take any notes with respect to the visits to the
20 Burlington Coat Factory stores?

21 A. No.

22 Q. Other than the visits to the Burlington Coat
23 Factory stores, did you make any inquiry at the
24 Burlington Coat Factory corporate level as to the
25 question of the presence or lack thereof of the

1 Burlington Coat Factory brand?

2 A. No.

3 Q. In your experience with respect to the retail
4 market and specifically in connection with the
5 Burlington Coat Factory retail operation, did you
6 acquire an understanding of how many retail outlets
7 are operated by Burlington Coat Factory?

8 A. Generally, yes.

9 Q. And how many?

10 A. Several hundred.

11 Q. And in view of the fact that there are
12 several hundred Burlington Coat Factory outlets, can
13 you please tell me, sir, the basis of your selection
14 of the two or three outlets you visited in Westchester
15 and New Jersey?

16 A. Geographic proximity.

17 Q. And can you tell me what you mean when you
18 say geographic proximity?

19 A. My office is in New Rochelle. My residence
20 is in Mamaroneck. Geographic proximity means
21 something that's within 30 or 40 miles at the most.

22 Q. Did you make any effort to visit or otherwise
23 inspect other Burlington Coat Factory stores?

24 A. None, other than those I've referenced.

25 Q. Now, with respect to Annie Sez, sir, tell me

1 please how many Annie Sez locations you visited?

2 A. One or two. I'm not sure.

3 Q. Where was the one or two locations?

4 A. Westchester.

5 Q. With respect to those visits, did you make
6 inquiry of any Annie Sez person for the purpose of
7 inquiring as to the presence of the Jonathan Logan
8 brand in the store?

9 A. Yes.

10 Q. Did you record the name of the person that
11 you spoke with?

12 A. No.

13 Q. With respect to the Annie Sez inspection, did
14 you make inquiry at the corporate level of Annie Sez
15 as to the presence or lack thereof of the Jonathan
16 Logan brand?

17 A. No.

18 Q. In your experience in the retail market, did
19 you come to have an understanding of how many outlets
20 Annie Sez has?

21 A. I don't know.

22 Q. In connection with your investigation of the
23 presence or lack thereof of the Jonathan Logan brand
24 in the marketplace, what year did you make inquiry at
25 the Burlington Coat Factory stores? What was that

1 year?

2 A. My guess is 2006.

3 Q. And is the same true with respect to Annie
4 Sez?

5 A. Yes.

6 Q. And with respect to your investigation of the
7 use or lack thereof of the Burlington Coat Factory
8 brand, what investigation, if any, did you undertake
9 with respect to the presence of the brand in the
10 marketplace for the calendar year--

11 ATTORNEY FERDINAND: I'm sorry, we only heard
12 "calendar year."

13 ATTORNEY LAZARUS: I apologize.

14 Q. -- for the calendar year 2004.

15 ATTORNEY FERDINAND: Want to have that
16 question read back, please?

17 (Whereupon, the Court Reporter read the
18 last question from the record.)

19 A. I don't recall.

20 Q. And with respect to your investigation of the
21 presence of the Jonathan Logan brand in the
22 marketplace, what investigation did you make with
23 respect to the calendar year 2003?

24 A. I don't recall.

25 Q. Did you undertake any investigation?

1 ATTORNEY FERDINAND: For 2003?

2 ATTORNEY LAZARUS: Yes.

3 A. The only response I can give is discussions
4 that I may have had with counsel. But I have no
5 recollection of making any store visits in 2003.

6 Q. Well, let me ask or rephrase the question.
7 I'm not asking you about store visits. And let me ask
8 it this way.

9 What investigation of any kind
10 whatsoever did you or a representative of 200 Kelsey
11 undertake with respect to the presence of the brand
12 Jonathan Logan in the marketplace for calendar year
13 2003?

14 A. I don't know.

15 Q. And the same question for calendar year 2002?

16 A. Same answer. I don't know.

17 Q. And same question for calendar year 2001?

18 A. I don't know.

19 Q. At any time prior to submitting the
20 registration application that is now in evidence as
21 Exhibit 2, did you attempt to contact the registrant
22 at the time of the application, Delan Enterprises, to
23 make inquiry of them as to the usage of the brand?

