

ESTTA Tracking number: **ESTTA283505**

Filing date: **05/12/2009**

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	Stussy, Inc.		
Entity	Corporation	Citizenship	California
Address	17426 Daimler Street Irvine, CA 92614 UNITED STATES		

Attorney information	John R. Sommer John R. Sommer, Attorney-at-Law 17426 Daimler Street Irvine, CA 92614 UNITED STATES sommer@stussy.com Phone:949 752 5344		
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Applicant Information

Application No	77626926	Publication date	04/14/2009
Opposition Filing Date	05/12/2009	Opposition Period Ends	05/14/2009
Applicant	Shugart, John 6916 Oaklawn Drive Sachse, TX 75048 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2343524	Application Date	06/16/1999
Registration Date	04/18/2000	Foreign Priority Date	NONE

Word Mark	SS
Design Mark	
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 1992/09/01 First Use In Commerce: 1992/09/01 Articles made from leather and imitations of leather, namely, attaches, backpacks, beach bags, book bags, briefcases, carry-on bags, coin purses, cosmetic bags sold empty, daypacks, duffel bags, fanny packs, garment bags for travel, gym bags, handbags, leather key cases, luggage, purses, shopping bags, all purpose sports bags, suitcases, travel bags, waist packs, wallets, umbrellas

U.S. Registration No.	2225736	Application Date	01/06/1998
Registration Date	02/23/1999	Foreign Priority Date	NONE
Word Mark	SS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1992/01/00 First Use In Commerce: 1992/01/00 clothing, namely, coats, dresses, jackets, jerseys, pants, shirts, shorts, skirts, sweatshirts, sweatpants, swimsuits, t-shirts, tank tops, caps and hats		

U.S. Registration No.	2450864	Application Date	03/02/2000
Registration Date	05/15/2001	Foreign Priority Date	NONE
Word Mark	SSO		

Design Mark	
Description of Mark	The mark consists, in part, of a stylized drawing of the letters "S" and "S" in a circle.
Goods/Services	Class 026. First use: First Use: 1989/00/00 First Use In Commerce: 1989/00/00 belt buckles not made of precious metal for clothing, buttons for clothing, embroidered emblems, fabric appliques, ornamental novelty buttons, novelty pins, ornamental ribbons made of textile, metal clothes buttons, plastic clothes buttons

U.S. Registration No.	2883904	Application Date	08/25/2003
Registration Date	09/14/2004	Foreign Priority Date	NONE
Word Mark	SS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1999/07/28 First Use In Commerce: 1999/07/28 Action figures and accessories therefore, bendable toys, collectable toy figures, dolls, fantasy character toys, playing cards, three dimensional puzzles, skateboards, soccer balls, toy gliders, yo-yos		

U.S. Registration No.	3618692	Application Date	08/06/2008
Registration Date	05/12/2009	Foreign Priority Date	NONE
Word Mark	SS		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 2008/02/28 First Use In Commerce: 2008/02/28 Cell phone cases; compact disk storage wallets; computer bags; computer carrying cases; directional compasses; magnets; personal data assistant cases; portable music player cases; sunglasses; cases for sunglasses and eyeglasses; prerecorded video discs featuring fashion, music, athletic performances and travel; cell phone pouches; personal data assistant (PDAs) pouches; personal music player pouches</p> <p>Class 018. First use: First Use: 2006/02/28 First Use In Commerce: 2006/02/28 All purpose shopping bags made of textile; attachÃ© cases; backpacks; beach bags; book bags; briefcases; briefcase type portfolios; business card cases; business cases; carrying cases; credit card cases; clutch bags; draw string pouches; duffel bags; fanny packs; garment bags for travel; hand bags; leather and imitation leather bags; leather key cases; leather key chains; leather key holders; luggage; messenger bags; purses; rucksacks; shoulder bags; sports bags; suit cases; tote bags; traveling bags; vanity cases sold empty; waist packs; wallets; umbrellas</p> <p>Class 025. First use: First Use: 1998/12/31 First Use In Commerce: 1998/12/31 Clothing, namely, bathing suits; beach cover ups; belts; board shorts; coats; dresses; jackets; jerseys; pajamas; pants; polo shirts; rainwear; scarves; shirts; shorts; skirts; socks; suits; sweat pants; sweat shirts; sweaters; sweatbands; swim suits; t-shirts; tank tops; vests; underwear; wind-resistant jackets; wristbands; footwear; headgear, namely, berets, caps, hats, scarves</p>

Attachments	75729086#TMSN.gif (1 page)(bytes) 75414165#TMSN.gif (1 page)(bytes) 75932965#TMSN.gif (1 page)(bytes) 76541618#TMSN.gif (1 page)(bytes) 77539979#TMSN.jpeg (1 page)(bytes) Opposition.pdf (4 pages)(167491 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	/John R. Sommer/
Name	John R. Sommer
Date	05/12/2009

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

In the matter of Application Serial No. 77/626926
Published for Opposition in the OFFICIAL GAZETTE of April 14, 2009

STUSSY, INC., Opposer,	:	Opposition No.:
v.	:	
JOHN SHUGART, Applicant.	:	

NOTICE OF OPPOSITION

Stussy, Inc. (“Opposer”), a California corporation having its principal place of business at 17426 Daimler Street, Irvine, California 92614, believes it will be damaged by registration of the device mark SS shown in Serial No. 77/926926 in International Class 25, filed by John Shugart (“Applicant”), and hereby opposes the same.

