

ESTTA Tracking number: **ESTTA661898**

Filing date: **03/18/2015**

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	The Wet Seal, Inc.
Granted to Date of previous extension	03/18/2015
Address	26972 Burbank Foothill Ranch, CA 92610 UNITED STATES

Attorney information	Katherine Keating Bryan Cave LLP 560 Mission Street, Suite 2100 San Francisco, CA 94105 UNITED STATES katherine.keating@bryancave.com, todd.bolinger@bryancave.com Phone:415-268-1972
----------------------	---

**Applicant Information**

Application No	85950758	Publication date	11/18/2014
Opposition Filing Date	03/18/2015	Opposition Period Ends	03/18/2015
Applicant	Bruce Weber c/o Little Bear, Inc. New York, NY 10013 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 018. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: fanny packs and knapsacks
Class 024. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: towels
Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: swimwear related sportswear, namely, bathing suits, bathing trunks, T-shirts, shorts, hats, caps, bathing caps, sandals, beach shoes, sweat-shirts and sweatpants

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

**Marks Cited by Opposer as Basis for Opposition**


U.S. Registration	1508250	Application Date	07/15/1987
-------------------	---------	------------------	------------

No.			
Registration Date	10/11/1988	Foreign Priority Date	NONE
Word Mark	WET SEAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 1963/00/00 First Use In Commerce: 1963/00/00  CLOTHING FOR WOMEN, NAMELY, PANTS, BLOUSES, SWEATERS, SHIRTS, SHORTS, SKIRTS, DRESSES, SUITS, JACKETS, SWIMWEAR, COATS, BELTS, SCARVES, UNDERWEAR, PANTYHOSE</p> <p>Class 042. First use: First Use: 1962/12/19 First Use In Commerce: 1963/02/14  RETAIL STORE SERVICES FOR SALE OF WOMEN'S CLOTHING AND ACCESSORIES</p>		

U.S. Registration No.	2241292	Application Date	09/30/1997
Registration Date	04/20/1999	Foreign Priority Date	NONE
Word Mark	WET SEAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1998/01/16 First Use In Commerce: 1998/01/16  [ catalogs in the field of men's, women's and children's clothing, footwear, hats and accessories ]</p> <p>Class 035. First use: First Use: 1998/01/16 First Use In Commerce: 1998/01/16  [mail order services and ]computer on-line ordering services in the field of men's, women's and children's clothing, footwear, hats and accessories</p>		

U.S. Registration No.	3244361	Application Date	04/17/2006
Registration Date	05/22/2007	Foreign Priority Date	NONE
Word Mark	WET SEAL		
Design Mark			
Description of Mark	The mark consists of Stylized W in Wet Seal as a butterfly.		
Goods/Services	<p>Class 025. First use: First Use: 2005/07/00 First Use In Commerce: 2005/07/00  Clothing, namely, hats, caps, visors, gloves, mittens, scarves, belts, ties, socks, tights, hosiery, stockings, shoes, boots, slippers, blouses, shirts, camisoles, tops, tank-tops, t-shirts, sweatshirts, pullovers, sweaters, blazers, jackets, coats,</p>		

	dresses, skirts, skorts, capris, jeans, shorts, pants, sweatpants, underwear, bras, panties, slips, teddies, nightgowns, pajamas, sleep shirts, bathrobes, lingerie, beach cover-ups, swimwear, rainwear
--	--

U.S. Registration No.	4316787	Application Date	08/13/2012
Registration Date	04/09/2013	Foreign Priority Date	NONE
Word Mark	WET SEAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1998/01/16 First Use In Commerce: 1998/01/16 footwear, namely, boots, shoes, leisureshoes, sandals, sneakers, loafers and slippers		

U.S. Registration No.	4571078	Application Date	08/15/2013
Registration Date	07/22/2014	Foreign Priority Date	NONE
Word Mark	WET SEAL +		
Design Mark			
Description of Mark	The mark consists of the word elements "WET" and "SEAL", with the latter word "SEAL" appearing in italic format, followed by the non-italicized "+" design symbol element.		
Goods/Services	Class 025. First use: First Use: 2013/07/01 First Use In Commerce: 2013/08/08 clothing, namely, hats, caps, visors, gloves, mittens, scarves, belts, ties, socks, tights, hosiery, stockings, shoes, boots, slippers, blouses, shirts, camisoles, tops, tank-tops, t-shirts, sweatshirts, pullovers, sweaters, blazers, jackets, coats, dresses, skirts, skorts, capris, jeans, shorts, pants, sweatpants, underwear, bras, panties, slips, teddies, nightgowns, pajamas, sleep shirts, bathrobes, lingerie, beach cover-ups, swimwear, rainwear Class 035. First use: First Use: 2013/07/01 First Use In Commerce: 2013/08/08 retail and online retail store servicesin the field of clothing and accessories		

