

ESTTA Tracking number: **ESTTA502900**

Filing date: **10/31/2012**

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	Janus Holdings, Ltd		
Entity	limited company	Citizenship	Malta
Address	116 Upper Rue D'Argens MSIDA, MSD 1363 MALTA		

Attorney information	David P. Sharrow Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP 220 West 42nd Street 21st Floor New York, NY 10036 UNITED STATES dsharrow@gunder.com Phone:2124303161
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Applicant Information

Application No	85639525	Publication date	10/09/2012
Opposition Filing Date	10/31/2012	Opposition Period Ends	11/08/2012
Applicant	Product Innovations Research LLC 700 15770 N. Dallas Pkwy Dallas, TX 75248 UNITED STATES		

Goods/Services Affected by Opposition


Class 003. All goods and services in the class are opposed, namely: Indoor tanning products, namely, non-medicated skin tan darkening lotions and skin moisturizers
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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.	4218673	Application Date	02/10/2011
Registration Date	10/02/2012	Foreign Priority Date	NONE
Word Mark	HOT PANTS		

Design Mark	
Description of Mark	The mark consists of the word "HOT", with all letters appearing upper case with the middle of the letter "O" filled in, adjacent to the word "PANTS" in lower case, above a wavy line.
Goods/Services	Class 025. First use: First Use: 2012/07/31 First Use In Commerce: 2012/07/31 Clothing, namely, men's underwear, hosiery, jeans, shirts, socks, T-shirts

U.S. Application No.	85391583	Application Date	08/07/2011
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	HOT PANTS
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Design Mark	
Description of Mark	The mark consists of Stylized lettering for "hotpants" in two rows with "hot" appearing above "pants". Grey or black lettering with yellow or white background.
Goods/Services	Class 025. First use: First Use: 2011/05/01 First Use In Commerce: 2011/05/01 Clothing for athletic use, namely, padded shorts; Cycling shorts; Foundation garments worn around the midsection or thighs to keep the stomach in and create a slimming effect; Gym shorts; Jogging outfits; Jogging pants; Leggings; Shorts; Sweat shorts; Walking shorts

Attachments	85238853#TMSN.jpeg (1 page)(bytes) 85391583#TMSN.jpeg (1 page)(bytes) 2843_001.pdf (5 pages)(191296 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	/dps/
Name	David P. Sharrow
Date	10/31/2012

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

In re Application Serial No. 85/639,525

Mark: HOT PANTS

Application Filing Date: May 31, 2012

Janus Holdings, Ltd.

Opposer,

v.

Product Innovations Research LLC

Applicant.

NOTICE OF OPPOSITION

Opposer, Janus Holdings, Ltd. ("Opposer"), believes that it will be damaged by the issuance of a registration for the mark HOT PANTS, with respect to the goods in International Class 3, as applied for in Application Serial No. 85/639,525 ("Applicant's Mark"), as filed by Product Innovations Research LLC ("Applicant"), and hereby opposes the same.

As grounds for this Opposition, Opposer alleges as follows:

1. Opposer, Janus Holdings, Ltd., is a Malta company, with an address of 116 Upper Rue D'Argens, MSIDA MSD 1363, Malta.

2. Upon information and belief, Applicant, Product Innovations Research LLC, is a limited liability company organized and existing under the laws of Texas, with its principal place of business at 15770 Dallas Pkwy, Ste 700, Dallas, TX 75248.

3. On February 10, 2011, Opposer's predecessor in interest applied to register, in International Class 25, the Special Form (Stylized and/or Design) mark HOT PANTS, Serial No. 85/238,853 ("Opposer's Mark #1"), on the Principal Register for use in connection with: "*Clothing, namely, men's underwear, hosiery, jeans, shirts, socks, T-shirts.*" Opposer's Mark #1 was registered on the Principal Register on October 2, 2012, under Registration No. 4,218,673.

4. On August 7, 2011, Opposer applied to register, in International Class 25, the Special Form (Stylized and/or Design) mark HOT PANTS, Serial No. 85/391,583 ("Opposer's Mark #2"), on the Principal Register for use in connection with: "*Clothing for athletic use, namely, padded shorts; Cycling shorts; Foundation garments worn around the midsection or thighs to keep the stomach in and create a slimming effect; Gym shorts; Jogging outfits; Jogging pants; Leggings; Shorts; Sweat shorts; Walking shorts.*" The application for Opposer's Mark #2 was based on Opposer's assertion of a current use of the mark in commerce, at least as early as May 1, 2011, which date pre-dates the filing of Applicant's application for the Applicant's Mark.

