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

BEBE STORES, INC.)
)
 Opposer,)
)
 v.)
)
 RANCE & C. S.R.L.)
)
 Applicant.)

Serial No.: 76/237,978
Mark: TO BE RANCE (stylized)



08-19-2002
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #79

NOTICE OF OPPOSITION

bebe stores, inc., a corporation under the laws of the State of California, having a principal place of business at 380 Valley Drive, Brisbane, California 94005 ("bebe"), believes that it would be damaged by the registration of the mark described below:

Mark: TO BE RANCE (stylized) Serial No.: 76/237,978

Filing Date: April 4, 2001 Basis: Intent to use

Goods: soap for the face and body, essential oils for personal use, cosmetics, namely, lipstick, lip gloss, lip pencils, mascara, eye shadow, eyeliner, eyebrow pencils, blush and powder, hair lotions, creams for the face and body and dentifrices, in International Class 3.

As ground for its opposition, bebe alleges:

1. Opposer bebe is a well-known company that designs, develops, and produces a distinctive line of contemporary women's apparel, accessories and personal care products such as toiletries, fragrances, cosmetics and body care products.

2. One of bebe's most popular fragrance and body care lines is sold under the company's 2b and 2be marks (collectively, the "2be Marks").

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3. bebe owns the following valid and subsisting federal trademark registrations for its 2be Marks:

- a. Reg. No. 2,054,940 for 2be (stylized) for perfumes, namely, perfume; cologne; toilet water; and
- b. Reg. No. 2,095,665 for 2b (stylized) for body and beauty care products, namely perfume, cologne and toilet water.

4. bebe also has established common law rights in its 2be mark for shampoos, bath gels and moisturizers.

5. bebe has more than 160 retail stores throughout the United States. Its fragrance and body care products are sold under the 2be Marks can be purchased in bebe leading stores and at its bebe.com website.

6. There is a likelihood of confusion between bebe's 2be Marks and Applicant's TO BE RANCE mark because the marks both begin with the phrase "to be" or "2 be" and thus sound alike. The "to be" in Applicant's mark is the most prominent feature of Applicant's mark whereas it is the only feature of bebe's 2be Marks. The respective marks also are used in connection with the same and closely related personal care and beauty products.

7. In addition, when the consumer hears the words "to be" in connection with fragrance and body care products, she is likely to associate the mark with Opposer bebe, which uses its 2be Marks as a play on the fact that "bebe" house mark is comprised of two "be"s, which functions as a double entendre for "to be."

8. bebe has prior rights in its 2be Marks. Registration of Applicant's TO BE RANCE mark therefore would be in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

9. The grant of a registration to Applicant for TO BE RANCE would create statutory rights in Applicant in violation and derogation of the established prior rights of the Opposer, and would result in detriment, harm, and damage to Opposer.

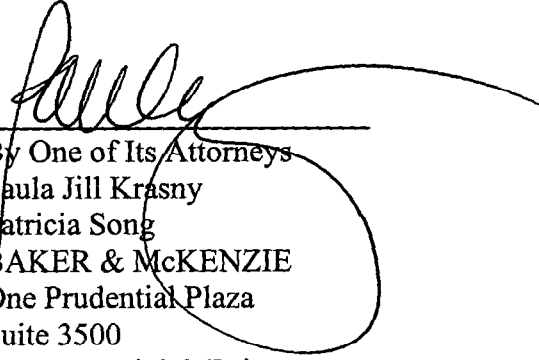
WHEREFORE, Opposer prays that application Serial No. 76/237,978 be rejected, that no registration be issued for the mark TO BE RANCE, and that this opposition be sustained in its favor.

A duplicate copy of this Notice of Opposition is enclosed, as required by 37 C.F.R. § 2.104(a), and the \$300 fee per application per class, as required by 37 C.F.R. § 2.6(17), may be deducted from our Deposit account No. 501-649.

Respectfully submitted,

BEBE STORES, INC.

Dated: 8/15/02


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I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Trademarks 2500 Crystal Drive Arlington, VA 22202
ON 8/15/02
BY PAULA J. KRASNY