

ESTTA Tracking number: **ESTTA11930**

Filing date: **07/19/2004**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Paul Frank Industries, Inc.
Granted to Date of previous extension	07/24/2004
Address	Paul Frank Industries, Inc. 960 W.16th St. Costa Mesa, CA 92663 UNITED STATES

Attorney information	Allen B. Grodsky Grodsky & Olecki LLP 2001 Wilshire Blvd., Ste. 210 Santa Monica, CA 90403 UNITED STATES allen@grodsky-olecki.com Phone:310.315.3009
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Applicant Information

Application No	78295421	Publication date	05/25/2004
Opposition Filing Date	07/19/2004	Opposition Period Ends	07/24/2004
Applicant	Handcraft Manufacturing Corporation		

Goods/Services Affected by Opposition

Class 025. First Use: First Use In Commerce:

All goods and services in the class are opposed, namely: Children's underwear, panties, briefs, boxer briefs, boxer shorts, undershirts, tank tops, and camisole and panty sets

Attachments	statement in support of notice of opposition.txt (2 pages)
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Signature	/Allen B. Grodsky/
Name	Allen B. Grodsky
Date	07/19/2004

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Opposer Paul Frank Industries, Inc. ("Opposer") believes that it will be damaged by registration of the mark shown in serial number 78,295,421 and hereby opposes

such registration. The grounds for opposition are as follows:

1. In Application Serial Number 78,295,421, applicant Handcraft Manufacturing Corporation ("Applicant") seeks to register the mark "Fundies" in International Class 25 in the United States Patent and Trademark Office for "Children's underwear, panties, briefs, boxer briefs, boxer shorts, undershirts, tank tops and camisole and panty sets."

2. Opposer, since at least as early as April 2003, has been, and is now, using the marks "Fundiewear" and "Fundies" in connection with the sale of clothes, specifically underwear and underwear sets, throughout the United States and in commerce between the US and countries worldwide. This use has been valid and continuous since the date of first use and has not been abandoned.

3. Opposer's marks, "Fundiewear" or "Fundies," are symbolic of extensive good will and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion.

4. Applicant's mark so resembles Opposer's previously used mark that registration of the mark shown in Application Serial Number 78,295,421 is likely to cause confusion, to cause mistake, or to deceive the public and trade as to the source, sponsorship or affiliation of Applicant's goods with those of Opposer.

5. Opposer is further informed and believes that any such confusion, mistake or deception may result in lost sales to Opposer and in Opposer's loss of control over the good will embodied in the "Fundiewear" or "Fundies" marks.

6. If Applicant is granted a registration of the mark "Fundies" for the goods described in Application Serial No. 78-295,421, it would thereby obtain at least prima facie evidence of its exclusive right to use the mark "Fundies" nationwide in connection with the described goods. Such registration and the resulting evidentiary benefits to Applicant would damage Opposer in the exercise of its own exclusive right to use its common law "Fundies" and "Fundiewear" marks.

Wherefore, Opposer prays that said application Serial No. 78-295,421

be
rejected, that no registration be issued thereon to applicant, and that
this opposition be
sustained in favor of Opposer.