

ESTTA Tracking number: **ESTTA1124145**

Filing date: **03/31/2021**

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	Cult Beauty Limited
Granted to Date of previous extension	03/31/2021
Address	GROUND FLOOR 46 COLEBROOKE ROW LONDON, N1 8AF UNITED KINGDOM
Attorney information	GLENN A. GUNDERSEN DECHERT LLP CIRA CENTRE 2929 ARCH STREET PHILADELPHIA, PA 19104 UNITED STATES Primary Email: trademarks@dechert.com Secondary Email(s): jennifer.insley-pruitt@dechert.com, glenn.gundersen@dechert.com No phone number provided.
Docket Number	

Applicant Information

Application No.	88695995	Publication date	12/01/2020
Opposition Filing Date	03/31/2021	Opposition Period Ends	03/31/2021
International Registration No.	NONE	International Registration Date	NONE
Applicant	DKH Retail Limited UNIT 60 THE RUNNINGS, CHELTENHAM GLOUCESTERSHIRE, GL519NW UNITED KINGDOM		

Goods/Services Affected by Opposition

Class 002. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Paints
Class 003. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Bleaching preparations for household use and other substances for laundry use, namely, laundry detergent; cleaning, polishing, scouring and abrasive preparations; soaps, namely, bath soaps; perfumes;perfumery; non-medicated skin care

preparation, namely, body mist; body wash; body spray; body lotions; bubble bath; shower gel; lip gloss; lip balm; essential oils; makeup; cosmetics; products for the hair, body and skin, namely, shampoos, conditioners and lotions; non-medicated toiletry preparations; hair lotions; hair colouring products; shampoos; hair conditioners; products for personal hygiene and beauty care, namely, shampoos, conditioners and lotions; dentifrices; deodorants for personal use; antiperspirant deodorant; cologne; aftershave preparations; aftershaves; air perfuming preparations; nail polish; nail varnish; nail care products, namely, nail polish; preparations for use in tanning and sun protection; shaving preparations; depilatory preparations; body lotions, shower gels, body creams and body mousses; hair gels, creams and mousses; body fragrance, namely, scrubs and fragrance preparations; cosmetic skincare preparations; air fragrance reed diffusers; scented room sprays; gel eye masks

Class 004. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Candles and wicks for lighting

Class 009. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Optical apparatus and instruments, namely, eyeglasses; sunglasses; sports goggles; spectacles; ski goggles; cases, cords and chains for sunglasses, spectacles, ski goggles and sports goggles; laptop bags, namely, bags adapted for laptops; bags and cases for personal digital assistants, electronic personal organisers, tablet computers and e-book devices; mats for use with a computer mouse; cases, covers, carry bags and holders specially adapted for telephones, smart phones, mobile telephones, satellite navigational devices; wireless headsets for smartphones; headphones; loudspeakers; microphones; protective helmets for use in sports; protective helmets; swimming goggles; wearable activity trackers; pedometers; altimeters; personal digital assistants; personal electronic devices used to track fitness goals and statistics; portable digital electronic devices for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, audio, image, video and digital files; wearable electronic devices, namely, watches, bracelets, and wristbands that are comprised of software that communicates data to personal digital assistants, smartphones, and personal computers through Internet websites and other computer and electronic communication networks; wearable digital electronic devices comprised primarily of software for alerts, messages, emails, and reminders, and for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, audio, image, video and digital files and display screens; cables, namely, electric charging cables; downloadable computer software for alerts, messages, emails, and reminders, and for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, audio, image, video and digital files; downloadable computer operating system programs for wearable electronic devices; downloadable computer game software; downloadable software for use in relation to customer incentive and loyalty-award programs in the fields of health, nutrition, athletics, sportswear and athletic footwear; music headphones; wireless headphones; protective helmets for sportswear

Class 011. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Apparatus and installations for lighting, heating, cooling, and steam generating purposes; Apparatus and installations for cooking, namely, ovens; Apparatus and installations for drying, namely, wet-clean drying machine; Apparatus and installations for ventilation, namely, ventilation units for commercial food preparation and food serving; Apparatus and installations for water supply, namely, metered valves; Apparatus and installations for sanitary, namely, steam rooms

Class 014. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Jewellery; imitation jewellery; precious stones; horological and chronometric instruments; watches; watch bands; watch straps; watch cases; clocks; structural parts for all the aforesaid goods

Class 016. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Paper and cardboard; Printed matter, namely, booklets, magazines, catalogues and printed publications in the nature of event programs, manuals and handbooks in the field of fashion, lifestyle, design, beauty, cosmetics, entertainment, education, travel, nutrition, sports, fitness, music, culture, food, personal care, art, architecture, business, automotive, manufacturing, logistics, marketing, crafts, technology; Bookbinding material; Photographs; Stationery and office requisites, except furniture, namely, pens, paper clips, bookmarks, stencils, erasers, writing pads, letter files; Drawing materials and materials for artists; Paintbrushes; Instructional and teaching materials; Drawing materials and materials for artists, namely, pencils, pastels, brushes, watercolor saucers, modelling clays, canvas panels in the field of design and fashion; travel guide books

