

ESTTA Tracking number: **ESTTA306089**

Filing date: **09/14/2009**

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	Hurley International LLC
Granted to Date of previous extension	09/13/2009
Address	1945-G Placentia Avenue Costa Mesa, CA 92627 UNITED STATES

Correspondence information	Alleman Hall McCoy Russell & Tuttle LLP 806 SW Broadway Suite 600 Portland, OR 97205 UNITED STATES mccoy@ahmrt.com, penfield@ahmrt.com, enfield@ahmrt.com, langston@ahmrt.com, gladwin@ahmrt.com Phone:503-459-4141
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**Applicant Information**

Application No	77447788	Publication date	03/17/2009
Opposition Filing Date	09/14/2009	Opposition Period Ends	09/13/2009
Applicants	Lopez, Eva Torrent Passeig de Valldoreix, 90 Sant Cugat del VallÃ©s, E-08190 SPAIN  Lopez, Patricia Torrent Passeig de Valldoreix, 90 Sant Cugat del VallÃ©s, SPAIN		

**Goods/Services Affected by Opposition**

Class 025. All goods and services in the class are opposed, namely: Clothing, in the nature of support garments and sportswear support garments, namely, support underwear
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**Grounds for Opposition**

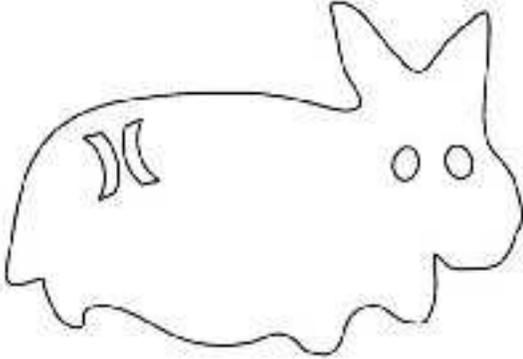
Dilution	Trademark Act section 43(c)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Application No.	77737462	Application Date	05/14/2009
Registration Date	NONE	Foreign Priority	NONE

		Date	
Word Mark	H WALK THE WALK		
Design Mark			
Description of Mark	The mark consists of an outline of a female figure adjacent to a stylized letter "H" and the words WALK THE WALK.		
Goods/Services	<p>Class 035. First use: organizing and promoting contests, incentive award programs, fashion show exhibitions and competitions to benefit youth and high school students</p> <p>Class 041. First use: arranging and conducting fashion shows, fashion design competitions; contests, incentive award programs; entertainment in the nature of fashion shows, and fashion design competitions, and television shows broadcast over television, cable, satellite, audio, and video media</p>		

U.S. Registration No.	3606398	Application Date	10/05/2006
Registration Date	04/14/2009	Foreign Priority Date	NONE

Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of a small mammal, rodent or rabbit.		
Goods/Services	<p>Class 025. First Use: 2005/05/00 First Use In Commerce: 2005/05/00</p> <p>Clothing, namely, t-shirts, fleece jackets, fleece shirts, fleece sweatshirts, walking shorts, boardshorts, shorts, sweatpants, sweatshirts, swimwear, bathing suits, jackets, wet suits, belts, jeans, slacks, pants, shirts, woven shirts, knit shirts, tops, bottoms, halter tops, blouses, tank tops, skirts, dresses, sarongs, sweaters, cardigans, beach cover ups, sleepwear, undergarments, pajamas, robes, jumpers, jump suits, rompers, overalls, parkas, headwear and footwear</p>		

U.S. Application No.	77458638	Application Date	04/25/2008
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	H2O		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use:  Bags, namely, carry-all bags, canvas shopping bags, leather and imitation leather bags, backpacks, purses, billfolds, wallets, tote bags, beach bags, handbags, traveling bags, messenger bags, duffle bags, all-purpose sports bags, athletic bags, book bags, attaché cases, luggage, key cases, key holders, hip packs, rucksacks, briefcases, computer cases, cosmetic bags sold empty, toiletry cases sold empty, credit card cases, trunks for traveling, valises, beach umbrellas, and textile, leather and mesh shopping bags</p> <p>Class 025. First use:  Clothing, namely, t-shirts, fleece jackets, fleece shirts, fleece sweatshirts, walking shorts, boardshorts, shorts, sweatpants, sweatshirts, swimwear, bathing suits, jackets, belts, jeans, slacks, pants, shirts, woven shirts, knit shirts, tops, bottoms, halter tops, blouses, tank tops, skirts, dresses, sarongs, sweaters, cardigans, beach cover ups, sleepwear, undergarments, pajamas, robes, jumpers, jump suits, rompers, overalls, parkas, ski suits, ski pants, ski wear and socks; headwear; footwear; wet suits</p>		

U.S. Registration No.	2789401	Application Date	10/25/2001
Registration Date	12/02/2003	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2003/01/20 First Use In Commerce: 2003/01/27 FOOTWEAR		

U.S. Registration No.	2406896	Application Date	07/27/1998
Registration Date	11/21/2000	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 018. First use: First Use: 1999/01/25 First Use In Commerce: 1999/01/25  WALLETS, BACKPACKS, DUFFLE BAGS</p> <p>Class 025. First use: First Use: 1998/10/30 First Use In Commerce: 1998/10/30  CLOTHING, HEADWEAR ((AND FOOTWEAR)), NAMELY, T-SHIRTS, SHORTS, SWEAT PANTS, SWEAT SHIRTS, SWIM WEAR, JACKETS, JEANS, SHIRTS, SWEATERS, CAPS, HATS, [ BEANIE, ] * BEANIE * SKULLCAPS, BELTS, WET SUITS</p>		

U.S. Registration No.	3596523	Application Date	11/10/2004
Registration Date	03/24/2009	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2002/01/00 First Use In Commerce: 2002/01/00  EYEWEAR, NAMELY, SPORTS EYEWEAR, EYEGLASSES, EYEWEAR CASES; SUNGLASSES; COMPACT DISCS FEATURING MUSIC AND SPOKEN WORD; COMPUTER CARRYING CASES</p> <p>Class 035. First use: First Use: 2008/08/27 First Use In Commerce: 2008/08/27  RETAIL AND ONLINE STORES FEATURING CLOTHING, HEADWEAR, FOOTWEAR, WETSUITS, LUGGAGE, BAGS, EYEWEAR, PRINTED MATTER</p>		

U.S. Application No.	77553912	Application Date	08/22/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	PHANTOM		
Design Mark			
Description of Mark	The mark consists of the word phantom written in black to the right of two vertical black curved bands facing away from each other.		
Goods/Services	Class 025. First use: apparel, namely t-shirts, walking shorts, boardshorts, shorts, sweatpants, sweatshirts, swimwear, bathing suits, jackets, fleece jackets, fleece shirts, fleece sweatshirts, wet suits, belts, jeans, slacks, pants, shirts, woven shirts, knit shirts, tops, bottoms, halter tops, blouses, tank tops, skirts, dresses, sarongs, sweaters, cardigans, beach cover ups, sleepwear, undergarments, pajamas, robes, jumpers, jump suits, rompers, overalls, parkas, ski suits, ski pants, ski wear and socks; headwear and footwear		

U.S. Registration No.	3613912	Application Date	11/18/2005
Registration Date	04/28/2009	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1999/01/00 First Use In Commerce: 1999/01/00 Promoting musical concerts, sporting events, sports competitions, art exhibits and fashion shows Class 041. First use: First Use: 1999/01/00 First Use In Commerce: 1999/01/00 Organizing, sponsoring, and conducting musical concerts, art exhibits, fashion shows, and sporting events and sports competitions in the nature of action		

	sports events and competitions, surfing events and competitions, skating events and competitions and snowboarding events and competitions; presentation of live musical performances; providing pre-recorded music, and providing information in the field of music, musical tours, sports, culture, lifestyle, fashion and art, and commentary and articles about music, musical tours, sports, culture, lifestyle, fashion and art, all on-line via a global computer network; provision of sports, music and recreational facilities
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Attachments	77737462#TMSN.jpeg ( 1 page )( bytes ) 77015084#TMSN.jpeg ( 1 page )( bytes ) 77458638#TMSN.jpeg ( 1 page )( bytes ) 76330396#TMSN.gif ( 1 page )( bytes ) 75525877#TMSN.gif ( 1 page )( bytes ) 78514943#TMSN.jpeg ( 1 page )( bytes ) 77553912#TMSN.jpeg ( 1 page )( bytes ) 78757615#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition (as filed) 9-14-09.pdf ( 6 pages )(126538 bytes ) US Registration 2406896.pdf ( 1 page )(13963 bytes ) US Registration 2789401.pdf ( 1 page )(10362 bytes ) US Registration 3596523.pdf ( 1 page )(19787 bytes ) US Registration 3606398.pdf ( 1 page )(19787 bytes ) US Registration 3613912.pdf ( 1 page )(37179 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	/Emily K. Langston/
Name	Alleman Hall McCoy Russell & Tuttle LLP
Date	09/14/2009

