



04-19-2002

Patent & TMO/ TM Mail Rpt. Dt. #40

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

_____ )		
NBC FOURTH REALTY CORP., )		
	)	
Opposer, )		
	)	Opposition No.
v. )		
	)	
JENNIFER MAX, INC., )		Application S.N.
	)	76/213,891
Applicant. )		
_____ )		

CERTIFICATE OF MAILING

The undersigned hereby certifies that this document is being deposited with the U.S. Postal Service as first class mail, in an envelope addressed to: BOX TTAB FEE, Commissioner For Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, on 4-17-02.

*John L. Welch*  
\_\_\_\_\_  
John L. Welch

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NOTICE OF OPPOSITION

Hon. Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Sir:

NBC FOURTH REALTY CORP., a Nevada corporation with offices at 4100 East Lone Mountain Road, North Las Vegas, Nevada 89030,

believes that it will be damaged by registration of the service mark JENNIFER MAXX, which mark is the subject of Application Serial No. 76/213,891 filed by Jennifer Max, Inc. of New York, New York, and published for opposition in the Official Gazette of December 18, 2001.

The grounds for the opposition are as follows:

1. Applicant seeks to register the mark JENNIFER MAXX as a service mark for "hair removal, microdermabrasion, skin care and body treatment services" (in international class 42).

2. The opposed Application was filed on February 20, 2001, claiming a first use date of June 1994, and was accorded Serial No. 76/213,891

3. Opposer is licensor to one of the nation's leading off-price retailers, which operates a chain of over 600 retail department stores in forty-six states under the trade name, trademark, and service mark T.J. MAXX. The T.J. MAXX stores sell a wide variety of cosmetics and body and skin care preparations, including beauty masks, body cream, body oil, cold cream, eye cream, eye makeup remover, hand cream, night cream, skin clarifiers, skin cleansing cream, skin cleansing lotion, skin

cream, skin lotion, skin moisturizer, skin soaps, and wrinkle removing skin care preparations, under the T.J. MAXX marks and name.

4. Opposer is the owner of, *inter alia*, the following trademark and service mark registrations for the mark T.J. MAXX, all valid and subsisting, issued by the United States Patent and Trademark Office:

<u>Reg. No.</u>	<u>Issued</u>	<u>Goods or Services</u>
1,199,126	06-22-82	retail department store services
1,495,462	07-05-88	retail department store services
1,637,243	03-05-91	retail department store services
2,486,445	09-11-01	cosmetics and cleaning preparations, namely, after-shave lotions, bath gel, bath oil, bath powder, non-medicated bath salts, beauty masks, body cream, body oil, body powder, bubble bath, cold cream, cologne, eye cream, eye makeup remover, hand cream, night cream, non-medicated foot powder, perfume, potpourri, sachets, shaving balm, shower gel, skin clarifiers, skin cleansing cream, skin cleansing lotion, skin cream, skin lotion, skin moisturizer, skin soap, soaps for hands, face and body, talcum powder, wrinkle removing skin care preparations (international class 3).

5. From a date long prior to Applicant's filing date of February 20, 2001 and its alleged first use date of June 1994, Opposer and its predecessors have actively used, advertised, and promoted the T.J. MAXX marks in commerce in connection with the aforesaid goods and services.

6. The services set forth in Application Serial No. 76/213,891 are closely related to the goods and services in connection with which Opposer has used and is using its T.J. MAXX marks and name, and, on information and belief, Applicant's services are offered to the same general class of customers who purchase the goods and services in connection with which Opposer has used and is using its T.J. MAXX marks and name.

7. The applied-for-mark sought to be registered by Applicant is substantially similar to Opposer's mark T.J. MAXX, and therefore, in connection with the services recited in the opposed application, customers and potential customers are likely to believe that Applicant's services under the mark JENNIFER MAXX emanate from, or are licensed or approved by, Opposer, when that is not the case. Any dissatisfaction with Applicant's services will reflect upon and irreparably damage Opposer's reputation and good will reflected in the T.J. MAXX name and marks.

WHEREFORE, Opposer believes that it will be damaged by registration of said mark, and prays that this Opposition be sustained, that Application Serial No. 76/213,891 be rejected, and that the mark applied for therein be refused registration.

A check in the amount of \$300.00 is enclosed, in payment of the filing fee.

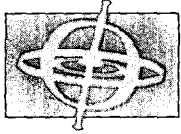
NBC FOURTH REALTY CORP.



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TJM-85601



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04-19-2002

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April 17, 2002

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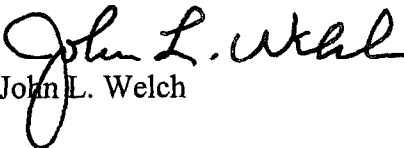
Re: Serial No.: 76/213,891  
Opposition: To be assigned  
Parties: NBC Fourth Realty Corp. v. Jennifer Max, Inc.  
Our Reference No. TJM-856 (22577-85601)

Dear Sir or Madam:

Please find a Notice of Opposition, along with a check in the amount of \$300.00 to cover filing fees. The Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to deposit account no. 06-1446.

Please send all notices of acceptance of the enclosed directly to the undersigned. Please stamp the enclosed postcard in acknowledgment of receipt.

Sincerely,

  
John L. Welch

JLW:wlh  
Enclosures

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April 17, 2002  
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Certificate of Mailing

I hereby certify that the attached correspondence is being deposited with the United States Postal Service in an envelope as First Class Mail addressed to the Assistant Commissioner for Trademarks, BOX TTAB FEE, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on April 17, 2002.

A handwritten signature in cursive script that reads "John L. Welch". The signature is written in black ink and is positioned above a horizontal line.

John L. Welch