

ESTTA Tracking number: **ESTTA382148**

Filing date: **12/06/2010**

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	Hachette Filipacchi (UK) Ltd.
Granted to Date of previous extension	12/08/2010
Address	64 North Row London, W1K 7LL UNITED KINGDOM

Attorney information	Gary M. Nath The Nath Law Group 112 S. West Street Alexandria, VA 22314 UNITED STATES gbennett@nathlaw.com, dstarr@nathlaw.com Phone:703-548-6284
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Applicant Information

Application No	85006642	Publication date	08/10/2010
Opposition Filing Date	12/06/2010	Opposition Period Ends	12/08/2010
Applicant	Red I Wear, LLC 1125 W. Olive Street, Ste. A San Diego, CA 92103 UNITED STATES		

Goods/Services Affected by Opposition


Class 016. All goods and services in the class are opposed, namely: Printed matter, namely, books, magazines, journals, newspapers, periodicals, leaflets, reviews, catalogs and brochures in the field of entertainment, news, culture, fashion, travel, humor, and relationships; stickers; calendars
Class 035. All goods and services in the class are opposed, namely: Talent agency services; Modeling agency services; Advertising and marketing; Public relations services; Brand consultancy services; Corporate identity and brand creation services; Business consultancy services

Grounds for Opposition

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

U.S. Registration No.	2458941	Application Date	06/10/1998
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Registration Date	06/12/2001	Foreign Priority Date	01/15/1998
Word Mark	RED FOR THE BEST THINGS IN LIFE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: ELECTRONIC PUBLICATIONS, NAMELY, MAGAZINES FEATURING LIFESTYLE, NEWS, RECREATIONAL ISSUES, TRAVEL, FASHION, CAREERS, GARDENING, INTERIOR DESIGN AND DECORATING, HEALTH, FOOD AND RECIPES, CONSUMER INFORMATION RELATING TO PRODUCTS AND PRODUCT TESTING, ADVICE ABOUT FINANCE, CELEBRITY INTERVIEWS, MUSIC, FILM, THEATER, BOOK REVIEWS AND ASTROLOGY, ALL FOR WOMEN, RECORDED ON CD-ROM'S, CD-I'S, MAGNETIC DISKS, OPTICAL AND ELECTRONIC DATA CARRIERS; [BLANK ELECTRONIC, OPTICAL AND MAGNETIC DATA CARRIERS; AND AUDIO AND VIDEO RECORDINGS FEATURING LIFESTYLE, NEWS, RECREATIONAL ISSUES, TRAVEL, FASHION, CAREERS, GARDENING, INTERIOR DESIGN AND DECORATING, HEALTH, FOOD AND RECIPES, CONSUMER INFORMATION RELATING TO PRODUCTS AND PRODUCT TESTING, ADVICE ABOUT FINANCE, CELEBRITY INTERVIEWS, MUSIC, FILM, THEATER, BOOK REVIEWS AND ASTROLOGY, ALL FOR WOMEN]</p> <p>Class 016. First use: PRINTED MATTER, NAMELY, [JOURNALS,] MAGAZINES, [NEWSPAPERS, NEWSLETTERS, GUIDES AND A SERIES OF BOOKS,] ALL FEATURING LIFESTYLE, NEWS, RECREATIONAL ISSUES, TRAVEL, FASHION, CAREERS, GARDENING, INTERIOR DESIGN AND DECORATING, HEALTH, FOOD AND RECIPES, CONSUMER INFORMATION RELATING TO PRODUCTS AND PRODUCT TESTING, ADVICE ABOUT FINANCE, CELEBRITY INTERVIEWS, MUSIC, FILM, THEATER, BOOK REVIEWS AND ASTROLOGY, ALL FOR WOMEN</p> <p>Class 042. First use: [PROVIDING AN INTERACTIVE ON-LINE COMPUTER DATABASE IN THE FIELDS OF FASHION, CAREERS, INTERIOR DESIGN AND DECORATING, HEALTH, FOOD AND RECIPES, CONSUMER INFORMATION RELATING TO PRODUCTS AND PRODUCT TESTING, AND ASTROLOGY, ALL FOR WOMEN; AND] PROVIDING ON-LINE MAGAZINES [AND NEWSLETTERS] FEATURING LIFESTYLE, NEWS, RECREATIONAL ISSUES, TRAVEL, FASHION, CAREERS, GARDENING, INTERIOR DESIGN AND DECORATING, HEALTH, FOOD AND RECIPES, CONSUMER INFORMATION RELATING TO PRODUCTS AND PRODUCT TESTING, ADVICE ABOUT FINANCE, CELEBRITY INTERVIEWS, MUSIC, FILM, THEATER, BOOK REVIEWS AND ASTROLOGY, ALL FOR WOMEN, AVAILABLE VIA A GLOBAL COMPUTER NETWORK</p>		