Class 018. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Bags, namely, travelling bags, tote bags, athletic bags; handbags; shoulder bags; toiletry bags sold empty; make-up bags sold empty; kit bags; rucksacks; sports bags; gym bags; beach bags; swing cross body bags; hip bags; cross body bags; travel bags; luggage; wallets; purses; key cases of leather; umbrellas; parasols; leather and imitations of leather; leather and imitation leather bags; leather and imitation leather wallets; leather and imitation leather purses; leather and imitation leather cords; leather and imitation leather twist straps and straps; leather and imitation leather cases; leather and imitation leather pouches; leather and imitation leather handbags; leather and imitation leather credit card wallets; leather and imitation leather credit card cases; leather and imitation leather luggage tags; leather and imitation leather card holders; leather and imitation leather garment bags for travel; leather and imitation leather make up bags; leather and imitation leather travelling bag sets; suit bags; brief cases and attaché cases; beauty cases, namely, makeup bags; vanity cases sold empty; golf umbrellas; diaper bags; nappy bags, namely, diaper bags; baby carriers worn on the body; backpacks for carrying babies

Class 020. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Furniture, mirrors, picture frames

Class 024. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Textiles, namely, woven fabrics, textile wall hangings, flannel, cotton fabrics, and materials as substitutes for textiles made from synthetic materials; Curtains of textile or plastic

Class 025. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Clothing, namely, hooded sweatshirts, sweatshirts, printed t-shirts, t-shirts, shirts, rugby tops, cardigans, sweaters, jogging pants, trousers, jeans, jumpers, fleece pullovers, dresses, skirts; casual clothing, namely, hooded sweatshirts, sweatshirts, printed t-shirts, t-shirts, shirts, rugby tops, cardigans, sweaters, jogging pants, trousers, jeans, jumpers, fleece pullovers, dresses, skirts; formal clothing, namely, shirts, dresses and suits; sportswear, namely, t-shirts, skirts, shorts; leisurewear, namely, t-shirts, pants, trousers, skirts, sweaters; activewear, namely, t-shirts, skirts, shorts; hooded sweatshirts; sweatshirts; printed t-shirts; t-shirts; polo shirts; short sleeved and long sleeved shirts; shirts; blouses; shorts; baggy shorts; long sleeved T-shirts; rugby tops; printed and embroidered sweatshirts; cardigans; sweaters; zip tops; joggers, namely, jogging suits; trousers; jeans; knitwear, namely, sweaters, t-shirts; jumpers; fleece pullovers; dresses; skirts; tops as clothing; lined and unlined jackets; jackets; coats; trench coats; leather and imitation leather clothing, namely, leather jackets, leather skirts, leather coats; leather jackets; flatiron jackets; wax jackets; military blazers; gilets; hunting jackets; flax jackets; stormbreaker jackets; army jackets; bomber jackets; cagoules; suits; waistcoats; ties as clothing; leggings; socks; scarves; gloves; swimwear; wetsuits; belts; underwear; camisoles; bras; knickers; boxer shorts; underpants; slips being underclothing; nightwear; pyjamas; bathrobes; dressing gowns; footwear; sandals; beach shoes; flip flops; canvas shoes; boots; shoes; leather shoes; trainers being footwear; running shoes; plimsolls; sports shoes; slippers; headwear; hats; caps being headwear; peaked caps being headwear; baseball caps; sports hats; sports caps being headwear; bandanas; beanies; berets; running tights; sports bras; gym clothing, namely, t-shirts, skirts, shorts; yoga clothing, namely, t-shirts, skirts, shorts; bags for ski boots; ski gloves; belts made of leather or artificial leather

Class 026. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Leather and imitation leather shoe laces

Class 035. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Advertising services provided online from a computer database or the Internet; promotion services provided online from a computer database or the Internet, namely, promoting sports competitions, fashion shows, fashion events, a series of films, film and media entertainment, cultural events, music festivals for others; Retail store services in connection with the sale of paints, varnishes, lacquers, printing and art, candles and wicks for lighting, precious metals and their alloys, jewellery, precious and semiprecious stones, horological and chronometric instruments, enabling customers to conveniently view and purchase these goods from retail stores, general merchandise catalogues by mail order, telephone, or other means of telecommunication, or from a general merchandise website; Retail store services in connection with the sale of paper and cardboard, printed matter, bookbinding material, photographs, stationery and office requisites, drawing materials and materials for artists, paintbrushes, enabling customers to conveniently view and purchase these goods from retail stores, general merchandise catalogues by mail order, telephone, or other means of telecommunication, or from a general merchandise website; Retail store

