

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

Application Serial Number: 77155690
Application Filing Date: April 12, 2007
Mark: SIK INDUSTRIES (design mark)
Date of Publication: October 9, 2007

91182197

JASON CHALL,)
)
Opposer,)
)
)
)
vs.)
)
SHELLEY BAILEY,)
)
Applicant.)

ANSWER TO OPPOSITION



03-07-2008

U.S. Patent & TMD/™ Mail Rpt. Dt. #34

1. No exception taken
2. No exception taken
3. No exception taken
4. Applicants exception to paragraph 4 of the Opposer's statement is that the paragraph refers to
5. Applicants exception to paragraph 5 of the Opposer's Notice of Opposition is as follows;

A. The Opposer states that "...both parties display the marks "SIK" and an appreciably larger font than the other elements in their use of the marks". This is not in fact. "SIK WORLD PRODUCTIONS" is printed on their products only slightly larger than the other elements of their mark. Conversely, the word "SIK" on the Applicant's products are displayed so large and boldly, that the logo encompasses 25% or more of the article. The Applicant is selling the name "SIK Industries" while the Opposer is merely identifying the source of the product through very small type. (See attached Exhibit "A" hereto, printouts from the parties websites.)

- B. The Opposer states that the marks are “..nearly identical to Opposer’s marks “SIK WORLD PRODUCTIONS” and “SIK WORLD”, appearance, sound and meaning”. This is not in fact. The “K” in the word “SIK Industries” is turned backwards making it distinct from the Opposer’s use of the word SIK. The Applicant’s experience has been that most people ask the Applicant what “KIS” means. When the public sees the word SIK with the K backwards, for some reason they want to read it backwards as well.
- C. The Opposer states that the “Applicant’s goods are likely to move within the same channels of trade and be purchased by the same class of purchaser”. The Applicant feels that this could not be further from the truth. The Applicant’s target demographics are young adults between the ages of 12 and 21. The Applicant’s target demographics could not wear the clothes of the Opposer because of the vulgar nature of the Opposer’s product. Specifically, the Applicant’s target demographics could not wear the Opposer’s clothes to school or church due to the graphic language boldly printed on the goods. Conversely, the Applicant’s products can be worn to any function or locale.
- D. The Opposer states the “Applicant’s mark is likely, when used in association with the goods of the Applicant to cause confusion or to deceive purchasers.....” The word “SIK” is not a word that was created by the Opposer, rather, it is an adjective, used in slang, to define something that is awesome, neat, magnanimous, splendid, etc. Many different clothing companies who also hold Trademarks with the word “SIK” in it use the word. (See attached Exhibit “B” hereto, printouts from the U.S.P.T.O. TESS.)
- E. To say that the word “SIK” defines the source is akin to saying that use of the word “Red” in a brand name would identify the source.
6. The Opposer states, “Upon becoming aware of the Applicant’s activities, Opposer sent communications to applicant on March 30, 2007 and April 6, 2007 requesting

that Applicant cease and desist all activities being conducted under the “SIK INDUSTRIES” mark. In response thereto, the Applicant filed the Application for the ‘SIK INDUSTRIES’ mark”. This is only partially fact. While the Applicant conceded that they received the correspondence from the Opposer, the Applicant recanted those correspondences with a letter dated August 10, 2007 stating that the Applicant felt there was no likelihood of confusion for the reasons stated in this answer. (See attached Exhibit “C”, copy of the letter to the Opposer.) The promulgation of the filing was due to the fact that the Applicant found out that there was another company called “SIK Industries” in Burbank, California and the Applicant felt that she needed to file for a Trademark to protect the future interest of the Applicant.

7. The Opposer is alleging fraud in the sworn statement of the Applicant. There could be nothing further from the truth. As stated above, it was not the belief of the Applicant that the word “SIK” was Trademarked. The word “SIK” is used by many different registered Trademark holders and is in fact an adjective used in slang. The promulgation of the filing was due to the fact that the Applicant found out that there was another company called “SIK Industries” in Burbank, California and the Applicant felt that she needed to file for a Trademark to protect the future interest of the Applicant.
8. Same as response in paragraph 7 above.
9. Same as response in paragraph 7 above.
10. Same as response in paragraph 7 above
11. Applicant does not feel that Opposer himself believes that his mark is as strong as he has stated in his Opposition. This is evidenced by the fact that subsequent to “SIK Industries” filing for a Trademark on April 12, 2007, the Opposer filed for a Trademark for the mark “SIK” on June 12, 2007, under the name Compuglobal Hypermegagnet Inc., a California Corporation, located at 3419 Hancock St., San Diego California, 92110 Application Serial Number 77203714 and is pending for the following goods in Class 25: t-shirts, boxer shorts, panties, shorts and briefs, underwear, namely boys shorts, hats, caps, beanies, blouses, sweat shirts, thongs and infant wear. (See attached Exhibit “D”, printout fro the U.S.P.T.O. TESS)