Attachments	75500106#TMSN.gif (1 page)(bytes) Notice of Opposition 61917.pdf (5 pages)(125608 bytes)
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Certificate of Service

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

Signature	/Gary M. Nath and Gregory G. Bennett/
Name	Gary M. NathGary M. Nath and Gregory G.
Date	12/06/2010

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

Application Serial Number: 85/006,642
Application Filing Date: April 5, 2010
Mark: RED I STARLETTES
Date of Publication: August 10, 2010

HACHETTE FILIPACCHI (UK) Ltd.,)
)
Opposer,)
)
v.)
)
RED I WEAR, LLC,)
)
Applicant.)

NOTICE OF OPPOSITION

HACHETTE FILIPACCHI (UK) Ltd., a joint stock company organized and existing under the laws of the United Kingdom, having a business address of 64 North Row, London, W1K 7LL, United Kingdom (“Opposer”), believes that it will be damaged by registration of the mark “RED I STARLETTES” shown in Application Serial No. 85/006,642 (the “Application”) with respect to Class 16, and hereby opposes same. The Application was filed on April 5, 2010 by Red I Wear, LLC, which is alleged to be a limited liability company organized and existing under the laws of California, having a business address of 1125 W. Olive Street, Ste. A, San Diego, CA 92103, United States (the “Applicant”), and is pending for the following goods and services in Classes 16 and 35:

“Printed matter, namely, books, magazines, journals, newspapers, periodicals, leaflets, reviews, catalogs and brochures in the field of entertainment, news, culture, fashion, travel, humor, and relationships; stickers; calendars” in Class 16; and

“Talent agency services; Modeling agency services; Advertising and marketing; Public relations services; Brand consultancy services; Corporate identity and brand creation services; Business consultancy services” in Class 35.

The Application was published for opposition on August 10, 2010. Opposer has previously timely filed a request for extension of time to oppose the Application and said request was granted by the Board with the present extension of time set to expire on December 8, 2010.

As grounds for this opposition, Opposer alleges that:

1. Opposer is the owner of the Registration No. 2,458,941 for “RED FOR THE BEST THINGS IN LIFE” and design (the “Registration”). Said Registration was registered on June 12, 2001, and is valid, subsisting, and unrevoked.
2. The Registration is registered for the following goods in Class 9: “electronic publications, namely, magazines featuring lifestyle, news, recreational issues, travel, fashion, careers, gardening, interior design and decorating, health, food and recipes, consumer information relating to products and product testing, advice about finance, celebrity interviews, music, film, theater, book reviews and astrology, all for women, recorded on CD-ROMs, CD-Is, magnetic disks, optical and electronic data carriers.”
3. The Registration is registered for the following goods in Class 16: “printed matter, namely, magazines, all featuring lifestyle, news, recreational issues, travel, fashion, careers, gardening, interior design and decorating, health, food and recipes, consumer information relating to products and product testing, advice about finance, celebrity interviews, music, film, theater, book reviews and astrology, all for women.”
4. The Registration is registered for the following services in Class 42: “providing on-line magazines featuring lifestyle, news, recreational issues, travel, fashion, careers, gardening, interior design and decorating, health, food and recipes, consumer information relating to products

and product testing, advice about finance, celebrity interviews, music, film, theater, book reviews and astrology, all for women, available via a global computer network.”