services in connection with the sale of leather and imitations of leather, animal skins and hides, luggage and carrying bags, umbrellas and parasols, walking sticks, clothing for animals, enabling customers to conveniently view and purchase these goods from retail stores, general merchandise catalogues by mail order, telephone or other means of telecommunication or from a general merchandise website; Retail store services in connection with the sale of furniture, mirrors, picture frames, textiles and substitutes for textiles, curtains of textile or plastic, clothing, footwear, headwear, pastries and confectionery, enabling customers to conveniently view and purchase these goods from retail stores, general merchandise catalogues by mail order, telephone, or other means of telecommunication, or from a general merchandise website; Wholesale store services in connection with the sale of paints, varnishes, lacquers, printing and art, candles and wicks for lighting, precious metals and their alloys, jewellery, precious and semi-precious stones, horological and chronometric instruments; Wholesale store services in connection with the sale of paper and cardboard, printed matter, bookbinding material, photographs, stationery and office requisites, drawing materials and materials for artists, paintbrushes, leather and imitations of leather, animal skins and hides, luggage and carrying bags, umbrellas and parasols, walking sticks, clothing for animals; Wholesale store services in connection with the sale of furniture, mirrors, picture frames, textiles and substitutes for textiles, curtains of textile or plastic, clothing, footwear, headwear, pastries and confectionery; provision of consumer product information advice and information to customers and potential customers for the purpose of selection of paints, varnishes, lacquers, printing and art, candles and wicks for lighting, precious metals and their alloys, jewellery, precious and semi-precious stones, horological and chronometric instruments to meet the consumer's specification; provision of consumer product information advice and information to customers and potential customers for the purpose of selection of paper and cardboard, printed matter, bookbinding material, photographs, stationery and office requisites, drawing materials and materials for artists, paintbrushes, leather and imitations of leather, animal skins and hides, luggage and carrying bags, umbrellas and parasols, walking sticks, clothing for animals to meet the consumer's specification; provision of consumer product information advice and information to customers and potential customers for the purpose of selection of furniture, mirrors, picture frames, textiles and substitutes for textiles, curtains of textile or plastic, clothing, footwear, headwear, pastries and confectionery to meet the consumer's specification; Promoting the goods and services of others by means of organisation, operation and supervision of loyalty card, incentive and promotional schemes, customer loyalty program, incentive and bonus program services and fashion shows

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
No bona fide intent to use mark in commerce for identified goods or services	Trademark Act Section 1(b), 44(e) or 66(a)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4378248	Application Date	11/24/2011
Registration Date	08/06/2013	Foreign Priority Date	09/30/2011
Word Mark	CULT BEAUTY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 0 First Use In Commerce: 0 [Perfume; eau de parfum, eau de toilette; cosmetics; skin care products, namely, skin conditioners, skin lotions, skin cream and skin moisturizers; essential oils for personal use; beauty masks; cold cream, hand cream, night cream; body powder; soaps, namely, skin soaps and liquid hand soaps; body scrubs; shower and bath washes, oils, gels and lotions; shampoos, hair conditioners; hair care products, namely, hair spray and hair styling gels; hair dyes and colorants; hair fragrances; cosmetics; toilet waters; non-medicated toilet preparations; hair lotions; cosmetic preparations for the hair; depilatory preparations;		