24 A. No.

25 Q. Were you aware at the time that you submitted

1 the application marked Exhibit 2 in evidence that
2 Delan Enterprises was the registered owner of the
3 Jonathan Logan trademark?

4 A. I was not aware.

5 Q. Prior to submitting the application in
6 evidence now as trial Exhibit 2, did you cause counsel
7 to conduct a search of the United States Patent and
8 Trademark Office with respect to the Jonathan Logan
9 brand?

10 ATTORNEY FERDINAND: I'm going to object on
11 the ground of any communication that he may have
12 had with me personally. I will allow -- if you
13 want the fact to come out, I will allow -- if you
14 want to ask whether or not a search was conducted.
15 I don't want the substance of any communications
16 to be disclosed.

17 ATTORNEY LAZARUS: If that is your only
18 limitation.

19 Q. Was a search done, Mr. Reich, prior to the
20 submission of the registration application in evidence
21 as Exhibit 2?

22 A. Yes.

23 Q. And as a result of that search, did you
24 become aware of the Delan Enterprises registration for
25 the Jonathan Logan mark?

1 A. No.

2 Q. Had you known of the Delan registration,
3 would you have submitted the application for
4 registration?

5 ATTORNEY FERDINAND: Objection. Calls for
6 speculation, hypothetical. But you can answer.

7 A. It's hypothetical. That was not the case,
8 and therefore I don't know what would have transpired
9 or how I would have responded.

10 Q. Upon learning of the Delan registration,
11 other than the visits to Annie Sez stores and the
12 Burlington Coat Factory stores, what other specific
13 activities did you or a representative of 200 Kelsey
14 undertake to ascertain the use of the Logan brand in
15 the marketplace for any time after 2001?

16 A. I would have to refer to counsel's activities
17 because I don't recall that I had any.

18 ATTORNEY LAZARUS: I have no further
19 questions.

20 ATTORNEY FERDINAND: I just have a few for
21 follow-up.

22 FURTHER EXAMINATION
23 BY ATTORNEY FERDINAND:

24 Q. You were asked and testified about an inquiry
25 that was made at Burlington Coat Factories when you

1 visited what you testified were either two or three
2 stores. What, if anything, did you learn about the
3 Jonathan Logan brand when you visited the Burlington
4 Coat Factory stores?

5 ATTORNEY LAZARUS: Objection, it's hearsay.

6 A. I got a complete blank stare. I asked a
7 store employee. They didn't know what I was talking
8 about. They couldn't identify any product. And they
9 didn't know anything about Jonathan Logan.

10 Q. You were also asked the same question when
11 you visit I believe it was either one or two Annie Sez
12 stores. What if anything did you learn following the
13 inquiry that you made at the one or two Annie Sez
14 stores?

15 A. The answer would be the same. The store
16 employees had no knowledge, did not know what I was
17 talking about.

18 ATTORNEY LAZARUS: Please, note my objection.

19 Q. And at any time did you ever have knowledge
20 of whether or not the Jonathan Logan brand was offered
21 for sale on the Burlington Coat Factory internet
22 website?

23 A. I have no knowledge that it was.

24 ATTORNEY LAZARUS: Objection, beyond the
25 scope of the cross examination, improper.

1 ATTORNEY FERDINAND: I would just note that
2 you asked about the corporate level.

3 Q. What was your answer, I'm sorry?

4 A. My answer was I have no knowledge of anything
5 with respect to the website.

6 ATTORNEY FERDINAND: I have no further
7 questions.

8 ATTORNEY LAZARUS: And I have no further
9 questions either.

10 ATTORNEY FERDINAND: Thank you very much for
11 your time, Mr. Reich.

12 ATTORNEY LAZARUS: Thank you, Mr. Reich.

13 THE WITNESS: Thanks, Mr. Lazarus.

14 ATTORNEY FERDINAND: As I said, Harlan, I
15 will provide you with a copy of the transcript as
16 soon as I get it.

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18 (End time 11:40 a.m.)

