

ESTTA Tracking number: **ESTTA561869**

Filing date: **09/27/2013**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Calvin Klein Trademark Trust
Granted to Date of previous extension	09/28/2013
Address	.205 West 39th Street New York, NY 10018 UNITED STATES
Party who filed Extension of time to oppose	Calvin Klein Trademark Trust, Wilmington Trust Company Trustee
Relationship to party who filed Extension of time to oppose	Misspelling

Name	Calvin Klein, Inc.		
Entity	Corporation	Citizenship	New York
Address	205 West 39th Street New York, NY 10018 UNITED STATES		

Attorney information	Richard S. Schurin Gottlieb, Rackman & Reisman, P.C. 270 Madison Avenue 8th Floor New York, NY 10016 UNITED STATES efiling@grr.com, eleiter@grr.com, rschurin@grr.com
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Applicant Information

Application No	85855775	Publication date	07/30/2013
Opposition Filing Date	09/27/2013	Opposition Period Ends	09/28/2013
Applicants	Big City Foods III 800 C Shoppers Way Largo, MD 20774 UNITED STATES Otis Lonon 2107 Parkside Drive Bowie, MD 20774 UNITED STATES		

Goods/Services Affected by Opposition

Class 025.

All goods and services in the class are opposed, namely: Apparel for dancers, namely, tee shirts, sweatshirts, pants, leggings, shorts and jackets; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Athletic shirts; Button down shirts; Children's and infant's apparel, namely, jumpers, overall sleepwear, pajamas, rompers and one-piece garments

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.	1439226	Application Date	08/09/1985
Registration Date	05/12/1987	Foreign Priority Date	NONE
Word Mark	CK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1985/06/21 First Use In Commerce: 1985/06/21 MENS' AND BOYS' WEARING APPAREL, NAMELY [SUITS,] JACKETS, BLAZERS, [PANTS, JEANS, COATS,] SHIRTS, [VESTS, SWEATERS, BELTS, TIES,] UNDERWEAR AND PAJAMAS, AND SOCKS; WOMENS' AND GIRLS' WEARING APPAREL, NAMELY SKIRTS, SHIRTS, [BLOUSES, JACKETS, PANTS, JEANS, COATS, VESTS, DRESSES, SWEATERS, SHORTS,] SCARVES, BELTS, NIGHTGOWNS, ROBES, AND UNDERWEAR, [STOCKINGS] AND SOCKS		

U.S. Registration No.	1810850	Application Date	11/02/1992
Registration Date	12/14/1993	Foreign Priority Date	NONE
Word Mark	CALVIN KLEIN CK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1992/08/04 First Use In Commerce: 1992/08/04 women's, men's, boys and girls wearing apparel; namely, shirts, blouses, jackets, bathing suits, beach and swimming cover-ups, pants, dresses, shorts, skirts, jeans, gloves, suits, sports jackets, belts, socks, underwear, stockings, tights, hats, outerwear; namely, [jackets], coats and vests, sweaters, T-shirts, rainwear, raincoats, tank tops, shoes, boots, slippers, blazers, bras, nightgowns, robes, scarves and shawls		

U.S. Registration No.	1946318	Application Date	04/26/1994
Registration Date	01/09/1996	Foreign Priority Date	NONE
Word Mark	CK ONE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1994/09/06 First Use In Commerce: 1994/09/06 eau de toilette, skin moisturizer, body massage lotion

U.S. Registration No.	1929343	Application Date	05/04/1994
Registration Date	10/24/1995	Foreign Priority Date	NONE

Word Mark	CK CALVIN KLEIN
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 025. First use: First Use: 1992/08/04 First Use In Commerce: 1992/08/04 men's and boy's underwear, sleepwear and loungewear products, namely briefs, boxer shorts, athletic shirts and bottoms, T-shirts and tank tops, undershirts, underpants and undershirts, robes, knitted and woven sleepwear, namely sleep shirts, pajama tops, pajama bottoms, breakfast jackets, smoking jackets, bed jackets and cover-ups, knitted and woven loungewear, including lounging pants and tops, and lounge jackets
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U.S. Registration No.	2022784	Application Date	05/04/1994
Registration Date	12/17/1996	Foreign Priority Date	NONE