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

Hurley International LLC,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
Eva Torrent Lopez	)	
	)	
Applicant.	)	
_____	)	

Commissioner for Trademarks  
**Box TTAB FEE**  
2900 Crystal Drive  
Arlington, Virginia 22202-3514

**NOTICE OF OPPOSITION**

In the matter of the application of Eva Torrent Lopez (“Applicant”), for registration of the mark



, application Serial No. 77/447,788, published in the Official Gazette on March 17, 2009, Hurley International LLC (“Opposer”), a corporation organized under the laws of Oregon, with its principal place of business at 1945-G Placentia Avenue, Costa Mesa, California 92627, believes that it will be damaged by registration of the mark shown in Serial No. 77/447,788 and hereby opposes registration.

Opposer timely filed several extensions of time to file an opposition. The extension period to file this Notice of Opposition ran through September 13, 2009. This Notice of Opposition is filed within the extension period as September 13, 2009 was a Sunday and under Fed. R. Civ. Pro. 6(a) deadlines which fall on Sundays run through the next day which is not a Saturday, Sunday or legal holiday.

The grounds for opposition are as follows:

1. Opposer is a corporation, doing business as Hurley International LLC, organized under the laws of Oregon, with its principal place of business at 1945-G Placentia Avenue, Costa Mesa, California 92627.

2. Opposer has been and continues to be engaged in the business of designing, marketing and selling clothing, accessories and sporting goods items, and other related goods and services in the United States and abroad.

3. Since at least October 1998, Opposer has continuously used in interstate commerce marks consisting solely or in part of a prominent H-shaped design. Opposer owns and uses a family of marks consisting solely or in part of a prominent H-shaped design (“Hurley Logo Marks”) to identify clothing, accessories and sporting goods items, and other related goods and services originating from the Opposer in commerce.

4. Opposer is the owner of the following United States trademark registrations for its Hurley Logo Marks:

Registration Number	Registration Date	International Class
2,406,896	Nov. 21, 2000	18, 25
2,789,401	Dec. 2, 2003	25
3,596,523	Mar. 24, 2009	9, 14, 35
3,606,398	Apr. 14, 2009	25
3,613,912	Apr. 28, 2009	35, 41

5. The Hurley Logo Marks include an H-shaped design with an outline, such as  as in U.S. Reg. Nos. 2,406,896 and 2,789,401, an H-shaped design alone,  as in U.S. Reg. Nos. 3,596,523 and 3,613,912, and an H-shaped design with other designs,  as in U.S. Reg. No. 3,606,398.

6. Opposer has applied for or has common law rights in the Hurley Logo Marks for use in connection with clothing, accessories and sporting goods items, and other related goods and services. The

Hurley Logo Marks include, but are not limited to, the following marks:



7. Opposer has used and continues to use the Hurley Logo Marks and the goods in connection therewith have been popular and the subject of significant advertising and promotional activities.

8. Opposer has promoted and sold its goods in interstate commerce under its Hurley Logo Marks since prior to any alleged use by Applicant of the mark shown in the Application.

9. The use of Opposer's Hurley Logo Marks has been valid and continuous since the dates of first use and Opposer has not abandoned the Hurley Logo Marks. Opposer's Hurley Logo Marks are symbolic of extensive goodwill and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion. Opposer's Hurley Logo Marks identify and distinguish Opposer's goods from the goods of others, and identify the source and origin thereof to both the trade and the public.

10. Prior to Applicant's adoption of its mark, if any, Opposer's Hurley Logo Marks have been used and promoted in such a way as to create a public perception of the prominent H-shaped design as a distinctive family characteristic and as an indication of source. Opposer's Hurley Logo Marks continue to be used and promoted in such as way so as to constitute a family of marks, of which the Applicant's mark appears to be a member.

