

ESTTA Tracking number: **ESTTA388171**

Filing date: **01/13/2011**

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

Proceeding	77411069
Applicant	Ron Jon Surf Shop of Fla., Inc.
Correspondence Address	LISA N KAUFMAN LAW OFFICE OF LISA N KAUFMAN PA 2807 POINCIANA CIRCLE COOPER CITY, FL 33026 UNITED STATES LNKTM@hotmail.com
Submission	Applicants Request for Remand and Amendment
Attachments	Request for Remand 1-13 as filed.pdf (3 pages)(32461 bytes) Museum Store Association Exhibit Remand.pdf (1 page)(1023919 bytes) Riptionary stoked definition remand.pdf (1 page)(151421 bytes) About Riptionary.pdf (1 page)(210282 bytes) Degree 33 Surfboards Screenshot.pdf (1 page)(357467 bytes) Roxie Stoked Hoodie.pdf (1 page)(225242 bytes) Part 2 Roxie Stoked Hoodie.pdf (1 page)(8746 bytes) Stellar Longboards.pdf (1 page)(270734 bytes) Motion BoardShop Blog.pdf (1 page)(256948 bytes) FOREVER STOKED reg cute pdf.pdf (1 page)(1967884 bytes) STOKED RACING reg cute pdf.pdf (1 page)(1933410 bytes) WAY STOKED reg cute pdf.pdf (1 page)(1740183 bytes) STOKED SKATEBOARDS reg cute pdf.pdf (1 page)(23425 bytes) GET STOKED app cute pdf.pdf (2 pages)(94428 bytes) STOKED SURFWEAR app cute pdf.pdf (1 page)(76556 bytes) About MSA print screen large.pdf (1 page)(244327 bytes)
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Signature	/lnk/
Date	01/13/2011

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

In re Application of:

Ron Jon Surf Shop of Fla., Inc.

Serial No.: 77/411069

Mark: **THE STOKED**

Classes: Appeal as to 18, 25 and 35 only (In response to Applicant's Request for Reconsideration, the Examining Attorney withdrew the final refusal to register as to Classes 6 and 9)

REQUEST FOR REMAND TO FILE ADDITIONAL EVIDENCE, TO FURTHER
AMEND IDENTIFICATION OF GOODS AND SERVICES

In accordance with 37 C.F. R. §2.142(d) and TBMP § 1207.02, Counsel for Applicant hereby requests this Board suspend this Appeal and remand this application to the Examining Attorney for the purpose of allowing Applicant to introduce additional evidence.

In its Request for Reconsideration, Applicant restricted its channels of trade for its goods and services to sale in its museums stores. Applicant believed that on its face that this restriction would be sufficient to permit the registration of its mark. Prior to filing its Request for Reconsideration, Counsel for Applicant had called to discuss the limitation of the goods and services with the Examining Attorney. Counsel had hoped to work out a description of goods and services with the Examining Attorney that would be acceptable and that would avoid a further refusal and thus an appeal. Unfortunately, the Examining Attorney did not return the phone call. The only alternative left to counsel was to file the written limitation. In response to the Request for Reconsideration, the Examining Attorney withdrew the Section 2(d) refusals as to Classes 6 and 9, but maintained the refusals as to Classes 18, 25 and 28. In addition, in her denial of the Reconsideration, the Examining Attorney included 63 attachments to which Applicant has not had the opportunity to respond. This remand will provide Applicant with the opportunity to respond with appropriate rebuttal evidence regarding the channels of trade for its museum goods and services. This rebuttal evidence attached hereto is from the Museum Store Association and is entitled "How are museum stores different from regular retail stores?" and is

found at the Museum Store Association's website located at:
http://www.museumdistrict.com/events/museumstores_faq.cfm

In addition, Applicant wishes to further limit its descriptions of its goods and services which are the subject of this Appeal in classes 18, 25 and 35 as follows:

Beach bags, tote bags, back packs, cinch sacks, ruck sacks, and book bags for sale both in the museum itself and online through Applicant's museum stores, **all of which are devoted to the board sports industry**, in International Class 18;

Men's, women's and children's clothing and sportswear namely, sweatshirts, sweat pants, sweat shorts, shirts, bathing suits, dresses, blouses, skirts, beach cover-ups, sandals, socks, headbands, caps, hats, visors, wet suits, jackets and ponchos for sale both in the museum itself and online through Applicant's museum stores, **all of which are devoted to the board sports industry**, in International Class 25;

Retail gift shop services and on-line retail gift shop through Applicant's museum stores, **all of which are devoted to the board sports industry**, featuring clothing and accessories; beach and surf gear; sporting and recreational goods, equipment and accessories; toys and games; household goods; stationery products, greeting cards, postcards, note cards, books and publications, posters, calendars, planners, journals; and novelty and souvenir items and gifts, in International Class 35

In responses to the office actions in this application Applicant has stressed that its products and services are related to the board sports industry and that everything in this application is tied to its museum which will be devoted to this industry. Applicant previously supplied an online dictionary definition of the meaning of the word "stoke" in the industry from the online *RIPTIONARY*. Applicant is attaching a printout from the *RIPTIONARY* so that it is formally of record in this appeal. *RIPTIONARY* is a lexicon for surf lingo. The surf culture is known to have its own language and the term "stoked" is part of that language. Despite Applicant's efforts to stress the meaning and significance of the term in the industry, the Examining Attorney appears to have disregarded its significance. To make the record complete in this appeal and so that the Board can make an informed decision based on a thorough record, Applicant wishes to provide further evidence of the significance of the term stoked in board sports industry for the record on appeal. Therefore, attached is a screenshot of a web page from Degree 33 Surfboards found at: <http://www.degree33surfboards.com> which shows how the term stoked is used in the surfing industry. Another example attached from the industry is the Roxie Stoked Hoodie shown in its screenshot: <http://www.extremeoutdoorsupply.com/roxy-stoked-hoodie.html>. From Stellar Longboards attached is yet another example of a screenshot showing use in the industry: http://stellarlongboards.com/About_Stellar_Longboards.html. A screenshot

from Motion Boardshop Blog is attached which shows another use of the term stoked:
<http://blog.motionboardshop.com/product-info/336-mobo-introduces-black-dog-longboards>

Applicant is also attaching U.S. trademark registrations and applications for the same or related goods and services which are at issue in this application and which include the word “stoked” to further demonstrate the meaning and weakness of the term in the industry, especially for clothing products. Some of these registrations and applications were filed/issued after this appeal was instituted.

Therefore, for good cause shown above, Applicant’s counsel respectfully requests this Board suspend this application and grant the Request for Remand requested herein.

Respectfully submitted,
ATTORNEY FOR APPLICANT

/lnk/

Lisa N. Kaufman
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Cooper City, FL 33026
Phone: (954)534-9419
LNKTM@hotmail.com

Date: January 13, 2011

Enclosures



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Frequently Asked Questions About Museum Stores

Developed by [MSA](#), (303) 504-9223

How many museum stores are there in the United States?

Approximately 1,650 institutions belong to MSA, all of which either have a store or are in the process of creating a retail operation.

What is the size of the industry in dollars/sales?

We know from a 2006 financial survey conducted by a third-party company that MSA member stores range in net sales from less than \$5,000 to more than \$12.5 million with median net sales of \$179,800 and mean net sales of \$548,221.

How are museum stores different from regular retail stores?

Stores in cultural institutions are different from typical retail operations in several ways:

- These retail operations play a vital role in supporting the institution's educational mission. They offer products that provide visitors with mementos and educational materials directly related to their cultural experience.
- Purchases made at these stores provide important financial support for the institution. The "profits" made by these stores go back to the cultural institution, not a company or individual's pocket.
- Unlike a typical "mall" experience, shopping at cultural institutions is an extension of the unique museum experience. Most stores operate within the museum building or on the institution's grounds rather than in a shopping district or mall. Most customers shop there because of their interest in the cultural institution.

How "profitable" are stores in cultural institutions? How much do they contribute to their institutions?

Museum store profitability can vary widely depending on museum visitation, store location, product mix, what the museum charges back to the store (such as rent, utilities, phone), paid staff versus volunteer staff and several other factors. Typically museum stores return all of their excess revenue to the institution. The amount that any given store contributes to its institution varies widely, but can be as much as one-third of the institution's operating budget.

RIPTIONARY

Surf Lingo Lexicon



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Surf it. Learn it. Live it.

stoked

<http://www.riptionary.com/cgi-bin/surfinglingo.pl?stype=and&query=stoked&stpos=0>

Stoke

Condition of being amped, wound up or just full of enthusiasm. Example: *"I'm stoked. I just got tubed!"*

(c) 2010 Riptionary.com

Riptionary.com - Surf Lingo Lexicon - Windows Internet Explorer

http://www.riptionary.com/about.html

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Surf it. Learn it. Live it.

About Us

Updated: August 1, 2010

One day back in '02, a friend and I were sitting at our favorite beach talking about surf conditions when the idea came to mind to start a website for the many words and phrases surfers use.

There's no doubt that surfers have a distinct language. After all, he and I had a long discussion using words that, to the unschooled, would have sounded like an foreign language. Shortly thereafter, the idea gelled and Riptionary.com was launched.

Although the site wasn't an instant success, over time, it gained momentum and surfers began submitting their entries. Now, because of the generous contributions from fellow surfers, Riptionary has grown from a few dozen entries into the largest online surf lingo dictionary with well over 1,000 unique entries spanning surf culture niches from around the world.

Quick Facts

Riptionary.com contains over 1,000 lexicon entries cataloged into five broad categories. Over 100 of these include examples of terms actual use.

Riptionary.com has served well over eight million lexicon page views since our inception?

Our Crew



Surfboard | Surfboards | Longboard Surfboard | Fish Surfboards | Surf Gear | Surfboards San Die - Windows Internet Explorer

http://www.degree33surfboards.com/

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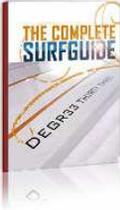
Find: stoked Previous Next Options 2 matches

11 REASONS WHY YOUR NEXT SURFBOARD MUST BE FROM US...

So many reasons, so little space. :) Here are a few of the top things you should consider...

- **Surfboard Selection** - We have one of the largest selection of surfboards on the internet.
- **Surfboard Shapes** - Not only do we carry everything from shortboards to longboards, but the shapes we do carry are proven to take your surfing to the next level. All our boards are built by the same hands that shape for the big guys, Rusty, Hobie, Becker, Robert August... just to name a few.
- **Surfboard Quality** - Surfboards that are built to last without sacrificing performance. We make all our surfboards completely by hand, out of industry leading materials.
- **Surfboard Constructions** - Everybody has traditional fiberglass boards, some have epoxy models, but NOBODY else has NexGen Epoxy. 17% lighter than standard epoxy, stronger than traditional fiberglass, but the pure flex of a glass board. Whichever construction you want, we've got it.
- **Surfboard Guarantee** - We offer a 30 day guarantee that says, "Go out and ride it. If you're not completely **stoked** on your new board, WE'LL BUY IT BACK!"
- **Customer Service** - You need help... we've got answers. And we'll do it with NO attitude or hassel! We understand that if you take care of your customers, they'll take care of you.
- **Price** - You should never make price the number one reason you buy, but it should be a reason. Our prices are 43% better than most shops. This means that you can buy a surfboard and not have to worry about your grand kids paying it off. :)
- **Satisfied Customers** - We have 1000's (no exaggeration) of **stoked** out of their mind

GET A COMPREHENSIVE SURF GUIDE + 5% OFF YOUR FIRST ORDER!



Here's what you'll get in the guide-

- Why all surfboards aren't created equal and the 4 elements your next surfboard MUST have.
- A brain-dead simple way to pick the perfect surfboard every time.
- Epoxy, Glass, or our exclusive NexGen. Which one to pick and why.
- In fact... there's more stuffed in this guide than

Internet 100%

EOS | Roxy Stoked Hoodie | Skimboards | Longboard Skateboards - Windows Internet Explorer

http://www.extremeoutdoorsupply.com/roxy-stoked-hoodie.html

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Home Skimboards Longboards Skateboards Bodyboards Wake Snow Apparel Wetsuits SALE

Home / Roxy Stoked Hoodie

Roxy Stoked Hoodie

[Email to a Friend](#)

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Availability: In stock

\$42.99

Size/Color *

Quick Overview

We hope your stoked, because Stoked is the new black and this hoodie is one the hottest items we have. It's made of a tri blend french terry. 26 inches long. Imported.

*NO RUSH SHIPPING

[Add to Wishlist](#) | [Add to Compare](#)

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You have no items in your shopping cart.

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You have no items to compare.

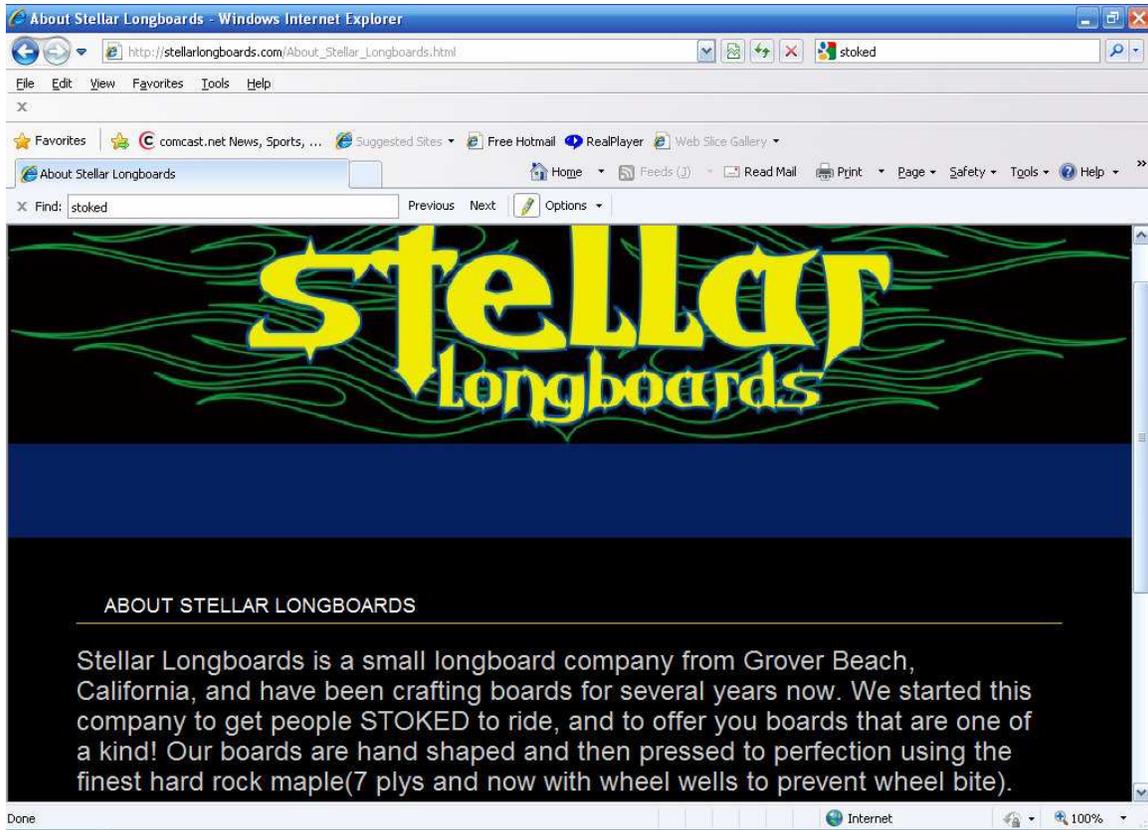
http://www.extremeoutdoorsupply.com/sale-skimboards.html

start Microsoft Word Capture a Screen Sh... EOS | Roxy Stoked H... STOKED US REGS 5:01 PM

Part 2—Roxie Stoked Hoodie

Product Description

We hope your stoked, because Stoked is the new black and this hoodie is one the hottest items we have. It's made of a tri blend french terry. 26 inches long. Imported.



MOBO Introduces Black Dog Longboards | Motion Boardshop Blog - Windows Internet Explorer

http://blog.motionboardshop.com/product-info/336-mobo-introduces-black-dog-longboards/

stoked

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MOTION BOARDSHOP BLOG

Home About Archives Shop

MOBO Introduces Black Dog Longboards

POSTED MAY 1, 2010 // TAGGED AS LONGBOARDING, PRODUCT INFO // NO COMMENTS |

Like 7 people like this.

We are so super crazy **stoked** to finally reveal the latest MOBO Exclusive! Drum roll please..... **Black Dog Longboards!** These decks are made by Seattle shaper Duane Boschee who loves surfing and skiing along with his passion for longboarding. He's been handcrafting and pressing these boards for a little over a year now, using his background in surfboard shaping to good use. Duane has worked closely with our teamriders to tweak and perfect his designs. Not only are these boards practically a work of art but each deck is absolutely one-of-a-kind. Everyone is really **stoked** on the topmounted Swallow Tail Longboard but my personal favorite is the Chica Esquela (School Girl) which is a comfy cruiser with a nice drop to it. I think it's the perfect **longboard skateboard** for anyone getting into the sport that just wants to roll ride around without getting too extreme.

Oh and did I mention they're only \$130 for the deck AND they come with Gnar Grip. Hmmm, sounds like a no brainer to me! If you're local, come by the shop and demo some out firsthand.

Search

Shop MoBo



United States of America

United States Patent and Trademark Office

FOREVER STOKED

Reg. No. 3,682,624 CHARLES LEE CLINGMAN (UNITED STATES INDIVIDUAL)
Registered Sep. 15, 2009 PO BOX 6480
LOS OSOS, CA 93412 AND

Int. Cls.: 16 and 25 CHRIS EDWARD PEDERSEN (UNITED STATES INDIVIDUAL)
PO BOX 6480
LOS OSOS, CA 93412

TRADEMARK
PRINCIPAL REGISTER FOR: PRINTED ART REPRODUCTIONS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 10-14-1999; IN COMMERCE 10-26-1999.

FOR: WEARABLE GARMENTS AND CLOTHING, NAMELY, SHIRTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 10-14-1999; IN COMMERCE 10-26-1999.

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

SER. NO. 77-669,580, FILED 2-12-2009.

NICHOLAS COLEMAN, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

Stoked Racing

Reg. No. 3,871,189

Registered Nov. 2, 2010

Int. Cl.: 42

SERVICE MARK

PRINCIPAL REGISTER

WILLIAMSON, RENEE L (ILLINOIS SOLE PROPRIETORSHIP), DBA STOKED RACING,
2333 CINCINNATI AVENUE
SPRINGFIELD, IL 62702

FOR: CUSTOM DESIGN OF TSHIRTS, SWEATSHIRTS, USED CLOTHING, PANTS, SHORTS,
SWIMWEAR, UNDERCLOTHING, ADULT, YOUTH, AND INFANT APPAREL BASED ON
PERSONAL SELECTIONS MADE BY THE CUSTOMER, IN CLASS 42 (U.S. CLS. 100 AND
101).

FIRST USE 11-1-2008; IN COMMERCE 11-1-2008.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-738,678, FILED 5-16-2009.

STEVEN R. FINE, EXAMINING ATTORNEY



David J. Kyros

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

Way Stoked

Reg. No. 3,836,244

LOPEZ, DAVID ARMANDO (UNITED STATES INDIVIDUAL)
1332 DOMINGO PLACE

Registered Aug. 17, 2010

OXNARD, CA 93030

Int. Cl.: 25

FOR: T-SHIRTS, SWEATSHIRTS AND HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 12-1-1993; IN COMMERCE 12-1-1993.

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PRINCIPAL REGISTER

SN 78-369,850, FILED 2-18-2004.

PAUL MORENO, EXAMINING ATTORNEY



David J. Kypos

Director of the United States Patent and Trademark Office

Int. Cl.: 28

Prior U.S. Cls.: 22, 23, 38 and 50

United States Patent and Trademark Office

Reg. No. 3,619,197

Registered May 12, 2009

TRADEMARK
PRINCIPAL REGISTER

STOKED SKATEBOARDS

RAJEWSKI, DAVID (UNITED STATES INDIVIDUAL)
19815 HAMILTON AVENUE
TORRANCE, CA 90502

FOR: BALL BEARINGS FOR SKATEBOARDS; NUTS AND BOLTS FOR SKATEBOARDS; SKATEBOARD DECKS; SKATEBOARD GRIP TAPES; SKATEBOARD RAILS; SKATEBOARD RISER PADS; SKATEBOARD TRUCKS; SKATEBOARD WHEELS; SKATEBOARDS, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 4-0-2007; IN COMMERCE 4-0-2007.

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

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

SER. NO. 77-586,073, FILED 10-6-2008.

ROBIN CHOSID, EXAMINING ATTORNEY


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GET STOKED

Word Mark	GET STOKED
Goods and Services	IC 039. US 100 105. G & S: travel guide and tour guide services IC 041. US 100 101 107. G & S: operation of an outdoor recreational sport camp; instruction in the field of snowboarding, skiing, mountain biking, bmx biking, surfing, kite surfing, wind surfing and skateboarding
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77625057
Filing Date	December 2, 2008
Current Filing Basis	1B;44D
Original Filing Basis	1B;44D
Owner	(APPLICANT) Camp of Champions Inc. CORPORATION CANADA 8629 Drifter Way Whistler CANADA V0N1B8
Attorney of Record	Tanya M. Reitzel
Priority Date	November 14, 2008
Type of Mark	SERVICE MARK

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IC 025. US 022 039. G & S: Board shorts; Jumpers; Shirts; Singlets

Standard Characters Claimed**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

Serial Number

85175915

Filing Date

November 12, 2010

Current Filing Basis

1B

Original Filing Basis

1B

Owner

(APPLICANT) Tleige, Simon INDIVIDUAL AUSTRALIA 1/49 Arthur St Rosehill Sydney New South Wales AUSTRALIA 2142

Attorney of Record

Matthew H. Swyers, Esq.

Disclaimer

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Type of Mark

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Museum Store Association - Windows Internet Explorer

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MUSEUM STORE ASSOCIATION

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About MSA

Founded in 1955, MSA is a nonprofit, international association organized to advance the success of cultural commerce and of the professionals engaged in it. By encouraging high standards of professional competence and conduct, MSA helps retail professionals at cultural institutions better serve their organizations and the public.

Governed by a [seven-member board of directors](#), the Association serves approximately 1,650 institutional members and nearly 725 exhibitor affiliates. A [staff of nine full-time employees](#) operates from MSA's headquarters in Denver, CO.

MSA Environmental Mission Statement

MSA is committed to joining the growing global movement to help our planet by moving our industry toward a more ecologically-responsible future. We will: 1) educate our members about good green practices, 2) plan and produce our meetings with environmentally-friendly practices in mind,

Internet 100%