

ESTTA Tracking number: **ESTTA941687**

Filing date: **12/15/2018**

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 parties oppose registration of the indicated application.

**Opposers Information**

Name	NBC Fourth Realty Corp.
Granted to Date of previous extension	01/02/2019
Address	770 Cochituate Road Framingham, MA 01701 UNITED STATES

Name	The TJX Companies, Inc.
Granted to Date of previous extension	01/02/2019
Address	770 Cochituate Road Framingham, MA 01701 UNITED STATES

Attorney information	Larry C. Jones Alston & Bird LLP 101 S. Tryon Street Suite 4000 Charlotte, NC 28280-4000 UNITED STATES Larry.Jones@Alston.com 704.444.1019
----------------------	--

**Applicant Information**

Application No	87790589	Publication date	09/04/2018
Opposition Filing Date	12/15/2018	Opposition Period Ends	01/02/2019
Applicant	TJM Brands, LLC 3164 Coopers Arch Virginia Beach, VA 23456 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Online retail store services featuring appliances, arts and crafts supplies, sewing items, baby items, beauty and personal care items, books, cameras and photography supplies equipment, cell phones and accessories, computers and accessories, electronics, groceries, gourmet food items, health items, kitchen goods, dining items, DVD's and CD-Roms featuring entertainment, namely, music, movies and videos, office supplies and
--

equipment, pet supplies, toys and games, clothing, and industrial and scientific items
--

## Grounds for Opposition

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

## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1637243	Application Date	06/04/1990
Registration Date	03/05/1991	Foreign Priority Date	NONE
Word Mark	T.J. MAXX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1977/03/00 First Use In Commerce: 1977/03/00 retail department store services		

U.S. Registration No.	1871345	Application Date	03/14/1994
Registration Date	01/03/1995	Foreign Priority Date	NONE
Word Mark	T.J. MAXX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1977/03/31 First Use In Commerce: 1977/03/31 athletic bags, purses, handbags, pocketbooks, wallets, umbrellas, travel bags, and luggage		

U.S. Registration No.	1871415	Application Date	03/14/1994
Registration Date	01/03/1995	Foreign Priority Date	NONE
Word Mark	T.J. MAXX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1977/03/31 First Use In Commerce: 1977/03/31 clothing for women, men, children and infants, namely beachwear, bathing suits, blouses, coats, dresses, footwear, gowns, headwear, hosiery, jackets, lingerie, neckwear, sleepwear, pants, shirts, shorts, suits, sweaters, tops, underwear, and vests		

U.S. Registration No.	2199819	Application Date	09/16/1997
Registration Date	10/27/1998	Foreign Priority Date	NONE
Word Mark	T.J. MAXX		
Design Mark			


Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 1995/03/31 First Use In Commerce: 1995/03/31 electrical and scientific apparatus, namely, pre-recorded audio cassettes featuring children's stories, calculators, pre-recorded video cassettes featuring children's stories, compact discs featuring children's education and entertainment topics such as games, stories, and lessons in primary subjects, computer game cassettes, computer software featuring children's education and entertainment topics such as games, stories, and lessons in primary subjects, decorative refrigerator magnets, event recorders, eyeglass cases, eyeglass chains, helmets for bicycle, kaleidoscopes, magnets, microscopes, musical sound recordings, musical videorecordings, pedometers, radios, sunglasses, pre-recorded audio tapes featuring children's education and entertainment topics such as games, stories and lessons in primary subjects, telescopes, pre-recorded video tapes featuring children's education and entertainment topics such as games, stories and lessons in primary subjects, video game tape cassettes</p> <p>Class 014. First use: First Use: 1995/03/31 First Use In Commerce: 1995/03/31 jewelry, namely, ankle bracelets, bracelets, brooches, charms, clocks, costume jewelry, ear clips, earrings, jewelry, jewelry chains, lapel pins, necklaces, ornamental pins, pendants, pins being jewelry, rings being jewelry</p> <p>Class 016. First use: First Use: 1995/03/31 First Use In Commerce: 1995/03/31 paper goods and printed matter; namely, art prints, art reproductions, arts and craft paint kits, baby books, lap boards for reading and writing, cardboard boxes, cards bearing universal greetings, children's activity books, children's books, Christmas cards, color prints, coloring books, cook books, craft paper, crayons, crossword puzzles, engagement books, exercise books, gift cards, metallic gift wrap, paper gift wraps bows, gift wrapping paper, paper gift wrapping ribbons, greeting cards, inking pads, markers, modeling clay, modeling clay for children, modeling materials and compounds for use by children, note cards, occasion cards, painting sets for children, paper bags for packaging, paper boxes, pencils, photograph albums, photographic prints, pictorial prints, picture books, pictures, playing cards, recipe books, rubber stamps, scrapbook albums, stationery, stationery boxes, stationery writing paper and envelopes, stencils, stickers, printed teaching materials in the form of games in the area of primary subjects, indoor terrariums for plant cultivation, trivia cards, wrapping paper, writing pads, writing paper</p>

