

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

**In the Matter of Application Serial No. 78442894
For the Mark: TOMGIRL
Published in the Official Gazette on June 14, 2005**



-----X
TOMMY HILFIGER LICENSING, INC.,

08-22-2005

U.S. Patent & TMO/TM Mail Rcpt Dt. #11

Opposer,

Opposition No. 91165891

v.

APPLICANT'S ANSWER

DANA LURIE

Applicant
-----X

DANA LURIE, hereinafter "Applicant," appearing pro se, domiciled at 8445 NW 62nd Avenue, Parkland, Florida, 33067-5021, and doing business as **TOMGIRL**, says:

1. Applicant denies so much of the first unnumbered paragraph of Opposer's **NOTICE OF OPPOSITION No. 91165891** that alleges that Opposer "would be damaged by the registration of the mark **TOMGIRL**, Serial Number 78558894 filed on July 6, 2004" by Applicant, but admits the other representations Opposer has therein set out.

2. Applicant lacks information sufficient to form a belief with respect to Opposer's representations in the second unnumbered paragraph set out in its Notice of Opposition No. 91165891, in general and to its representation that **Opposer, Tommy Hilfiger Licensing, Inc.**, "is one of the most well-known fashion companies in the United States and throughout the world" in particular as

Applicant has no knowledge of any entity called "Tommy Hilfiger Licensing, Inc." with respect to its representation that it is a "well-known fashion company" or its representation that it "has been engaged in the manufacture, distribution and sale of all types of apparel and apparel-related accessories," but admits having knowledge of a "**Tommy Hilfiger Corporation**," an entity that markets clothing under the following three labels: H. Hilfiger, Tommy Hilfiger and Tommy..

3. Lacks information sufficient to form a belief with respect to the allegation set out in paragraphs 5, 6, 7 and 11 of Opposer's Notice of Opposition No. 91165891.

4. Applicant does not object to the representation set out in paragraph 2 of Opposer's Notice of Opposition No. 91165891 with respect to the mark "**TOMMY HILFIGER**" but respectfully calls the Board's attention to the fact that Applicant does not use "**TOMMY**" or "**HILFIGER**" as part of the trademark applied for, i.e. "**TOMGIRL**", and that Opposer's trademark "**TOMMY GIRL**", [Registration Number #2499283], specifically set out the following disclaimer:

**Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE
"GIRL" APART FROM THE MARK AS SHOWN**

[See Applicant's Attachment A appended hereto]

5. Applicant does not object to the representation set out in paragraph 3 of Opposer's Notice of Opposition No. 91165891 but respectfully calls the Board's attention to the fact that Opposer does not claim any use of the word **TOMGIRL** in or as part of its mark or marks with respect to its products.

6. Applicant admits so much of Opposer's representation set out in paragraph 4 of its Notice of Opposition No. 91165891 that alleges it has registered the mark "**TOMMY GIRL**", but respectfully calls the Board's attention that Opposer had disclaimed the exclusive right to the word "**GIRL**" in such U. S. trademark registrations as noted in paragraph 4 of your Applicant's Answer hereinabove and denies the other representations set out in paragraph 4 of Opposer's Notice of Opposition No. 91165891 on the basis that they are irrelevant to the instant matter as there is no indication that the word "**TOMGIRL**" is included in any copyright, trademark or "intent-to-use" application filed by, or on behalf of, Opposer.

7. Admits Opposer's representations as set out in paragraph 8 of Opposer's Notice of Opposition No. 91165891.

8. Denies the allegations set out in paragraph 9 of Opposer's Notice of Opposition No. 91165891 that Applicant's mark **TOMGIRL** is similar, much less confusingly similar, to Opposer's **TOMMY GIRL** mark and, or, to Opposer's **TOMMY** marks.

9. Denies the allegations set out in paragraph 10 of Opposer's Notice of Opposition No. 91165891 that Applicant's goods for which Applicant seeks a mark

"**TOMGIRL**" are identical or closely related to goods and services that Opposer uses and, or, has registered its **TOMMY GIRL** mark and **TOMMY** marks.

10. Denies the allegations set out in paragraph 12 of Opposer's Notice of Opposition No. 91165891 alleging that the consuming public is likely to erroneously believe

that Applicant's goods trademarked **TOMGIRL** are endorsed, licensed, or produced by or under the authority of Opposer or to erroneously assume that there is some other trade connection between Opposer and Applicant.

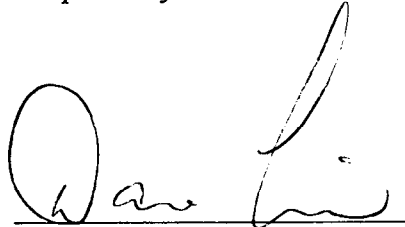
11. Denies the allegations set out in paragraph 13 of Opposer's Notice of Opposition No. 91165891 that Appellant's mark, **TOMGIRL** so resembles Opposer's

TOMMY GIRL mark and its **TOMMY** marks that if used in conjunction with the goods of your Applicant that it is likely to cause confusion or to cause mistake or deceive any entity or that it falsely suggests a connection with Opposer or that it tends to damage Opposer's goodwill or in any other way adversely affect Opposer.

WHEREFORE Applicant prays that its Application for the registration of **TOMGIRL**, Application Serial Number 78442894, be granted and that Opposer's opposition thereto

as set out in its Notice of Opposition, Opposition Number 91165891, be denied in its entirety.

Respectfully submitted

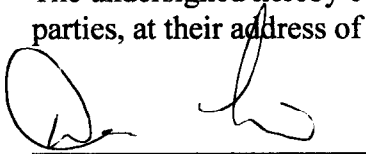
A handwritten signature in black ink, appearing to read 'Dana Lurie', written over a horizontal line.

Dana Lurie, pro se
Applicant

Dated this 20 of August, 2005

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address of record, by First Class Mail on the date set out below.

A handwritten signature in black ink, appearing to read 'Dana Lurie', written over a horizontal line.

Dana Lurie
August 20, 2005

APPLICANT'S ATTACHEMENT A

This page was generated by the TARR system on 2005-08-06 17:07:13 ET

TARR Status **ASSIGN Status** **TTAB Status** (Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

Word Mark	TOMMY GIRL
Goods and Services	IC 025. US 022 039. G & S: Clothing for women and children, namely, T-shirts, sweatshirts and caps. FIRST USE: 19960901. FIRST USE IN COMMERCE: 19960901
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75441515
Filing Date	February 24, 1998
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	April 6, 1999
Registration Number	2499283
Registration Date	October 23, 2001
Owner	(REGISTRANT) Tommy Hilfiger Licensing, Inc. CORPORATION DELAWARE 913 N. Market Street Wilmington DELAWARE 19801
Attorney of Record	Steven R. Gursky
Prior Registrations	2124016;2162940;AND OTHERS
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GIRL" APART FROM THE MARK AS SHOWN (emphasis supplied)
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE