

ESTTA Tracking number: **ESTTA251119**

Filing date: **11/25/2008**

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	BDSRCO, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	103 Foulk Road Suite 202 Wilmington, DE 19803 UNITED STATES		

Attorney information	Paul W. Kruse Bone McAllester Norton PLLC 511 Union Street Suite 1600 Nashville, TN 37219 UNITED STATES trademarks@bonelaw.com Phone:615-238-6304		
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Applicant Information

Application No	77493063	Publication date	11/25/2008
Opposition Filing Date	11/25/2008	Opposition Period Ends	12/25/2008
Applicant	Hayes, Todd unit 2 151 Fern Street Jupiter, FL 33458 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: A-shirts; Button-front aloha shirts; Camp shirts; Dress shirts; Golf shirts; Hooded sweat shirts; Knit shirts; Long-sleeved shirts; Moisture-wicking sports 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

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. Application No.	78741637	Application Date	10/27/2005
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	SKULL BOARDS CO.
Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 018. First use: First Use: 2006/03/01 First Use In Commerce: 2006/03/01 FASHION ACCESSORIES, NAMELY, BACKPACKS</p> <p>Class 025. First use: First Use: 2006/03/01 First Use In Commerce: 2006/03/01 CLOTHING, NAMELY, T-SHIRTS, KNIT TOPS AND BOTTOMS, WOVEN TOPS AND BOTTOMS, SHORTS, PANTS, FLEECE TOPS AND BOTTOMS, SWIMWEAR, FOOTWEAR, HEADWEAR AND OUTERWEAR, NAMELY, COATS, PARKAS, RAINCOATS AND JACKETS</p>

Attachments	78741637#TMSN.jpeg (1 page)(bytes) File Copy - Notice of Opposition (00331778).PDF (8 pages)(81092 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	/Paul W. Kruse/
Name	Paul W. Kruse
Date	11/25/2008

3. Opposer owns application Ser. No. 78/741,637.
4. On November 25, 2008, application Ser. No. 77/493,063 was published for opposition.
5. The mark set forth in application Ser. No. 78/741,637 and the mark set forth in application Ser. No. 77/493,063 share the word SKULL.
6. The mark set forth in application Ser. No. 78/741,637 and the mark set forth in application Ser. No. 77/493,063 have a similar appearance.
7. The mark set forth in application Ser. No. 78/741,637 and the mark set forth in application Ser. No. 77/493,063 have a similar sound.
8. The mark set forth in application Ser. No. 78/741,637 and the mark set forth in application Ser. No. 77/493,063 have a similar meaning.
9. The mark set forth in application Ser. No. 78/741,637 and the mark set forth in application Ser. No. 77/493,063 are confusingly similar.
10. The goods set forth in application Ser. No. 78/741,637 include, among other items of clothing in International Class No. 25, knit tops and T-shirts
11. The goods set forth in application Ser. No. 77/493,063 include, among other items of clothing in International Class No. 25, knit shirts and T-shirts.
12. Knit tops and knit T-shirts are the same.
13. The goods set forth in application Ser. No. 78/741,637 and the goods set forth in application Ser. No. 77/493,063 are closely related.
14. The conditions surrounding the marketing of the goods set forth in application Ser. No. 78/741,637 and the goods set forth in application Ser. No. 77/493,063 are such that they

could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the goods and/or services come from a common source.

15. The mark set forth in application Ser. No. 78/741,637 was first used in commerce prior to any actual use or constructive use of the mark set forth in application Ser. No. 77/493,063.

16. The mark set forth in application Ser. No. 78/741,637 is currently in use in commerce.

17. Opposer will be damaged by the issuance of this registration. Specifically, the mark set forth in application Ser. No. 77/493,063 consists of or comprises a mark which so resembles the mark set forth in application Ser. No. 78/741,637 as to be likely to cause confusion, or to cause mistake, or to deceive, under Trademark Act Section 2(d), 15 U.S.C. 1052(d).

WHEREFORE, Opposer requests that application Ser. No. 77/493,063 be refused registration.

Please direct all communications to the undersigned at (615) 238-6300 or trademarks@bonelaw.com.

BDSRCO, Inc.



By: _____

Name: Paul W. Kruse

Title: Attorney

Date: November 25, 2008

Submitted by:

Bone McAllester Norton PLLC
511 Union Street
Suite 1600
Nashville, Tennessee 37219

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing paper was served on Applicant, Todd Hayes, with an address at 151 Fern Street, Unit 2, Jupiter, Florida 33458, via first class mail, postage prepaid, today November 25, 2008.



By: _____
Paul W. Kruse



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SKULL BOARDS CO.

Word Mark SKULL BOARDS CO.
Goods and Services IC 018. US 001 002 003 022 041. G & S: FASHION ACCESSORIES, NAMELY, BACKPACKS. FIRST USE: 20060301. FIRST USE IN COMMERCE: 20060301

IC 025. US 022 039. G & S: CLOTHING, NAMELY, T-SHIRTS, KNIT TOPS AND BOTTOMS, WOVEN TOPS AND BOTTOMS, SHORTS, PANTS, FLEECE TOPS AND BOTTOMS, SWIMWEAR, FOOTWEAR, HEADWEAR AND OUTERWEAR, NAMELY, COATS, PARKAS, RAINCOATS AND JACKETS. FIRST USE: 20060301. FIRST USE IN COMMERCE: 20060301

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 78741637

Filing Date October 27, 2005

Current Filing Basis 1A

Original Filing Basis 1B

Published for Opposition November 28, 2006

Owner (APPLICANT) BDSRCO, Inc. CORPORATION DELAWARE Suite 202 103 Foulk Road Wilmington DELAWARE 19803

Attorney of Record Paul W. Kruse

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CO." APART FROM THE MARK AS

SHOWN
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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MARK Status ASSIGN Status TDR TTAB Status (Use the "Back" button of the Internet Browser to return to TESS)

Skull Life

Word Mark SKULL LIFE

Goods and Services IC 025. US 022 039. G & S: A-shirts; Button-front aloha shirts; Camp shirts; Dress shirts; Golf shirts; Hooded sweat shirts; Knit shirts; Long-sleeved shirts; Moisture-wicking sports 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

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77493063

Filing Date June 6, 2008

Current Filing Basis 1B

Original Filing Basis 1B

Published for Opposition November 25, 2008

Owner (APPLICANT) Hayes, Todd INDIVIDUAL UNITED STATES unit 2 151 Fern Street Jupiter FLORIDA 33458

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead

Indicator LIVE

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