

# **BULKY DOCUMENT**

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Proceeding No.	91212231
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Filing Date	3/14/2016
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Part	1	of	1
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<b>91212231</b>
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# **BULKY EXHIBITS**

Proceeding No.	91212231
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Filing Date	3/14/2016
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TITLE : Fabric Samples
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<b>91212231</b>
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

DRAGON BLEU (SARL), and  
VTEC Limited,

Opposer,

v.

VENM, LLC,

Applicant.

Opposition No. 91212231

Application Ser. No. 85/848,528

**APPLICANTS BRIEF IN OPPOSITION TO OPPOSERS MOTION  
FOR SUMMARY JUDGEMENT**

Applicant Venm, LLC respectively submits the following opposition to Opposer VTEC's motion for summary judgment on the grounds that triable issues of material fact do exist as to likelihood of confusion between Applicant and Opposer's marks.

Respectfully submitted,

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**03-14-2016**

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## I. INTRODUCTION

Applicant VENM, LLC (“Applicant”) seeks registration of the mark “VENM” in standard characters for use on dance costumes (Appln. Ser. No. 85/848,528). Presently, products using this mark are available only through Applicant’s website, which can be found at the URL’s [www.venm.com](http://www.venm.com), [www.venmdancewear.com](http://www.venmdancewear.com), and [www.venmecowear.com](http://www.venmecowear.com). Opposer sells a variety of clothing for use in the sport of mixed martial arts under its composite mark “VENUM AND DESIGN.” This composite mark uses a snake head for its design element and a fanciful font for its word element, “VENUM” in which the “N” has its legs extending down to connote the fangs of a snake. Despite the vast differences in the markets served by Applicant and Opposer, and the significant differences between the two marks, Opposer filed an Opposition seeking to prevent the registration of the mark “VENM” for dance costumes. Over the past two years of this proceeding, Opposer has made several disingenuous attempts to settle the opposition and counterclaim which were found to be inapplicable and offensive. Applicant’s settlement requests were equally denied.

Opposer has relied upon, for the basis of its Opposition, three Registrations and one pending application. Having itself faced the challenge of defending its “VENUM AND DESIGN” mark against likelihood of confusion to secure these Registrations, using the same

defenses as Applicant herein, Opposer should be well aware that it is paradoxical to argue that its mark is distinctive as it is restricted to martial arts goods and equipment, and then extend the same mark to oppose what it claims is a similar mark directed to dance costumes. The arguments Opposer makes within the current Motion are in direct contravention of the arguments they made to secure their own registrations. Given the vast differences in the markets served by Applicant and Opposer, and the significant differences between the two marks, Opposer's Motion seeking Summary Judgment is without merit. Accordingly, Summary Judgment should be made in favor of Applicant on Applicant's Application Serial No. 85/848,528.

## **II. STATEMENT OF FACTS**

Opposer is a French company doing business in the United States. It has relied upon, for the basis of its Opposition, three Registrations (Reg. Nos. 3,896,673, 3,927,787, 4,017,907) and one pending application (U.S. Trademark Appln. Ser. No. 79/124,129) On February 2, 2016 Opposer voluntarily surrendered Reg. Nos. 3,896,673 as it was never used in commerce in the United States in association with the goods for which they are registered. All of the asserted registrations and application are directed to the same composite mark; namely, the stylized word "VENUM" underneath an associated design of a snake's head. VENUM is written in a stylized font so that the 'N' depicts a set of fangs to the

viewer. An example of Opposer's mark is set forth below next to Applicant's mark.



VENM

The mark "VENOM," and its derivatives (such as "VENUM" and "VENM") are widely used in a variety of industries, including uses of "VENOM" on apparel, and uses of "VENUM" in areas such as shoes, ski wear, spinal braces, and dance performances. Accordingly, during prosecution, Opposer's attorney was forced to distinguish Opposer's mark "VENUM AND DESIGN" from other similar marks. In particular, during the prosecution of Reg. No. 3927787, which matured from App. Ser. No. 79063381, Opposer's VENUM mark was originally denied registration in class 25 in view of Reg. No. 3,676,523, which was already registered in class 25 for "ski and snowboard wear." In contesting this rejection, Opposer's representative argued that Opposer's use of the "VENUM" mark on martial arts and boxing clothes would not cause confusion with the use of one of many registered "VENOM" marks.

