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Assistant Commissioner for Trademarks,  
2900 Crystal Drive, Arlington, VA 22202-3513  
on August 26 2002.

TRADEMARK OPPOSITION  
File No. 15027.203

U.S. Patent & TMOrc/TM Mail Rcpt. Dt. #57



08-26-2002

*John C. [Signature]*

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

In the matter of Trademark Application Serial No. 76/212,011  
Published in the Official Gazette of May 28, 2002, at page TM 497, Int'l Class 35  
Filed: February 20, 2001  
Mark: STAACHI'S CO. 1996 & DESIGN

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SINCLAIR OIL CORPORATION	)	NOTICE OF OPPOSITION
	)	
Opposer,	)	
	)	
v.	)	Opposition No.:
	)	
SUMATRA KENDRICK	)	
	)	
Applicant.	)	

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NOTICE OF OPPOSITION

Opposer, SINCLAIR OIL CORPORATION, ("SINCLAIR") a Wyoming corporation, believes that it will be damaged by registration of the mark shown in Application Serial No. 76/212,011 in International Class 35 and hereby opposes the same. The grounds for the opposition are as follows:

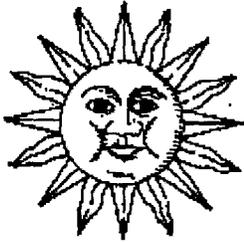
1. Sumatra Kendrick, an individual, whose address is 11760 San Pablo Avenue #3-202, El Cerrito, California 94530 ("Applicant"), seeks to register STAACHI'S CO. 1996 & DESIGN as a trademark to be used in connection with "retail store services featuring bath products, gift products, candy products" as evidenced by the publication of such mark in the Official Gazette on page TM 497 of the May 28, 2002, issue.

2. Applicant filed an application for registration under 15 U.S.C. 1051(a), on February 20, 2001, alleging a date of first use of March 1996 and a date of first use in commerce of March 20, 1996 for International Class 35.

3. Since at least 1961 and long prior to the effective filing date of the subject application, Opposer has been engaged in providing and offering a wide variety of goods and services in association with registered, pending and common law trademarks of Opposer. The goods and services offered by Opposer in association with such registered, pending and common law marks are such that the consuming public will likely be confused as to the source of goods offered by the Applicant.

4. Opposer is the owner of the following relevant trademark registrations which have been duly and legally issued by the United States Patent and Trademark Office:

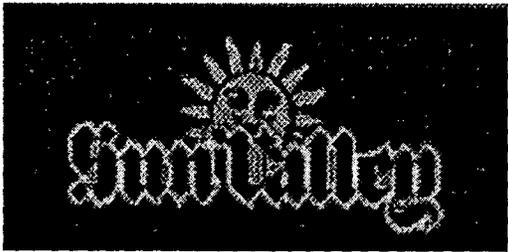
**REGISTRATIONS**

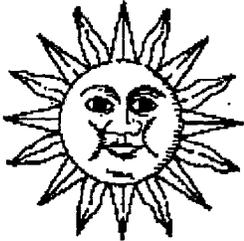
Registration	Mark	Goods and Services
929,749	<p>SUN DESIGN</p> 	<p>Sale, leasing and management of real estate; and retail apparel and gift store services (International Class 35);</p> <p>Providing recreational and entertainment services and facilities therefore, namely providing instruction in various outdoor sports activities, such as skiing, tennis and golf; arrangement and organization of sporting contests and exhibitions, namely ski races (International Class 41).</p>
929,750	<p>SUN VALLEY &amp; SUN DESIGN</p> 	<p>Restaurant, hotel, lodging, and night club services (International Class 42);</p> <p>Sale, leasing and management of real estate; retail apparel and gift store services (International Classes 36, 42);</p> <p>Providing recreational and entertainment services and facilities therefore, namely providing instruction in various outdoor sports activities, such as skiing, tennis and golf; arrangement and organization of sporting contests and exhibitions, namely ski races (International Class 41).</p>

5. Since the date of issuance of the above registrations, the names and marks have been continuously used in interstate commerce. Since the issuance of these trademark registrations, notice has been given to the public that the marks are registered trademarks by affixing notice provided in 15 U.S.C. 1111.