	<p>non-medicated cleaning preparations for personal hygiene purposes; anti-perspirants; dentifrices; pot-pourris; non-medicated preparations for the bath]</p> <p>Class 004. First use: First Use: 0 First Use In Commerce: 0</p> <p>[Candles, wicks for candles and lamp oils]</p> <p>Class 008. First use: First Use: 0 First Use In Commerce: 0</p> <p>[Cutlery, namely, knives, forks and spoons; boxes specially adapted for the storage of cutlery; manicure and pedicure sets sold complete; nail files; nail clippers; electric fingernail polishers; hair clippers; non-electric razors; penknives; electric shavers; scissors]</p> <p>Class 009. First use: First Use: 0 First Use In Commerce: 0</p> <p>[Spectacles; eye glasses; sunglasses; binoculars; field glasses; cases, cords and chains for the aforesaid goods; spectacles, sunglasses and monocle frames and monocle lenses; magnifying glasses; parts and fittings for all the aforesaid goods]</p> <p>Class 014. First use: First Use: 0 First Use In Commerce: 0</p> <p>[Jewellery and imitation jewellery; clocks and watches and parts thereof]</p> <p>Class 018. First use: First Use: 0 First Use In Commerce: 0</p> <p>[Articles of leather or of imitation leather, namely, luggage; trunks;] travelling bags; [briefcases; attaché cases; portfolio bags for carrying suits;] hand bags; [purses, pocket wallets; leather shoulder belts; credit card holders; bank note cases; leather pouches; umbrellas; parasols;] wash bags for carrying toiletries [; tie cases; satchels; all purpose sport bags, all-purpose athletic bags, backpacks, bags and holdalls for sports clothing, daypacks, duffel bags, gym bags, rucksacks, sports packs, waistpacks]</p> <p>Class 021. First use: First Use: 0 First Use In Commerce: 0</p> <p>[Tea services, coffee services; dinner services comprised of dishes, cups and saucers; cocktail shakers; chinaware, namely, dishes, cups and saucers; beverage glassware; porcelain and earthenware not included in other classes, namely, dishes, cups and saucers; hair brushes, hair combs; clothes brushes; cork screws; bottle openers; hip flasks; figures and ornaments of crystal; candle holders; scent bottles, sold empty, and vases not of precious metal or coated therewith; toothpicks; picnic baskets sold empty; figurines of china and crystal; cleaning sponges not for surgical use; powder puffs]</p> <p>Class 025. First use: First Use: 0 First Use In Commerce: 0</p> <p>[Clothing, namely, jackets, shirts, pants, sweaters, shorts, scarves, shawls; footwear, boots, shoes, slippers, sandals; headgear, namely, caps and hats; headbands; belts; ties]</p> <p>Class 028. First use: First Use: 0 First Use In Commerce: 0</p> <p>[Toys and playthings, namely, board games other than ordinary playing cards; golf bags; Christmas crackers and decorations (other than candles or lamps) for Christmas trees; ankle and wrist weights for exercise; athletic equipment, namely, training devices to be worn on the body for support; bags specially adapted for sports equipment; balls for sports, barbells, exercise balls; exercise bars; exercise equipment, namely, exercise weights, leg weights; portable ski carriers; shin guards for athletic use; shoulder pads for athletic use; stretch bands used for yoga and physical fitness purposes; exercise treadmills; trolley bags specially adapted for sports equipment; weight lifting belts, weight lifting gloves; work-out gloves; wrist guards for athletic use]</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0</p> <p>Retail store services featuring toiletries and cosmetics, candles [and incense], hand tools and implements, [cutleries and razors, goods of precious metals and their alloys, photo frames, napkin rings and cutlery, jewellery and precious stones, horological and chronometric instruments, writing paper, photographs, stationery,] goods [of leather] and imitation leather, [trunks and travelling bags, umbrellas, furniture, mirrors and picture frames, household and kitchen utensils</p>
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	<p>and containers,] combs and sponges, brushes [, goods of unworked or semi-worked glass, glassware, porcelain and earthenware, crockery, textiles and textile goods, bed and table ware, cushions, curtains and rugs, clothing, footwear, headgear, carpets, rugs, mats and matting, wall hangings, games and playthings, decorations for Christmas trees, soft toys, articles made of precious metals or coated or plated therewith, jewellery and imitation jewellery, horological and chronometric instruments, parts and fittings for all the aforesaid, precious stones, statues, cufflinks, tie pins, cigar and cigarette boxes; the bringing together for the benefit of others of a variety of toys, games other than ordinary playing cards, playthings, golf bags, Christmas crackers and decorations other than candles or lamps for Christmas trees, ankle and wrist weights for exercise, athletic equipment, namely, training devices to be worn on the body for support, bags specially adapted for sports equipment, balls for sports, barbells, exercise balls, exercise bars, exercise equipment, exercise weights, leg weights, personal exercise mats, portable ski carriers, running gloves, shin guards for athletic use, shoulder pads for athletic use, stretch bands used for yoga and physical fitness purposes, treadmills, trolley bags specially adapted for sports equipment, weight lifting belts, weight lifting gloves, work-out gloves, wrist guards for athletic use, yoga mats, enabling customers to conveniently view and purchase those goods in a department store; consultancy services relating to the acquisition of goods and services in the field of retail store services; the bringing together for the benefit of others of a variety of clothing, scarves, shawls, footwear, boots, shoes, slippers, sandals, headgear, headbands, armbands, belts, ties, clothing, footwear and headgear, enabling customers to conveniently view and purchase those goods from a general merchandise Internet website]</p> <p>Class 044. First use: First Use: 0 First Use In Commerce: 0 [Beauty salons; hairdressing, namely, hair styling; massage; manicuring; salons; providing Turkish bath facilities; sauna services]</p> <p>Class 045. First use: First Use: 0 First Use In Commerce: 0 [Personal and social services rendered by others to meet the needs of individuals, namely, social introduction agencies]</p>
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U.S. Registration No.	4709986	Application Date	02/13/2014
Registration Date	03/31/2015	Foreign Priority Date	NONE
Word Mark	CULT BEAUTY		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 0 First Use In Commerce: 0 Perfume; eau de parfum, eau de toilette; cosmetics; skin care preparations, namely, skin conditioners, skin lotions, skin cream and skin moisturisers; essential oils for personal use; beauty masks; cold cream, hand cream, night cream; body powder; soaps, namely, skin soaps, liquid hand soaps, and perfumed soaps; body scrubs; shower and bath washes, oils, gels and lotions; shampoos, conditioners, hair care preparations, hair spray, hairstyling preparations, hair dyes and colorants, hair fragrances, hair lotions; cosmetics; non-medicated skin care preparations; perfumes; toilet waters; non-medicated toilet preparations, namely, toilet waters; essential oils; depilatory preparations; non-medicated cleaning preparations for personal hygiene purposes; anti-perspirants; dentifrices; potpourri; non-medicated preparations for the bath</p>		

U.S. Registration No.	6160665	Application Date	08/06/2019
Registration Date	09/29/2020	Foreign Priority	NONE

		Date	
Word Mark	CULT BEAUTY		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 004. First use: First Use: 0 First Use In Commerce: 0 Candles and lamp oils</p> <p>Class 008. First use: First Use: 0 First Use In Commerce: 0 Manicure sets and pedicure sets; nail files, nail clippers, non-electric fingernail polishers; hair clippers, non-electric razors; penknives; hand tools, namely, razors; non-electric shavers; scissors</p> <p>Class 018. First use: First Use: 0 First Use In Commerce: 0 Luggage; travelling bags; portfolio bags for carrying suits; handbags; purses, pocket wallets; leather shoulder belts; credit card holders; notecase wallets; leather pouches; umbrellas; parasols; wash bags sold empty for carrying toiletries; tie cases; satchels; all-purpose sport bags, all-purpose athletic bags, backpacks, bags and holdalls for sports clothing, daypacks, duffel bags, gym bags, rucksacks, sports packs, waist packs</p> <p>Class 021. First use: First Use: 0 First Use In Commerce: 0 Hair brushes, combs; clothes brushes; candle holders; perfume bottles sold empty and vases, none of precious metal or coated therewith; toothpicks, cleaning sponges, none for surgical use; powder puffs</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0 Online retail store services featuring toiletries and cosmetics, candles and incense, hand tools and implements, cutleries and razors, goods of leather and imitation leather, combs and sponges, brushes; business consultancy services relating to the acquisition of goods and services</p>		