WHEREFORE, Applicant prays that the Application Serial No. 77155690 be granted.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Shelley Bailey". The signature is written in black ink and is positioned above the printed name.

Shelley Bailey
34268 Forest Oaks Drive
Yucaipa, Ca. 92399

Dated: March 4th, 2008

EXHIBIT “A”



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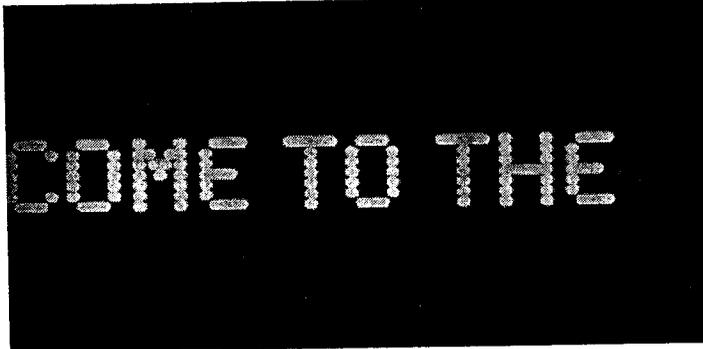
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MY IDEAS | SITE MAP | SIGN IN

- MEN'S
- WOMEN'S
- BABY
- ACCESSORIES
- DROP DEAD SEXY
- PLUS SIZES

- NEW ITEMS
- BEST SELLERS
- GIFT IDEAS
- DISCOUNTS
- ALL ITEMS

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Sik News and Product Info

enter email address



submit your idea

Vote on this idea all ideas

I'm not in the band, but I'll fuck you anyway

Sik Shit Don't Care Hate It

CHECK OUT SOME OF OUR BEST SELLING ITEMS

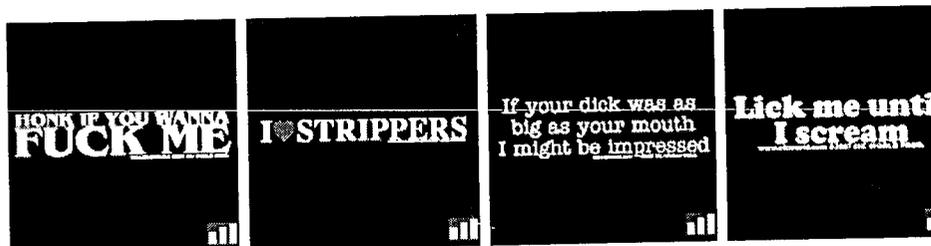
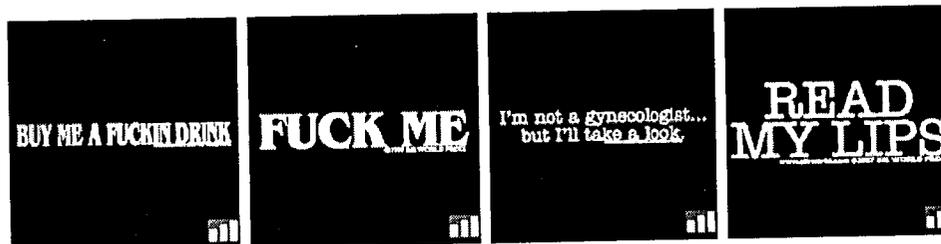
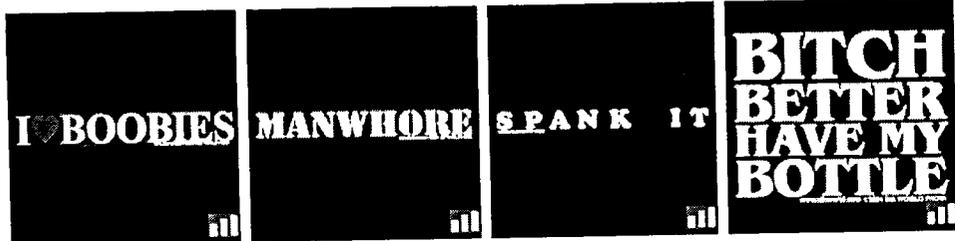
select for available stock