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EXHIBITS

Plaintiffs'	Description	Page No.
1	Notice	3
2	Trademark/Service Mark application	3
3	U.S. Paten & Trademark Office document dated 3-24-07	3
4	One Step Up, Ltd.'s verified responses	3

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I, Michael Reich, have read the foregoing transcript of the testimony given at my deposition on Monday, July 30, 2007 and it is true and accurate to the best of my knowledge and belief as originally transcribed and/or with the changes as noted on the attached correction sheet.

MICHAEL REICH

Subscribed and sworn to before me this _____ day of _____, 2007.

Notary public

My commission expires : _____

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C E R T I F I C A T E

I hereby certify that I am a Notary Public, in and for the State of Connecticut, duly commissioned and qualified to administer oaths.

I further certify that the deponent named in the foregoing deposition was by me duly sworn and thereupon testified as appears in the foregoing deposition; that said deposition was taken by me stenographically in the presence of counsel and reduced to print under my direction, and the foregoing is a true and accurate transcript of the testimony.

I further certify that I am neither of counsel nor related to either of the parties to said suit, nor am I interested in the outcome of said cause.

Witness my hand and seal as Notary Public this ___ day of _____, 2007.

Notary Public

My Commission Expires: September 30, 2011

C E R T I F I C A T E

I hereby certify that I am a Notary Public, in and for the State of Connecticut, duly commissioned and qualified to administer oaths.

I further certify that the deponent named in the foregoing deposition was by me duly sworn and thereupon testified as appears in the foregoing deposition; that said deposition was taken by me stenographically in the presence of counsel and reduced to print under my direction, and the foregoing is a true and accurate transcript of the testimony.

I further certify that I am neither of counsel nor related to either of the parties to said suit, nor am I interested in the outcome of said cause.

Witness my hand and seal as Notary Public this 20th day of August, 2007.

Shelley Ann Keyes

Notary Public

My Commission Expires: September 30, 2011

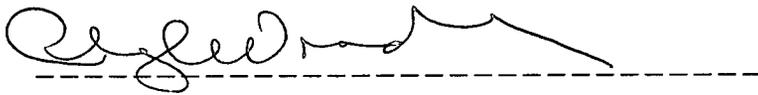
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I, Michael Reich, have read the foregoing transcript of the testimony given at my deposition on Monday, July 30, 2007 and it is true and accurate to the best of my knowledge and belief as originally transcribed and/or with the changes as noted on the attached correction sheet.

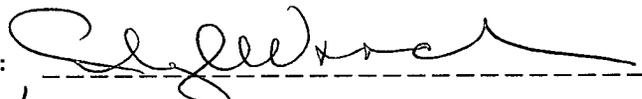


MICHAEL REICH

Subscribed and sworn to before me this 11 day of September, 2007.



Notary public

My commission expires : 

PHYLIS WOODEN
NOTARY PUBLIC, STATE OF NEW YORK
NO. 4646225
QUALIFIED IN WESTCHESTER COUNTY
COMMISSION EXPIRES OCTOBER 31, 2009

CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing was served on the Registrant on the date indicated below by depositing the same with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to, with a courtesy copy via electronic means:

Harlan M. Lazarus, Esq.
Lazarus & Lazarus, P.C.
240 Madison Avenue, 8th Floor
New York, NY 10016

Dated: June 6, 2007



Edmund J. Ferdinand, III

Trademark/Service Mark Application, Principal Register

The table below presents the data as entered.

