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

In re BBWOMAN
Serial No. 76/246,075

In re BBWOMEN
Serial No. 76/246,076

[redacted]

03-04-2003
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #7

BEBE STORES, INC.	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
	)	
BROOKS BROTHERS, INC.	)	
	)	
Applicant.	)	

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TRADEMARK TRIAL AND

NOTICE OF OPPOSITION

bebe stores, inc., a California corporation, with its principal place of business at 400 Valley Drive, Brisbane, CA 94005 ("bebe" or "Opposer"), believes that it would be damaged by the registration of the two marks described below, both of which Applicant Brooks Brothers, Inc. ("Applicant") filed on an intent to use basis:

BBWOMAN	**BBWOMEN**
Serial No. 76/246075	Serial No. 76/246075
Filing Date: 4/25/2001	Filing Date: 4/25/2001

Goods and Services for both applications:

Class 25: Clothing, namely, shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps; shoes; shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ascots, ties, outer shirts namely evening, dress, polo, and sports shirts, collars, pajamas, robes, smoking jackets, dressing gowns, mufflers, gloves, hose, belts, suspenders, garters, boots, slippers, shoes,

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overshoes, beach wear, swimwear, formal wear, namely jackets, pants, suits, shirts, shoes, cummerbunds, ties, suspenders and gowns.

Class 35: Retail store services and computerized online ordering and retail services via a computer network featuring a wide variety of consumer goods.

The above-referenced BBWOMAN and BBWOMEN applications collectively hereinafter will be referred to as the "Applications." The Applications were published for opposition on October 29, 2002, and the Trademark Trial and Appeal Board granted bebe extensions of time up until and including February 26, 2003 to oppose registration.

As grounds for its opposition, bebe alleges:

bebe and its BEBE Marks

1. bebe is one of this country's leading retailers of women's contemporary clothing with approximately 170 retail stores nationwide. bebe sells its clothes under the well-known "bebe" mark.

2. The bebe mark is pronounced like two "B's", *i.e.*, "B B" or "bē-bē."

3. bebe and its predecessor and related companies (hereinafter, also individually and collectively, referred to as "bebe") have been marketing clothing and accessories for women under the bebe® mark since 1976. Since that time, bebe has been in the business of designing, manufacturing, merchandising and retailing women's clothing, with a particular emphasis on higher-end career wear and coordinated separates with a sophisticated and contemporary look.

4. bebe® brand clothing is extremely popular in the category of 18 – 35 year old women. Advertisements for bebe ® brand clothing regularly appear in popular fashion magazines such as *Vogue, Elle, Glamour, Marie Claire* and *InStyle.*

5. bebe also has been the subject of fashion reviews and articles written in *Latina, Cosmopolitan, Vogue, Harper's Bazaar, TV Guide* and *Glamour* magazines.

6. bebe® clothing is worn by celebrities in such television shows as *The Sopranos, Will & Grace, Entertainment Tonight, The Practice, Ally McBeal, Friends, Beverly Hills 90210* and *MTV.* Celebrity clients of bebe include Shakira, Christina Alguillera, Madonna, Britney Spears, Heather Locklear, Halle Berry, Jennifer Lopez, Julia Roberts, Cher, Raquel Welsh, Cindy Crawford, Cameron Diaz, Ashely Judd and Calista Flockhart.

7. The well known bebe mark is registered for essentially the same products and services listed above in the Applications bebe is opposing.

8. Examples of the bebe registrations, all of which registered or were used in U.S. commerce before Applicant filed its Applications, and all of which are valid and subsisting registrations, include:

MARK	REG. NO.	CLASS/ GOODS & SERVICES
bebe	Reg. No. 1,652,462	25/ Men's and women's apparel, namely, shirts, blouses, pants, jackets, coats, sweaters, suits and dresses; and accessories, namely, belts, scarves and hats.
BEBE	Reg. No. 1,988,468	18/ Purses, clutch bags, shoulder bags, tote bags and backpacks.
BEBE	Reg. No. 2,038,435	42/ Retail store services for women's clothing and accessories.
BEBE	Reg. No. 2,496,624	25/ Footwear, namely, loafers, espadrilles, sandals, thongs, mules, pumps.

