UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Wolfson

THIS OPINION IS NOT A PRECEDENT OF THE T.T.A.B.

Mailed: July 16, 2009

Opposition No. **91189899**

PREMIUM DENIM, LLC

v.

PIEGE CO., INC.

Before Walters, Drost and Wellington,
Administrative Trademark Judges.

By the Board:

This case now comes before the Board for consideration of applicant's motion, filed June 1, 2009, to dismiss the notice of opposition on the ground that opposer lacks standing. Opposer filed a response to the motion.

Standing is a threshold issue that the Board must consider in every case. See *Ritchie v. Simpson*, 170 F.3d 1092, 50 USPQ2d 1023 (Fed. Cir. 1999); *Lipton Industries, Inc. v. Ralston Purina Company,* 670 F.2d 1024, 213 USPQ 185 (CCPA 1982); and TBMP § 309.03(b) (2d ed. rev. 2004). A party may establish its standing to oppose by showing that it has a "real interest" in the case, that is, a direct and personal stake in the outcome of the opposition. See *Ritchie v. Simpson*, 50 USPQ2d at 1026; and *Lipton Industries.*, 213 USPQ at 189.

Here, opposer now argues in its brief (p. 2) that it is "in the clothing business and sells its products under its distinctive trademark PAIGE." However, the notice of opposition is completely silent as to the nature of opposer's business or any marks it may claim to own. There is simply no information provided about opposer that would support a finding that opposer has a "personal interest in the outcome beyond that of the general public," *Lipton Industries,* 213 USPQ at 188.

We further note that opposer has not sufficiently pleaded a valid fraud ground for opposition. Our case law establishes that fraud must be pleaded with sufficient particularity showing that the applicant has willfully and fraudulently withheld from the Office material information which, if disclosed, would have resulted in the disallowance of the registration sought. See Fed. R. Civ. P. 9(b); *see also, e.g., Torres v. Cantine Torresella S.r.l,* 808 F.2d 46, 1 USPQ2d 1483, 1484 (Fed. Cir. 1986); *Medinol Ltd. v. Neuro Vasx Inc.*, 67 USPQ2d 1205 (TTAB 2003).

Accordingly, the motion to dismiss is granted. However, opposer is allowed until twenty (20) days from the mailing date of this order to file an amended notice of opposition, in which opposer properly pleads its standing and a sufficient and particular claim of fraud, failing which the opposition will be dismissed with prejudice.

Proceedings otherwise remain suspended.