

TTAB

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

CHANEL, Inc.,)
)
Opposer,)
)
v.)
)
FRONTIER FASHION, INC.,)
)
Applicant.)
_____)

Applicant's Answer to Notice
of Opposition No. 91161671

BOX TTAB FEE
Assistant Commissioner for Trademark
2900 Crystal Drive
Arlington, VA 22202-3513

Sir:



Applicant's Answer to the Notice of Opposition

09-20-2004

U.S. Patent & TMO/TM Mail Rpt Dt. #22

In response to the Notice of Opposition (Opposition) of Opposer, CHANEL, Inc.. ("Opposer") issued by the Trademark Trial and Appeal Board on August 11, 2004, the Applicant Frontier Fashion, Inc. ("Applicant"), answers the Opposition identified above as follows:

1. In response to the allegations of paragraph 1 of the Opposition, the Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

2. In response to the allegations of paragraph 2 of the Opposition, the Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

3. In response to the allegations of paragraph 3 of the Opposition, the Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

4. In response to the allegations of paragraph 4 of the Opposition, the Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

5. In response to the allegations of paragraph 5 of the Opposition, the Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

6. In response to the allegations of paragraph 6 of the opposition, the Applicant admits the allegations.

7. In response to the allegations of paragraph 7 of the opposition, the Applicant admits that On June 6, 2003, Applicant filed Application S.N. 76/523,204 to register a design consisting of two interlocking devices for “eyewear, namely, sunglasses, spectacles and eye glasses; accessories of glasses, spectacles or sunglasses, namely, lenses, frames and cases” in International Class 9. Applicant’s application is based on a claimed date of first use of August 2002. The application describes the mark as design comprising “two horseshoes overlapping with each other and horizontal

bar is disposed between the overlapped portion of the horseshoes,” but denies to the allegations that Applicant’s mark resembles the interlocking letter C’s.

8. In response to the allegations of paragraph 8 of the opposition, the Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

9. In response to the allegations of paragraph 9 of the opposition, the Applicant admits it had constructive notice as a matter of law. Notwithstanding, as to all other allegations, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

10. The Applicant denies the allegations of paragraph 10 of the opposition.

11. In response to the allegations of paragraph 11 of the opposition, the Applicant admits that it is requesting registration in International Class 9, for “eyewear, namely, sunglasses, spectacles and eye glasses; accessories of glasses, spectacles or sunglasses, namely, lenses, frames and cases.” The Applicant denies any other allegation contained in said paragraph.

12. In response to the allegations of paragraph 12 of the opposition, the Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

13. The Applicant denies the allegations of paragraph 13 of the opposition.

14. In response to the allegations of paragraph 14 of the opposition, the Applicant repeats and realleges its responses to paragraphs 1 through 13, as if fully set forth herein.

15. The Applicant denies the allegations of paragraph 15 of the opposition.

16. The Applicant denies the allegations of paragraph 16 of the opposition.

17. In response to the allegations of paragraph 17 of the opposition, the Applicant repeats and realleges its responses to paragraphs 1 through 17, as if fully set forth herein.

18. In response to the allegations of paragraph 18 of the opposition, the Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in said paragraph, and on that basis denies each and every allegation contained therein.

19. In response to the allegations of paragraph 19 of the opposition, the Applicant admits that its application was made after the date upon which Opposer obtained registration for the trademark registrations cited in its opposition. Notwithstanding, Applicant is without knowledge or information sufficient to form a belief as to the truth of any other allegations contained in said paragraph, and on that basis denies any other allegation contained therein.

20. The Applicant denies the allegations of paragraph 20 of the opposition.

21. The Applicant denies the allegations of paragraph 21 of the opposition.

Affirmative Defenses

In further answer to the Opposition the Applicant asserts that:

22. The Opposer has failed to allege grounds sufficient to establish its standing to maintain the present opposition.

23. The Applicant is entitled to register a trademark for the device described as: "The design comprises two horseshoes overlapping with each other and a horizontal bar is disposed between the overlapped portion of the horseshoes" (hereinafter referred as the "device mark") since Applicant's mark is distinctive from Opposer's "CC monogram" trademark according to the tests of visual, phonetic, and commercial impression comparison.

24. The Applicant is entitled to register the trademark in International Class 9 in that the scope of protection of the "CC" or "CC & design or "CC & monogram" referred to in Opposer's opposition is limited in scope by the presence of other registrations for other combinations of the letter "C" in International Class 9. (See for example, Exhibit 1, attached and incorporated herein by reference).

25. The Applicant is entitled to register the trademark in International Class 9 in that the scope of protection of the "CC" or "CC & design or "CC & monogram" referred to in Opposer's opposition is limited in scope by the presence of other registrations of other letters in International Class 9 and other classes. (See for example, Exhibit 2, attached and incorporated herein by reference).

26. The Applicant is entitled to register as a trademark for Applicant's device mark for eyewear, namely, sunglasses, spectacles and eye glasses; accessories of glasses, spectacles or sunglasses, namely lenses, frames and cases because the Applicant properly filed an application for said mark which was examined and issued a Notice of Publication.

27. The Applicant's device mark is a unique stylish design of two letter E's which is derived from the first and last letter of the word "Ellsie" and which is not similar to any prior pending or registered marks.

