

FULBRIGHT & JAWORSKI L.L.P.
 666 Fifth Avenue
 New York, NY 10103
 (212) 318-3000

TTAB

“Express Mail” mailing label Number: EV 484851028 US

Date of Deposit: January 9, 2007

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: Assistant Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451

Debra E. Kubik

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Assistant Commissioner for Trademarks
 P.O. Box 1451
 Alexandria, VA 22313-1451
 Box TTAB FEE

Re:

Trademark	:	MALLYGIRL
Class	:	3
Serial No.	:	76/614,562
Publication Date	:	December 12, 2006
<u>Opposer:</u>	:	<u>Muelhens GmbH & Co. KG</u>

Dear Sir:

We enclose:

> Notice of Opposition (in triplicate);
 > Check in the amount of \$300.00 to cover the filing fee. In the event the enclosed check is unacceptable and/or insufficient to cover the required fee, or omitted, the Commissioner is hereby authorized to charge our Deposit Account No. 500624.

Dated: January 9, 2007

Respectfully submitted,

FULBRIGHT & JAWORSKI L.L.P.

By

Leon Medzhibovsky
 Leon Medzhibovsky

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Leon Medzhibovsky
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK EXAMINING OFFICE**

Muelhens GmbH & Co. KG,

Opposer,

v.

Mallygirl LLC,

Applicant.

Application Serial No. 76/614,562

Mark: MALLYGIRL

Date of Publication: December 12, 2006

Opposition No.: (not yet assigned)

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
ATTN: Box TTAB/Fee

S I R:

Muelhens GmbH & Co. KG, a German Limited Partnership, with offices at Venloer Strasse 241-245, 50828 Koeln, Germany ("Muelhens"), believes it will be damaged by the registration of the referenced trademark application Serial No. 76/614,562 for MALLYGIRL, filed by Mallygirl LLC, a limited liability company of Delaware, with offices at 901 Dulaney Valley Road, Suite 902, Towson, Maryland 21204 ("MG") and hereby opposes registration of said mark.

As grounds for the opposition, it is alleged that:

1. On information and belief, application Serial No. 76/614,562, filed on September 20, 2005, is an application for registration of the mark MALLYGIRL on the Principal Register for goods in International Class 3. The goods identified in International Class 3 are:

Cosmetics; make-up products for the face and body; eye shadow, lipgloss, lipstick, mascara, lip liners, powdered and liquid blush, nail polish, body sprays, body lotions, bath gels, facial moisturizers, face serums, non-medicated lip balm, non-medicated

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lip creams, non-medicated lip care preparations, facial toners, body talc, artificial eyelashes, artificial fingernails, astringents for cosmetic purposes, baby lotion, body emulsions, body mask creams, body mask lotions, body mask powders, skin concealers, facial concealers, body concealers, eye pencils, eye makeup remover, eye gels, eye cream, eyebrow pencils, eyeliners, face creams, face powder, facial masks, facial scrubs and body scrubs, foundation makeup, lip cream, make-up remover, nail cream, nail enamel, nail glitter, skin cleansers, wrinkle removing skin care preparations, hair care preparations, namely, hair color removers, hair color, hair conditioners, hair dressings for men, hair dye, hair gel, hair lighteners, hair lotions, hair mascara, hair mousse, hair pomades, hair relaxers, hair relaxing preparations, hair spray, hair rinses, hair styling preparations, sculpting gel, shampoo, shampoo-conditioners, styling gels, styling lotions, talcum powder, cotton balls for cosmetic purposes, pre-moistened cosmetic towelettes, pre-moistened cosmetic wipes, self-tanning lotions, soaps for hands, face and body, sun block preparations, in International Class 3.

2. Applicant has alleged an intention to use this mark under Trademark Act Section 1(b) (15 U.S.C. §1051(b)), and therefore has not alleged a date of first use of the MALLYGIRL mark in commerce.

3. Opposer, Muelhens, is a world-renowned company that manufactures and sells fragrances, cosmetics, bath and body care products, and is the owner of the following U.S. trademark registrations, for the listed goods:

(a)	Mark:	DOLLY GIRL
	Reg. No:	2,868,747
	Goods:	Perfumeries, essential oils for personal use, cosmetics, namely eye make-up and facial make-up; skin care preparations, namely creams, lotions, moisturizers, texturizers and toners; bath gel, shower gel, foam bath and personal deodorants; dentifrices, toilet soap, in International Class 3.