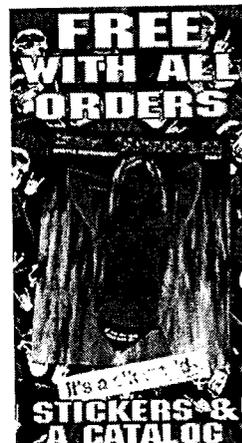
SIK PEOPLE...

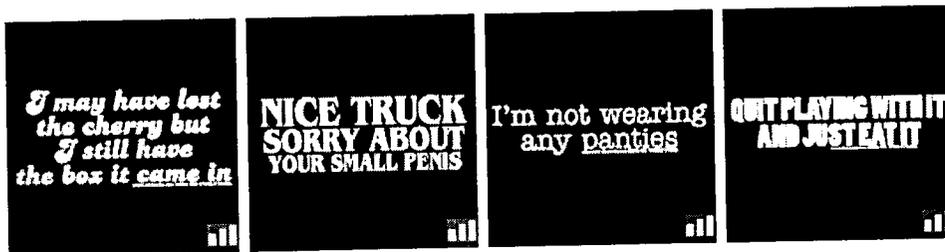
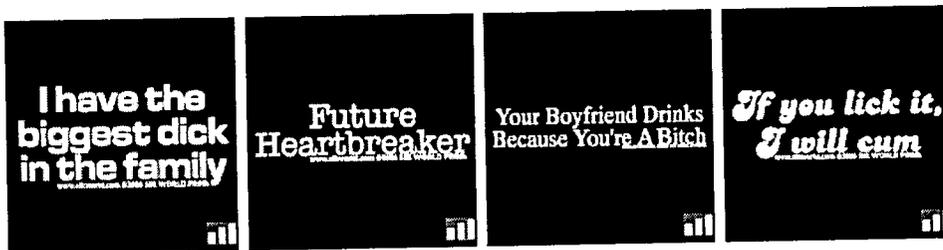
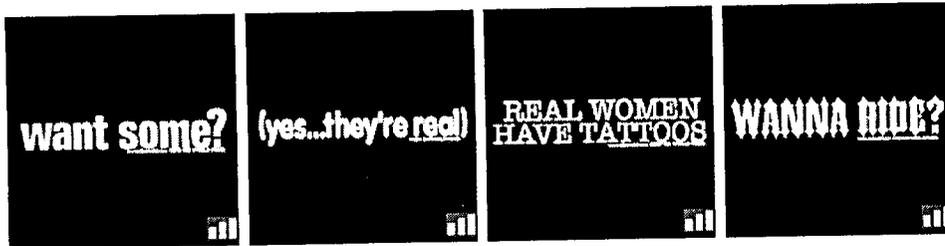
see all | add your photo





☑ Promos...





TONS OF GIVEAWAYS INCLUDING
 AN ESP GUITAR AUTOGRAPHED BY STATIC X AND A CHANCE TO
 PARTY WITH SIK WORLD ON A 1 DAY CRUISE TO CABO SAN LUCAS
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SIK Girls

The SIKest new clothing on the planet!!!

All new products in stock now.
Get some while supplies last.
Summer's here and the time is
right. These shirts are **HOT!**

- Top Quality Industrial Strength T's
- 100% Cotton Pre-Shrunk
- Silk Screened Graphics
- Special Promotion: \$5.95 S&H for your entire order

Keeping it FRESH

We're constantly developing SIK new graphics in small production runs, which makes each one of our designs a "limited edition" ...don't miss out.