6. Opposer is the owner of the following relevant pending trademark applications which have been duly and legally filed with the United States Patent and Trademark Office:

**APPLICATIONS**

Application No.	Mark	Goods and Services
78/157,978	<p>SUN VALLEY &amp; RISING SUN DESIGN</p> 	<p>Gift store services; retail store services; retail food and delicatessen services (International Class 35); Real estate agency services, namely leasing of real property and condominium management; leasing of shopping mall space (International Class 36); Transportation services, namely transportation of passengers by van or bus (International Class 39); Providing recreational and entertainment services and facilities for skiing, snowboarding, snowshoeing, golfing, tennis, ice skating, horseback riding, mountain biking; trap shooting. Providing instruction in various outdoor sports, namely, skiing, snowboarding, snowshoeing, golfing, tennis, ice skating; swimming, trap shooting. Arrangement and organization</p>

		<p>of sporting contests and exhibitions, namely ski races and exhibitions, ice skating shows and exhibitions. Entertainment services in the nature of hayrides and sleigh rides. Movie theaters, ice rink, bowling alley, swimming pool, and playground facilities and services. Rental of sporting equipment, namely skis, snowboards, snowshoes, ice skates, bicycles, tennis rackets, golf clubs and related accessories (International Class 41); Resort services; restaurant services; hotel and lodging services; night club services; banquet and catering services and facilities; travel agency services, namely making reservations and booking for temporary lodging and transportation (International Class 43).</p>
78/157,988	<p>SUN DESIGN</p> 	<p>Goods made of metal (International Class 6); Decorative magnets (International Class 9); Jewelry and pins (International Class 14); Posters, postcards, note pads, stationery, pens, magazines and telephone directories (International Class 16); Non-metal key chains, key rings, key tags and plastic banners (International Class 20); Cups, mugs and glassware, namely glasses and plates (International Class 21); Clothing, namely t-shirts, shirts, golf shirts, polo shirts, hats,</p>

		<p>baseball caps, golf caps, sweatshirts, sweaters, coats, vests, gloves, scarves and ties (International Class 25); Embroidered and ornamental cloth patches (International Class 26); Sporting goods, golf balls, golf ball makers, golf tees, golf towels, head covers for golf clubs, exercise equipment (International Class 28); Gift store services; retail store services; retail food and delicatessen services (International Class 35); Real estate agency services, namely leasing of real property and condominium management; leasing of shopping mall space (International Class 36); Transportation services, namely transportation of passengers by van or bus (International Class 39); Providing recreational and entertainment services and facilities for skiing, snowboarding, snowshoeing, golfing, tennis, ice skating, horseback riding, mountain biking; trap shooting. Providing instruction in various outdoor sports, namely, skiing, snowboarding, snowshoeing, golfing, tennis, ice skating; swimming, trap shooting. Arrangement and organization of sporting contests and exhibitions, namely ski races and exhibitions, ice skating shows and exhibitions. Entertainment services in the nature of hayrides and sleigh rides. Movie theaters, ice rink,</p>
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		bowling alley, swimming pool, and playground facilities and services. Rental of sporting equipment, namely skis, snowboards, snowshoes, ice skates, bicycles, tennis rackets, golf clubs and related accessories (International Class 41); Resort services; restaurant services; hotel and lodging services; night club services; banquet and catering services and facilities; travel agency services, namely making reservations and booking for temporary lodging and transportation (International Class 43).
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7. Since at least 1964 and long prior to the effective filing date of the subject application, Opposer has undertaken common use of the mark in interstate commerce in connection with a variety of goods and services closely related to the above registrations.

8. Opposer's SUN DESIGN, SUN VALLEY & SUN DESIGN and SUN VALLEY & RISING SUN DESIGN marks are distinctive and serve as a designation of origin with respect to the goods and services offered by Opposer.

9. Opposer has used its SUN DESIGN, SUN VALLEY & SUN DESIGN and SUN VALLEY & RISING SUN DESIGN marks to distinguish its goods and services from all other goods and services of the same type, and Opposer has acquired substantial goodwill in its SUN DESIGN, SUN VALLEY & SUN DESIGN and SUN VALLEY & RISING SUN DESIGN marks and names through use thereof.

10. Since Opposer's initial use of SUN DESIGN, SUN VALLEY & SUN DESIGN and SUN VALLEY & RISING SUN DESIGN marks, Opposer has made a substantial investment in marketing and promoting its goods and services under those marks. Opposer has extensively used, advertised, promoted and offered for sale goods and services in association with its SUN DESIGN, SUN VALLEY & SUN DESIGN and SUN VALLEY & RISING SUN DESIGN marks with the result that Opposer's customers and the general public have come to know and recognize Opposer's SUN DESIGN, SUN VALLEY & SUN DESIGN and SUN VALLEY & RISING SUN DESIGN marks and that the public associates these marks with Opposer and/or its goods and services. Opposer has built up extensive goodwill with the sale of goods and services under its SUN DESIGN, SUN VALLEY & SUN DESIGN and SUN VALLEY & RISING SUN DESIGN marks.