In particular, Opposer's Representative argued the following:

Applicant respectfully submits that Applicant's VENUM (plus design) mark is not likely to cause confusion with the

cited registration for VENOM (Reg No. 3,676,523) because both marks are specifically and narrowly directed to clothing used in connection with the entirely unrelated sports of skiing and martial arts respectively, especially when cited mark coexists with a number of registered VENOM- formative marks for other sporting goods. Trademark Ser. No. 79063381, Request for Reconsideration after Final Action, at 2, attached to First Amended Answer as Exh. A (hereinafter Exh. A).

As amended, Applicant's goods are limited to clothing used in connection with a particular sport, namely martial arts. Exh. A at 2

These arguments were made by Opposer's Representative to convince the Examining Attorney to overcome a refusal to register VENUM AND DESIGN on October 22, 2010. All of the other registrations and the application asserted by Opposer are directed to exactly the same mark, and all were either registered after the above arguments were made, or are still pending. See Ser. Nos. 79063381, 79090846, 79124129, and 79975084.

Applicant VENM is a small Kansas, LLC that sells dance costumes under its "VENM" mark by way of its website, [www.venm.com](http://www.venm.com). All of Applicant's products are eco-friendly and directed to eco-conscious consumers interested in various styles of dance. Applicant filed to register its mark on February 13, 2013, and it was approved for publication in the principal register on May 31, 2013. The notice of publication was mailed

on July 10, 2013, and the mark was published for opposition on July 30, 2013.

### **III. ARGUMENT**

#### **A. The Summary Judgment Standard**

Summary judgment is only appropriate where there are no genuine issues of material fact in dispute, thus leaving the case to be resolved as a matter of law. *See* Fed. R. Civ. P. 56(c). The Board does not resolve issues of fact on summary judgment; it only determines whether a genuine issue exists. *Meyers v. Brooks Shoe Inc.*, 912 F.2d 1459, 1461, 16 U.S.P.Q.2d 1055, 1056 (Fed. Cir. 1990), *overruled on other grounds by A.C. Aukerman Co. v. R.L. Chaides Constr. Co.*, 960 F.2d 1020, 1038-39, 22 U.S.P.Q.2d 1321, 1333 (Fed. Cir. 1992).

Opposer, as the party moving for summary judgment, has the burden of demonstrating the absence of any genuine issue of material fact. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 322-37 (1986). To prevail on its motion, Opposer must establish that there is no genuine issue of fact regarding the issues at hand by clear and convincing evidence. *See H. Marvin Ginn Corp. v. Int'l Ass'n of Fire Chiefs, Inc.*, 782 F.2d 987, 989-90, 228 U.S.P.Q. 528, 530 (Fed. Cir. 1986).

For its part, in order to have the opportunity to submit proofs at trial, Applicant need only show that, on the evidence of record, a reasonable fact finder could resolve the matter in its favor. *See Opryland*

*USA Inc. v. Great Am. Music Show Inc.*, 970 F.2d 847, 850, 23 U.S.P.Q.2d 1471, 1472-73 (Fed. Cir. 1992); *Olde Tyme Foods Inc. v. Roundy's Inc.*, 961 F.2d 200, 202, 22 U.S.P.Q.2d 1542, 1544 (Fed. Cir. 1992); *see also Visa Int'l Serv. Ass'n v. Life-Code Sys., Inc.*, 220 U.S.P.Q. 740, 742 (T.T.A.B. 1983) (on a summary judgment motion, “nonmoving party is not required to adduce evidence sufficient to prove its case . . . ”; it need only show “that there is a genuine issue as to a material fact and that, therefore, there is a need for a trial”).

