

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

Swank, Inc.,
Opposer

v.

Taylor, Robert S. d/b/a Sean Swank Couture Co,
Applicant

Opposition No. 91196404

Serial No. 77774354

Mark: Sean Swank

Answer to Notice of Opposition

The following is the Answer of Robert S. Taylor (applicant), owner of Federal Trademark Application Serial No. 77774354 for the mark Sean Swank to Notice of Opposition served on September 8, 2010 by Swank, Inc. (Opposer) and assigned Opposition No. 9196404.

Applicant hereby responds, solely for the purpose of this proceeding, to each of the grounds set forth in the Notice of Opposition, as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Notice of Opposition.
2. Admitted to the extent the records of the U.S. Patent and Trademark Office and Trademark Trial and Appeal Board substantiate the facts claimed.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Notice of Opposition.
4. Admitted to the extent the records of the U.S. Patent and Trademark Office and Trademark Trial and Appeal Board substantiate the facts claimed.
5. Applicant has not and will not use the Sean Swank brand in the market, until it is cleared by the U.S. Patent & Trademark Office for use. To ensure the Applicant's Mark the right to exist in the market without opposition from other mark owners.
6. Admitted to the extent the records of the U.S. Patent and Trademark Office and Trademark Trial and Appeal Board substantiate the facts claimed.
7. Applicant does not agree that there will be a likelihood of confusion because, Swank, Inc. is a brand with one word. I will not use the word Swank by itself in marketing my brand. I will use Sean Swank as my brand, which is an individual with characteristics. Since, the brand Sean Swank will never be used in the market as one word, it will not be confused with the Swank, Inc. brand or cause any injury to the brand of the Opposer.



10-18-2010

8. Applicant's mark will not demise or dilute the famous and distinctive quality of the Opposer's mark. Applicant does not believe there will be any confusion related with distinguishing the difference between the two marks in the industry and will not imply an association with the Opposer's mark. The marks are distinctively different. The Opposer's mark is one word, identifying a descriptive term not an individual, the Applicant's mark is two words identifying a person.

9. Applicant's mark will not be mistaken for the mark of the Opposer and will not deceive consumers in any way. Applicant's mark will not confuse the consumer or imply in any way, form or fashion to be in relation to the Opposer's mark. The Applicant's mark is a person with characteristics, the Opposer's mark is describing a style.

10. Applicant's mark will not cause dilution by blurring or lessen the capacity of Opposer's marks to identify goods having their source in the Opposer. Applicant's mark is two words combined to describe the name Sean Swank.

11. Applicant's mark will in not damage the Opposer's mark. Because the marks are not identical or misleading in any way. Applicant desires no exclusive right to use the word Swank by itself, only to the two words together Sean Swank.

In addition, Applicant sets forth the following affirmative defenses and statements in support of its position:

12. Sean Swank is a nickname that the Applicant has been called for years in the fashion industry in Chicago for fashion showcases, and personal name use. Applicant is choosing at this time to make a brand of Sean Swank. As of April 1, 2010, the Applicant's name has been legally changed to Sean Swank.

13. Trademarks registered on the Principal Register of the United States Patent and Trademark Office which contains the term Swank for fashion goods without any disclaimer or claim of acquired distinctiveness regarding this term, include:

<u>Name</u>	<u>Registration No.</u>	<u>Goods/Services</u>	<u>Register</u>
Goldstein Swank & Gordon	3223026	Retail Jewelry Store Services	Principal
Original Swank	(Serial No. - 77879800)	Clothing, namely, t-shirts, hooded sweatshirts	Principal

***Note: Applicant has made an attempt to contact the attorney of the Opposer to come to a resolution to this matter. A voicemail was left with Paul Fields to resolve this matter. Applicant never received a call back from the Opposer's attorney. Applicant is willing to communicate with Opposer to come to a reasonable resolution for both parties, if possible.

