

ESTTA Tracking number: **ESTTA915731**

Filing date: **08/14/2018**

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	Dolce Vita Intimates LLC
Granted to Date of previous extension	08/18/2018
Address	183 Madison Avenue New York, NY 10016 UNITED STATES

Attorney information	Robert L. Epstein Epstein Drangel LLP 60 E. 42nd Street, Ste. 2520 New York, NY 10165 UNITED STATES mail@ipcounselors.com 2122925390
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**Applicant Information**

Application No	86710362	Publication date	06/19/2018
Opposition Filing Date	08/14/2018	Opposition Period Ends	08/18/2018
Applicant	THIRDLOVE, INC. 350 RHODE ISLAND ST STE 360 SAN FRANCISCO, CA 94103 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Bras; Lingerie; Women's underwear
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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.	3599363	Application Date	08/10/2007
Registration Date	03/31/2009	Foreign Priority Date	NONE
Word Mark	24/7 COMFORT		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2008/12/00 First Use In Commerce: 2008/12/00 Undergarments

Attachments	77252645#TMSN.png( bytes ) NOO 24-7 COMFORT.pdf(78130 bytes )
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Signature	/Kimberly A. Klibert/
Name	Kimberly A. Klibert
Date	08/14/2018

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William C. Wright  
Kimberly A. Klibert  
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

Dolce Vita Intimates LLC,  
*Opposer,*

v.

Thirdlove, Inc.,  
*Applicant.*

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

**NOTICE OF OPPOSITION**

In the matter of U.S. Trademark Application Serial No. 86710362, Dolce Vita Intimates LLC, a limited liability company, organized and existing under the laws of New York and located and doing business at 83 Madison Avenue, New York, New York 10016, United States, (hereinafter, “Opposer”), believes that it is or will be damaged by the registration of the trademark 24/7 (hereinafter, “Applicant’s Mark”), as reflected in U.S. Trademark Application Serial No. 86710362, in the name of Thirdlove, Inc., a corporation, organized and existing under the laws of Delaware, with an address of 350 Rhode Island St., STE 360, San Francisco, California 94103, United States (hereinafter, “Applicant”), and hereby opposes the same.

As grounds for its opposition, Opposer, by and through its undersigned attorneys, alleges as

follows:

1. Opposer is a company specializing in intimate apparel, founded in 2004, that designs, manufactures, markets, sells, and distributes intimate apparel, women's sleepwear, babydolls, chemises, robes, panties, leisurewear, loungewear, and daywear.

2. Since its inception, Opposer has grown rapidly, acquiring a number of different intimate and daywear divisions to further strengthen their design, merchandising, and manufacturing capabilities, and Opposer maintains offices in Hong Kong, China, and India to monitor and control quality production.

3. Opposer is the owner of all rights, title, and interest in and to 24/7 COMFORT (hereinafter, "Opposer's Mark") for undergarments and related goods (hereinafter, "Opposer's Goods").

4. Opposer has expended vast amounts of time, effort, and money in developing, advertising and publicizing the sale of Opposer's Goods and Opposer's Mark.

5. Upon information and belief, since long prior to any date upon which Applicant can rely, Opposer has continuously used Opposer's Mark in commerce for Opposer's Goods.

6. Opposer's Mark has become a distinctive indicator of the origin of Opposer's Goods and is an extremely valuable symbol of Opposer's goodwill.

7. In addition to Opposer's common law rights, Opposer owns a U.S. trademark registration of Opposer's Mark as set forth U.S. Trademark Registration No. 3,599,363, registered in Class 25 since March 31, 2009. A print-out of said registration from the electronic database records of the United States Patent and Trademark Office (hereinafter, "USPTO") are attached hereto as **Exhibit A**.

8. Opposer's U.S. trademark registration of Opposer's Mark became incontestable by virtue of the filings made under Sections 8 & 15 in March of 2015.

9. On July 30, 2015, Applicant filed an application to register the trademark 24/7, Ser. No. 86710362, for "Bras; Lingerie; Underwear" (hereinafter, respectively, "Application" and "Applicants' Goods").

10. Upon information and belief, Applicant and Opposer are in direct competition for consumers based upon the overlap between Applicant's Goods and Opposer's Goods.

11. Upon information and belief, Applicant was aware of Opposer's Mark and Opposer's Goods before it filed the Application and is intentionally trading off of the goodwill of Opposer and Opposer's Mark.

12. There is no issue of priority as the filing date of the Application and any alleged dates of first use in commerce of Applicant's Mark are subsequent to Opposer's filing date, registration date, and/or actual use in commerce of Opposer's Mark.

13. Opposer has been harmed, and continues to be harmed, by the Application.

**COUNT ONE**  
**(Likelihood of Confusion)**

14. Opposer repeats and re-alleges each and every allegation set forth in the foregoing paragraphs as though fully set forth herein.

15. Applicant's Mark is so similar to Opposer's Mark in sound, appearance, meaning, and/or commercial impression as to be likely to cause confusion, mistake or deception as to the source of origin or sponsorship of the goods for which the mark is used or is intended to be used on or in connection with.

16. Applicant's Mark is completely encapsulated within Opposer's Mark.

17. Applicant's Mark is likely to cause the mistaken belief that Applicant's Goods originate with, are sponsored by, and/or are otherwise affiliated with Opposer.

18. Applicant's Goods, as set forth in the Application, are the same as or similar to Opposer's Goods, are or will be offered for sale to the same general class of purchasers and are or will be sold through the same or similar channels of trade in which Opposer's Goods are or will be sold.

19. Applicant's Mark is a colorable imitation or misappropriation of Opposer's Mark and will enable Applicant to reap where it has not sown by trading on the goodwill of Opposer's business as symbolized by Opposer's Mark.

20. Applicant's Mark is likely to cause irreparable loss, injury and damage to Opposer's business and to the extensive goodwill and reputation associated with Opposer's Mark.

**WHEREFORE**, Opposer believes it will be damaged by the registration of Applicant's Mark for Applicant's Goods, as set forth in the Application, and as such, respectfully requests that the present opposition be sustained and registration of Applicant's Mark be denied.

**EPSTEIN DRANGEL, LLP**

Dated: August 14, 2018

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# Exhibit A

**Int. Cl.: 25**

**Prior U.S. Cls.: 22 and 39**

**United States Patent and Trademark Office**

**Reg. No. 3,599,363**

**Registered Mar. 31, 2009**

**TRADEMARK  
PRINCIPAL REGISTER**

**24/7 COMFORT**

DOLCE VITA INTIMATES LLC (NEW YORK  
LIMITED LIABILITY COMPANY)

183 MADISON AVENUE

NEW YORK, NY 10016

FOR: UNDERGARMENTS, IN CLASS 25 (U.S.  
CLS. 22 AND 39).

FIRST USE 12-0-2008; IN COMMERCE 12-0-2008.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "COMFORT", APART FROM THE  
MARK AS SHOWN.

SN 77-252,645, FILED 8-10-2007.

BARBARA RUTLAND, EXAMINING ATTORNEY