

ESTTA Tracking number: **ESTTA519380**

Filing date: **02/01/2013**

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	Swoon, Inc.
Granted to Date of previous extension	03/20/2013
Address	1603 Village Market Boulevard, Suite 108 Leesburg, VA 20175 UNITED STATES

Attorney information	Leo M. Loughlin Rothwell, Figg, Ernst & Manbeck, PC 607 14th Street, N.W.8th Floor Washington, DC 20005 UNITED STATES PTO-TM-Email@rothwellfigg.com
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Applicant Information

Application No	85650172	Publication date	11/20/2012
Opposition Filing Date	02/01/2013	Opposition Period Ends	03/20/2013
Applicant	Swoon Boutique Inc. 2112 Werrington Dr. Holly Springs, NC 27540 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2012/05/04 First Use In Commerce: 2012/05/04 All goods and services in the class are opposed, namely: On-line retail store services featuring clothing and various jewelry and accessories; Retail store services featuring clothing and various jewelry and accessories

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. Application No.	85659899	Application Date	06/24/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SWOON		

Design Mark	<h1>SWOON</h1>
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2011/12/31 First Use In Commerce: 2011/12/31 Retail store services featuring a wide variety of consumer goods of others

Attachments	85659899#TMSN.jpeg (1 page)(bytes) 4139-101PLEADING.pdf (6 pages)(102434 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	/Leo M. Loughlin/
Name	Leo M. Loughlin
Date	02/01/2013

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

In the Matter of Application
Serial No. 85/650,172 published
November 30, 2012

Swoon , Inc.	:	
Opposer,	:	
	:	
v.	:	Opposition No. _____
	:	
Swoon Boutique Inc.,	:	
	:	
Applicant.	:	

NOTICE OF OPPOSITION

Swoon, Inc., a Delaware corporation, (hereinafter “Swoon”) with an address at 1603 Village Market Boulevard, Suite 108, Leesburg, Virginia 20175, believes that it will be damaged by registration of the mark Swoon Boutique (hereinafter the “Applicant’s Mark”) for “on-line retail store services featuring clothing and various jewelry and accessories; retail store services featuring clothing and various jewelry and accessories,” International Class 35, as set forth in Application Serial No.85/650,172, filed on June 12, 2012, and published on November 20, 2012, owned by Swoon Boutique Inc., a North Carolina corporation, with an address at 2112 Werrington Drive, Holly Springs, North Carolina 27540 (hereinafter the “Applicant”), and hereby opposes the same. As grounds for this opposition, it is alleged that:

1. Since prior to the use claimed in Application Serial No. 85/650,172, Swoon has used, advertised and promoted the mark SWOON (hereinafter the “Swoon Mark”) for its retail store services.

2. Swoon is the owner and user of U.S. pending Application No. 85/659,899 for the mark SWOON for “retail store services featuring a wide variety of consumer goods of others” in International Class 35.

3. A print out from the electronic database of the U.S. Patent and Trademark Office showing current status and title of pending Application Serial No. 85/659,899 listed above is attached as **Exhibit A-1** to the Notice of Opposition.

4. Upon information and belief, Applicant’s use of Applicant’s Mark does not predate Swoon’s priority in the Swoon Mark.

5. Applicant has no connection whatsoever with Swoon and no permission or license was given by Swoon to Applicant to use Applicant’s Mark.

6. Applicant’s use of Applicant’s Mark in connection with on-line retail store services and retail store services is such that members of the public will mistakenly assume that Applicant’s Mark emanates from Swoon.

7. Applicant’s Mark so closely resembles Swoon’s previously used and pending Swoon Mark that its use, in connection with the services aforementioned, is likely to cause confusion, or to cause mistake or deceive, in violation of Section 2(d) of the Trademark Act of 1946, 15 U.S.C. § 1052 (d). Purchasers likely will assume that Swoon is somehow affiliated with, licenses, or endorses, Applicant’s use of Applicant’s Mark.

8. For the reasons stated above, Swoon will be damaged by the registration of Applicant’s Mark.

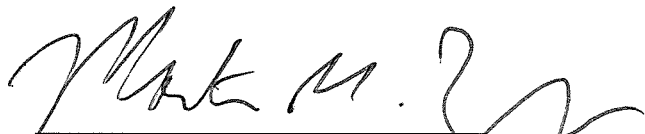
WHEREFORE, Swoon respectfully prays that this opposition be sustained and registration on Application Serial No. 85/650,172 be refused.

Respectfully submitted,

Swoon, Inc.

Date: February 1, 2013

By:



Martin M. Zoltick, Esq.
Leo M. Loughlin, Esq.
Attorney for Opposer
Rothwell, Figg, Ernst & Manbeck P.C.
607 14th St., N.W.; Suite 800
Washington, DC 20005
Phone: 202-783-6040

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing NOTICE OF OPPOSITION and Exhibit A-1 has been served by First Class mail, postage prepaid, to

SWOON BOUTIQUE INC.
2112 WERRINGTON DR
HOLLY SPRINGS, NORTH CAROLINA 27540-3330
UNITED STATES

On this 1st day of February, 2013.


Leo M. Loughlin

Generated on: This page was generated by TSDR on 2013-01-31 9:32:21 EST

Mark: SWOON

SWOON

US Serial Number: 85659899 **Application Filing Date:** Jun. 24, 2012

Filed as TEAS Plus: Yes **Currently TEAS Plus:** Yes

Register: Principal

Mark Type: Service Mark

Status: An Office action suspending further action on the application has been sent (issued) to the applicant. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Status Date: Oct. 15, 2012

Mark Information

Mark Literal Elements: SWOON

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Retail store services featuring a wide variety of consumer goods of others

International Class: 035 - Primary Class

U.S Class: 100, 101, 102

Class Status: ACTIVE

Basis: 1(a)

First Use: Dec. 31, 2011

Use In Commerce: Dec. 31, 2011

Basis Information (Case Level)

Filed Use:	Yes	Currently Use:	Yes	Amended Use:	No
Filed ITU:	No	Currently ITU:	No	Amended ITU:	No
Filed 44D:	No	Currently 44D:	No	Amended 44D:	No
Filed 44E:	No	Currently 44E:	No	Amended 44E:	No
Filed 66A:	No	Currently 66A:	No		
Filed No Basis:	No	Currently No Basis:	No		

Current Owner(s) Information

Owner Name: Swoon, Inc.

Owner Address: Suite 108
1603 Village Market Boulevard
Leesburg, VIRGINIA 20175
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Attorney/Correspondence Information

Attorney of Record - None

Correspondent

Correspondent Name/Address: SWOON, INC.
SWOON, INC.
1603 VILLAGE MARKET BLVD SE STE 108
LEESBURG, VIRGINIA 20175-4686
UNITED STATES

Phone: 571-291-2980

Correspondent e-mail: valeri@luvswoon.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Oct. 15, 2012	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Oct. 15, 2012	LETTER OF SUSPENSION E-MAILED	6332
Oct. 15, 2012	SUSPENSION LETTER WRITTEN	71994
Oct. 11, 2012	ASSIGNED TO EXAMINER	71994
Jul. 02, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jun. 27, 2012	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: CHARLON, BARNEY **Law Office Assigned:** LAW OFFICE 104
LAWREN

File Location

Current Location: TMEG LAW OFFICE 104 -
EXAMINING ATTORNEY **Date in Location:** Oct. 15, 2012
ASSIGNED