Attachments	Notice of Opposition_ CULT STUDIOS.pdf(123543 bytes)
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Signature	/Jennifer Insley-Pruitt/
Name	Jennifer Insley-Pruitt
Date	03/31/2021

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

Cult Beauty Limited, <p style="text-align: center;">Opposer,</p> <p style="text-align: center;">v.</p> <p style="text-align: center;">DKH Retail Limited,</p> <p style="text-align: center;">Applicant.</p>	Opposition No. _____
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NOTICE OF OPPOSITION

Cult Beauty Limited (“Opposer”), a United Kingdom limited company with an address at 46 Colebrooke Row, Ground Floor, London N1 8AF United Kingdom, believes that it would be damaged by the issuance of a registration for CULT STUDIOS & Design (“Applicant’s Mark”), as applied for in Application Serial No. 88/695,995 (the “Application”) filed by DKH Retail Limited (“Applicant”), and therefore opposes the same.

As grounds for its opposition, Opposer, by its attorneys Dechert LLP, alleges as follows:

A. Opposer and Opposer’s CULT BEAUTY Mark

1. Since at least as early as 2014, Opposer has used and promoted the mark CULT BEAUTY (“Opposer’s Mark”) in the United States in connection with goods and services including handbags and retail store services featuring products such as toiletries and cosmetics.

2. Opposer has invested substantial time, effort, and expense in promoting Opposer’s Mark. Through such promotion and use, Opposer’s Mark has become distinctive in the United States, is recognized as identifying Opposer exclusively, and symbolizes a reputation and goodwill belonging exclusively to Opposer.

3. In addition to the common law rights accruing to Opposer in Opposer's Mark, Opposer owns numerous U.S. trademark registrations for Opposer's Mark for a variety of goods and services, including the following:

Mark	Reg. No.	Reg. Date	Class / Goods
CULT BEAUTY	4,378,248	Aug. 6, 2013	Class 18: Travelling bags; hand bags; wash bags for carrying toiletries. Class 35: Retail store services featuring toiletries and cosmetics, candles, hand tools and implements, goods of imitation leather, combs and sponges, brushes.
CULT BEAUTY	4,709,986	Mar. 31, 2015	Class 3: Perfume; eau de parfum, eau de toilette; cosmetics; skin care preparations, namely, skin conditioners, skin lotions, skin cream and skin moisturisers; essential oils for personal use; beauty masks; cold cream, hand cream, night cream; body powder; soaps, namely, skin soaps, liquid hand soaps, and perfumed soaps; body scrubs; shower and bath washes, oils, gels and lotions; shampoos, conditioners, hair care preparations, hair spray, hair styling preparations, hair dyes and colorants, hair fragrances, hair lotions; cosmetics; non-medicated skin care preparations; perfumes; toilet waters; non-medicated toilet preparations, namely, toilet waters; essential oils; depilatory preparations; non-medicated cleaning preparations for personal hygiene purposes; anti-perspirants; dentifrices; potpourri; non-medicated preparations for the bath
CULT BEAUTY	6,160,665	Sept. 29, 2020	Class 4: Candles and lamp oils Class 8: Manicure sets and pedicure sets; nail files, nail clippers, non-electric fingernail polishers; hair

			<p>clippers, non-electric razors; penknives; hand tools, namely, razors; non-electric shavers; scissors</p> <p>Class 18: Luggage; travelling bags; portfolio bags for carrying suits; handbags; purses, pocket wallets; leather shoulder belts; credit card holders; notecase wallets; leather pouches; umbrellas; parasols; wash bags sold empty for carrying toiletries; tie cases; satchels; all-purpose sport bags, all-purpose athletic bags, backpacks, bags and holdalls for sports clothing, daypacks, duffel bags, gym bags, rucksacks, sports packs, waist packs</p> <p>Class 21: Hair brushes, combs; clothes brushes; candle holders; perfume bottles sold empty and vases, none of precious metal or coated therewith; toothpicks, cleaning sponges, none for surgical use; powder puffs</p> <p>Class 35: Online retail store services featuring toiletries and cosmetics, candles and incense, hand tools and implements, cutleries and razors, goods of leather and imitation leather, combs and sponges, brushes; business consultancy services relating to the acquisition of goods and services</p>
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4. Opposer's registrations are valid, subsisting and in full effect and serve as evidence of the validity of the registered marks and of Opposer's exclusive right to use these marks in connection with the goods and services identified therein, pursuant to Section 33(a) of the Lanham Act, 15 U.S.C. § 1115(a).

B. Applicant and the Application

5. According to the online records of the United States Patent and Trademark Office (“USPTO”), Applicant is a United Kingdom limited liability company with an address at Unit 60, The Runnings, Cheltenham, Gloucestershire, United Kingdom GL519NW.

