

TTAB

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

In the matter of trademark application Serial Number 76/523,318 published in the  
February 24, 2004 Issue of the Official Gazette (Trademarks) on Page TM 304.

\_\_\_\_\_  
PACIFIC SUNWEAR OF CALIFORNIA,  
INC.,  
  
Opposer,  
  
v.  
  
PEPPERDINE UNIVERSITY,  
  
Applicant.  
\_\_\_\_\_

OPPOSITION NO. \_\_\_\_\_



03-18-2004  
U.S. Patent & TMOc/TM Mail Rcpt Dt. #22

Commissioner of Trademarks  
2900 Crystal Drive  
Arlington, VA 22202  
Box TTAB FEE

"Express Mail" Mailing Label Number: EV 421915929 US  
Date of Deposit March 18, 2004  
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Commissioner of Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202, Box TTAB Fee.  
Jennifer Watson  
(Name of person mailing paper or fee)  
Jennifer Watson  
(Signature of person mailing paper or fee)  
March 18, 2004  
(Date of Signature)

NOTICE OF OPPOSITION

03/23/2004 KGIBBONS 00000013 76523318  
01 FC:6402 300.00 OP

Dear Sir/Madam:

In the matter of the application of Pepperdine University (hereinafter "Applicant"), for registration of Miscellaneous Design under Application Serial No. 76/523,318 published in the Official Gazette (Trademarks) on February 24, 2004, Pacific Sunwear of California, Inc., a California corporation, having a business address at 3450 East Miraloma Avenue, Anaheim, California, 92806-2101 (hereinafter "Opposer"), believes that it will be damaged by registration of the mark shown in Serial No. 76/523,318 and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is the owner of federal trademark Application Serial No. 78/234,683 for the mark "KIRRA and design" for perfume, cologne, and scented body spray in Class 3 and for men, women and children's apparel, namely, hats, caps, visors, hoods, berets, head bands, sweat bands, ear muffs, gloves, mittens, wrist bands, suspenders, belts, socks, stockings, pantyhose, bodysuits, leotards, leggings, sweat socks, thermal socks, shoes, sneakers, galoshes, waders, boots, sandals, slippers, kerchiefs, scarves, mufflers, bandannas, neckerchiefs, vests, pajamas, robes, kimonos, caftans, smocks, aprons, boxer shorts, briefs, underpants, corsets, corselets, girdles, brassieres, bustiers, chemises, teddies, camisoles, slips, negligees, peignoirs, shirts, blouses, knit tops, dresses, skirts, jumpsuits, pant suits, rompers, swimming trunks, wet suits, thermal underwear, undershirts, tunics, tank tops, cotton woven shirts, knit shirts, polo shirts, t-

shirts, sweat shirts, crew neck sweaters, v-neck sweaters, turtleneck sweaters, cardigans, suits, jogging suits, shorts, sweat shorts, jeans, pants, slacks, trousers, sweat pants, ski suits, ski pants, ski bibs, capes, shawls, blazers, waistcoats, rain coats, overcoats, top coats, sport coats, parkas, bolero jackets, jackets, wind resistant jackets, outer jackets, leather jackets, ski jackets, flannel jackets, wool jackets, polyester woven shirts, rayon woven shirts, wool woven shirts, leather coats, elastic waist shorts, fixed waist shorts, denim shorts, and denim jackets, in Class 25. A copy of the mark is attached hereto as Exhibit A.

2. Opposer has made and continues to make a substantial investment in the advertising, marketing, and promotion of its goods under its "KIRRA and design" mark, in association with its trade name, "Pacific Sunwear of California." Because of such advertising, marketing, and promotion, and because of Opposer's use of its "KIRRA and design" mark, customers, potential customers, and others in or familiar with the industry have come to know and recognize Opposer's trademark and associate it with Opposer. Opposer has thus built up extensive good will in connection with its "KIRRA and design" mark.

3. On information and belief, Opposer avers that on June 17, 2003, Applicant filed a trademark registration application to register the mark Miscellaneous Design for clothing, namely, tee-shirts, sweatshirts, sweatpants, hats, caps, sweaters, jackets, boxer shorts, socks, tanktops, and shorts in Class 25.

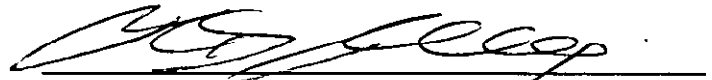
4. On information and belief, Opposer avers that Applicant's mark, Miscellaneous Design, is nearly identical to and therefore confusingly similar to

Opposer's mark "KIRRA and design" and Applicant's registration and continued use thereof in connection with its goods will seriously damage Opposer.

5. On information and belief, Opposer avers that Applicant's mark will likely be sold to customers using the same trade channels and will be advertised to the same market, using the same advertising media. Applicant's mark, therefore, comprises matter which falsely suggests a connection with Opposer, is confusingly similar to Opposer's mark, and its use and registration by Applicant will damage Opposer.

WHEREFORE, Opposer prays that Applicant's application for registration be denied.

Dated: March 17, 2004



Matthew D. Murphey  
**MURPHEY & MURPHEY, A.P.C.**  
Pacific Center One, Suite 260  
701 Palomar Airport Road  
Carlsbad, California 92009-1027  
Telephone: (760) 431-0091  
Facsimile: (760) 431-9441  
Attorneys for Opposer  
PACIFIC SUNWEAR OF CALIFORNIA, INC.





**EXHIBIT A**