Input Field	Entered
MARK SECTION	
MARK	JONATHAN LOGAN
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	JONATHAN LOGAN
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
OWNER SECTION	
NAME	200 Kelsey Associates, LLC
INTERNAL ADDRESS	Suite 100
STREET	One Ramada Plaza
CITY	New Rochelle
STATE	NY
ZIP/POSTAL CODE	10801
COUNTRY	United States
AUTHORIZED EMAIL COMMUNICATION	No
LEGAL ENTITY SECTION	
TYPE	LIMITED LIABILITY COMPANY
STATE/COUNTRY UNDER WHICH ORGANIZED	New Jersey
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	025
DESCRIPTION	Apparel, namely beachwear, blazers, blouses, briefs, belts, caps, coats, dresses, gloves, jackets, pants, pantsuits, shirts, shoes, slacks, suits, sweaters, t-shirts, ties, tops and formal wear.
FILING BASIS	Section 1(b)

PLAINTIFF'S EXHIBIT
 2 I.D.
 SAT 7-30-07

SIGNATURE SECTION

SIGNATURE	/ejf/
SIGNATORY NAME	Edmund J. Ferdinand, III
SIGNATORY DATE	08/19/2004
SIGNATORY POSITION	Attorney

PAYMENT SECTION

NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	335
TOTAL AMOUNT	335

ATTORNEY

NAME	Edmund J. Ferdinand, III
FIRM NAME	Grimes & Battersby, LLP
INTERNAL ADDRESS	Third Floor
STREET	488 Main Avenue
CITY	Norwalk
STATE	CT
ZIP/POSTAL CODE	06851
COUNTRY	United States
PHONE	2038498300
FAX	2038499300
EMAIL	Ferdinand@gandb.com
AUTHORIZED EMAIL COMMUNICATION	Yes
ATTORNEY DOCKET NUMBER	KAL076UST

CORRESPONDENCE SECTION

NAME	Edmund J. Ferdinand, III
FIRM NAME	Grimes & Battersby, LLP
INTERNAL ADDRESS	Third Floor
STREET	488 Main Avenue
CITY	Norwalk
STATE	CT
ZIP/POSTAL CODE	06851

COUNTRY	United States
PHONE	2038498300
FAX	2038499300
EMAIL	Ferdinand@gandb.com
AUTHORIZED EMAIL COMMUNICATION	Yes

[Go Back](#)

Jed Ferdinand

KALO 76-5R

From: PrinTEAS@uspto.gov
Sent: Thursday, August 19, 2004 9:23 AM
To: Ferdinand@gandb.com
Cc: teas@uspto.gov
Subject: Trademark Application Serial No. 78469921 Received

<MARK> JONATHAN LOGAN (standard characters)

The mark is presented in standard characters without claim to any particular font style, size or color.

We have received your application and assigned serial number '78469921' to your submission. The summary of the application data below serves as your official filing receipt. For electronically-submitted applications, the USPTO will no longer mail a paper filing receipt. If the USPTO later determines that no filing date was justified, your submission will be returned, and your filing fee will be refunded. You could then, if possible, cure the deficiency, and re-file the application.

If you determine that you made an error in the information you entered, you may file a preliminary amendment electronically, stating your proposed correction, at <http://eteas.uspto.gov/V2.0/pa242/WIZARD.htm>.

NOTE: You cannot file a Preliminary Amendment until at least 30 days after initial filing of the application. Prior to that time, the serial number will not appear in the USPTO database (even though the number was assigned at the time of filing), preventing the uploading of new data.

The examining attorney will determine whether the change proposed in the amendment is permissible, within the normal course of his or her review of the application. Please note that not all errors may be corrected; for example, if you submitted the wrong mark or the incorrect goods and/or services, if the proposed correction would be considered a material alteration to your original filing, this will NOT be accepted. Unfortunately, your only recourse in that event is to re-file - your fee would NOT be refunded. Once you submit an application, either electronically or through the mail, we will not cancel the filing or refund your fee, unless the application fails to satisfy minimum filing requirements. The fee is a processing fee, which we do not refund even if we cannot issue a registration after our substantive review.

In approximately 6 months, you will hear from the assigned examining attorney.

NOTE: If you have a question, comment or technical concern about your specific application or TEAS in general, please send that question to PrinTEAS@uspto.gov. NOTE: To check status information, please use either <http://tarr.uspto.gov>, or call 703-305-8747 (M-F, 6:30 a.m. to 12 midnight, EST). However, do NOT attempt to check status until at least 45 days after submission, to allow sufficient time for our databases to be updated.

