

ESTTA Tracking number: **ESTTA208562**

Filing date: **05/01/2008**

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	Siouni & Zar Corp. d/b/a Danny & Nicole
Granted to Date of previous extension	05/24/2008
Address	49 West 37th Street New York, NY 10018 UNITED STATES

Attorney information	David B. Kirschstein Kirschstein Ottinger Israel & Schiffmiller, P.C. 489 Fifth Avenue, 17th Floor New York, NY 10017-6105 UNITED STATES dbk@kirschsteinlaw.com Phone:2126973750
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Applicant Information

Application No	77299242	Publication date	03/25/2008
Opposition Filing Date	05/01/2008	Opposition Period Ends	05/24/2008
Applicant	Nguyen, Minh 602 Geneva Ave. Huntington Beach, CA 92648 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Belts; Dresses; Jackets; Jeans; Pants; Shoes; Socks; Sweat shirts; Sweaters; T-shirts; Tank tops; Underwear
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1433000	Application Date	12/09/1985
Registration Date	03/17/1987	Foreign Priority Date	NONE
Word Mark	DANNY & NICOLE		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 025. First use: First Use: 1985/01/29 First Use In Commerce: 1985/01/29 DRESSES

Attachments	D Nicole Opposition.pdf (6 pages)(155274 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/David B. Kirschstein/
Name	David B. Kirschstein
Date	05/01/2008

2. Since long prior to filing date of application serial No. 77-299,242, Opposer adopted, commenced to use and has continuously used the trademark **DANNY & NICOLE** in interstate commerce in connection with its products. The trademark **DANNY & NICOLE** identifies a single source of the goods to which it has been applied, that source being Opposer. In addition, since long prior to the filing date of application Serial No. 77-299,242, Opposer has traded under the name **DANNY & NICOLE** which identifies its business.

3. The mark **DANNY & NICOLE** has been applied to Opposer's goods by means of labels and hangtags affixed to the products and in other ways customary to the trade. The products so marked have been widely distributed and used throughout the United States so that the trademark has great value to Opposer and identifies said products upon which it is used as coming from Opposer and Opposer only.

4. Opposer's trademark **DANNY & NICOLE** has been registered in the United States Patent and Trademark Office on the Principal Register under Registration No. 1,433,000 dated March 17, 1987. Said registration is valid, subsisting and incontestable. A copy of the aforesaid registration is attached hereto as Exhibit A. Opposer hereby gives notice, in accordance with Trademark Rule 2.122(b), that it will rely thereon as evidence on its behalf in this proceeding, and a status copy showing present title will be introduced into evidence during its testimony period.

5. The goods to which applicant intends to apply the mark **D. NICOLE**, namely, belts, dresses, jackets, jeans, pants, shoes, socks, sweatshirts, sweaters, t-shirts, tank tops and underwear, are the same as those in connection which Opposer has used its mark **DANNY & NICOLE**. The parties' respective goods are of such nature that when sold under the same or similar trademarks, they would be considered to come from the same source. Upon information and belief, the parties' respective goods would be sold to and used by the same class of customers. Applicant's mark **D. NICOLE** is confusingly similar to Opposer's trademark **DANNY & NICOLE**. Accordingly, it is likely that when applicant's mark is applied to its services, confusion or mistake among purchasers will be caused, and such purchasers will be deceived into believing that applicant's services emanate from Opposer or are in some way approved by or associated with, Opposer.

6. Because of the confusion, mistake or deception which is likely to result from the concurrent use by Opposer of its trademark, on the one hand, and the use by applicant of its mark, on the other hand, in connection with Opposer's products and applicant's products, Opposer's business and reputation and its rights in its aforesaid trademark will be impaired by registration of the mark published.

WHEREFORE, the Opposer demands judgment sustaining this opposition and adjudging that the applicant is not entitled to the registration of the trademark for which it has made application serial No. 77-288,242.

Respectfully submitted,

KIRSCHSTEIN, OTTINGER,
ISRAEL & SCHIFFMILLER, P.C.
Attorneys for Opposer
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(212) 697-3750

By 

DAVID B. KIRSCHSTEIN,
Reg. No. 17244

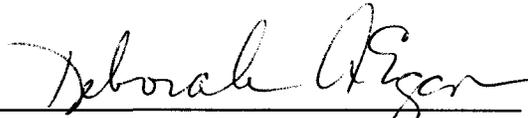
Dated: New York, New York
May 1, 2008

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Opposition was served upon Opposer as first class mail, postage pre-paid, by mailing a copy thereof to:

MINH NGUYEN
602 GENEVA AVE
HUNTINGTON BEACH, CA 92648-4734

this 1st day of May, 2008.



Deborah A. Egan

EXHIBIT A

Int. Cl.: 25

Prior U.S. Cl.: 39

United States Patent and Trademark Office **Reg. No. 1,433,000**
Registered Mar. 17, 1987

**TRADEMARK
PRINCIPAL REGISTER**

DANNY & NICOLE

SIOUNI & ZAR CORP. (NEW YORK CORPORATION), DBA DANNY & NICOLE
1400 BROADWAY
NEW YORK, NY 10018

FIRST USE 1-29-1985; IN COMMERCE
1-29-1985.

SER. NO. 572,631, FILED 12-9-1985.

FOR: DRESSES, IN CLASS 25 (U.S. CL. 39).

MARK TRAPHAGEN, EXAMINING ATTORNEY