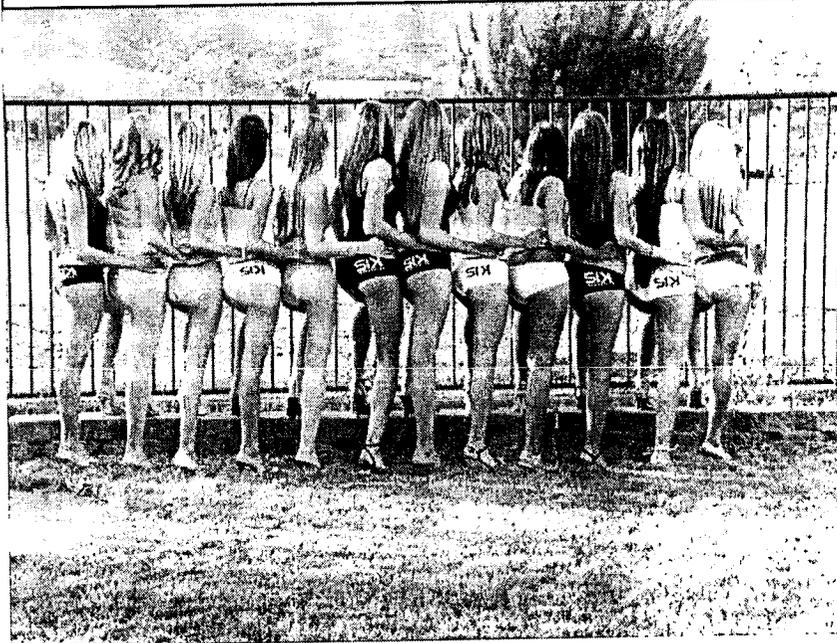
The positive response to our first wave of shirts & hoodies has been overwhelming. Keep an eye out for a full line of SIK accessories coming soon!

Featuring: clothes girls shirts hoodies sik hot tank windbreakers models industries booty shorts rock motocross alternative





SIK
INDUSTRIES



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EXHIBIT “B”



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Sik Trick

Word Mark SIK TRICK

Goods and Services IC 025. US 022 039. G & S: Men's, women, and children's, clothing apparel namely, shirts, T-Shirts, pants, sweat shirts, sweat pants, shorts, swim suits, swim shorts, and blouses

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 78715197

Filing Date September 17, 2005

Current Filing Basis 1B

Original Filing Basis 1B

Published for Opposition October 10, 2006

Owner (APPLICANT) Webb, Alice Brandy INDIVIDUAL UNITED STATES 4705 English Ivy Ct. Las Vegas NEVADA 89130

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Word Mark SIK DAWG
Goods and Services IC 025. US 022 039. G & S: Hats; Shirts; Shorts
Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code 03.01.07 - Dogs displayed in silhouettes or as shadows
 03.01.16 - Heads of cats, dogs, wolves, foxes, bears, lions, tigers
 03.01.24 - Stylized cats, dogs, wolves, foxes, bears, lions, tigers
Serial Number 77018522
Filing Date October 11, 2006
Current Filing Basis 1B
Original Filing Basis 1B
Published for Opposition May 22, 2007
Owner (APPLICANT) Turnage, Nelson Allen INDIVIDUAL UNITED STATES 1345 Hill Rd White Lake MICHIGAN 48383
Description of Mark The mark consists of a dog's head with stylized text of the words, "Sik Dawg".
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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SIK ONE

Word Mark SIK ONE

Goods and Services IC 025. US 022 039. G & S: A-shirts; Button-front aloha shirts; Camp shirts; Dress shirts; Golf shirts; Knit shirts; Long-sleeved shirts; Night shirts; Open-necked shirts; Pique shirts; Polo shirts; Rugby shirts; Shirt fronts; Shirt yokes; Shirts; Shirts for suits; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Sleep shirts; Sport shirts; Sports shirts; Sports shirts with short sleeves; Sweat shirts; T-shirts; Tee shirts; Triathlon clothing, namely triathlon tights, triathlon shorts, triathlon singlets, triathlon shirts, triathlon suits; Wind shirts; Yoga shirts; Balloon pants; Capri pants; Cargo pants; Denims; Jogging pants; Leather pants; Lounge pants; Non-disposable cloth training pants; Nurse pants; Pants; Petti-pants; Ski pants; Snow pants; Snowboard pants; Stretch pants; Sweat pants; Tap pants; Toboggan hats, pants and caps; Track pants; Waterproof jackets and pants; Wind pants; Yoga pants; Chef's hats; Fur hats; Hat bands; Hats; Headgear, namely, hats and Caps; Paper hats for use as clothing items; Sedge hats (suge-gasa); Small hats; Woolly hats