U.S. Registration No.	2223884	Application Date	09/16/1997
Registration Date	02/16/1999	Foreign Priority Date	NONE
Word Mark	T.J. MAXX		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 021. First use: First Use: 1977/03/31 First Use In Commerce: 1977/03/31 housewares and glass, namely, bakeware, not toys, barware, namely, seltzer bottles, basting spoons, beer mugs, beverage glassware, bottle openers, bottle stands, bowls, bread boxes, butter dishes, cake molds, cake servers, cake stands, candle holders not of precious metal, candle rings not of precious metal, candle snuffers, candle snuffers not of precious metal, candlesticks not of precious metal, canister sets, carving boards, casseroles dishes, champagne buckets, clothes brushes, coasters not of paper and not being table linen, coffee cups, colanders for household use, containers for foods, containers for household or kitchen use, not of precious metal, cookie cutters, cooking pots, cooking utensils, namely, grills, coolers for wine, cooling buckets for wine, cruets and</p>		

	<p>cruet stands for oil and vinegar, not of precious metal, cups, decorative plates, dinnerware, dishes, in general, drinking glasses, drinking vessels, dustbins, fitted picnic baskets, flour sifters, flower baskets, frying pans, gardening gloves, glass bowls, goblets, gravy boats, hand-operated coffee grinders, household utensils, namely, spatulas, strainers, and turners, household utensils, namely, wood chopping blocks and wood chopping boards for kitchen use, ice buckets, kitchen ladles, meal trays, mixing spoons, mugs, napkin holders, napkin rings not of precious metal, non-electric griddles, non-electric pressure cookers, non-metal piggybanks, oil-feeding cans, pepper grinders, pie servers, pitchers, plates, portable beverage coolers, portable beverage dispensers, preserve glasses, rolling pins, salad bowls, salt and pepper grinders and mills, salt and pepper shakers, salt cellars in the nature of shakers, saucepans, saucers, scoops, serving platters, servingspoons, shaving brush stands, slotted spoons, soap boxes, soap containers, soap containers and holders, soap dishes, soap dispensers, soap holders, soup tureens, spice racks, sponge holders, spoons, steamer baskets, tea balls not of precious metal, tea kettles, teapots not of precious metal, thermal insulated containers for food or beverages, trash cans, trivets, vases, wastepaper baskets, watering cans, wine bottle cradles, wine buckets</p> <p>Class 024. First use: First Use: 1977/03/31 First Use In Commerce: 1977/03/31 fabrics, namely, barbecue mitts, bath linen, bed blankets, bed canopies, bed linen, bed pads, bed sheets, bed spreads, comforters, crib bumpers, crib canopies, curtains, dishcloths, draperies, dust ruffles, duvet covers, duvets, eiderdown quilts, fabric bath mats, fabric table runners, handkerchiefs, kitchen towels, mattress covers, mattress pads, net curtains, oven mitts, pillow shams, pillowcases, pot holders, quilts, shams, table cloths not of paper, table linen, namely, coasters, table mats not of paper, textile napkins and placemats, towels, unfitted fabric furniture covers, washcloths, window curtains</p>
--	---