The applicant, 200 Kelsey Associates, LLC, a limited liability company organized under the laws of New Jersey, residing at Suite 100, One Ramada Plaza, New Rochelle, NY, United States, 10801, requests registration of the trademark/service mark shown on the drawing page in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

*** Classification and Listing of Goods/Services:**

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

International Class 025: Apparel, namely beachwear, blazers, blouses, briefs, belts, caps, coats, dresses, gloves, jackets, pants, pantsuits, shirts, shoes, slacks, suits, sweaters, t-shirts, ties, tops and formal wear.

*Correspondence Information

The applicant hereby appoints Edmund J. Ferdinand, III of Grimes & Battersby, LLP, Third Floor, 488 Main Avenue, Norwalk, CT, United States, 06851 to submit this application on behalf of the applicant. The attorney docket/reference number is KAL076UST.

* Fees

A fee payment in the amount of \$335 will be submitted with the application, representing payment for 1 class(es).

*Declaration Signature

Signature:/ejf/ Date: 08/19/2004
Signatory's Name: Edmund J. Ferdinand, III
Signatory's Position: Attorney

```
=====
=====TEAS XML APPLICATION=====
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<state>NY</state>
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<signatory-name>Edmund J. Ferdinand, III</signatory-name> <signatory-position>Attorney
</signatory-position>
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<fee-types>
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Success!

We have received your application and assigned serial number 78469921 to your submission. We will send an Email summary of the application data to '**Ferdinand@gandb.com**', which will be your official confirmation of receipt. For electronically-submitted applications, the USPTO will no longer mail an additional paper filing receipt. However, since e-mail is not always reliable, please print out and save this notice. If the USPTO later determines that no filing date was justified, your submission will be returned, and your filing fee will be refunded. You would then have the opportunity to cure the deficiency, and re-file the application. Thank you.

NOTE: Do **NOT** send a duplicate paper copy of this filing to the USPTO, as it will interfere with the proper processing of the electronic submission and will result in your being charged for two filings, neither of which can be refunded.

TEAS support team**Thu Aug 19 09:22:55 EDT 2004**

STAMP: USPTO/BAS-678632157-20040819092255552018-78469921-2001ce07683466fce15ec44fd4c2833cb-CC-736-20040819092127767190

**Trademark Electronic Application System (TEAS) service****U.S. Patent and Trademark Office****PrinTEAS@uspto.gov**

Jed Ferdinand



From: ECom113 [ECom1133@USPTO.GOV]
Sent: Thursday, March 24, 2005 11:07 AM
To: Ferdinand@gandb.com
Subject: TRADEMARK APPLICATION NO. 78469921 - JONATHAN LOGAN - KAL076UST

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/469921

APPLICANT: 200 Kelsey Associates, LLC

78469921

CORRESPONDENT ADDRESS: EDMUND J. FERDINAND, III GRIMES & BATTERSBY, LLP 488 MAIN AVE STE 3 NORWALK, CT 06851-1008

RETURN ADDRESS: Commissioner for Trademarks P.O. Box 1451 Alexandria, VA 22313-1451

MARK: JONATHAN LOGAN

CORRESPONDENT'S REFERENCE/DOCKET NO: KAL076UST

Please provide in all correspondence:

CORRESPONDENT EMAIL ADDRESS: Ferdinand@gandb.com

- 1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

FIRST OFFICE ACTION

TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.

Serial Number 78/469921

The assigned trademark examining attorney has reviewed the referenced application and has determined the following:

Section 2(d) Refusal

The examining attorney refuses registration because of a likelihood of confusion with the marks in U.S. Registration Nos. 0549924 and 0937651. Trademark Act Section 2(d), 15 U.S.C. §1052(d); TMEP §§1207.01 et seq. See the enclosed registrations.

Trademark Act Section 2(d) bars registration where an applied-for mark so resembles a registered mark that it is likely, when applied to the goods and/or services, to cause confusion, mistake or to deceive the

