

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

Applicant: Brody Jenner International Class: 25  
Serial No.: 76/514,562 Published for Opposition: March 2, 2004  
Official Gazette: Page TM 238  
Filed: May 14, 2003 Attorney Docket No.: KCOR62595  
Mark: LIQUID VELVET  
Goods: clothing, namely, sweatshirts and t-shirts in International Class 25

K2 EYEWEAR, LLC, a Delaware limited liability company,

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

Opposer,

NOTICE OF OPPOSITION

v.

BRODY JENNER, an individual,

Applicant.

NOTICE OF OPPOSITION

Seattle, Washington 98101

June 28, 2004



TO THE COMMISSIONER FOR TRADEMARKS  
TRADEMARK TRIAL AND APPEAL BOARD:

07-01-2004

U.S. Patent & TMO/c/TM Mail RcptDt. #22

K2 Eyewear, LLC, a limited liability company of the State of Delaware, having a place of business at 2051 Palomar Airport Road, Carlsbad, California 92009 (hereinafter "Opposer"), believes that it will be damaged by registration of the trademark shown by Application Serial No. 76/514,562 for the mark LIQUID VELVET, filed May 14, 2003, for clothing, namely, sweatshirts and t-shirts, and hereby opposes the same.

As grounds for the opposition, Opposer alleges as follows:

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1           1.     On information and belief, Brody Jenner is an individual having an address at  
2 3649 Cross Creek Road, Malibu, California 90265 (hereinafter "Applicant").

3           2.     Continuously since long prior to any date upon which Applicant can rely, Opposer  
4 has directly, and through its related companies and predecessors-in-interest, used the trademarks  
5 LIQUID and VELVET in association a variety of products. The trademark VELVET has been  
6 used to identify goods originating from Opposer including, but not limited to jewelry, glasses,  
7 clothing, and accessories. The trademark LIQUID has been used by Opposer's related companies  
8 to identify goods originating from said companies including, but not limited to, sporting goods,  
9 clothing, and accessories.

10          3.     Opposer is the owner of U.S. Trademark Registration No. 2,374,818 for the mark  
11 VELVET for prescription and non-prescription eyeglasses and sunglasses, prescription and non-  
12 prescription safety and protective glasses and goggles, and related eyeglass accessories, namely,  
13 eyeglass cases, eyeglass chains, straps, or eyeglass cords in International Class 9. Said  
14 registration issued August 8, 2000, and is currently valid and subsisting.

15          4.     Opposer's related company is the owner of two Registrations for the mark  
16 LIQUID in International Classes 25 and 28.

17          5.     The trademark LIQUID VELVET incorporates the entirety of two trademarks  
18 owned by related companies. Because the trademark LIQUID VELVET incorporates two  
19 trademarks owned and used by Opposer and Opposer's related companies, the use or registration  
20 of the mark by Applicant is likely to cause confusion, or to cause mistake, or to deceive within  
21 the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

22          6.     The mark shown by U.S. Application Serial No. 76/514,562, when used in  
23 association with clothing, namely, sweatshirts and t-shirts, so resembles Opposer's mark  
24 VELVET and Opposer's marks that incorporate and include the mark VELVET as to be likely to  
25 cause confusion, or to cause mistake, or to deceive within the meaning of Section 2(d) of the  
26 Lanham Act, 15 U.S.C. § 1052(d).

1           7.     The mark shown by U.S. Application Serial No. 76/514,562, when used in  
2 association with clothing, namely, sweatshirts and t-shirts, so resembles the mark LIQUID used  
3 by Opposer's related companies as to be likely to cause confusion, or to cause mistake, or to  
4 deceive within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

5           8.     Opposer will be damaged by the registration sought by Applicant insofar as the  
6 registration will be *prima facie* evidence of the validity of the registration, Applicant's ownership  
7 of the mark LIQUID VELVET for clothing, namely, sweatshirts and t-shirts, and Applicant's  
8 exclusive right to use the mark LIQUID VELVET in association with clothing, namely,  
9 sweatshirts and t-shirts, when, in fact, Applicant is not entitled to such rights by virtue of  
10 Opposer's prior and continuous use of the mark VELVET and prior and continuous use of the  
11 mark LIQUID by Opposer's related companies for a variety of goods which are sold in the same  
12 channels of trade in which clothing, namely, sweatshirts and t-shirts may be sold.

13           9.     Opposer will be damaged by the registration sought by Applicant insofar as the  
14 registration will be *prima facie* evidence of the validity of the registration, Applicant's ownership  
15 of the mark LIQUID VELVET for clothing, namely, sweatshirts and t-shirts, and Applicant's  
16 exclusive right to use the mark LIQUID VELVET in association with clothing, namely,  
17 sweatshirts and t-shirts, when, in fact, Applicant is not entitled to such rights by virtue of the  
18 prior and continuous use of the mark VELVET by Opposer and prior and continuous use of the  
19 mark LIQUID by Opposer's related companies for a variety of goods which are sold in the same  
20 channels of trade in which clothing, namely, sweatshirts and t-shirts may be sold.

21           10.    Based upon the foregoing, registration of the mark shown by Application Serial  
22 No. 76/514,562 is likely to cause injury and damage to Opposer.

23           WHEREFORE, Opposer respectfully requests that the registration of the mark LIQUID  
24 VELVET as claimed by Application Serial No. 76/514,562 be denied pursuant to Section 2(d) of  
25 the Lanham Act, 15 U.S.C. § 1052(d), and that this opposition be sustained.

26           Accompanying the duplicate signed copies of this Notice of Opposition is our Check  
27

1 No. 156374 for the required filing fee in the amount of \$300.00 (\$300.00 per class).  
2 Please charge any excess fees to Deposit Account No. 03-1740 of Opposer's counsel noted  
3 below.


4 Please direct all correspondence to Cindy L. Caditz of Christensen O'Connor Johnson  
5 Kindness<sup>PLLC</sup> at the following address:

6 Cindy L. Caditz, Esq.  
7 Christensen O'Connor Johnson Kindness<sup>PLLC</sup>  
8 1420 Fifth Avenue, Suite 2800  
9 Seattle, WA 98101-2347

10 Please direct all telephone calls to Cindy L. Caditz at 206-682-8100.

11 Respectfully submitted,

12 CHRISTENSEN O'CONNOR  
13 JOHNSON KINDNESS<sup>PLLC</sup>

14   
15 Cindy L. Caditz  
16 Attorneys for Opposer

17 CERTIFICATE OF MAILING

18 I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application  
19 Serial No. 76/514,562 for the mark LIQUID VELVET is being deposited with the U.S. Postal  
20 Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed  
21 to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514, on the  
22 below date.

23 Date: June 28, 2004 Jeffrey Harbert

24 CLC:jh