6. Upon information and belief, and according to the company records of the United Kingdom, Applicant’s business involves wholesale of clothing and footwear and wholesale of perfume and cosmetics. Exhibit A.

7. According to the online records of the USPTO, on November 18, 2019, Applicant filed its Application to register Applicant’s Mark under Section 44(d) of the Lanham Act, 15 U.S.C. § 1126(d), based on an alleged *bona fide* intent to use the mark in United States commerce and claiming a foreign filing priority date of October 24, 2019.

8. According to the online records of the USPTO, Applicant’s Application specifies goods and services in Classes 2, 3, 4, 9, 11, 14, 16, 18, 20, 24, 25, 26, and 35, as follows:

International Class 2: Paints

International Class 3: Bleaching preparations for household use and other substances for laundry use, namely, laundry detergent; cleaning, polishing, scouring and abrasive preparations; soaps, namely, bath soaps; perfumes; perfumery; non-medicated skin care preparation, namely, body mist; body wash; body spray; body lotions; bubble bath; shower gel; lip gloss; lip balm; essential oils; makeup; cosmetics; products for the hair, body and skin, namely, shampoos, conditioners and lotions; non-medicated toiletry preparations; hair lotions; hair colouring products; shampoos; hair conditioners; products for personal hygiene and beauty care, namely, shampoos, conditioners and lotions; dentifrices; deodorants for personal use; antiperspirant deodorant; cologne; aftershave preparations; aftershaves; air perfuming preparations; nail polish; nail varnish; nail care products, namely, nail polish; preparations for use in tanning and sun protection; shaving preparations; depilatory preparations; body lotions, shower gels, body creams and body mousses; hair gels, creams and mousses; body fragrance, namely, scrubs and fragrance preparations; cosmetic skincare preparations; air fragrance reed diffusers; scented room sprays; gel eye masks

International Class 4: Candles and wicks for lighting

International Class 9: Optical apparatus and instruments, namely, eyeglasses; sunglasses; sports goggles; spectacles; ski goggles; cases, cords and chains for sunglasses, spectacles, ski goggles and sports goggles; laptop bags, namely, bags adapted for laptops; bags and cases for personal digital assistants, electronic personal organisers, tablet computers and e-book devices; mats for use with a computer mouse; cases, covers, carry bags and holders specially adapted for telephones, smart phones, mobile telephones, satellite navigational devices; wireless headsets for smartphones; headphones; loudspeakers; microphones; protective helmets for use in sports; protective helmets; swimming goggles; wearable activity trackers; pedometers; altimeters; personal digital assistants; personal electronic devices used to track fitness goals and statistics; portable digital electronic devices for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, audio, image, video and digital files; wearable electronic devices, namely, watches, bracelets, and wristbands that are comprised of software that communicates data to personal digital assistants, smartphones, and personal computers through Internet websites and other computer and electronic communication networks; wearable digital electronic devices comprised primarily of software for alerts, messages, emails, and reminders, and for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, audio, image, video and digital files and display screens; cables, namely, electric charging cables; downloadable computer software for alerts, messages, emails, and reminders, and for recording, organizing, transmitting, manipulating, reviewing, and receiving text, data, audio, image, video and digital files; downloadable computer operating system programs for wearable electronic devices; downloadable computer game software; downloadable software for use in relation to customer incentive and loyalty-award programs in the fields of health, nutrition, athletics, sportswear and athletic footwear; music headphones; wireless headphones; protective helmets for sportswear

International Class 11: Apparatus and installations for lighting, heating, cooling, and steam generating purposes; Apparatus and installations for cooking, namely, ovens; Apparatus and installations for drying, namely, wet-clean drying machine; Apparatus and installations for ventilation, namely, ventilation units for commercial food preparation and food serving; Apparatus and installations for water supply, namely, metered valves; Apparatus and installations for sanitary, namely, steam rooms

International Class 14: Jewellery; imitation jewellery; precious stones; horological and chronometric instruments; watches; watch bands; watch straps; watch cases; clocks; structural parts for all the aforesaid goods

International Class 16: Paper and cardboard; Printed matter, namely, booklets, magazines, catalogues and printed publications in the nature of event programs, manuals and handbooks in the field of fashion, lifestyle, design, beauty, cosmetics, entertainment, education, travel, nutrition, sports, fitness, music, culture, food, personal care, art, architecture, business, automotive, manufacturing, logistics, marketing, crafts, technology; Bookbinding material; Photographs; Stationery and office requisites, except furniture, namely, pens, paper clips, bookmarks, stencils, erasers, writing pads, letter files; Drawing materials and materials for artists; Paintbrushes; Instructional and teaching

materials; Drawing materials and materials for artists, namely, pencils, pastels, brushes, watercolor saucers, modelling clays, canvas panels in the field of design and fashion; travel guide books