potential consumer as to the source of the goods and/or services. TMEP §1207.01. The Court in *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), listed the principal factors to consider in determining whether there is a likelihood of confusion. Among these factors are the similarity of the marks as to appearance, sound, meaning and commercial impression, and the relatedness of the goods and/or services. The overriding concern is to prevent buyer confusion as to the source of the goods and/or services. *Miss Universe, Inc. v. Miss Teen U.S.A., Inc.*, 209 USPQ 698 (N.D. Ga. 1980). Therefore, any doubt as to the existence of a likelihood of confusion must be resolved in favor of the registrant. *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir. 1988); *Lone Star Mfg. Co. v. Bill Beasley, Inc.*, 498 F.2d 906, 182 USPQ 368 (C.C.P.A. 1974).

A likelihood of confusion determination requires a two-part analysis. First the marks are compared for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Second, the goods or services are compared to determine whether they are similar or related or whether the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re Int'l Tel. and Tel. Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Prods. Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); TMEP §§1207.01 *et seq.*

Comparison of the Marks

The applicant's mark, JONATHAN LOGAN, is identical to the registrant's mark, JONATHAN LOGAN. Because the marks are identical, they convey the same commercial impression and consumers who encounter the marks would likely be confused as to their source. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973).

Comparison of Goods

The applicant seeks to register JONATHAN LOGAN for various types of clothing apparel, including blouses, jackets and pants. The registrant also uses the mark JONATHAN LOGAN for various clothing apparel, including blouses, jackets and pants, thus rendering the applicant's and the registrant's goods identical. The goods are also related in that they are usually marketed together in the clothing department of retail stores. Therefore, consumers who encounter the same mark for such related goods are likely to be confused as to their source. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re Int'l Tel. and Tel. Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Prods. Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); TMEP §§1207.01 *et seq.* Thus, there is a likelihood of confusion and registration must be refused pursuant to Section 2(d) of the Trademark Act.

Claim of Ownership of Cited Registrations

If the marks in the cited registrations have been assigned to the applicant, then the applicant must prove ownership of that mark. TMEP §812.01. The applicant may record the assignment with the Assignment Services Division of the Office. Trademark Act Section 10, 15 U.S.C. §1060; 37 C.F.R. §3.25; TMEP §§503 *et seq.* The applicant should then notify the trademark examining attorney when the assignment has been recorded.

In the alternative, the applicant may submit evidence of the assignment of the mark to applicant, such as: (1) documents evidencing the chain of title; or (2) an explanation of the chain of title (specifying each party in the chain, the nature of each conveyance, and the relevant dates), supported by a notarized affidavit or a signed declaration under 37 C.F.R. §2.20. 37 C.F.R. §3.73; TMEP §502.01.

If the applicant chooses to respond to the refusal to register, the applicant must also address the

following requirements:

Name of Individual

The applicant must clarify whether the name in the mark identifies a particular living individual.

If the name in the mark identifies a particular living individual, then the applicant must submit the following:

- (1) a signed, written consent from that individual, authorizing the applicant to register the name as a trademark with the USPTO; and
- (2) a statement that "Jonathan Logan" identifies a living individual whose consent is of record.

However, if the name in the mark does not identify a living individual, then the applicant must submit a statement that "Jonathan Logan" does not identify a living individual. Trademark Act Section 2(c), 15 U.S.C. §1052(c); TMEP §§813 and 1206.

Identification of Goods

The wording "formal wear" in the identification of goods needs clarification because it is too broad and could include goods classified in other international classes. The applicant must specify the type of formal wear for which the mark is to be used. The applicant may substitute the following wording, if accurate:

Apparel, namely beachwear, blazers, blouses, briefs, belts, caps, coats, dresses, gloves, jackets, pants, pantsuits, shirts, shoes, slacks, suits, sweaters, t-shirts, ties, tops, *gowns and tuxedos*, in International Class 25.