28. On information and belief, the Opposer's and Applicant's goods are marketed in different sales channel.

29. On information and belief, that Opposer has waived any rights or claims against Applicant based on Opposer's acts or omissions.

30. On information and belief, that Opposer is estopped from asserting any rights or claims against Applicant based on Opposer's acts or omissions.

31. On information and belief, that Opposer is barred from opposing this application based on the doctrine of unclean hands.

Prayer of Relief

WHEREFORE, Applicant prays that

1. Opposer's Opposition proceeding be dismissed and the registration of applicant's mark be issued forthwith; and
2. such other further reliefs that the TTAB deems necessary.

Dated this 20th, of September, 2004

Respectfully



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CERTIFICATE OF EXPRESS MAILING

Express Mail: ER 887243455 US

I hereby certify that the above identified corresponding 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 the BOX TTAB FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington 22202-3513.

Date: 09-20-2004

Signature: 
Person Signing: Andy Ninh

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **ANSWER OF APPLICANT FRONTIER FASHION, INC. TO NOTICE OF OPPOSITION OF CHANEL, INC.** has been served upon the attorney for CHANEL, Inc., Opposer, on September 20, 2004 by depositing same in the United States Mail, first class postage prepaid in an envelope addressed as follows:

Barbara A. Solomon
Attorney's for Opposer
866 United Nations Plaza
New York, New York 10017


Signature: 
Andy Ninn

EXHIBIT 1

Back" button of the Internet Browser to return to TESS)



Word Mark E

Goods and Services IC 003. US 001 004 006 050 051 052. G & S: parfum, eau de parfum, eau de toilette, body lotion, shower gel, body mist, after-shave lotion, body mist, soap, body cream.

FIRST USE: 20000900. FIRST USE IN COMMERCE: 20000900

IC 009. US 021 023 026 036 038. G & S: eyeglasses and sunglasses. FIRST USE: 20000900. FIRST USE IN COMMERCE: 20000900

IC 014. US 002 027 028 050. G & S: jewelry, namely bracelets, rings, necklaces, brooches made of precious metal; fashion jewelry, namely bracelets, rings, necklaces, brooches; precious stones, watches. FIRST USE: 20000900. FIRST USE IN COMMERCE: 20000900

IC 018. US 001 002 003 022 041. G & S: leather and imitations of leather and goods made of these materials and not included in other classes, namely handbags, purses, pocket wallets, key cases; trunks and traveling bags, beauty cases, umbrellas, parasols and walking sticks. FIRST USE: 20000900. FIRST USE IN COMMERCE: 20000900

IC 025. US 022 039. G & S: articles of clothing, namely underwear, shirts, skirts, blouses, trousers, suits, half coats, coats, anoraks, jackets, Bermuda shorts, evening gowns, body-stockings, tracksuits, t-shirts, sweat shirts, slacks, jeans, waistcoats, ties, scarves, gloves; shoes and boots; hats and caps. FIRST USE: 20000900. FIRST USE IN COMMERCE: 20000900

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 260103 260113 260116 260121 261709 270301

Serial Number 76205631

Filing Date February 6, 2001

Current Filing Basis 1A

Original Filing Basis 1B

Published for Opposition November 27, 2001

Registration Number 2672956

Registration Date January 7, 2003

Owner (REGISTRANT) Escada AG COMPANY FED REP GERMANY Margaretha-Ley-Ring 1 85609 Aschheim FED REP GERMANY

Attorney of Record LAWRENCE E APOLZON

Description of Mark The mark consists of the mirror image of the stylized letter "E".

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

Mark	Reg. No.	Goods/Services	Registrant
C	1552635	Eyeglasses, sunglasses...	Cartier, Incorporated
Misc. design(double hook design)	2574883	Eyeglasses, sunglasses..	Salvatore Ferragamo Italia
CD	1742956	Sunglasses..	Christian Dior, S.A.
Design of overlapped letters C and O shaped in outline of human eyes.	2381351	Spectacle frames and sunglasses	Concepts in optics, Inc.
FF	2530131	Sunglasses...	Spring roll, I.P.
SJ	2773778	Eyewear...sunglasses..	St. John Knits, Inc.
D	1338839	Eyeglass frames and sunglasses	Alfred dunhill limited
DG	2663337	Sunglasses...	Jay-Y Enterprise Co., Inc.
VG	2556077	Sunglasses...	Jay-Y Enterprise Co., Inc.
DG	2582314	Sunglasses...	Jay-Y Enterprise Co., Inc.
CG USA	2576317	Sunglasses...	Jay-Y Enterprise Co., Inc.
CG	2654571	Sunglasses...	Jay-Y Enterprise Co., Inc.
GG	1300373	Eyeglasses and parts thereof	Gucci shops, inc.
GG	1924449	Eyeglass cases; and eyeglasses and parts therefore	Gucci America, inc.
Two deformed back-to-back C's	2630503	...sunglasses...	Menschel, Frank
GGGG	1282216	Sunglasses	Givenchy S.A.
CJ	1131259	Eyeglasses, sunglasses...	Charles Jourdan Holding AG