International Class 18: Bags, namely, travelling bags, tote bags, athletic bags; handbags; shoulder bags; toiletry bags sold empty; make-up bags sold empty; kit bags; rucksacks; sports bags; gym bags; beach bags; swing cross body bags; hip bags; cross body bags; travel bags; luggage; wallets; purses; key cases of leather; umbrellas; parasols; leather and imitations of leather; leather and imitation leather bags; leather and imitation leather wallets; leather and imitation leather purses; leather and imitation leather cords; leather and imitation leather twist straps and straps; leather and imitation leather cases; leather and imitation leather pouches; leather and imitation leather handbags; leather and imitation leather credit card wallets; leather and imitation leather credit card cases; leather and imitation leather luggage tags; leather and imitation leather card holders; leather and imitation leather garment bags for travel; leather and imitation leather make up bags; leather and imitation leather travelling bag sets; suit bags; brief cases and attaché cases; beauty cases, namely, makeup bags; vanity cases sold empty; golf umbrellas; diaper bags; nappy bags, namely, diaper bags; baby carriers worn on the body; backpacks for carrying babies

International Class 20: Furniture, mirrors, picture frames

International Class 24: Textiles, namely, woven fabrics, textile wall hangings, flannel, cotton fabrics, and materials as substitutes for textiles made from synthetic materials; Curtains of textile or plastic

International Class 25: Clothing, namely, hooded sweatshirts, sweatshirts, printed t-shirts, t-shirts, shirts, rugby tops, cardigans, sweaters, jogging pants, trousers, jeans, jumpers, fleece pullovers, dresses, skirts; casual clothing, namely, hooded sweatshirts, sweatshirts, printed t-shirts, t-shirts, shirts, rugby tops, cardigans, sweaters, jogging pants, trousers, jeans, jumpers, fleece pullovers, dresses, skirts; formal clothing, namely, shirts, dresses and suits; sportswear, namely, t-shirts, skirts, shorts; leisurewear, namely, t-shirts, pants, trousers, skirts, sweaters; activewear, namely, t-shirts, skirts, shorts; hooded sweatshirts; sweatshirts; printed t-shirts; t-shirts; polo shirts; short sleeved and long sleeved shirts; shirts; blouses; shorts; baggy shorts; long sleeved T-shirts; rugby tops; printed and embroidered sweatshirts; cardigans; sweaters; zip tops; joggers, namely, jogging suits; trousers; jeans; knitwear, namely, sweaters, t-shirts; jumpers; fleece pullovers; dresses; skirts; tops as clothing; lined and unlined jackets; jackets; coats; trench coats; leather and imitation leather clothing, namely, leather jackets, leather skirts, leather coats; leather jackets; flatiron jackets; wax jackets; military blazers; gilets; hunting jackets; flax jackets; stormbreaker jackets; army jackets; bomber jackets; cagoules; suits; waistcoats; ties as clothing; leggings; socks; scarves; gloves; swimwear; wetsuits; belts; underwear; camisoles; bras; knickers; boxer shorts; underpants; slips being underclothing; nightwear; pyjamas; bathrobes; dressing gowns; footwear; sandals; beach shoes; flip flops; canvas shoes; boots; shoes; leather shoes; trainers being footwear; running shoes; plimsolls; sports shoes; slippers; headwear; hats; caps being headwear; peaked caps being

headwear; baseball caps; sports hats; sports caps being headwear; bandanas; beanies; berets; running tights; sports bras; gym clothing, namely, t-shirts, skirts, shorts; yoga clothing, namely, t-shirts, skirts, shorts; bags for ski boots; ski gloves; belts made of leather or artificial leather

International Class 26: Leather and imitation leather shoe laces

International Class 35: Advertising services provided online from a computer database or the Internet; promotion services provided online from a computer database or the Internet, namely, promoting sports competitions, fashion shows, fashion events, a series of films, film and media entertainment, cultural events, music festivals for others; Retail store services in connection with the sale of paints, varnishes, lacquers, printing and art, candles and wicks for lighting, precious metals and their alloys, jewellery, precious and semiprecious stones, horological and chronometric instruments, enabling customers to conveniently view and purchase these goods from retail stores, general merchandise catalogues by mail order, telephone, or other means of telecommunication, or from a general merchandise website; Retail store services in connection with the sale of paper and cardboard, printed matter, bookbinding material, photographs, stationery and office requisites, drawing materials and materials for artists, paintbrushes, enabling customers to conveniently view and purchase these goods from retail stores, general merchandise catalogues by mail order, telephone, or other means of telecommunication, or from a general merchandise website; Retail store services in connection with the sale of leather and imitations of leather, animal skins and hides, luggage and carrying bags, umbrellas and parasols, walking sticks, clothing for animals, enabling customers to conveniently view and purchase these goods from retail stores, general merchandise catalogues by mail order, telephone or other means of telecommunication or from a general merchandise website; Retail store services in connection with the sale of furniture, mirrors, picture frames, textiles and substitutes for textiles, curtains of textile or plastic, clothing, footwear, headwear, pastries and confectionery, enabling customers to conveniently view and purchase these goods from retail stores, general merchandise catalogues by mail order, telephone, or other means of telecommunication, or from a general merchandise website; Wholesale store services in connection with the sale of paints, varnishes, lacquers, printing and art, candles and wicks for lighting, precious metals and their alloys, jewellery, precious and semiprecious stones, horological and chronometric instruments; Wholesale store services in connection with the sale of paper and cardboard, printed matter, bookbinding material, photographs, stationery and office requisites, drawing materials and materials for artists, paintbrushes, leather and imitations of leather, animal skins and hides, luggage and carrying bags, umbrellas and parasols, walking sticks, clothing for animals; Wholesale store services in connection with the sale of furniture, mirrors, picture frames, textiles and substitutes for textiles, curtains of textile or plastic, clothing, footwear, headwear, pastries and confectionery; provision of consumer product information advice and information to customers and potential customers for the purpose of selection of paints, varnishes, lacquers, printing and art, candles and wicks for lighting, precious metals and their alloys, jewellery, precious and semi-precious stones, horological and chronometric instruments to meet the consumer's specification; provision of consumer product information advice and information to