5. On May 31, 2012, Applicant applied to register, in International Class 3, the Standard Character mark HOT PANTS, Serial No. 85/639,525, on the Principal Register for use in connection with: "*Indoor tanning products, namely, non-medicated skin tan darkening lotions and skin moisturizers.*" ("Applicant's Goods"). The Application was based on Applicant's assertion of a bona fide intention to use the mark in commerce.

6. The filing dates of Opposer's Mark #1 and Opposer's Mark #2 (collectively, "Opposer's Marks") precede the filing date of the application for Applicant's Mark.

7. Opposer's Mark #1 is fully registered, whereas Applicant's Mark is in the application process.

8. Opposer's Marks are currently in use in commerce, whereas Applicant has yet to file a Statement of Use for Applicant's Mark.

LIKELIHOOD OF CONFUSION

9. Opposer hereby incorporates by reference the allegations of Paragraphs 1 through 8 as if fully set forth herein.

10. Applicant's Mark, when used in connection with Applicant's Goods, is likely to cause confusion, deception and mistake with Opposer's Marks because Applicant's Mark is exactly identical to the word marks of Opposer's Marks and the goods to be offered by the parties in connection with their respective marks are retail goods that are likely to be offered in the same and/or similar channels of trade, and to the same and/or similar customers. Moreover, Applicant's Mark will be used on, and with products that are at the very least, similar or related to, the goods to be sold and provided by Opposer under Opposer's Marks.

11. Registration by Applicant of the mark HOT PANTS for use in connection with Applicant's Goods is likely to seriously damage Opposer and should be refused because use and/or registration of Applicant's Mark is likely to cause confusion in the minds of the public and deceive purchasers, including through potentially appearing in the same sections of the same retail stores, especially since it is a natural field of expansion for Opposer's goods to encompass consumer healthcare products. The public, upon seeing Applicant's Mark used in connection with the Applicant's Goods, is likely to believe that such goods have some

connection with the Opposer, and Opposer avers that Applicant's intended use of Applicant's Mark will interfere with Opposer's use of Opposer's Marks and will impede Opposer in the free use of Opposer's Marks. Registration of Applicant's Mark for use in connection with the Applicant's Goods will consequently seriously damage the Opposer under 15 U.S.C. § 1052(d).

12. Registration of Applicant's Mark for use in connection with the Applicant's Goods would be prima facie evidence of the rights of Applicant under 15 U.S.C. § 1057(b), to the detriment of Opposer's prior rights in Opposer's Marks.

13. Pursuant to 15 U.S.C. § 1063(a), as amended, Opposer believes it will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the infringing use of its mark sought to be registered, and will give colorable exclusive statutory rights to Applicant in violation and derogation of prior and superior statutory rights of Opposer and of Opposer's right to establish such prior and superior statutory rights.

WHEREFORE, Opposer believes and avers that it will be damaged by said registration and prays that registration of Applicant's Mark for use in connection with Applicant's Goods, as reflected in Application Serial No. 85/639,525, be refused, and this Opposition be sustained.

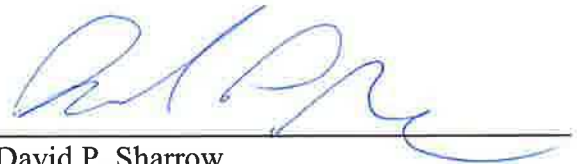
The filing fee for this Notice of Opposition in the amount of \$300.00 is submitted herewith.

Please recognize as attorneys for Opposer in this proceeding David P. Sharrow, Aaron G. Rubin, Katherine S. Gardner and Todd W. Moore, each a member of the Bar of the State of New

York and the firm Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP, 220 West 42nd Street, 21st Floor, New York, New York 10036.

All correspondence should be addressed to David P. Sharrow, Esq., of Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP, 220 West 42nd Street, 21st Floor, New York, New York 10036.

Respectfully submitted,



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JANUS HOLDINGS, LTD.

Dated: October 31, 2012