11. Opposer's Hurley Logo Marks are famous as that term is defined under 15 U.S.C. §1125.

12. Notwithstanding Opposer's rights in and to its Hurley Logo Marks, Applicant, on April

14, 2008, filed an application for registration of the mark



Applicant's

application was given Serial No. 77/447,788 and was published for opposition in the Official Gazette on March 17, 2009.



13. The published application for the mark  includes the following goods and services:

Clothing, in the nature of support garments and sportswear support garments, namely, support underwear in International Class 025.

14. Applicant does not claim a date of first use or a date of first use in commerce.

15. Applicant's first use date will be subsequent to Opposer's first use of the Hurley Logo Marks.

16. Applicant's recited goods are closely related to the goods offered by Opposer for the Hurley Logo Marks and consumers may be confused as to source of the goods.



17. Applicant's mark , when used in connection with the goods set forth in its application, is confusingly similar to Opposer's use of its Hurley Logo Marks. Registration of Applicant's mark and use by it for its goods in the U.S. is likely to cause confusion, mistake and deception among consumers. Registration of Applicant's mark may damage the goodwill and consumer recognition that Opposer has built up in its Hurley Logo Marks.

18. Applicant's mark dilutes or is likely to dilute or will dilute Opposer's distinctive and famous Hurley Logo Marks in violation of Section 43(c) of the Act.

19. Commercial use of the Applicant's mark will cause or is likely to cause dilution of the distinctive quality of Opposer's famous Hurley Logo Marks, as that term is defined in 15 U.S.C. §1125

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's mark, and prays that registration be denied.

Opposer authorizes the Commissioner for Trademarks to charge the fee for filing this Notice of Opposition, or any other additional fees that may be due, to Deposit Account 503397.

DATED this 14<sup>th</sup> day of September 2009.

Respectfully submitted,

Alleman Hall McCoy Russell & Tuttle LLP

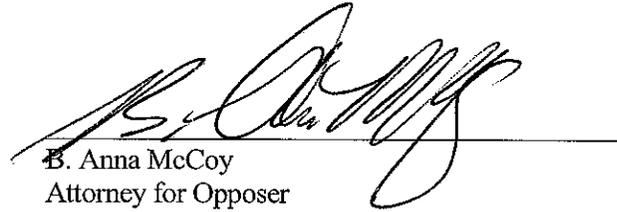
A handwritten signature in black ink, appearing to read 'B. Anna McCoy', is written over a horizontal line.

B. Anna McCoy  
Registration No. 46,077  
Attorney for Opposer  
806 S.W. Broadway, Suite 600  
Portland, Oregon 97204  
Telephone: (503) 459-4141  
Facsimile: (503) 459-4142

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served by First Class Mail upon Applicant's counsel, J. David Dainow, at the address of record below on this 14<sup>th</sup> day of September, 2009:

J. David Dainow  
Abelman, Frayne & Schwab  
666 3<sup>rd</sup> Ave. Floor 10  
New York, NY 10017-4046

  
B. Anna McCoy  
Attorney for Opposer

Int. Cls.: 18 and 25

Prior U.S. Cls.: 1, 2, 3, 22, 39 and 41

Reg. No. 2,406,896

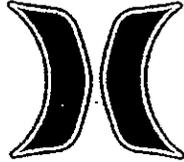
United States Patent and Trademark Office

Registered Nov. 21, 2000

Corrected

OG Date July 24, 2001

TRADEMARK  
PRINCIPAL REGISTER



HURLEY INTERNATIONAL LLC (CALI-  
FORNIA CORPORATION)  
1945-G PLACENTIA AVENUE  
COSTA MESA, CA 92627

FOR: WALLET, BACKPACKS, DUF-  
FLE BAGS, IN CLASS 18 (U.S. CLS. 1, 2,  
3, 22 AND 41).

FIRST USE 1-25-1999; IN COMMERCE  
1-25-1999.

FOR: CLOTHING, HEADWEAR AND  
FOOTWEAR, NAMELY, T-SHIRTS,  
SHORTS, SWEAT PANTS, SWEAT  
SHIRTS, SWIM WEAR, JACKETS, JEANS,  
SHIRTS, SWEATERS, CAPS, HATS, [  
BEANIE, ] \* BEANIE \* SKULLCAPS,  
BELTS, WET SUITS, IN CLASS 25 (U.S.  
CLS. 22 AND 39).