U.S. Registration No.	4640746	Application Date	04/08/2014
Registration Date	11/18/2014	Foreign Priority Date	NONE
Word Mark	WET SEAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1994/01/01 First Use In Commerce: 1994/01/01 handbags, purses, satchels, wallets, backpacks, makeup bags sold empty		

U.S. Registration No.	4632405	Application Date	04/08/2014
Registration Date	11/04/2014	Foreign Priority Date	NONE
Word Mark	WET SEAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 026. First use: First Use: 1994/01/01 First Use In Commerce: 1994/01/01 hair ornaments		

U.S. Registration No.	4632408	Application Date	04/08/2014
Registration Date	11/04/2014	Foreign Priority Date	NONE
Word Mark	WET SEAL		

Design Mark	<b>WET SEAL</b>
Description of Mark	NONE
Goods/Services	Class 014. First use: First Use: 1994/01/01 First Use In Commerce: 1994/01/01 jewelry; necklaces; bracelets; bangles; earrings; watches

Attachments	78862902#TMSN.png( bytes ) 85702009#TMSN.png( bytes ) 86038610#TMSN.png( bytes ) 86245551#TMSN.png( bytes ) 86245494#TMSN.png( bytes ) 86245595#TMSN.png( bytes ) Notice_of_Opposition - WET_DOG.pdf(21585 bytes )
-------------	--

### **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	/katherine keating/
Name	Katherine Keating
Date	03/18/2015

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

THE WET SEAL, INC.,

Opposer,

v.

BRUCE WEBER,

Applicant.

Opposition No. \_\_\_\_\_

Serial No.: 85/950,758

Mark: WET DOG

Filed: June 4, 2013

Published: November 18, 2014

Classes: 3, 16, 18, 24, 25

---


**NOTICE OF OPPOSITION**

The Wet Seal, Inc. (“Wet Seal” or “Opposer”) believes it will be damaged by registration of Application No. 85/950,758 (the “Application”) for the mark WET DOG (“Applicant’s Mark”), filed on June 4, 2013, by Bruce Weber (“Applicant”), and hereby opposes such registration as to the goods in classes 18, 24, and 25. As grounds for opposition, Opposer alleges as follows:

1. Opposer Wet Seal is a Delaware corporation with its principal place of business at 26972 Burbank, Foothill Ranch, California 93610.
2. On information and belief, Applicant is an individual with U.S. citizenship and an address of 135 Watts Street, New York, New York 10013.
3. Opposer Wet Seal sells clothing and fashionable accessory products worldwide at its Wet Seal retail stores and through its online storefront at [www.wetseal.com](http://www.wetseal.com).
4. Wet Seal adopted and began using the WET SEAL mark in connection with its retail store services, clothing, and fashionable accessory products at least as early as 1963.
5. Wet Seal is the exclusive owner of all rights, title, and interest in, to, and under the WET SEAL trademark for retail store services, apparel, and fashionable accessories.

6. The goods Wet Seal sells under its WET SEAL mark include shirts, pants, jackets, footwear, hats, caps, t-shirts, sweatshirts, leggings, shorts, dresses, skirts, and blouses.

7. Wet Seal owns a number of federal trademark registrations and pending applications for its WET SEAL mark, including the following:

<b>Mark</b>	<b>App. / Reg. No.</b>	<b>Goods / Services</b>	<b>Reg. Date</b>
WET SEAL	1,508,250 (incontestable)	<i>clothing for women, namely, pants, blouses, sweaters, shirts, shorts, skirts, dresses, suits, jackets, swimwear, coats, belts, scarves, underwear, pantyhose (class 25)</i>  <i>retail store services for sale of women's clothing and accessories (class 42)</i>	Oct. 11, 1988
WET SEAL	2,241,292 (incontestable)	<i>computer on-line ordering services in the field of men's, women's and children's clothing, footwear, hats and accessories (class 35)</i>	April 20, 1999
	3,244,361	<i>clothing, namely, hats, caps, visors, gloves, mittens, scarves, belts, ties, socks, tights, hosiery, stockings, shoes, boots, slippers, blouses, shirts, camisoles, tops, tank-tops, t-shirts, sweatshirts, pullovers, sweaters, blazers, jackets, coats, dresses, skirts, skorts, capris, jeans, shorts, pants, sweatpants, underwear, bras, panties, slips, teddies, nightgowns, pajamas, sleep shirts, bathrobes, lingerie, beach cover-ups, swimwear, rainwear (class 25)</i>	May 22, 2007
WET SEAL	4,316,787	<i>footwear, namely, boots, shoes, leisure shoes, sandals, sneakers, loafers and slippers (class 25)</i>	April 9, 2013