Word Mark	CK CALVIN KLEIN
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 025. First use: First Use: 1992/08/04 First Use In Commerce: 1992/08/04 women's and girl's intimate apparel, sleepwear and loungewear, bodywear, namely, foundations, bras, [girdles,] garter belts, one piece bra and girdle, corselettes, [body stockings, control briefs, control hipsters, control bikinis, bra slips,] bra top camisoles, waist cinchers, bustiers, merry widows, camisettes, leotards and unitards, daywear, namely, culottes, bikinis, hipsters, briefs, slips, [blouse-slips,] camisole-slips, chemise slips, [culotte slips,] evening slips, [maternity slips, panty slips,] princess slips, [shadow panel slips, strapless slips, suite slips, tailored slips, half-slips, petti-slips, bra-slips,] chemises, teddies, camisoles, bra top camisoles, bralettes, tap pants and petti-pants, daywear, loungewear, sleepwear and bodywear, namely, nightgowns, [toga nightgowns,] night shirts, pajamas, shortie pajamas, baby doll pajamas, T-shirt pajamas, chinese pajamas, coat-style pajamas, [Cossack pajamas,] culotte pajamas, [French maid sleepers, harem pajamas, hostess culottes,] lounging pajamas, rompers, sleep shorts, peignoirs, [bed jackets, caftans,] jumpsuits, teddies, bathrobes, dressing gowns, kimonos, housecoats, [beach togas, beach wrap-ups,] breakfast coats, brunch coats, hooded bathrobes, dusters, hostess robes, [kabuki robes,] lounging robes and monk's robes, bra tops, crop tops [and leggings, excluding women's hosiery]
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U.S. Registration No.	2022784	Application Date	05/04/1994
Registration Date	12/17/1996	Foreign Priority Date	NONE

Word Mark	CK CALVIN KLEIN
Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1992/08/04 First Use In Commerce: 1992/08/04 women's and girl's intimate apparel, sleepwear and loungewear, bodywear, namely, foundations, bras, [girdles,] garter belts, one piece bra and girdle, corselettes, [body stockings, control briefs, control hipsters, control bikinis, bra slips,] bra top camisoles, waist cinchers, bustiers, merry widows, camisettes, leotards and unitards, daywear, namely, culottes, bikinis, hipsters, briefs, slips, [blouse-slips,] camisole-slips, chemise slips, [culotte slips,] evening slips, [maternity slips, panty slips,] princess slips, [shadow panel slips, strapless slips, suite slips, tailored slips, half-slips, petti-slips, bra-slips,] chemises, teddies, camisoles, bra top camisoles, bralettes, tap pants and petti-pants, daywear, loungewear, sleepwear and bodywear, namely, nightgowns, [toga nightgowns,] night shirts, pajamas, shortie pajamas, baby doll pajamas, T-shirt pajamas, chinese pajamas, coat-style pajamas, [Cossack pajamas,] culotte pajamas, [French maid sleepers, harem pajamas, hostess culottes,] lounging pajamas, rompers, sleep shorts, peignoirs, [bed jackets, caftans,] jumpsuits, teddies, bathrobes, dressing gowns, kimonos, housecoats, [beach togas, beach wrap-ups,] breakfast coats, brunch coats, hooded bathrobes, dusters, hostess robes, [kabuki robes,] lounging robes and monk's robes, bra tops, crop tops [and leggings, excluding women's hosiery]

U.S. Registration No.	2044464	Application Date	01/18/1995
Registration Date	03/11/1997	Foreign Priority Date	NONE
Word Mark	CK CALVIN KLEIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1995/09/08 First Use In Commerce: 1995/09/08 retail stores featuring personal care products, cosmetics and fragrances; furniture and carpeting, household furnishings and linen, housewares; sunglasses; jewelry, watches and clocks; stationery; luggage and leather accessories; fabrics; clothing and shoes		

U.S. Registration No.	1951987	Application Date	05/04/1993
Registration Date	01/23/1996	Foreign Priority Date	NONE
Word Mark	CK CALVIN KLEIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1994/08/00 First Use In Commerce: 1994/08/00 handbags, wallets, key cases, change purses, cosmetic bags and pouches sold empty, briefcase-type portfolios, suit bags, trunks for traveling, suitcases, umbrellas, billfolds, duffle bags, tote bags, briefcases and attache cases, luggage, overnight cases		

U.S. Registration	2064064	Application Date	11/13/1995
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No.			
Registration Date	05/20/1997	Foreign Priority Date	NONE
Word Mark	CK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1996/05/25 First Use In Commerce: 1996/05/25 women's and girl's intimate apparel, sleepwear and loungewear, bodywear, namely foundations, bras, girdles, garter belts, one piece bra and girdle, corselettes, body stockings, control briefs, control hipsters, control bikinis, bra slips, bra top camisoles, waist cinchers, bustiers, merry widows, camisettes, leotards and unitards, daywear, namely culottes, bikinis, hipsters, briefs, slips, blouse-slips, camisole-slips, chemise slips, culotte slips, evening slips, maternity slips, panty slips, princess slips, shadow panel slips, strapless slips, suite slips, tailored slips, half-slips, petti-slips, bra-slips, chemises, teddies, camisoles, bra top camisoles, bralettes, tap pants and petti-pants, daywear, loungewear, sleepwear and bodywear, namely nightgowns, toga nightgowns, night shirts, pajamas, shortie pajamas, baby doll pajamas, T-shirt pajamas, French maid sleepers, harem pajamas, hostess culottes, lounging pajamas, rompers, sleep shorts, peignoirs, bed jackets, caftans, jumpsuits, teddies, bathrobes, dressing gowns, kimonos, housecoats, beach togas, beach wrap-ups, breakfast coats, brunch coats, hooded bathrobes, dusters, hostess robes, kabuki robes, lounging robes and monk's robes, bra tops, crop tops and leggings, excluding women's hosiery		

Attachments	Not.Opp.pdf(111023 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	/Richard S. Schurin/
Name	Richard S. Schurin
Date	09/27/2013

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

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In the Matter of Trademark Application Ser. No. 85-855,775 :

For the mark: CK BURGER THE ORIGINAL :
COUNTRY BURGER : Opposition No.

