

ESTTA Tracking number: **ESTTA554450**

Filing date: **08/16/2013**

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	CBS S.A. - Companhia Brasileira de Sandalias
Granted to Date of previous extension	08/18/2013
Address	BR-408, Altura do Km 50, 5, Lotes 9 e 10 Propriedade Pindoba, Bairro Novo Texaco Carpina, Pernambuco, 55810-000 BRAZIL

Attorney information	Samantha Rothaus Gottlieb, Rackman & Reisman, P.C. 270 Madison Avenue New York, NY 10016 UNITED STATES efiling@grr.com, srothaus@grr.com, dmirman@grr.com, dmuller@grr.com Phone:212-684-3900
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**Applicant Information**

Application No	85729957	Publication date	02/19/2013
Opposition Filing Date	08/16/2013	Opposition Period Ends	08/18/2013
Applicant	Third Estate LLC 224 N College Ave Bloomington, IN 47404 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 035. First Use: 2009/03/06 First Use In Commerce: 2009/03/06 Opposed goods and services in the class: On-line retail store services featuring footwear, shoes; Retail store services featuring footwear, shoes
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2832965	Application Date	11/29/2000
Registration Date	04/13/2004	Foreign Priority Date	NONE
Word Mark	DUPE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2000/01/08 First Use In Commerce: 2000/01/08 [ Clothing, namely, shirts, pants, skirts, dresses, shorts, jackets, coats, hats, socks, boots, shoes and ] slippers

U.S. Registration No.	3857495	Application Date	11/12/2008
Registration Date	10/05/2010	Foreign Priority Date	NONE
Word Mark	DUPE'		
Design Mark			
Description of Mark	The mark consists of a stylized form of the word "DUPE".		
Goods/Services	Class 025. First use: First Use: 2007/12/14 First Use In Commerce: 2007/12/14 Slippers		

Attachments	Opposition to Third Estate dba Dope Couture.pdf(473100 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	/Samantha G. Rothaus/
Name	Samantha Rothaus
Date	08/16/2013

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

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COMPANHIA BRASILEIRA DE	:	
SANDALIAS S.A.,	:	
	:	
Opposer,	:	
	:	Opposition No.
v.	:	
	:	Serial No. 85/729,957
THIRD ESTATE LLC d/b/a DOPE	:	
COUTURE,	:	
	:	
Applicant.	:	MARK: DOPE
-----X	:	

**NOTICE OF OPPOSITION**

Opposer Companhia Brasileira de Sandalias, S.A. (hereinafter “CBS”), through its attorneys, believes it is and will continue to be damaged by the registration of the trademark DOPE (“Applicant’s Mark”) of Application Serial No. 85/729,957, filed on behalf of Applicant Third Estate LLC doing business as Dope Couture on September 15, 2012 and hereby opposes the same. As grounds for opposition, it is alleged that:

1. Opposer is a Brazilian corporation with a principal place of business at BR-408, Altura do KM 50,5 lotes 9 e 10, Propriedade Pindoba, Bairro Nova Texaco, Carpina, Pernambuco, Brazil.
2. Opposer has used the trademark DUPE’ (hereinafter, “the Mark”) in the United States in connection with footwear, specifically, flip-flop sandals, since as early as 2000.
3. As a result of Opposer’s extensive marketing and sales of flip-flops under the Mark, the Mark has become well known in the United States.

4. Opposer's continuous and highly publicized use of the Mark for more than a decade has caused the public to associate the Mark with Opposer's footwear.

5. Moreover, Opposer is the owner of two U.S. trademark registrations for the Mark, issued in 2004 and 2010, covering "slippers," colloquially known as "flip-flops" (hereinafter, "Opposer's Goods"), namely, Registration Nos. 2,832,965 and 3,857,495. U.S. Registration No. 2,832,965 alleges a date of first use of January 8, 2000. These registrations, with their respective specimens of use, are attached as Exhibit A.