Mark	App. / Reg. No.	Goods / Services	Reg. Date
wet seal+	4,571,078	<i>clothing, namely, hats, caps, visors, gloves, mittens, scarves, belts, ties, socks, tights, hosiery, stockings, shoes, boots, slippers, blouses, shirts, camisoles, tops, tank-tops, t-shirts, sweatshirts, pullovers, sweaters, blazers, jackets, coats, dresses, skirts, skorts, capris, jeans, shorts, pants, sweatpants, underwear, bras, panties, slips, teddies, nightgowns, pajamas, sleep shirts, bathrobes, lingerie, beach cover-ups, swimwear, rainwear (class 25)</i>	July 22, 2014
WET SEAL	4,640,746	<i>handbags, purses, satchels, wallets, backpacks, makeup bags sold empty (class 18)</i>	Nov. 18, 2014
WET SEAL	4,632,408	<i>jewelry; necklaces; bracelets; bangles; earrings; watches (class 14)</i>	Nov. 4, 2014
WET SEAL	4,632,405	<i>hair ornaments (class 26)</i>	Nov. 4, 2014

8. Over the decades, Wet Seal has expended a substantial amount of time, money, and effort promoting, marketing, and advertising its goods and services under its WET SEAL mark.

9. Opposer's WET SEAL mark is inherently distinctive. Through Wet Seal's widespread and continuous use of its WET SEAL mark, the mark has become famous, having acquired substantial goodwill and secondary meaning among the relevant members of the public through Wet Seal's exclusive, widespread use for more than 40 years.

10. By virtue of Wet Seal's continuous and exclusive use of its WET SEAL mark, the mark has become strongly identified with fashionable, distinctive, and innovative apparel originating from Wet Seal.



11. On June 4, 2013, Applicant filed the Application (No. 85/950,758) for the mark WET DOG, in connection with the following goods in classes 18, 24, and 25:

*fanny packs and knapsacks* (Class 18);

*towels* (Class 24); and

*swimwear related sportswear, namely, bathing suits, bathing trunks, t-shirts, shorts, hats, caps, bathing caps and sandals, beach shoes sweatshirts and sweatpants* (Class 25)

(“Applicant’s Goods”).

12. Through the filing of the Application, Applicant claims to have a bona fide intent to use the WET DOG mark in commerce in connection with each of Applicant’s Goods.

13. Applicant has not alleged use of the WET DOG mark in connection with Applicant’s Goods.

14. Wet Seal has priority and is the senior user in these opposition proceedings.

15. Section 2(d) of the Lanham Act precludes registration of Applicant’s Mark because Applicant’s Mark is confusingly similar to Opposer’s WET SEAL mark in sound, appearance, and commercial impression, and the use of Applicant’s Mark in connection with Applicant’s Goods is likely to cause confusion, mistake, and/or deception as to the source of Applicant’s Goods.

16. Each of the goods listed in the Application is either identical or closely related to goods offered under Opposer’s WET SEAL mark and covered by Opposer’s federal trademark registrations.

17. Applicant’s Mark falsely suggests a connection with Wet Seal and its goods and services.

18. Registration of Applicant's Mark will lead the public to incorrectly conclude that Applicant's Goods are or have been authorized, sponsored, or licensed by Wet Seal, resulting in damage to Wet Seal and the public.

19. Registration of Applicant's Mark would be inconsistent with Wet Seal's rights in its WET SEAL mark.

20. Registration of Applicant's Mark will give the color of exclusive right in Applicant's Mark to Applicant, in violation and derogation of the prior and superior rights of Wet Seal.

WHEREFORE, The Wet Seal, Inc. prays that this opposition be sustained and registration for Applicant's Mark in connection with each of the goods listed in classes 18, 24, and 25 of the Application be denied.

Respectfully submitted,

BRYAN CAVE LLP

Dated: March 18, 2015

/katherine keating/  
Katherine Keating  
560 Mission Street, 25<sup>th</sup> Floor  
San Francisco, CA 94105-2994  
katherine.keating@bryancave.com  
Telephone: (415) 268-2000  
Facsimile: (415) 268-1999

Attorneys for The Wet Seal, Inc.