WHEREFORE, The Applicant respectfully request for approval of it's application. And prays that the Trademark Trial and Appeal Board deny the Opposition and permit registration of Applicant's proposed mark in Application Serial Number 77774354 in the United States Patent and Trademark Office.

Applicant has served a copy of the Answer to the Notice of Opposition on the Counsel for Opposer (Paul Fields, Leason & Ellis LLP) identified on the Notice of Opposition by first class mail on October 14, 2010. A copy of the Certificate of Service is attached.

Dated: Chicago, Illinois
October 14, 2010

Respectfully submitted
By: Robert S. Taylor
1451 East 55th St. #317N
Chicago, Illinois 60615

Certificate of Service

I HEREBY CERTIFY that a true and accurate copy of **Answer to Notice of Opposition**, was served on the following by delivering said copy on October 14, 2010, via First Class Mail, postage prepaid, to counsel for Opposer at the following address:

**Paul Fields, Leason Ellis LLP
81 Main Street, Suite 503
White Plains, New York 10601**

By: _____



Robert S. Taylor
Applicant - *Pro Se*

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Answer to Notice of Opposition

EXHIBIT A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

FOR CHANGE OF NAME

Robert Sean Taylor

No. 2010CCDC000107
CALENDAR/ROOM 3
TIME 00:00
Change of Name

JUDGMENT ORDER

This cause having come to be heard upon the petition filed herein, with the Court being fully advised in the premises of the contents of the petition and attached affidavit. The Court being further advised that proper notice of the petition for a change of name was given in the following manner: (Describe in detail the type of Notice given, i.e. publication, personal service, service by mail.) PUBLICATION

which the Court finds sufficient to satisfy the requirements of the statute.

That all of the material facts alleged in said petition are true; that the Petitioner(s) is/are a resident(s) of the State of Illinois and has resided therein continuously for a period of at least six months, or residents of the County of Cook at the time this petition was filed, that the conditions required by the Act of the General Assembly of the State of Illinois, entitled "Change of Name Act" have been complied with; that this Court has jurisdiction of the persons and of the subject matter hereof; (check, if applicable) that it is in the best interest of the child(ren) that a change of name be granted. Therefore:

IT IS ORDERED; That the Names of the Petitioner(s) are changed as follows:

- A. Petitioner's Name from: Robert Sean Taylor to Sean Swank;
- B. Spouse's Name from: _____ to _____;
- C. Child's Name from: _____ to _____;
- D. Child's Name from: _____ to _____;
- E. Child's Name from: _____ to _____;
- F. Child's Name from: _____ to _____;

ENTERED
JUDGE PATRICK McGANN-1510
APR 01 2010
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

I hereby certify that the document to which this certification is affixed is a true copy.
Date: APR - 1 2010
Dorothy Brown
Clerk of the Circuit Court
of Cook County, IL



Judge _____ Judge's No. _____

(If space for additional names is needed, attach another order form and mark this form Page 1 of _____.)

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EXHIBIT B



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GOLDSTEIN SWANK & GORDON

Word Mark GOLDSTEIN SWANK & GORDON
Goods and Services IC 035. US 100 101 102. G & S: retail jewelry store services. FIRST USE: 19980221. FIRST USE IN COMMERCE: 19980221
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 78904060
Filing Date June 8, 2006
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition January 9, 2007
Registration Number 3223026
Registration Date March 27, 2007
Owner (REGISTRANT) Hannoush Jewelers, Inc. CORPORATION MASSACHUSETTS 134 Capital Drive West Springfield MASSACHUSETTS 01089
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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ORIGYNAL SWANK

Word Mark	ORIGYNAL SWANK
Goods and Services	IC 025. US 022 039. G & S: clothing, namely, T-shirts and hooded sweatshirts
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77879800
Filing Date	November 24, 2009
Current Filing Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) Mack White DBA Origynal Swank Apparel Company Mack White (U.S. Citizen) SOLE PROPRIETORSHIP TENNESSEE 1819 Brandau Street Knoxville TENNESSEE 37921
Attorney of Record	Michael E. Robinson
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE