

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OSHO FRIENDS
INTERNATIONAL

Opposer,

OSHO INTERNATIONAL
FOUNDATION,

Applicant.

OPPOSITION NO. 91,152,313

Trademark: OSHO KUNDALINI MEDITATION
Serial No.: 76/060,676
Filed: May 31, 2000

Assistant Commissioner for Trademarks
Box TTAB
2900 Crystal Drive
Arlington, Virginia 22202-3513

AMENDED NOTICE OF OPPOSITION

Osho Friends International, a trust organized under the laws of India, with a trustee located at C-5/44, S.D. Area, New Delhi, 110 016, India, (hereinafter "Opposer") believes that it would be damaged by registration of the mark shown in Application Serial No. 76/060,676 filed May 31, 2000, by Osho International Foundation (hereinafter "Applicant"), published in the *Official Gazette* of the United States Patent and Trademark Office on May 28, 2002 (Vol. 1258, No. 4, TM 77). Opposer hereby opposes the registration of such mark under the provisions of Section 13 of the Trademark Act of July 5, 1946 (15 U.S.C. § 1063). The time to oppose was extended by requests.

THE GROUNDS FOR THE OPPOSITION ARE AS FOLLOWS:

I. INTRODUCTION

1. The person who became known as Osho was born in India in 1931 as Rajneesh Chandra Mohan, and is referred to hereinafter as "Osho." While serving as a Professor of Philosophy at an Indian university, Osho traveled all over India giving lectures and conducting meditation camps. At that time, he came to be known as Acharya Rajneesh. "Acharya" in Hindi is a title for a learned person. Later, Osho adopted the name Bhagwan Shree Rajneesh. "Bhagwan" means "Blessed One," "Shree" is a respectable prefix for a name and "Rajneesh" means the "lord of the full moon."

2. In 1974, Osho moved to Pune (a town in India in the State of Maharashtra) and started a commune of people from around the world.

3. Osho's teachings were so popular that starting in 1967, a series of institutions were established in India and around the world to help spread Osho's teachings.

4. From 1981 through 1985, Osho lived in the United States in a 126 square mile area of desert which he transformed into a spiritual commune.

5. By 1986, when Osho returned to India, he had gained tremendous publicity and recognition as a "Spiritual Mystic" internationally, including in the United States.

6. In 1989 (about a year before Osho "left his body"¹), Osho adopted "OSHO" as his name at the request of his disciples. He explained that the term OSHO is derived from William James's word "Oceanic" which means "dissolving into the Ocean." As Osho himself explained, "the word "Oceanic" describes the experience, but what about the experiencer? For that we use the word 'OSHO'".

¹ The followers of the teachings of Osho do not use the word "alive" or "dead" to refer to the mystic Osho. Out of respect, we will use herein the term "in his body" to refer to the period of time Osho was living and "left his body" to refer to the period thereafter.

7. Since Bhagwan Shree Rajneesh adopted the term "Osho" as his name in 1989, the term "Osho" has been commonly used to refer not only to Osho himself, but also to the spiritual movement embodied in his teachings.

8. Osho "left his body" in 1990.

9. Opposer is a non-commercial spiritual association of centers and individuals involved in spreading teachings. Opposer's members include individuals and meditation centers in the United States that study and spread Osho's teachings and use the term "Osho" in connection with services and activities of a subject matter which is similar to that covered by the goods and services in Applicant's application.

10. Applicant has applied for registration of the term OSHO KUNDALINI MEDITATION for use in connection with "educational services, namely, conducting individual sessions, workshops, retreats, seminars, groups, courses, training in the field of the teachings of the mystic Osho" in Class 41 and "for spiritual counseling and meditations" in Class 42.

11. The grant of a registration to Applicant for the OSHO KUNDALINI MEDITATION mark would damage Opposer.

12. The grant of a registration to Applicant for the OSHO KUNDALINI MEDITATION mark would damage Opposer's members.

13. As an organization charged with facilitating the unrestricted spread and study of Osho's teachings, ensuring that there are no restrictions on the use of the name Osho, and protecting the freedom to use generic and/or descriptive terminology such as "Osho Kundalini Meditation" is relevant to Opposer's purpose.

II. Applicant's Alleged Mark Is Generic or Merely Descriptive In Its Entirety

14. Opposer realleges, and incorporates by this reference, each and every allegation set forth in paragraphs I through 14, inclusive.

15. "Osho" is the common name of the subject matter of the services specified in Applicant's description of services, and has become the generic name for services of a similar subject matter offered by numerous entities in the United States and around the world that are engaged in activities that relate to the spiritual mystic Osho and his teachings. The term "Osho" does not function to identify Applicant's goods and services or to distinguish them from the goods and services offered by others.

16. "Kundalini Meditation" is the common name for the subject matter of the services specified in Applicant's description of services, and has become the generic name for services of a similar subject matter. In fact, Applicant has disclaimed the term "Kundalini Meditation" apart from the mark itself. Given that the term "Kundalini Meditation" merely describes a style of meditation, it does not function to identify Applicant's goods and services or to distinguish them from the goods and services offered by others.

17. The combination of the highly descriptive and/or generic terms "Osho," "Kundalini" and "Meditation" results in a composite which is just as descriptive as its component parts.

18. The term "Osho Kundalini Meditation" when used in connection with the services listed in its application, is generic or merely descriptive. The term "Osho Kundalini Meditation" immediately tells consumers the subject matter of the services covered in the application, namely a style of meditation based on the teachings of Osho. Without a showing of secondary meaning, the alleged mark does not function to identify Applicant's goods and services or to distinguish

them from the goods and services offered by others. Even if there were a showing of alleged secondary meaning, the term is generic.

19. Therefore, pursuant to Section 2(e)(1) of the Lanham Act, the term "Osho Kundalini Meditation" is not registrable.

III. Applicant's Application Is Void Ab Initio

20. Opposer realleges, and incorporates by this reference, each and every allegation set forth in paragraphs 1 through 19, inclusive.

21. Upon information and belief, Applicant maintains that it is the assignee of Osho's names and trademarks and has applied for registration of this mark on that basis.

22. Upon information and belief, Applicant is not the assignee of Osho's names and trademarks.

23. Applicant, therefore, was not the owner of the alleged "Osho" mark when it applied to register "Osho" in connection with the two highly descriptive and/or generic terms, "KUNDALINI MEDITATION."

24. An application based on use in commerce under Section 1(a) of the Trademark Act must be filed by the party who is the owner of the mark as of the application filing date.

25. Because Applicant was not the owner of the "Osho" term at application, the application is void ab initio.

IV. Applicant's Alleged Mark Creates a False Association

26. Opposer realleges, and incorporates by this reference, each and every allegation set forth in paragraphs 1 through 25, inclusive.

27. Applicant's alleged mark falsely suggests a connection with Osho and/or his teachings.

28. Therefore, pursuant to Section 2(a) of the Lanham Act, registration of the OSHO KUNDALINI MEDITATION mark should be rejected.

V. Applicant Has Abandoned Its Alleged Mark

29. Opposer repeats and realleges all of the allegations contained in paragraphs 1 through 28 of this Notice of Opposition as though the same were fully written herein.

30. On information and belief, numerous individuals and meditation centers have used and continue to use the term OSHO KUNDALINI MEDITATION to describe their goods and services, which are similar to Applicant's goods and services.

31. On information and belief, the individuals and meditation centers in the preceding paragraph have used the term OSHO KUNDALINI MEDITATION to describe their goods and services for at least as long as Applicant has used this term.

32. Applicant failed to police or even attempt to police these individuals and meditation centers for so long that Applicant's alleged mark has been used by competitors and customers as the generic name of the goods and services at issue.

33. Through Applicant's years of failing to police the term the term OSHO KUNDALINI MEDITATION, the "mark" has lost any strength, distinctiveness, and indication of origin.

34. In instances where Applicant allegedly licenses others to use OSHO KUNDALINI MEDITATION, Applicant has failed to exercise quality control over the alleged licensee's use of the mark such that Applicant has engaged in naked licensing of the mark.

35. Even if Applicant's alleged OSHO KUNDALINI MEDIATION mark could have, at one time, served as a source indicator for Applicant's services, Applicant's alleged OSHO KUNDALINI MEDITATION mark has lost all capacity to act as a source indicator for Applicant's services.

36. Applicant therefore abandoned any proprietary interest it has in the term OSHO KUNDALINI MEDIATION.

37. Therefore, pursuant to Section 14(3) of the Lanham Act, the term OSHO KUNDALINI MEDIATION is not registrable.

WHEREFORE, Opposer files this Notice of Opposition and prays that the aforesaid application of Osho International Foundation herein opposed, be rejected; that no registration be issued thereon to Applicant; and for such other and further relief as may be deemed just and proper.

Please address all correspondence regarding this opposition to:

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Dated: July 22, 2003

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