

ESTTA Tracking number: **ESTTA160568**

Filing date: **09/04/2007**

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	Ciro Paone SpA
Granted to Date of previous extension	09/05/2007
Address	Viale delle Industrie 80022 Arzano Naples, ITALY

Attorney information	Aric S. Jacover Mayer Brown LLP 71 South Wacker Drive Chicago, IL 60606 UNITED STATES asjacover@mayerbrownrowe.com Phone:3127017161
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Applicant Information

Application No	76648641	Publication date	05/08/2007
Opposition Filing Date	09/04/2007	Opposition Period Ends	09/05/2007
Applicant	Ross, Fraser 115 South Robertson Boulevard Los Angeles, CA 90048 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. First Use: 2000/03/00 First Use In Commerce: 2000/03/00 All goods and services in the class are opposed, namely: skin lotions, perfumes, soaps, lip gloss, eye shadows, cosmetics and non-medicated toiletries, perfumery and incenses, artificial pumices for personal use, false nails, false eyelashes
Class 025. First Use: 2000/03/00 First Use In Commerce: 2000/03/00 All goods and services in the class are opposed, namely: clothing, namely, shoes, belts, footwear, hats, pants, sandals, shirts, sweaters, sweatshirts, swimwear and tops

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1247754	Application Date	12/18/1981
Registration Date	08/09/1983	Foreign Priority	NONE

		Date	
Word Mark	KITON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1971/00/00 First Use In Commerce: 1978/02/28 Clothing for Men and Women-Namely, Suits, Dresses, Jackets, Trousers, Skirts, and Overcoats		

U.S. Registration No.	2530648	Application Date	10/23/1997
Registration Date	01/15/2002	Foreign Priority Date	NONE
Word Mark	KITON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1998/12/00 First Use In Commerce: 1998/12/00 TOILET WATER, AFTERSHAVE LOTIONS, DEODORANTS FOR PERSONAL USE		

U.S. Registration No.	2724470	Application Date	02/11/1998
Registration Date	06/10/2003	Foreign Priority Date	NONE
Word Mark	KITON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1971/01/30 First Use In Commerce: 1991/09/26 clothing for men and women, namely, casual clothes, namely, shirts, dresses, pants; leisure wear, namely, shirts, dresses, pants; sportswear, namely, shirts, dresses, pants; casual shirts, tie shirts, cellular shirts, tuxedo shirts, dress shirts, sweatshirts, sweater shirts, jacket shirts, ladies shirts, pullovers, suits, jackets, turn jackets, shirt jackets, blousons, duffel coats, parkas, vests, coats, dresses, skirts, ladies skirts, head scarves, square scarves, trousers, ties		

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Signature	/aricsjacover/
Name	Aric S. Jacover
Date	09/04/2007

3. Opposer began making and selling menswear and womenswear in 1956. Starting in 1968, Opposer has marketed its products under the family of famous KITON® trademarks. In the United States, Opposer has continuously marketed and sold menswear and womenswear under the family of famous KITON® trademarks since as early as February of 1978.

4. Opposer is the assignee of the following trademark registrations for KITON® that have been registered on the Principal Register of the United States Patent and Trademark Office: Registration Number 1,247,754 (registered August 9, 1983) for “clothing for men and women, namely, suits, dresses, jackets, trousers, skirts, and overcoats” in class 25; Registration Number 2,530,648 (registered January 15, 2002) for “toilet water, aftershave lotions, deodorants for personal use” in class 3; and Registration Number 2,724,470 (registered June 10, 2003) for “clothing for men and women, namely, casual clothes, namely, shirts, dresses, pants; leisure wear, namely, dresses, pants; sportswear, namely, shirts, dresses, pants; casual shirts, tie shirts, cellular shirts, tuxedo shirts, dress shirts, sweatshirts, sweater shirts, jacket shirts, ladies shirts, pullovers, suits, jackets, turn jackets, shirt jackets, clousons, duffel coats, parkas, vests, coats, dresses, skirts, ladies skirts, head scares, square scares, trousers, ties” in class 25.

5. The subject application for KITSON (Serial No. 76/648,641) is confusingly similar in sound and appearance to Opposer’s KITON® mark.

6. In addition to the confusingly similar sound and appearance of the marks, Applicant’s mark, as stated in its application, is used in connection with “clothing, namely, shoes, belts, footwear, hats, pants, sandals, shirts, sweaters, sweatshirts, swimwear and tops” in class 25 and “skin lotions, perfumes, soaps, lip gloss, eye shadows, cosmetics and non-medicated toiletries, perfumery and incenses, artificial pumices for personal use, false nails, false eyelashes” in Class

3, which are similar to the clothing products and accessories offered under Opposer's KITON® mark.

7. Opposer's Registration Number 1,247,754 was issued on August 9, 1983, which predates Applicant's filing date of October 17, 2005 and the claimed first use date of March 1, 2000.

8. Given the similarity of Opposer's KITON® and Applicant's KITSON marks and the similar nature of the goods and services, the KITSON application, should it be permitted to register, will cause confusion in the marketplace and mislead consumers into believing Applicant's goods are offered by Opposer or that there is an association, or affiliation between the Applicant and Opposer. Such confusion violates Opposer's rights as the owner of a federal registration which precedes Applicant's filing and violates the rights granted opposers under the Lanham Act.

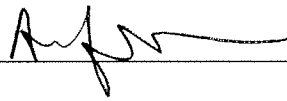
WHEREFORE, Opposer believes and alleges that it will be damaged by the registration of Applicant's mark and that its use is likely to cause customer confusion as set forth above, Opposer requests that:

1. Judgment in the present opposition be entered in favor of the Opposer and against Applicant, with prejudice;
2. The present opposition be sustained; and
3. Registration on the application of Applicant for the trademark KITSON, Serial No. 76/648,641 be rejected and refused.

Respectfully submitted,

Ciro Paone SpA

Dated: September 4, 2007

By:  _____

Jason K. Schmitz
Aric S. Jacover
Mayer Brown LLP
71 South Wacker Drive
Chicago, Illinois 60606-4637
(312) 701-8864
(312) 706-8517 – Facsimile

Attorney for Opposer
Ciro Paone SpA