(collectively referred to as the "DOLLY GIRL Mark.") Attached hereto is a true and correct copy of Certificate of Registration.

4. This registration issued prior to Applicant's filing date, and consequently there is no question of priority of rights, such priority clearly belonging to Muelhens.

5. Muelhens has expended large amounts of effort and money promoting the DOLLY GIRL Mark by means which are customary in the trade and has acquired considerable and valuable goodwill in the DOLLY GIRL Mark. Muelhens' use of the DOLLY GIRL Mark and promotional efforts in connection therewith have caused the public and trade to come to associate the DOLLY GIRL Mark with Muelhens and with its products and the DOLLY GIRL Mark have acquired secondary meaning.

6. The trademark MALLYGIRL is confusingly similar to Muelhens' DOLLY GIRL Mark (set forth in paragraph 3) in appearance, sound, meaning and commercial impression.

7. Upon information and belief, the goods on which MG allegedly intends to use the MALLYGIRL mark are identical or closely related to the goods sold by Muelhens under the DOLLY GIRL Mark, and are or will be sold in the same or similar channels of trade.

8. In view of the similarity between the MG's mark and Muelhens' DOLLY GIRL Mark and the close relationship of MG's goods with Muelhens' goods, Muelhens believes that MG's mark, as applied to MG's goods, will so resemble Muelhens' prior used mark(s) as applied to goods marketed and sold by Muelhens in connection with those marks, as to be likely to cause confusion or cause mistake or to deceive and in violation of Section 2(d) of the Lanham Act, 15 U.S.C. Section 1052(d).

WHEREFORE, Muelhens respectfully requests that this opposition be sustained and that application Serial No. 76/614,562 be refused registration.

Opposer, Muelhens GmbH & Co. KG, has appointed Peter F. Felfe, Leon Medzhibovsky and Cheryl Zecchine, all members of the Bar of the State of New York in good standing, of the

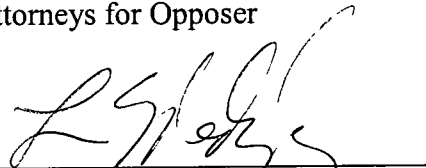
firm of FULBRIGHT & JAWORSKI L.L.P., 666 Fifth Avenue, New York, New York 10103 with full power of substitution and revocation, to act as its attorneys, to prosecute this opposition, and to transact all business in connection therewith.

Please direct all communications to:

Leon Medzhibovsky
FULBRIGHT & JAWORSKI L.L.P.
666 Fifth Avenue
New York, NY 10103
Tel.: (212) 318-3182
Fax (212) 318-3400

The undersigned, registered agent for Opposer herein, states that he is authorized to prosecute this opposition, that he has read and signed the foregoing NOTICE OF OPPOSITION and knows the contents thereof, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that willful false statements may jeopardize the validity of this opposition and any decision resulting therefrom.

Respectfully Submitted,
FULBRIGHT & JAWORSKI L.L.P.
Attorneys for Opposer



Date: January 8, 2007

Leon Medzhibovsky
666 Fifth Avenue
New York, NY 10103
Tel.: (212) 318-3000
Fax: (212) 318-3400

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

United States Patent and Trademark Office

Reg. No. 2,868,747

Registered Aug. 3, 2004

**TRADEMARK
PRINCIPAL REGISTER**

DOLLY GIRL

MUELHENS GMBH & CO. KG (FED REP GER-
MANY LIMITED PARTNERSHIP)
VENLOER STRASSE 241-245
50828 KOELN, FED REP GERMANY

FOR: PERFUMERIES, ESSENTIAL OILS FOR
PERSONAL USE, COSMETICS, NAMELY EYE
MAKE-UP AND FACIAL MAKE-UP; SKIN CARE
PREPARATIONS, NAMELY CREAMS, LOTIONS,
MOISTURIZERS, TEXTURIZERS AND TONERS;
BATH GEL, SHOWER GEL, FOAM BATH AND
PERSONAL DEODORANTS; DENTIFRICES, TOI-

LET SOAP, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51
AND 52).

PRIORITY CLAIMED UNDER SEC. 44(D) ON FED
REP GERMANY APPLICATION NO. 30257225.2/0,
FILED 11-21-2002, REG. NO. 30257225, DATED 3-10-
2003, EXPIRES 11-30-2012.

SER. NO. 76-516,464, FILED 5-22-2003.

JOSETTE BEVERLY, EXAMINING ATTORNEY