

ESTTA Tracking number: **ESTTA421612**

Filing date: **07/25/2011**

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	Jimlar Corporation
Granted to Date of previous extension	07/23/2011
Address	160 Great Neck Road Great Neck, NY 11021 UNITED STATES

Attorney information	Lora A. Moffatt Salans Rockefeller Center, 620 Fifth Avenue New York, NY 10020 UNITED STATES lmoffatt@salans.com, acarlson@salans.com, ccantarella@salans.com Phone:212-632-5500
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Applicant Information

Application No	85180548	Publication date	05/24/2011
Opposition Filing Date	07/25/2011	Opposition Period Ends	07/23/2011
Applicant	L & M Designs Pty Ltd 1/51 Yarranabbe Road Darling Point NSW, 2027 AUSTRALIA		

Goods/Services Affected by Opposition


Class 025. First Use: 2009/11/00 First Use In Commerce: 2009/11/00 All goods and services in the class are opposed, namely: Footwear

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3039511	Application Date	11/01/2004
Registration Date	01/10/2006	Foreign Priority Date	NONE
Word Mark	FF		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 2003/06/01 First Use In Commerce: 2003/06/01 LEATHER BAGS, NAMELY, DUFFLE BAGS, PURSES BRIEFCASES and SMALL LEATHER GOODS, NAMELY, WALLETS Class 025. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 CLOTHING, NAMELY, FOOTWEAR, JACKETS

U.S. Registration No.	3700365	Application Date	06/22/2005
Registration Date	10/20/2009	Foreign Priority Date	NONE

Word Mark	FF
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 2009/08/13 First Use In Commerce: 2009/08/13 Small leather goods, namely, wallets, leather change purses; leather business card cases; leather jewelry pouches, leather cases containing shaving utensils Class 020. First use: First Use: 2009/08/13 First Use In Commerce: 2009/08/13 Leather key fobs

Attachments	76618758#TMSN.jpeg (1 page)(bytes) 78656383#TMSN.jpeg (1 page)(bytes) FLIPSTERSNOTICEOPPOSITION.pdf (6 pages)(182531 bytes)
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Certificate of Service

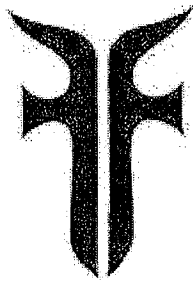
The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address

record by First Class Mail on this date.

Signature	/lora a moffatt/
Name	Lora A. Moffatt
Date	07/25/2011

2. Opposer is a supplier and distributor of footwear, wearing apparel and handbags.

3. Commencing long prior to Applicant's filing date, Opposer and Opposer's predecessors in interest, have engaged, and Opposer is now engaged in the distribution, promotion and/or sale in interstate commerce of clothing, including footwear and shirts, key fobs and handbags under the FRYE'S trademark and distinctive FF Design mark. A rendering of Opposer's FF Design mark is set forth below:



4. Opposer is owner of, and will rely herein, upon the following Federal Trademark registrations:

MARK	REG. NO.	ISSUE DATE	GOODS
FF	3,039,511	1/10/06	Clothing namely footwear in Class 25. Leather bags in Class 18.
FF	3,700,365	10/20/09	Small leather goods in Class 18. Leather key fobs in Class 20.

5. The above registrations are valid, subsisting and constitute *prima facie* evidence of Opposer's exclusive right to use the registered FF Design marks in commerce for the goods specified in said registrations. Exhibits A and B hereto printouts of United States Patent and Trademark Office electronic records, displaying the current status and title of such registrations.

6. Opposer has made substantial investments in advertising and promoting its goods under Opposer's FF Design marks since it acquired The Frye Company. Opposer and its predecessors in interest have extensively used, advertised, promoted and offered goods bearing Opposer's FF Design marks to the public through various channels of trade in commerce for many years prior to the filing of Applicant's application, with the result that Opposer's customers and the public in general have to come to know and recognize Opposer's FF Design marks and associate them with Opposer and its goods.

7. As a result of the aforesaid advertising, promotion and sale, Opposer's FF Design marks have become well known and recognized by the public and associated with Opposer well prior to the filing of the opposed application and/or well prior to the Applicant's actual use or intended use of the mark of the opposed application.

8. Notwithstanding Opposer's rights in and to Opposer's FF Design marks, on November 18, 2010, Applicant filed a use-based application to register FF FLIPSTERS and Design for "footwear" in Class 25. Said application was assigned Serial No. 85/180,548 and was published for Opposition in the Official Gazette on May 24, 2011.

9. The goods for which Applicant seeks to register of FF FLIPSTERS and Design are identical, at least with respect to footwear, to the goods upon which Opposer has used and currently uses its FF Design marks and both parties' goods move through substantially the same channels of trade.

10. The design portion of the mark of the opposed application is dominated by two stylized "F" letters, which blatantly mimic Opposer's FF Design mark. As a result, Applicant's mark so resembles Opposer's FF Design marks, as to be likely, when applied to

footwear, to cause confusion or mistake or to deceive purchasers and potential purchasers as to the source thereof, resulting in damage and detriment to Opposer and its reputation.

11. Opposer avers that its customers, and the public in general, are likely to be confused, mistaken or deceived as to the origin and sponsorship of the aforementioned goods to be marketed under Application's alleged FF FLIPSTERS and Design mark and misled into believing that such goods emanate from, or are licensed by, or are in some way directly or indirectly associated with Opposer, to the damage and detriment of Opposer and its reputation.

12. Opposer avers that it will be damaged by the registration by Applicant of the alleged FF FLIPSTERS and Design trademark, as set forth in Applicant's Trademark Application Serial No. 85/180,548 in that the mark is substantially similar to Opposer's FF Design marks, and in view of the high degree of public knowledge and recognition of Opposer's FF Design marks and of the goods offered to the public by Opposer under Opposer's FF design marks, and the identical goods of the respective parties, the footwear for which Applicant seeks registration will be mistakenly presumed to emanate from or be licensed by, approved by or otherwise connected with Opposer, either directly or indirectly.

13. Wherefore, Opposer, Jimlar Corporation, d/b/a The Frye Company, believes and avers that it is being and will continue to be damaged by registration of the alleged FF FLIPSTERS and Design as aforesaid and prays that Application Serial No. 85/180,548 be rejected, in so far as it relates to footwear in International Class 25, that no registration for that class be issued thereon to Applicant and that this Opposition be sustained in favor of Opposer.

Date: July 25, 2011

Respectfully submitted,

SALANS LLP

By: 

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

JIMLAR CORPORATION

Opposer,

v.

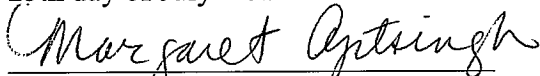
L & M DESIGN PTY LTD. CORP.,

Applicant.

Serial No.: 85/180,548

CERTIFICATE OF SERVICE BY FIRST-CLASS MAIL

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION in the above matter, is being deposited with the United States Postal Service as First-Class mail, postage paid, in an envelope addressed to Ju Chang, Salmas Law Group, 1880 Century Park E Ste 417, Los Angeles, CA 90067, on this 25th day of July 2011.


Margaret Ajitsingh