6. Opposer has expended considerable amounts of time, effort and expense in promoting the Mark, which has become an asset of substantial value and symbolizes the goods offered under the Mark.

7. Upon information and belief, Applicant is an Indiana limited liability company with a principal place of business at 224 North College Avenue, Bloomington, Indiana 47404.

8. On September 15, 2012, Applicant filed a trademark application for DOPE, namely, Application Serial No. 85/729,957, covering on-line and retail store services featuring t-shirts, fleece apparel, headwear, hats, watches, footwear, shoes, jewelry, books, magazines, home goods, electronic accessories, buttons, pins, novelty goods, vintage clothing, backpacks, and bags (hereinafter, "Applicant's Services"). Said application alleges a date of first use of March 6, 2009. A copy of the USPTO trademark database record showing the particulars of said application is attached as Exhibit B.

9. Opposer's use of its Mark predates use of Applicant's Mark by many years.

10. Applicant's Mark is confusingly similar to Opposer's Mark in that the respective marks look confusingly similar and are phonetically similar.

11. Applicant's Services feature "footwear" and "shoes," which are closely related to Opposer's footwear products. Therefore, consumers of Opposer's Goods and Applicant's Services are likely to encounter both trademarks in similar channels of trade.

12. Customers of Opposer are aware of Opposer's Mark and associate the Mark with Opposer's footwear products. Consequently, Opposer's customers, upon encountering the Applicant's Mark, are likely to assume there is an association or affiliation between Opposer and Applicant, when there is no such association or affiliation.

13. Applicant's mark is confusingly similar to Opposer's Mark as to be likely, when used on or in connection with footwear products, to cause confusion, or to cause mistake, or to deceive the industry or the public or both.

14. The industry or the public or both are likely to believe that Applicant or its services are associated, sponsored, or endorsed by Opposer, when in fact that is not the case.

15. Any association or affiliation between Applicant and Opposer that arises as a result of Applicant's Mark is likely to have a disparaging effect on Opposer and the goodwill in the Mark, because of the negative connotations associated with the word "dope."

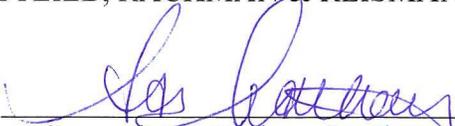
16. At least for the above reasons, Opposer would be damaged if registration of Applicant's Mark were granted.

17. For the foregoing reasons, Opposer requests that registration of application Serial Number 85/729,957 be refused.

Wherefore, Opposer CBS requests that this opposition be sustained.

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN, P.C.

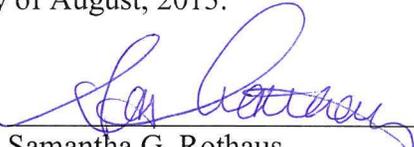
By:   
Samantha G. Rothaus ([srothaus@grr.com](mailto:srothaus@grr.com))  
Donna Mirman ([dmirman@grr.com](mailto:dmirman@grr.com))  
270 Madison Avenue, 8<sup>th</sup> Floor  
New York, New York 10016  
(212) 684-3900 Tel.  
(212) 684-3999 Fax

Dated: August 16, 2013  
New York, New York

Attorneys for Opposer

**CERTIFICATE OF TRANSMITTAL**

I hereby certify that the foregoing Notice of Opposition is being electronically transmitted to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trial and Appeals (ESTTA) this 16<sup>th</sup> day of August, 2013.

  
Samantha G. Rothaus

**CERTIFICATION OF SERVICE**

I hereby certify that a true copy of the foregoing Notice of Opposition was served by first class mail and email on Applicant, by its attorney, as follows:

Evan Anderson, Esq.  
Brand Ventures Intellectual Property Law  
2434 Lincoln Boulevard, Floor 2  
Los Angeles, CA 90291  
[evan@bviplaw.com](mailto:evan@bviplaw.com)

  
Samantha G. Rothaus

Dated: August 16, 2013