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U.S. Patent & TMO/c/TM Mail Rpt Dt. #73

7555-OPP

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

DEVILS AND ANGELS LIMITED,

Opposer,

v.

ORANGE CLOTHING COMPANY,

Applicant.

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

In the matter of Application Serial No. 76/456,811 filed by Orange Clothing Company ("Applicant") on October 9, 2002, and published in the Official Gazette on May 27, 2003, at page TM 489, Devils and Angels Limited ("Opposer"), a United Kingdom company, having its principal place of business at 65 Sutherland Road, Walthamstow, London E17 8BJ, United Kingdom, believes that it will be damaged by registration of the mark shown in that application and therefore opposes it. The time to file a Notice of Opposition has been extended to September 24, 2003.

The grounds for this opposition are:

1. Applicant has applied for registration of the mark PUNKYFISH in connection with "clothing, namely, shirts, pants, jerseys, jackets, sweatshirts, track suits,

shorts, hats, caps, undergarments and socks” (“Applicant’s goods”) in Class 25, as evidenced by the publication of Application Serial No. 76/456,811 in the Official Gazette on May 27, 2003, at page TM 489.

2. Applicant filed Application Serial No. 76/456,811 on October 9, 2002, claiming a bona fide intention to use the mark PUNKYFISH in commerce for Applicant’s goods.

3. Prior to the filing date of Application Serial No. 76/456,811, and, on information and belief, prior to any use of the mark PUNKYFISH by Applicant, Opposer commenced use of the mark PUNKYFISH in commerce for various articles of clothing, and Opposer has continued to use the mark PUNKYFISH in commerce for those goods.

4. Prior to the filing date of Application Serial No. 76/456,811, and, on information and belief, prior to any use of the mark PUNKYFISH by Applicant, Opposer’s PUNKYFISH trademark had become well known in the United States through extensive use of this mark for clothing sold by Opposer and its predecessor in interest in London’s Camden Lock market and on London’s High Street, both of which are internationally renowned for fashionable clothing.

5. Opposer began to receive inquiries regarding its PUNKYFISH brand from prospective U.S. customers prior to the filing date of Application Serial No. 76/456,811, and, on information and belief, prior to any use of the mark PUNKYFISH by Applicant. Opposer has received inquiries regarding its PUNKYFISH brand from such well-known U.S. companies as Nordstrom, Sears, and Marshall Kline.

6. Opposer introduced its PUNKYFISH brand in England in 1999. Since that time, Opposer's PUNKYFISH brand has received widespread media exposure and has developed an international reputation. Opposer's PUNKYFISH clothing has been worn by models in such well-known magazines as Cosmopolitan and Maxim, which are widely read in the United States. In addition, Opposer has promoted its PUNKYFISH brand at fashion shows and clothing fairs with international audiences.

7. On information and belief, Applicant's goods are likely to be sold and advertised to the same purchasers as Opposer's goods.

8. On information and belief, Applicant's goods and Opposer's goods are likely to be sold and advertised in the same or overlapping trade channels.

9. The Patent and Trademark Office has cited Application Serial No. 76/456,811 as a potential bar to the registration of Opposer's PUNKYFISH trademark, which is the subject of Application Serial No. 78/238,983.

10. On information and belief, in view of the foregoing, Applicant's use and registration of the mark PUNKYFISH are likely to cause confusion, mistake, and deception, and Applicant's registration of the mark PUNKYFISH will prevent Opposer from obtaining a registration for this mark, in which Opposer has superior rights, all of which will cause damage to Opposer.

WHEREFORE, Opposer prays that this opposition be sustained.

This Notice of Opposition is being filed in duplicate and is accompanied by the required fee. The Commissioner is authorized to charge any deficiency in the fee to Deposit Account No. 22-0585.

Respectfully submitted,

Date: September 24, 2003



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### CERTIFICATE OF MAILING

I certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514, on the date shown below.

Date: September 24, 2003



Ronald E. Shapiro