9. There also are pending applications a "bebe" and a "bb" mark, both of which were filed before Applicant filed its Applications:

MARK	SERIAL NO.	CLASS/ GOODS & SERVICES

MARK	SERIAL NO.	CLASS/ GOODS & SERVICES
bebe	78/081,700	25/ Bras, panties, pajamas, slips, robes, pantyhose,camisoles.
	App. No. 76/036,281	3/ Perfumes, colognes; personal soaps, hair shampoos, hair conditioners, bath oils, bath foams, non-medicated bath salts, bath gels, dusting powder, talcum powder; antiperspirants, personal deodorants; skin moisturizers, skin cleansing preparations, namely, skin cleansers, cleansing creams and lotions; make up for lips, eyes and cheeks and makeup removers. 9/ Sunglasses, sunglass cases, fashion eyeglass frames, sport goggles for use in skiing, cords for use in holding on sunglasses, spectacles; eyeglass repair kits containing screws and screwdrivers; and eyeglass cleaning accessories, namely, cases containing chamois cloths. 14/ Jewelry, namely, earrings, rings, necklaces, pendants, bracelets, costume jewelry, chains, charms, brooches; watches, watch straps and watch bracelets. 18/ Articles made of leather or imitation leather, namely handbags, purses, clutch bags, shoulder bags, tote bags, backpacks and luggage of all types; umbrellas. 25/ Women's clothing, namely skirts, blouses, pants, jackets, coats, sweaters, suits and dresses; accessories, namely, belts, scarves and hats; footwear, namely loafers, espadrilles, boots, sandals, thongs, mules, pumps; and swimwear, namely, bathing suits, water shorts, thongs, briefs, cover-ups and beach jackets. 35/ Retail store services in the field of clothing, footwear, swimwear, eyeglasses, handbags, umbrellas, perfumes, jewelry and wristwatches.

Applicant and its Intent to Use Applications

10. Applicant is primarily known for is line of BROOKS BROTHERS® menswear. In addition to mens' suiting, Applicant also sells a men's casual clothing line.

11. In approximately the early 1990's, Applicant extended its product line to include women's clothing and accessories. The women's line also is marketed under the BROOKS BROTHERS® mark.

12. Like Opposer, Applicant targets its BROOKS BROTHER® women's clothing and accessories to both young women and professional women.

13. In the Spring of 2001, Applicant filed intent to use Applications for BBWOMAN and BBWOMAN.

14. The BBWOMAN and BBWOMEN marks Applicant purportedly intends to use are pronounced so that they sound like bebe's mark, with the descriptive word "woman" or "woman" appended to the "bebe" mark:

bē-bē-wu-man

bē-bē-wu-men

15. The terms "woman" and "women" in the Applications are generic, or at best, descriptive, and merely refer to the customers Applicant is targeting. The only distinctive part of the marks is the portion that is pronounced "bē-bē."

16. The appearance of the Applicant's marks and bebe's mark are also confusingly similar. Applicant's marks and bebe's mark all contain two b's in quick succession, and this visual similarity is likely to confuse consumers.

17. As a result of the fame and popularity of the bebe® clothing line, when hearing or seeing the BBWOMAN and BBWOMEN marks, consumers are likely to be confused as to the

source or origin of Applicant's products, thinking that they emanate from or are sponsored or endorsed by Opposer bebe.

18. Because there is a likelihood of confusion and the bebe registrations and applications predate applicant's applications, registration of Applicant's BBWOMAN and BBWOMEN marks would be in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

19. The registration of Applicant's marks also would dilute the famous bebe mark and lessen their ability to distinguish bebe as the source of the apparel products it offers for sale under those marks, in violation of Section 43(c) of the Lanham Act, 15 U.S.C. §1025(c).

20. The grant of registrations to Applicant for BBWOMAN and BBWOMEN would create statutory rights in Applicant in violation and derogation of the established prior rights of bebe, and would result in detriment, harm, and damage to bebe.

WHEREFORE, Opposer bebe prays that applications Serial No. 76/246,075 and 76/246,076 be rejected, that no registrations be issued for the marks BBWOMAN and BBWOMEN 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, or a total of $1,200 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: 2/26/03

By One of Its Attorneys
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as 1st class mail in an envelope addressed to:

Commissioner for Trademarks
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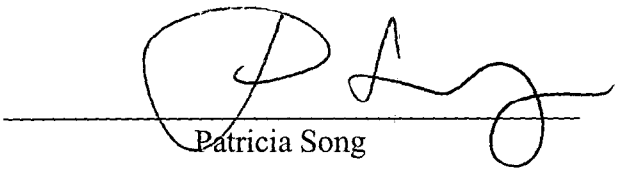
on this 26th day of February, 2003



Patricia Song