customers and potential customers for the purpose of selection of paper and cardboard, printed matter, bookbinding material, photographs, stationery and office requisites, drawing materials and materials for artists, paintbrushes, leather and imitations of leather, animal skins and hides, luggage and carrying bags, umbrellas and parasols, walking sticks, clothing for animals to meet the consumer's specification; provision of consumer product information advice and information to customers and potential customers for the purpose of selection of furniture, mirrors, picture frames, textiles and substitutes for textiles, curtains of textile or plastic, clothing, footwear, headwear, pastries and confectionery to meet the consumer's specification; Promoting the goods and services of others by means of organisation, operation and supervision of loyalty card, incentive and promotional schemes, customer loyalty program, incentive and bonus program services and fashion shows

9. Applicant is not connected to Opposer in any way, and has not been authorized by Opposer to use Applicant's Mark.

10. At the time that Applicant filed the Application herein opposed, Applicant was on constructive notice of Opposer's prior and exclusive rights in Opposer's Mark by virtue of Opposer's federal trademark registrations, pursuant to Section 22 of the Lanham Act, 15 U.S.C. § 1072.

COUNT I
PRIORITY AND LIKELIHOOD OF CONFUSION

11. Opposer repeats and re-alleges each and every allegation contained in paragraphs 1 through 10 as though fully set forth herein.

12. Upon information and belief, the October 24, 2019 foreign filing date of Applicant's Application is the earliest date upon which Applicant can rely to establish rights in Applicant's Mark.

13. The foreign filing date of Applicant's Application is many years after Opposer's priority date in Opposer's Mark. As such, Opposer's rights in Opposer's Mark are prior and superior to any rights Applicant may claim in Applicant's Mark.

14. Applicant's Mark is confusingly similar to Opposer's Mark in sight, sound, and commercial impression.

15. The goods and services covered by Applicant's Mark are related to the goods and services in connection with which Opposer has used and registered Opposer's Mark.

16. Applicant's use and registration of Applicant's Mark in connection with the goods and services identified in its Application is therefore likely to cause confusion or cause mistake or to deceive the purchasing public into mistakenly believing that Applicant's goods and services offered under Applicant's mark originate from, come from, or are otherwise associated with Opposer, or that Applicant's goods and services offered under Applicant's mark are endorsed, sponsored, or in some way connected with Opposer, in violation of Section 2(d) of the Latham Act, 15 U.S.C. § 1052(d).

17. Registration to Applicant of Applicant's Mark would be inconsistent with Opposer's prior exclusive rights in Opposer's Mark, and would threaten to destroy Opposer's investment and goodwill in Opposer's Mark

18. By reason of the foregoing, Opposer will be damaged by registration of Applicant's Mark to Applicant.

COUNT II

LACK OF *BONA FIDE* INTENT TO USE IN UNITED STATES COMMERCE

19. Opposer repeats and re-alleges each and every allegation contained in paragraphs 1 through 18 as though fully set forth herein.

20. Applicant was required to have a *bona fide* intent to use Applicant's Mark in United States commerce in connection with each and every good and service identified in Applicant's Application at the time it filed the Application.

21. Upon information and belief, Applicant did not in fact have a *bona fide* intent to use Applicant's Mark in U.S. commerce in connection with each and every good and service identified in Applicant's Application at the time it filed the Application.

22. Upon information and belief, Applicant does not have any documents that establish a *bona fide* intention to use Applicant's Mark in United States commerce in connection with each and every good and service recited in Applicant's Application.

23. Applicant's filing of Applicant's Application was therefore in violation of Section 44(d) of the Lanham Act, 15 U.S.C. § 1126(d), and Applicant's Application was void *ab initio*.

WHEREFORE, it is respectfully requested that this Opposition be sustained and that registration of the mark shown in the Application Serial No. 88/695,995 be refused in its entirety.

Dated: March 31, 2021

By: 

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Counsel for Opposer

EXHIBIT A

Companies House

Companies House does not verify the accuracy of the information filed
(<http://resources.companieshouse.gov.uk/serviceInformation.shtml#compInfo>)

DKH RETAIL LIMITED

Company number **07063508**

Registered office address

Unit 60 The Runnings, Cheltenham, Gloucestershire, GL51 9NW

Company status

Active

Company type

Private limited Company

Incorporated on

2 November 2009

Accounts

Next accounts made up to **30 April 2021**
due by **31 January 2022**

Last accounts made up to **25 April 2020**

Confirmation statement

Next statement date **2 December 2021**
due by **16 December 2021**

Last statement dated **2 December 2020**

Nature of business (SIC)

- 46420 - Wholesale of clothing and footwear
- 46450 - Wholesale of perfume and cosmetics

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