TMEP §§1402.01 and 1402.03.

Please note that, while the identification of goods may be amended to clarify or limit the goods, adding to the goods or broadening the scope of the goods is not permitted. 37 C.F.R. §2.71(a); TMEP §1402.06. Therefore, the applicant may not amend the identification to include goods that are not within the scope of the goods set forth in the present identification.

NOTICE: FEE CHANGE

Effective January 31, 2005 and pursuant to the Consolidated Appropriations Act, 2005, Pub. L. 108-447, the following are the fees that will be charged for filing a trademark application:

- (1) \$325 per international class if filed electronically using the Trademark Electronic Application System (TEAS); or
- (2) \$375 per international class if filed on paper

These fees will be charged not only when a new application is filed, but also when payments are made to add classes to an existing application. If such payments are submitted with a TEAS response, the fee will be \$325 per class, and if such payments are made with a paper response, the fee will be \$375 per class.

The new fee requirements will apply to any fees filed on or after January 31, 2005.

NOTICE: TRADEMARK OPERATION RELOCATION

The Trademark Operation has relocated to Alexandria, Virginia. Effective October 4, 2004, all Trademark-related paper mail (except documents sent to the Assignment Services Division for recordation, certain documents filed under the Madrid Protocol, and requests for copies of trademark documents) must be sent to:

**Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451**

Applicants, attorneys and other Trademark customers are strongly encouraged to correspond with the USPTO online via the Trademark Electronic Application System (TEAS), at <http://www.uspto.gov/teas/index.html>.

/Melissa Vallillo/
Examining Attorney
Law Office 113
Phone: (571) 272-5891
Fax: (571) 273-9113

HOW TO RESPOND TO THIS OFFICE ACTION:

- **ONLINE RESPONSE:** You may respond formally using the Office's Trademark Electronic Application System (TEAS) Response to Office Action form (visit <http://www.uspto.gov/teas/index.html> and follow the instructions, but if the Office Action issued via email you must wait 72 hours after receipt of the Office Action to respond via TEAS).
- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above and include the serial number, law office number and examining attorney's name in your response.

STATUS OF APPLICATION: To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

VIEW APPLICATION DOCUMENTS ONLINE: Documents in the electronic file for pending applic can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

GENERAL TRADEMARK INFORMATION: For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.

Print: Mar 24, 2005

71598262

DESIGN MARK

Serial Number

71598262

Status

REGISTERED AND RENEWED

Word Mark

JONATHAN LOGAN

Standard Character Mark

No

Registration Number

0549924

Date Registered

1951/10/23

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

DELAN ENTERPRISES INCORPORATED CORPORATION NEW JERSEY 8 EVEREST DRIVE
HACKETTSTOWN NEW JERSEY 07840

Goods/Services

Class Status -- ACTIVE. IC 025. US 039. G & S: WOMEN'S DRESSES.
First Use: 1941/04/00. First Use In Commerce: 1941/04/00.

Prior Registration(s)

0421675

Name/Portrait Statement

THE NAME "JONATHAN LOGAN" IS FANCIFUL AND REPRESENTS THE NAME OF NO
KNOWN LIVING PERSON.

Filing Date

1950/05/27

Examining Attorney

UNKNOWN

Attorney of Record

Print: Mar 24, 2005

72393465

DESIGN MARK

Serial Number
72393465

Status
REGISTERED AND RENEWED

Word Mark
JONATHAN LOGAN

Standard Character Mark
No

Registration Number
0937651

Date Registered
1972/07/11

Type of Mark
TRADEMARK

Register
PRINCIPAL

Mark Drawing Code
(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner
DELAN ENTERPRISES INCORPORATED CORPORATION NEW JERSEY 8 EVEREST DRIVE
HACKETTSTOWN NEW JERSEY 07840

Goods/Services
Class Status -- ACTIVE. IC 025. US 039. G & S: WOMEN'S DRESSES,
PANT SUITS, PANTS, SHORTS, CULOTTES, BLOUSES, JACKETS, VESTS AND
COATS. First Use: 1944/04/00. First Use In Commerce: 1944/04/00.

Name/Portrait Statement
"JONATHAN LOGAN" IS FANCIFUL AND IS NOT THE NAME OF ANY KNOWN LIVING
INDIVIDUAL.

Filing Date
1971/05/28

Examining Attorney
UNKNOWN

Attorney of Record
PAMELA L. WELLS

3. Registrant objects to the Interrogatories on the ground, and to the extent that they are vague, ambiguous, unintelligible, or unclear.