11. Notwithstanding the inherent distinctiveness of the SUN DESIGN, SUN VALLEY & SUN DESIGN and SUN VALLEY & RISING SUN DESIGN marks, said SUN DESIGN, SUN VALLEY & SUN DESIGN and SUN VALLEY & RISING SUN DESIGN marks have also acquired secondary meaning to the public indicating Opposer as the source of goods and services bearing any of Opposer's SUN DESIGN, SUN VALLEY & SUN DESIGN and SUN VALLEY & RISING SUN DESIGN marks.

12. Applicant's mark wholly incorporates Opposer's trademark SUN DESIGN and is the design portion of Applicant's mark and closely resembles Opposer's mark in appearance. The mark proposed for registration by Applicant, namely STAACHI'S CO. 1996 & DESIGN is applied to goods that are closely related to the goods and services provided by Opposer. Applicant's mark coupled with the goods for which registration is sought so nearly

resembles one or more of Opposer's marks and goods and services as to be likely to be confused therewith and mistaken therefore and to confuse, mislead and deceive the consuming public as to the source or origin of Applicant's goods.

13. The likelihood of confusion in the marketplace exists between Opposer's trademarks when applied to the goods and services of the respective parties and Applicant's trademark.

14. Registration of Applicant's trademark will result in damage to Opposer's trademarks and Opposer's business.

15. If Applicant is permitted to register its mark for its goods as specified in the application herein opposed, such use and registration would result in confusion in the trade by reason of the similarity between Applicant's mark and one or more of Opposer's marks thereby damaging and injuring Opposer. Any such confusion may result in the loss of business to Opposer. Furthermore, any defect, objection or fault found with Applicant's goods marketed under the STAACHI'S CO. 1996 & DESIGN mark may reflect upon and injure the reputation which Opposer has established for its goods and services in association with one or more of Opposer's marks.

16. If Applicant is granted the registration herein Opposed, it would thereby obtain at least a prima facie exclusive right to the use of its mark. Such registration would be a further source of damage to Opposer.

17. In view of the foregoing, Applicant is not entitled to federal registration of its claimed mark because Applicant does not have a right to exclusive use of said mark in commerce on Applicant's goods and further, Applicant's claimed mark does not and cannot

function to identify such goods and to distinguish them from similar goods and services offered by Opposer.

WHEREFORE, Opposer prays that the registration sought by Applicant be refused and that this Opposition be sustained.

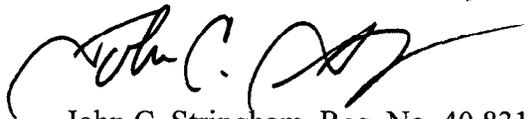
A duplicate of this Notice of Opposition and the fee required under 37 C.F.R. § 2.6(17) are enclosed.

All correspondence and telephonic communications should be directed to:

John C. Stringham  
WORKMAN, NYDEGGER & SEELEY  
1000 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111  
(801) 533-9800

DATED this 26th day of August 2002.

Respectfully submitted,



John C. Stringham, Reg. No. 40,831  
Robyn L. Phillips, Reg. No. 39, 330  
**WORKMAN, NYDEGGER & SEELEY**  
1000 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111  
Telephone: (801) 533-9800  
Facsimile: (801) 328-1707

ATTORNEYS FOR OPPOSER  
SINCLAIR OIL CORPORATION

Tab

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John C. [Signature]

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TRADEMARK TRIAL AND APPEAL BOARD  
02 SEP 10 PM 8:44

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

Sir:

Transmitted herewith is an Opposition for entry in the above-identified application.

Also included herewith is:

X Duplicate copy of the Opposition.

09/09/2002 TSMITH 00000110 76212011

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- X A Certificate of Mailing by "Express Mail" by use of Express Mail Label No. EV138533364US.
- X Credit Card Payment Form.
- X The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 23-3178. Triplicate copies of this sheet are attached.

Dated this 26 day of August 2002.

Respectfully submitted,



John C. Stringham, Registration No. 40,831  
Robyn L. Phillips, Registration No. 39,330  
Attorneys for Opposer  
WORKMAN, NYDEGGER & SEELEY  
1000 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111  
Telephone: (801) 533-9800

JCS:dff

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