U.S. Registration No.	2486445	Application Date	09/16/1997
Registration Date	09/11/2001	Foreign Priority Date	NONE
Word Mark	T.J. MAXX		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 1995/03/31 First Use In Commerce: 1995/03/31 cosmetics and cleaning preparations, namely, after-shave lotions, bath gel, bath oil, bath powder, non-medicated bath salts, beauty masks, body cream, body oil, body powder, bubble bath, cold cream, cologne, eye cream, eye makeup remover, hand cream, night cream, non-medicated foot powder, perfume, potpourri, sachets, shaving balm, shower gel, skin clarifiers, skin cleansing cream, skin cleansing lotion, skin cream, skin lotion, skin moisturizer, skin soap, soaps for hands, face and body, talcum powder, wrinkle removing skin care preparations</p> <p>Class 028. First use: First Use: 1995/03/31 First Use In Commerce: 1995/03/31 toys and sporting goods; namely, action figures and accessories therefor, action skill games, baby multiple activity toys, baby rattles, bath toys, bathtub toys, board games, bubble making wand and solution sets, card games, checker sets, children's multiple activity toys, Christmas tree decorations, excluding confectionery or illumination articles, Christmas tree ornaments, Christmas tree skirts, Christmas tree stand covers, Christmas tree stands, hobby craft sets for stickers, stamps, toy models, and painting, hobby craft sets for magic comprising items for performing magic tricks such as scarves, flowers and instructional materials, hobby craft sets for nature comprising items for nature study such as sample</p>		

	collection implements, sample materials and instructional materials, hobby craft sets for gardening comprising items such as seed, growing pots and growing media, darts, dominos, egg decorating kits, hand held unit for playing electronic games, handballs, infant action crib toys, inflatable bath toys, jigsaw puzzles, magic tricks, manipulative games and puzzles, mechanical action toys, toy modeltrain sets, musical toys, play figures, plush toys, puppets, role playing game equipment in the nature of game book manuals, role playing games, rubber action balls, squeezable squeaking toys, stuffed toy bears, stuffed toys, teddybears, toy action figures, toy airplanes, toy banks, toy building blocks, toy figures, toy vehicles, water squirting toys, wind-up toys
--	--

U.S. Registration No.	4006314	Application Date	02/16/2011
Registration Date	08/02/2011	Foreign Priority Date	NONE
Word Mark	T.J. MAXX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1990/09/00 First Use In Commerce: 1990/09/00 Entertainment services, namely, conducting contests		

Attachments	85243989#TMSN.png( bytes ) Notice of Opposition 87790589_1.PDF(466542 bytes )
-------------	--

Signature	/Larry C. Jones/
Name	Larry C. Jones
Date	12/15/2018

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

In the matter of Application  
Serial No. 87/790,589  
Filed: February 8, 2018  
Trademark: TJM BRANDS & Design  
Published: September 4, 2018

-----X  
The TJX Companies, Inc. and )  
NBC Fourth Realty Corp., )  
 )  
Opposers )  
 )  
v. )  
 )  
TJM Brands, LLC, )  
 )  
Applicant. )  
-----X

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

**NOTICE OF OPPOSITION**

The TJX Companies, Inc. (“TJX”) and NBC Fourth Realty Corp. (“NBC”) each believe that it will be damaged by the registration of the designation TJM BRANDS & Design made the subject of Application Serial No. 87/790,589, which application was filed by TJM Brands, LLC (“TJM Brands”), and each of TJX and NBC hereby opposes the registration of said designation as a service mark.

As grounds of opposition, it is alleged that:

1. TJX is a Delaware corporation, and NBC is a Nevada corporation. Both TJX and NBC have a principal place of business and a mailing address of 770 Cochituate Road, Framingham, Massachusetts 01701.

2. Upon information and belief, TJM Brands is a limited liability company organized and existing under the laws of Wyoming, and has a mailing address of 3164 Coopers Arch, Virginia Beach, Virginia 23456.

3. TJX is the leading off-price retailer of apparel and home fashions in the United States. TJX operates, directly and through its subsidiaries, more than 4,000 brick and mortar stores in 9 countries and 3 e-commerce sites.