As grounds for this Opposition, it is alleged:

1. On or about December 4, 2008, Applicant filed an intent to use application with the United States Patent and Trademark Office to register the SS device mark (consisting of two touching letters “S”s)(hereinafter “Applicant’s Mark”) for “Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms” in International Class 25.

2. Since at least as early as October 18, 1989, Opposer has been using the SS Link Mark (consisting of two interlocking letter “S”s, sometimes in a circle and sometimes not) (hereinafter “SS Link Mark”) on a variety of goods and services as listed on the registrations listed below, among others goods and services:

SS in Circle

<u>Class</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Goods (partial list)</u>
18	2,343,524	04/18/00	Bags, luggage, etc.
25	2,225,736	02/23/99	Clothing, headwear
26	2,450,864	05/15/01	Belt buckles
28	2,883,904	09/14/04	Toys and sporting goods

SS without Circle

<u>Class</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Goods (partial list)</u>
09,18,25	3,618,692	05/12/09	Sunglasses, bags, clothing

3. Specifically, Opposer is the owner of U.S. Registrations listed above. The '524, '736, and '864 Registrations are incontestable within the meaning of Section 15.

4. There is no issue as to priority. Applicant's priority date for his intent-to-use application is the filing date, December 4, 2008. Opposer's priority dates for the registrations are: Class 18: first use: September 1, 1992 and filed June 16, 1999; Class 25: first use January 1, 1992 and filed January 6, 1998. For the '692 Registration as to Class 25, the priority date is first use: as early as 1998 and filed August 4, 2008. Since long prior to Applicant's filing of the application for Applicant's Mark (no use of Applicant's Mark having been alleged by Applicant), Opposer has made substantial and continuous use of the SS Link Mark in interstate, foreign, and intrastate commerce on and in connection with the advertising, promotion, and sale of its goods, since as early as 1992.

5. By virtue of the aforesaid advertising, promotion, and sales, and by virtue of the excellence of its products, Opposer's SS Link Mark has come to represent exceedingly valuable goodwill owned by Opposer.

6. The goods on which Opposer uses its SS Link Mark and the goods for which Applicant seeks to register Applicant's Mark are closely related, if not identical, and are sold through the same channels of trade and to the same class of purchasers.

7. Opposer's SS Link Mark and Applicant's Mark are confusingly and substantially similar.

8. Use by Applicant of Applicant's Mark will be likely to cause confusion, mistake, or deception with Opposer's SS Link Mark, and result in the belief that Applicant or Applicant's goods are in some way legitimately connected with, sponsored by, or approved by Opposer, resulting in damage and injury to Opposer. Persons familiar with Opposer's SS Link Mark would be likely to buy Applicant's goods as and for a product made and sold by Opposer. Any such confusion in trade inevitably would result in loss of sales to Opposer. Furthermore, any defect, objection, or fault found with Applicant's products marketed under Applicant's Mark would necessarily reflect upon and seriously injure the reputation that Opposer has established for its products merchandised under Opposer's SS Link Mark.

9. Applicant's Mark, if registered, will be deceptive, in violation of Section 2(a).

10. Applicant's Mark, if registered, will disparage or falsely suggest a connection between Applicant and Opposer and their respective goods, in violation of Section 2(a).

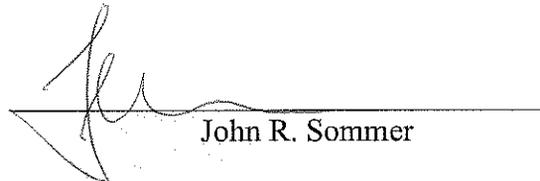
11. Applicant's Mark, if registered, will so resemble Opposer's Marks registered on the Principal Register of the U.S. Patent & Trademark Office, and Opposer's Marks in used in the United States and not abandoned, as to be likely, when used on or in connection with the goods of the Applicant, as to cause confusion, mistake or to deceive, in violation of Section 2(d).

12. Applicant's Mark, if registered, will dilute the distinctiveness of Opposer's Mark in violation of Section 43(c).

13. Any use Applicant has made or may make of Applicant's Mark, is and will be without Opposer's consent or permission.

13. Applicant has no good faith intention to make trademark use of Applicant's Mark on each and every one of the goods listed in the notice of publication for Applicant's Mark. This constitutes inequitable conduct or fraud upon the Patent & Trademark Office.

WHEREFORE, registration by Applicant of the aforesaid Applicant's Mark for the aforesaid goods will be damaging to Opposer, and Opposer therefore requests that the Opposition be sustained.


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