

ESTTA Tracking number: **ESTTA456086**

Filing date: **02/13/2012**

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	SPECIALTY RETAILERS, INC.
Granted to Date of previous extension	02/11/2012
Address	10201 Main Street Houston, TX 77025 UNITED STATES
Attorney information	Jennifer B. Rader McAfee & Taft 1717 S. Boulder Suite 900 Tulsa, OK 74119 UNITED STATES jenna.rader@mcafeetaft.com, diane.goswick@mcafeetaft.com Phone:(918) 574-3019

**Applicant Information**

Application No	85255440	Publication date	12/13/2011
Opposition Filing Date	02/13/2012	Opposition Period Ends	02/11/2012
Applicant	James Lewis 8222 N. Lamar Ste E40 8222 N. Lamar Austin, TX 78753 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 035. First Use: 2002/12/01 First Use In Commerce: 2002/12/01 All goods and services in the class are opposed, namely: Wholesale and retail store services and on-line retail and wholesale store services featuring ladies' clothing and accessories, namely, handbags, watches, scarves, footwear, and jewelry
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**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.	1475067	Application Date	05/14/1987
Registration Date	02/02/1988	Foreign Priority Date	NONE
Word Mark	HANNAH		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1975/05/01 First Use In Commerce: 1975/05/29 WOMEN'S READY TO WEAR APPAREL, NAMELY [ DRESSES, ] SLACKS, SKIRTS, BLOUSES, SWEATERS, JACKETS, COATS, SLEEPWEAR, HEADWEAR, HOSIERY, [ BELTS, ] SHOES [ AND SCARVES ] Class 042. First use: First Use: 1975/05/01 First Use In Commerce: 1975/05/29 RETAIL STORE SERVICES IN THE FIELD OF WOMEN'S READY TO WEAR APPAREL

Attachments	NOTICEOFOPPOSITION85255440.pdf ( 5 pages )(194044 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	/J. Rader/
Name	Jennifer B. Rader
Date	02/13/2012

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

In re United States Application Serial No. 85255440  
Filing Date: March 2, 2011  
Mark: HANNAH D'S  
Published in the Official Gazette at page TM 956 on December 13, 2011

Specialty Retailers, Inc., )  
 )  
Opposer, )  
 )  
v. ) Opposition No. \_\_\_\_\_  
 )  
James Lewis d/b/a HANNAH D's, )  
 )  
Applicant. )

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**NOTICE OF OPPOSITION**

In the matter of the application for registration of HANNAH D's, United States Application Serial No. 85/255,440 filed March 2, 2011, by James Lewis d/b/a Hannah D's, published for opposition on page TM 956 of the Official Gazette on December 13, 2011, Opposer, Specialty Retailers, Inc., believes that it would be damaged by such registration and hereby opposes the registration of the mark for all goods in International Class 035. The grounds for opposition are as follows:

1. Specialty Retailers, Inc. ("Opposer") is a Texas corporation with a principal place of business at 10201 Main Street, Houston, Texas 77025.
2. Opposer owns and operates retail stores that market and sell clothing items throughout the United States.

3. At least as early as May 29, 1975, Opposer's predecessor in interest began using in interstate commerce the distinctive trademark HANNAH in association with women's ready to wear apparel, namely, dresses, slacks, skirts, blouses, sweaters, jackets, coats, sleepwear, headwear, hosiery, belts, shoes and scarves. The HANNAH mark has been continuously used in interstate commerce in connection with these goods since that time.

4. On May 14, 1987, Opposer's predecessor in interest filed United States Application Serial No. 73/660,672 to register the HANNAH mark for goods in International Class 025 in the United States Patent & Trademark Office ("USPTO"). On February 2, 1988, the USPTO issued United States Registration Number 1,475,067 for the HANNAH mark on the Principal Register. The registration is incontestable.

5. Opposer is the current owner of United States Registration No. 1,475,067 for the HANNAH mark by virtue of assignment of the entire interest and goodwill. The assignment was recorded in the USPTO at Reel/Frame 3622/0472 on September 17, 2007.

6. Opposer has expended a great deal of effort and money to market and promote its goods associated with the HANNAH mark. The HANNAH mark is very well known in the clothing industry throughout the United States. By carefully controlling the quality of the goods, Opposer has built up an excellent reputation and valuable goodwill in association with its HANNAH mark.

7. As evidenced by its publication in the Official Gazette on page TM 956 of the December 13, 2011 issue, James Lewis d/b/a Hannah D's ("Applicant") filed Application Serial No. 85/255,440 to register the HANNAH D'S mark on the Principal Register in the USPTO for services in International Class 035. In the application, Applicant listed the services associated with the mark as "wholesale and retail store services and on-line retail and wholesale store

services featuring ladies' clothing and accessories, namely, handbags, watches, scarves, footwear, and jewelry.”

8. Opposer clearly has prior use with respect to Applicant's HANNAH D'S mark. Upon information and belief, Applicant did not begin using the HANNAH D'S mark in commerce until December 1, 2002 and did not apply for registration until March 2, 2011. Opposer, through its predecessor in interest, has continuously used the HANNAH mark in interstate commerce since at least as early as May 29, 1975. Therefore, Opposer's use and registration of the HANNAH mark precedes Applicant's earliest possible priority date with respect to the mark by at least twenty-seven (27) years.

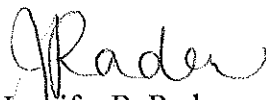
9. Opposer's HANNAH mark and Applicant's HANNAH D'S mark are nearly identical as to sight, sound and connotation and create a similar commercial impression. Furthermore, the services listed in the application for HANNAH D'S are similar and related to the goods identified by Opposer's HANNAH mark. As a result of the similarity between Opposer's mark and the HANNAH D'S mark and because the services associated with Applicant's mark are highly related and similar to the goods associated with Opposer's mark, registration and use of HANNAH D'S in connection with Applicant's services is likely to cause confusion among consumers who are likely to believe that Applicant's services are in some way associated or connected with or sponsored, authorized or warranted by Opposer.

10. If Applicant is allowed to register HANNAH D's, it will obtain statutory rights to the mark that will conflict with and substantially degrade Opposer's rights in United States Registration No. 1,475,067 as well as Opposer's superior common law rights to its HANNAH mark. Opposer's goodwill and reputation will be jeopardized by Applicant's registration of HANNAH D'S. Poor quality of Applicant's services will greatly harm Opposer's reputation and

translate to lost sales. Furthermore, Applicant would be unjustly enriched by its use of HANNAH D'S and would unfairly reap the benefit of Opposer's goodwill and reputation.

WHEREFORE, Opposer respectfully requests that this Opposition be sustained and that registration of HANNAH D'S in International Class 035 evidenced by United States Application Serial No. 85255440 be refused and any other and further relief as is deemed just and proper.

Respectfully submitted,



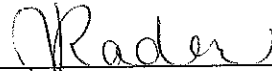
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Attorney for Opposer

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing NOTICE OF OPPOSITION was mailed, certified mail return receipt requested, on this 13th day of February, 2012, to:

Justin Copeland  
490 Lombard Street, Apt. 6  
San Francisco, CA 94133-2481  
ATTORNEY FOR APPLICANT



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