4. Among the retail chains operated by TJX in the United States is the T.J. MAXX retail store chain. TJX and its subsidiaries currently operate more than 1,000 T.J. MAXX brick and mortar stores in this country and the tjmaxx.com e-commerce site.

5. The T.J. MAXX trademark and service mark has been used continuously in this country since at least as early as 1977 by TJX, its predecessor, and its subsidiaries.

6. NBC is a wholly-owned subsidiary of TJX and the owner of the T.J. MAXX mark and other proprietary designations associated with the business, operations and resulting goodwill of the T.J. MAXX retail business and its merchandise.

7. Among the marks and registrations associated with the operation of the T.J. MAXX retail stores and tjmaxx.com e-commerce site and the merchandise sold therein are the following marks and their federal registrations:

T.J. MAXX	Reg. No. 1,637,243	Int'l Class 42
T.J. MAXX	Reg. No. 1,871,345	Int'l Class 18
T.J. MAXX	Reg. No. 1,871,415	Int'l Class 25
T.J. MAXX	Reg. No. 2,199,819	Int'l Classes 9, 14 and 16
T.J. MAXX	Reg. No. 2,223,884	Int'l Classes 21 and 24
T.J. MAXX	Reg. No. 2,486,445	Int'l Classes 3 and 28

8. Each of the T.J. MAXX registrations cited hereinabove is valid, subsisting, and in full force and effect, and several are incontestable. Moreover, pursuant to 15 U.S.C. § 1115(a), each of those registrations serves as prima facie evidence of the exclusive right to use the T.J. MAXX mark on the goods, or in conjunction with the services, listed in said registration.

9. On February 8, 2018, TJM Brands filed the opposed application in which it seeks to register the designation TJM BRANDS & Design shown below as a service mark for use in conjunction with online retail store services in International Class 35.



10. The “BRANDS” element of TJM Brands’ mark has been disclaimed. Accordingly, the “TJM” element of Applicant’s mark is not only the most prominent element of the TJM BRANDS & Design mark, but also it is the only textual element of legal significance.

11. That prominent textual element of TJM Brands’ mark, “TJM,” is comprised of the first three elements of Opposers’ T.J. MAXX mark. That similarity contributes significantly to a likelihood of confusion. Moreover, the services listed in TJM Brands’ application are the same as, or are closely related to, the services in conjunction with which the T.J. MAXX designation has been used and federally registered by Opposers. Thus, TJM Brands’ designation, if used in connection with the services listed in the application at issue, is likely to deceive or cause confusion or mistake as to the source or sponsorship of TJM Brands’ services in relation to Opposers.



12. Hence, the application to register the designation TJM BRANDS & Design should be refused on the basis that the usage of that mark in conjunction with the services listed therein is likely to cause confusion with Opposers' T.J. MAXX designation.


13. Accordingly, Opposers assert that they will be damaged by the issuance of a registration for the designation TJM BRANDS & Design as sought in Application Serial No. 87/790,589.

WHEREFORE, TJX and NBC each pray that said application for registration of the TJM BRANDS & Design designation be rejected, that no registration be issued thereon to TJM Brands, and that this opposition be sustained in favor of TJX and NBC.

Please charge all fees incurred by TJX and NBC in conjunction with this proceeding to the firm's Deposit Account No. 16-0605.

Date: December 15, 2018

Respectfully submitted,



---

Larry C. Jones  
Alston & Bird LLP  
101 S. Tryon Street, Suite 4000  
Charlotte, North Carolina 28280-4000  
Telephone: (704) 444-1000  
[Larry.Jones@alston.com](mailto:Larry.Jones@alston.com)

Caitlin Smith  
ALSTON & BIRD LLP  
1201 West Peachtree Street  
Atlanta, GA 30309  
Telephone: 404-881-7000  
[Caitlin.Smith@alston.com](mailto:Caitlin.Smith@alston.com)

Attorneys for Opposers,  
The TJX Companies, Inc.  
And NBC Fourth Realty Corp.