

ESTTA Tracking number: **ESTTA508022**

Filing date: **11/29/2012**

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	Eric Kovall		
Entity	Individual	Citizenship	UNITED STATES
Address	14 Allan Drive Maynard, MA 01754 UNITED STATES		

Attorney information	John L. DuPre' Hamilton, Brook, Smith & Reynolds, P.C. 530 Virginia Road, P.O. Box 9133 Concord, MA 01742-9133 UNITED STATES trademarks@hbsr.com,john.dupre@hbsr.com Phone:978-341-0036		
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Applicant Information

Application No	76709590	Publication date	11/06/2012
Opposition Filing Date	11/29/2012	Opposition Period Ends	12/06/2012
Applicant	Sofer, Brian 9100 Vance St. #1035 Westminster, CO 80020 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Clothing, namely, hats, t-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.	85588432	Application Date	04/04/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	I ASS		

Design Mark	
Description of Mark	The mark consists of The word I followed by a drawing of a heart followed by the word ASS.
Goods/Services	Class 016. First use: First Use: 2004/12/10 First Use In Commerce: 2004/12/10 Bumper stickers Class 025. First use: First Use: 2004/12/10 First Use In Commerce: 2004/12/10 T-shirts Class 028. First use: First Use: 2004/12/10 First Use In Commerce: 2004/12/10 Wax for snowboards

Attachments	85588432#TMSN.jpeg (1 page)(bytes) 48350005NoticeOfOpp.pdf (4 pages)(234760 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 L. DuPre/
Name	John L. DuPre'
Date	11/29/2012

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

Eric Kovall,
Opposer,

v.

Brian Sofer,
Applicant.

Opposition No.:

NOTICE OF OPPOSITION

In the matter of an application for registration of the mark, I ASS and design, Serial No. 76/709,590, filed October 31, 2011 by Brian Sofer, 9100 Vance Street, Apartment 1035, Westminster, Colorado 80020, and published for Opposition in the Official Gazette of November 6, 2012.

Eric Kovall, a citizen of the United States with a residence address of 14 Allan Drive, Maynard, Massachusetts 01754, believes that he would be damaged by registration of the mark as sought in the foregoing application and hereby opposes the same.

The grounds of the opposition are as follows:

1. By the application herein opposed, Applicant seeks to register the I ASS and design mark as a trademark for certain goods in Class 25. This Opposition opposes the registration of such mark.

2. Opposer is and has been the owner of all right, title, and interest in the mark I ASS and design for use in connection with bumper stickers, T-shirts and wax for snowboards.

Since the initial use of the I ASS and design mark at least as early as December 10, 2004, Opposer has made broad and substantial use of the mark in connection with the promotion and selling of its goods.

3. The mark I ASS and design was adopted and has been used by Opposer in connection with the advertising, promotion and offering of Opposer's goods in interstate commerce and in connection with Opposer's operations.

4. Opposer's I ASS and design mark is of significant value to Opposer as an identification of source in connection with the promotion and offering of its goods and in connection with its operations. Opposer's I ASS and design mark distinguishes such goods from the goods and services of others.

5. The I ASS and design mark as used by Opposer and the I ASS and design mark as sought to be registered by Applicant are deemed by the Examiner for Opposer's application to be confusingly similar.

6. The goods identified in Applicant's application are deemed by the Examiner for Opposer's application to be related to the goods that Opposer provides under its I ASS and design mark.

7. Granting of the registration for the I ASS and design mark as sought by Applicant, through the application herein opposed, would place Applicant in a position to harass and cause annoyance to Opposer to the damage of Opposer. Such registration would inhibit Opposer in its use and registration of its I ASS and design mark in promoting its goods which would manifest damage upon Opposer. Finally, such registration would constitute *prima facie* evidence of an exclusive right of Applicant to use the I ASS and design mark for the goods identified in its application herein opposed and for all confusingly similar uses, thereby enabling

Applicant to occupy a position in the trade that would further compound confusion on the part of the purchasing public all to the damage of Opposer.

WHEREFORE, Opposer Prays that the application of Serial No. 76/709,590, filed October 31, 2011 for registration of I ASS and design in Class 25, be refused and that this Opposition be sustained.

Respectfully submitted,



John L. DuPré
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Attorneys for Opposer

Dated: November 29, 2012

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION was served upon applicant, Brian Sofer, on this 29 day of November, 2012, by first class mail, postage prepaid, addressed to Brian Sofer, 9100 Vance Street, Apartment 1035, Westminster, Colorado 80021-7020.



John L. DuPré