FIRST USE 10-30-1998; IN COMMERCE  
10-30-1998.  
SER. NO. 75-525,877, FILED 7-27-1998.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on July 24, 2001.*

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

Int. Cl.: 25

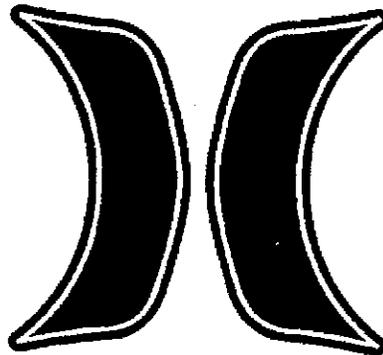
Prior U.S. Cls.: 22 and 39

**United States Patent and Trademark Office**

**Reg. No. 2,789,401**

Registered Dec. 2, 2003

**TRADEMARK  
PRINCIPAL REGISTER**



HURLEY INTERNATIONAL LLC (CALIFORNIA  
LIMITED LIABILITY COMPANY)  
1945-G PLACENTIA AVENUE  
COSTA MESA, CA 92627

OWNER OF U.S. REG. NO. 2,406,896.

FOR: FOOTWEAR, IN CLASS 25 (U.S. CLS. 22 AND  
39).

SN 76-330,396, FILED 10-25-2001.

FIRST USE 1-20-2003; IN COMMERCE 1-27-2003.

RUSS HERMAN, EXAMINING ATTORNEY

Int. Cls.: 9 and 35

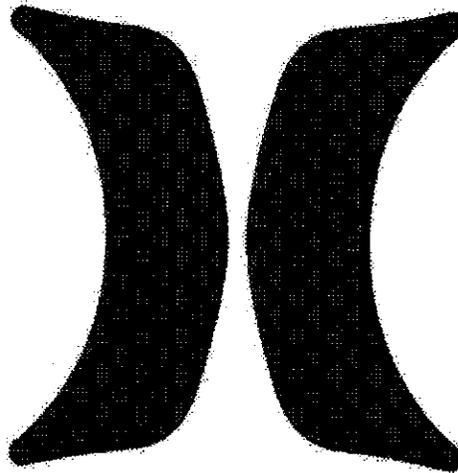
Prior U.S. Cls.: 21, 23, 26, 36, 38, 100, 101, and 102

United States Patent and Trademark Office

Reg. No. 3,596,523

Registered Mar. 24, 2009

**TRADEMARK  
SERVICE MARK  
PRINCIPAL REGISTER**



HURLEY INTERNATIONAL LLC (OREGON  
LIMITED LIABILITY COMPANY)  
1945-G PLACENTIA AVENUE  
COSTA MESA, CA 92627

FOR: EYEWEAR, NAMELY, SPORTS EYEWEAR,  
EYEGASSES, EYEWEAR CASES; SUNGLASSES;  
COMPACT DISCS FEATURING MUSIC AND SPO-  
KEN WORD; COMPUTER CARRYING CASES, IN  
CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 1-0-2002; IN COMMERCE 1-0-2002.

FOR: RETAIL AND ONLINE STORES FEATUR-  
ING CLOTHING, HEADWEAR, FOOTWEAR, WET-  
SUITS, LUGGAGE, BAGS, EYEWEAR, PRINTED  
MATTER, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 8-27-2008; IN COMMERCE 8-27-2008.

SN 78-514,943, FILED 11-10-2004.

JEAN IM, EXAMINING ATTORNEY

Int. Cl.: 25

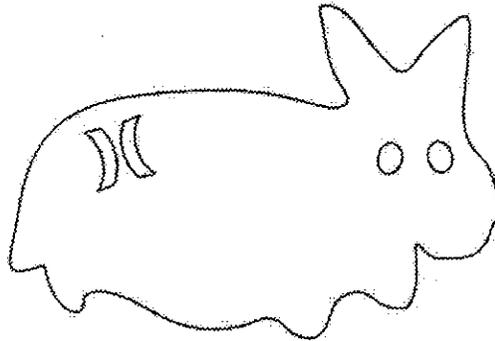
Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,606,398

Registered Apr. 14, 2009

**TRADEMARK  
PRINCIPAL REGISTER**



HURLEY INTERNATIONAL LLC (OREGON  
LIMITED LIABILITY COMPANY)  
1945-G PLACENTIA AVENUE  
COSTA MESA, CA 92627

FOR: CLOTHING, NAMELY, T-SHIRTS, FLEECE  
JACKETS, FLEECE SHIRTS, FLEECE SWEAT-  
SHIRTS, WALKING SHORTS, BOARDSHORTS,  
SHORTS, SWEATPANTS, SWEATSHIRTS, SWIM-  
WEAR, BATHING SUITS, JACKETS, WET SUITS,  
BELTS, JEANS, SLACKS, PANTS, SHIRTS, WOVEN  
SHIRTS, KNIT SHIRTS, TOPS, BOTTOMS, HALTER  
TOPS, BLOUSES, TANK TOPS, SKIRTS, DRESSES,  
SARONGS, SWEATERS, CARDIGANS, BEACH  
COVER UPS, SLEEPWEAR, UNDERGARMENTS,  
PAJAMAS, ROBES, JUMPERS, JUMP SUITS, ROM-

PERS, OVERALLS, PARKAS, HEADWEAR AND  
FOOTWEAR, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 5-0-2005; IN COMMERCE 5-0-2005.

OWNER OF U.S. REG. NOS. 2,406,896 AND  
2,789,401.

THE MARK CONSISTS OF A SMALL MAMMAL,  
RODENT OR RABBIT.

SN 77-015,084, FILED 10-5-2006.

AMEETA JORDAN, EXAMINING ATTORNEY

Int. Cls.: 35 and 41

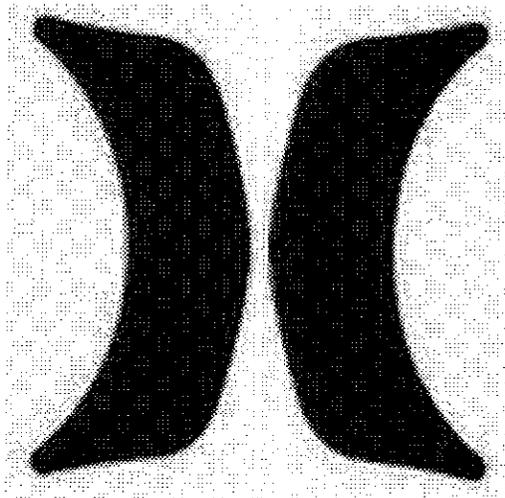
Prior U.S. Cls.: 100, 101, 102, and 107

United States Patent and Trademark Office

Reg. No. 3,613,912

Registered Apr. 28, 2009

**SERVICE MARK  
PRINCIPAL REGISTER**



HURLEY INTERNATIONAL LLC (OREGON  
LIMITED LIABILITY COMPANY)  
1945-G PLACENTIA AVENUE  
COSTA MESA, CA 92627

FOR: PROMOTING MUSICAL CONCERTS,  
SPORTING EVENTS, SPORTS COMPETITIONS,  
ART EXHIBITS AND FASHION SHOWS, IN CLASS  
35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 1-0-1999; IN COMMERCE 1-0-1999.

FOR: ORGANIZING, SPONSORING, AND CON-  
DUCTING MUSICAL CONCERTS, ART EXHIBITS,  
FASHION SHOWS, AND SPORTING EVENTS AND  
SPORTS COMPETITIONS IN THE NATURE OF  
ACTION SPORTS EVENTS AND COMPETITIONS,  
SURFING EVENTS AND COMPETITIONS, SKAT-  
ING EVENTS AND COMPETITIONS AND SNOW-

BOARDING EVENTS AND COMPETITIONS;  
PRESENTATION OF LIVE MUSICAL PERFOR-  
MANCES; PROVIDING PRE-RECORDED MUSIC,  
AND PROVIDING INFORMATION IN THE FIELD  
OF MUSIC, MUSICAL TOURS, SPORTS, CULTURE,  
LIFESTYLE, FASHION AND ART, AND COMMEN-  
TARY AND ARTICLES ABOUT MUSIC, MUSICAL  
TOURS, SPORTS, CULTURE, LIFESTYLE, FASH-  
ION AND ART, ALL ON-LINE VIA A GLOBAL  
COMPUTER NETWORK; PROVISION OF SPORTS,  
MUSIC AND RECREATIONAL FACILITIES, IN  
CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 1-0-1999; IN COMMERCE 1-0-1999.

SN 78-757,615, FILED 11-18-2005.

KATHRYN COWARD, EXAMINING ATTORNEY