Published in the Official Gazette on: July 30, 2013 :

CALVIN KLEIN TRADEMARK TRUST and :
CALVIN KLEIN, INC., :
: :
Opposers, :
v. :

OTIS LONDON and BIG CITY FOODS III, LLC, :
: :
Applicants. :
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NOTICE OF OPPOSITION

In the matter of Application No. 78/730,120, filed on February 21, 2013 by Otis London and Big City Foods III LLC ("Applicants"), and published in the Official Gazette on July 30, 2013:

Calvin Klein, Inc. ("CKI"), a New York corporation, having an office and place of business at 205 West 39th Street, New York, New York 10018 and Calvin Klein Trademark Trust ("Trust"), a Delaware Business Trust c/o Calvin Klein, Inc., 205 West 39th Street, New York, New York 10018 (hereinafter collectively "Opposers"), believe that they may be damaged by registration of the mark shown in Application No. 85/855,775 and hereby oppose the same pursuant to §13 of the Act of July 5, 1946, 15 U.S.C. §1063, on the following grounds:

1. Opposer Trust is the record owner, and Opposer CKI is a beneficial owner, of all right, title and interest in and to the trademarks CK, CK BE, CK ONE,

CK/CALVIN KLEIN, CK ONE CALVIN KLEIN, CK CALVIN KLEIN JEANS, and CK CALVIN KLEIN KHAKIS(hereinafter sometimes collectively “the Trademarks”) as applied to a broad category of goods, including but not limited to all manner of wearing apparel and accessories.

2. One or more of the Trademarks have been used by or under the authority of Opposers and their predecessors in connection with the field of fashion since at least as early as June, 1968.

3. Opposer Trust is the owner of all right, title and interest in and to numerous registrations for the Trademarks, including United States Trademark Registration Nos. 1,439,226, 1,810,850, 1,946,318, 1,929,343, 2,022,784, 2,044,464, 1,951,987, 2,064,064, 2,074,471, 2,080,100, 2,076,377, 2,192,526, 2,094,408, 2,234,623, 2,069,292, 2,144,299, 2,142,329, 2,197,990, 2,314,144, 2,454,886, 2,483,764, 3,916,700, 4,126,963 and 4,147,453 for the trademark CK and trademarks incorporating CK, as applied to a broad category of goods. Many of the Trademarks are also registered throughout the world.

4. Under the authority of Opposers, sales of products and services bearing or under the Trademarks have been substantial, as have widespread advertising and promotion.

5. As a result of the Opposer's tremendous sales success and extensive advertising and promotional efforts, the Trademarks, and each of them, have become “famous” trademarks entitled to the broadest scope of protection. Such fame long predates the possible use of the applied-for mark by Applicant.

6. Since 1968, Opposers and their predecessors have expanded their activities and, either directly or via licenses, have used or authorized third parties to use one or more of the Trademarks on a wide variety of goods and services. Opposer's licensing activities are exceedingly important to them.

7. On or about February 21, 2013, Applicant filed an intent-to-use application, Serial No. 85-855,775 ("Applicant's Application") in the United States Patent and Trademark Office to register the mark CK BURGER THE ORIGINAL COUNTRY BURGER (hereinafter "Applicant's Mark") for various goods including clothing, and said application was published in the Official gazette on July 30, 2013.

8. Upon information and belief, there has been no use of Applicant's mark for the goods in Applicant's Application as of yet.

9. Upon information and belief, at least some of the goods authorized and licensed by Opposers and marketed under the Trademarks, including in particular products such as tee shirts, sweatshirts, pants, leggings, shorts and jackets, and athletic apparel namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms, athletic shirts, button down shirts, and children's and infants apparel, would be offered to the same class of purchasers, would be sold in similar retail outlets, and would be sold in similar retail outlets and/or would be advertised and promoted through the same media.

10. Applicant's Mark at issue herein as applied to the goods of Applicant as set forth in its Application, so resembles the Trademarks previously used and registered by Opposers, as to be likely to cause confusion, mistake or deceit.


11. The use by Applicant of Applicant's Mark in connection with the goods of Applicant, as set forth in Applicant's Application, is likely to cause the public, familiar with the goods of Opposers to falsely assume that the goods of the Applicant are certified, sponsored, endorsed by or in some way associated or connected with Opposers.

WHEREFORE, Opposers pray that Application Serial No. 85/855,775 be rejected and this Opposition be sustained.

This Notice of Opposition is submitted in duplicate along with the proscribed fee. The Patent and Trademark Office is authorized to charge any deficiencies to Deposit Account No. 07-1730.

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN, P.C.
Attorneys for Opposers
270 Madison Avenue
New York, New York 10016
(212) 684-3900

By 
Richard S. Schurin, Esq.

Dated: New York, New York
September 27, 2013