4. Registrant objects to the Interrogatories on the ground, and to the extent that they purport to seek disclosure of information that (a) is protected by the attorney-client privilege; (b) constitutes attorney work-product; (c) was prepared in anticipation of litigation, or (d) is otherwise privileged or exempt from disclosure. Any inadvertent identification or production of such documents or information shall not result in a waiver of these privileges.

5. Registrant objects to the Interrogatories on the ground, and to the extent that they purport to seek disclosure of confidential or proprietary information.

6. Registrant objects to the "Instructions" and "Definitions" of the Document Requests on the ground and to the extent that they seek to expand the requirements of, or violate the applicable provisions and/or rules. Registrant further objects to the Document Requests to the extent that they seek in any way to enlarge or modify the scope of permissible discovery or to impose disclosure burdens on Registrant greater than those allowed by provisions and/or rules.

7. Registrant objects to the Interrogatories on the ground, and to the extent that they seek information which is not within Registrant's possession, custody, or control, and specifically objects to each and every request that seeks information from Registrant with respect to information in the possession, custody or control of organizations other than Registrant or might otherwise be obtained by Petitioner's from governmental or other public entities or sources.

8. Registrant's search for information and documents is ongoing and Registrant expressly reserves the right to rely on any facts, documents, or other evidence that may develop or come to its attention at a later time during this litigation, and to supplement or amend the responses at any time prior to the trial of this action. Registrant's further reserves the right to raise any additional objections deemed necessary or appropriate in light of the result of any further review.

9. Neither the fact that an objection is interposed to a particular Request nor the fact that no objection is interposed necessarily means that responsive information or documents exist.

10. These General Objections are specifically incorporated into the responses to each Request.

11. Registrant will produce non-privileged documents, to the extent not produced herewith, for Petitioner's review and copying at a mutually convenient time at the offices of Lazarus and Lazarus, P.C. 240 Madison Avenue, New York City, New York 10016, or at such other location as the parties shall agree.

II. REGISTRANT'S RESPONSES

Interrogatory 1. Identify the person or persons most knowledgeable regarding the Registrant's use of the trademark JONATHAN LOGAN in connection with women's clothing in the United States for each year from 2000 to the present.

RESPONSE 1. Upon information and belief, for periods prior to the Assignment to Registrant, Rudy Delvicchio, President, Delan Enterprises Incorporated ("Delan Enterprises"). Subsequent to Assignment, Harry Adjmi, President, One Step Up, Ltd.

Interrogatory 2. Set forth the manner in which Registrant's JONATHAN LOGAN brand has been marketed, advertised and promoted in the United States for each year from 2000 to the present.

RESPONSE 2. For periods prior to Assignment to Registrant see Registrant's documents Bates Stamped OSU 00001 through OSU 00131. For periods subsequent thereto see Registrant's documents Bates Stamped OSU 00132 through 00140. In addition, and generally, Registrant is producing, marketing, advertising and promoting the brand in the ordinary course of business.

Interrogatory 3. Set forth the advertising expenditures incurred by Registrant related to the marketing, advertising and promotion of JONATHAN LOGAN brand women's clothing in the United States for each year from 2000 to the present.

RESPONSE 3. For periods prior to the Assignment to Registrant, unknown. For periods subsequent to the Assignment to Registrant, to be supplied.

Interrogatory 4. Set forth the U.S. sales (or distribution) figures in units and dollars for JONATHAN LOGAN brand women's clothing for each year from 2000 to the present.

RESPONSE 4. For periods prior to the Assignment to Registrant, unknown. For periods subsequent to the Assignment to Registrant, to be supplied.

Respectfully submitted this 17th day of January, 2007.

LAZARUS & LAZARUS, P.C.
Attorneys for Registrant
ONE STEP UP, LTD. as Successor-In-Interest
By Assignment to DELAN ENTERPRISES

By: _____
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