5. Opposer has used and presently uses the mark “RED FOR THE BEST THINGS IN LIFE” and design, and/or variations thereof that consist of or prominently feature the “RED” and design element (collectively Opposer’s “RED” marks), in connection with the sale and distribution of products and services identified in paragraphs 2, 3, and 4.

6. Since prior to the filing date of the Application, Opposer did use and has continuously used in interstate commerce its “RED” marks with products and services described in paragraphs 2, 3, and 4 herein. By reason of such extensive use and promotion, Opposer has attained an enviable reputation for high standards of quality, and the Opposer’s “RED” marks have become distinctive of and associated in the minds of the trade and purchasing public with the Opposer.

7. Applicant’s mark “RED I STARLETTES” and Opposer’s “RED” marks clearly feature the “RED” term as the dominant portion of the respective marks. In Opposer’s “RED” marks, the “RED” and design element is always the most prominent and distinctive feature. Likewise, in Applicant’s mark the dominant element is the word “RED.” Therefore, Applicant’s mark is confusingly similar to Opposer’s “RED” marks in appearance, sound, and meaning. Furthermore, the goods and services of the Applicant in Classes 16 and 35 identical or closely related to the various products and services of Opposer as described in paragraphs 2, 3, and 4 herein and the Class 16 goods are likely to move within the same channels of trade and be purchased by the same class of purchasers. Accordingly, the Applicant’s mark is likely, when used in association with the goods and services in Classes 16 and 35 of Applicant, to cause confusion or to deceive purchasers in the mistaken belief that the goods of Applicant emanate from, are

offered for sale, or are sold by Opposer or under Opposer's approval, sponsorship or control, all to the great damage of Opposer.

WHEREFORE, Opposer prays that this Notice of Opposition be granted with respect to the goods and services in Classes 16 and 35 in favor of the Opposer and that Application Serial No. 85/006,642 be rejected, that no registration for the goods and services in Classes 16 and 35 be issued thereon to Applicant, and this opposition be sustained to Opposer.

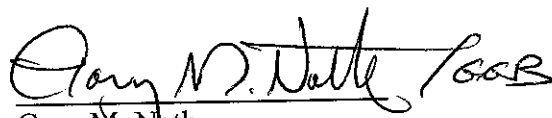
The required filing fee of \$600.00 is submitted herewith.

Opposer hereby appoints Gary M. Nath, H. David Starr and Gregory G. Bennett, all of the law firm of The Nath Law Group with offices at 112 S. West Street, Alexandria, Virginia 22314, to act as attorneys for the Opposer herein, with full power to prosecute said Opposition, to transact all relevant business with the U.S. Patent and Trademark Office and in the United States Courts.

It is requested that communications be conducted with the below attorney who is authorized to receive all official communications in connection with this Notice of Opposition:

Gary M. Nath
The Nath Law Group
112 S. West Street
Alexandria, Virginia 22314

Respectfully submitted,



Gary M. Nath
H. David Starr
Gregory G. Bennett
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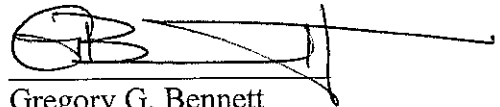
Attorneys for Opposer

Dated: December 6, 2010

CERTIFICATE OF SERVICE

This is to certify that I am on this date serving a copy of the within and foregoing upon the Applicant by depositing a true and correct copy of same in the United States Mail in an envelope with sufficient first class postage affixed thereon to ensure delivery, addressed as follows:

Matthew A. Becker
The Law Office of Matthew A. Becker, PC
1003 Isabella Ave
Coronado, CA 92118-2863

A handwritten signature in black ink, appearing to be 'G. Bennett', written over a horizontal line.

Gregory G. Bennett
Attorney for Opposer

Date: December 6, 2010
THE NATH LAW GROUP
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