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77314336

Filing Date October 26, 2007

Current Filing Basis 1B

Original 1B

Filing Basis

Owner (APPLICANT) Raymond Toby Powers DBA Sik One Enterprises INDIVIDUAL UNITED STATES 1500 S. Church St. Lodi CALIFORNIA 95240

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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EXHIBIT “C”

The Law Offices of
KOLAR & ASSOCIATES
A Law Corporation

12241 Newport Avenue
Santa Ana, California 92705
Telephone (714) 544-0041 Facsimile (714) 544-0051
kolarlaw@kolarandassociates.com

August 10, 2007

Stuart Schechter
ATTORNEY AT LAW
1380 Garnet Avenue, Suite E-288
San Diego, CA 92109

Re: Sik Industries

Please allow this letter to serve as a response to yours dated July 9, 2007 on behalf of my client, Sik Industries.

Although your letter alleges that the name and/or apparel which is being sold and/or distributed by my client is confusing with the merchandise of your client, a cursory review of the products of the two companies clearly shows that the products are intended to reach different target audiences. Further, the logos and the product are substantially different. It appears that a reasonable person could clearly make the distinction between the products put out by our respective clients and that there is little to no chance of brand confusion.

The clothes that are manufactured by my client are versatile enough to be worn by any person without any fear of repercussion. In contrast, your client's merchandise is, by and large, vulgar and seeks to make religious and/or political statements. The chance of confusing or mistaking our clients' products is slim to none.

As for the logos, our clients' logo is exceedingly different from your clients'. Specifically, our client spells "Sik" with the "k" turned backwards.

While your letter appears to claim exclusive use of the word "Sik" your correspondence indicates that your client actually has exclusive use of the name "Sik World Productions." Even a cursory review of the government website regarding trademark shows that there are numerous similar trademarks using the name "Sik" as part of their name. It doesn't appear that your client has any particular issue with those entities which leads me to believe that your client perhaps has ulterior motives unrelated to my client's use of the name Sik Industries.

It has come to our attention that your client has sent certified mail and/or has posted derogatory and defamatory information to our client's customers. Please be advised that we hereby demand that your client cease and desist from sending any further libelous and/or defamatory materials to my client's customers. If they do not cease and desist, we will pursue all necessary legal action against your client.

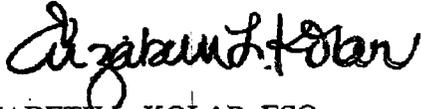
The Law Offices of
KOLAR & ASSOCIATES

Re: Sik Industries
August 10, 2007
Page 2

Accordingly, please be advised that my client will continue to use the name Sik Industries on its clothing and will continue to market and/or disseminate it to the general public. Should you have questions, please feel free to contact our office at your convenience.

Sincerely,

**KOLAR & ASSOCIATES,
A LAW CORPORATION**



ELIZABETH L. KOLAR, ESQ.

ELK: lrv

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SIK

Word Mark	SIK
Goods and Services	IC 025. US 022 039. G & S: T-shirts; Boxer shorts; Panties, shorts and briefs; Underwear, namely, boy shorts; Hats; Caps; Beanies; Blouses; Underwear; Sweat shirts; Thongs; Infantwear. FIRST USE: 19950301. FIRST USE IN COMMERCE: 19950301
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77203714
Filing Date	June 12, 2007
Current Filing Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) Compuglobal Hypermeganet Inc. CORPORATION CALIFORNIA 3419 Hancock St. San Diego CALIFORNIA 92110
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SIK" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL-2(F)
Live/Dead Indicator	LIVE

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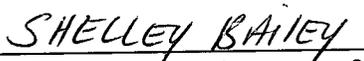
Certificate of service

I hereby certify that a true and complete copy of the
Foregoing Answer to Opposition has been served on
Ross A. Epstein by mailing said copy on
March 5th, 2007 Via First Class Mail,
Postage prepaid

To:

The Nathan Law Group
112 S. West Street
Alexandria, VA. 22314
United States


Signed


Typed or printed name of
Person signing certificate

Certificate of mailing

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Arlington, Virginia 22202-5314

On 3-5-08 Shelley Bailey
Date Signature

SHELLEY BAILEY
Typed or printed name of
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