**B. Summary Judgment Should Be Granted in Favor of Applicant and Registration for Applicant's Trademark Application Serial Number 85/848,528 Issued to Applicant**

There are genuine issues of material fact in dispute regarding likelihood of confusion between Applicant and Opposer's Marks, and uncontroverted evidence is not on record to entitle Summary Judgment. In pursuing summary judgment, movants must rely on uncontroverted evidence in the record to prevail. *Hoganas AB v. Konica Minolta Printing Solutions USA, Inc.* Opposition No. 91168421, 2006 WL 3825182 (TTAB December 18, 2006).

**1. Opposer is not Entitled to Summary Judgment on the Issue of Priority**

Opposer argues priority in the VENUM AND DESIGN Mark based on Registration No. 3,927,787 in International Class 25. To prevail Opposer must establish “that [its] term is distinctive of [its] goods, whether inherently or through the acquisition of secondary meaning or

through ‘whatever other type of use may have developed a trade identity.’” *Towers v. Advent Software Inc.*, 913 F.2d 942, 16 USPQ2d 1039, 1041 (Fed. Cir. 1990), citing, *Otto Roth & Co. v. Universal Food Corp.*, 209 USPQ at 43. For example, "coined" marks, such as XEROX or KODAK are considered the strongest marks and are accorded the highest degree of trademark protection. *Landers, Frary and Clark v. Universal Cooler Corp.*, 85 F.2d 46 (2d Cir.1936). EXXON is another example of a strong trademark. *Exxon Corp. v. Texas Motor Exchange of Houston, Inc.*, 628 F.2d 500 (C.A.5 (Tex.), 1980). The term “VENUM” as derived from “VENOM” is not distinctive as to any particular good or service as it is widely used in reference to an extensive variety of goods and services. *See* Exh. A, collecting registered and unregistered uses of VENOM.

Common use of the term “VENUM” and its derivatives by third parties in the sporting industry is probative that the mark is conceptually weak. *See Moose Creek, Inc. v. Abercrombie & Fitch Co.*, 331 F.Supp. 2d 1214, 73 U.S.P.Q.2d 1287 (C.D. Cal. 2004), *aff’d*, 114 Fed. Appx. 921 (9<sup>th</sup> Cir. 2004). This is sometimes referred to as the crowded field doctrine. *See In re Unidos Financial Services, Inc.* Serial No. 77126814 [not precedential], where it was held that 25 third-party registrations for trademarks having the term “united” as an element for financial services was conclusive evidence the element is a weak formative.

The Opposer's mark cannot be accorded the deference due a strong, inherently distinctive and/or arbitrary mark, because it is not strong, inherently distinctive or arbitrary. The mark "VENUM" is not distinctive as numerous others make use of confusingly similar marks (at least as Opposer has asserted its mark). For example, the mark "VENUM" is used by Optee USA on spinal braces for medical use. See Se. No. 85535608. Reg. No. 4314403. Similarly, the mark "VENUM" is used by Jamie Burgos to denote dance performances. See Ser. No. 78927571. Reg. No. 3295728. In addition, there are numerous uses of the similar term "VENOM," such as by UnderArmor on shoes, by Venomwear on clothing, and again on clothing by a clothing store in Memphis, Tennessee. There are also VENOM baseball bats (Reg. No. 2,969,824), VENOM billiard cues (Reg. No. 3,577,338), and VENOM rifle scopes (Reg. No. 3,858,110). *See* Exh. A.

## **2. Opposer is not Entitled to Summary Judgment on the Issue Likelihood of Confusion**

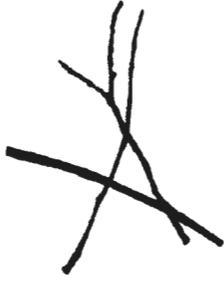
There are genuine issues of material fact in dispute regarding likelihood of confusion between Applicant and Opposer's Marks. Issues of material fact exist in regard to the three "*duPont* factors" brought forth by the Opposer which are specifically (i) the similarity or dissimilarity of the marks in their entirety as to appearance, sound, connotation, and commercial impression; (ii) the similarity or dissimilarity and nature of

the goods offered under the relevant marks; and (iii) the similarity or dissimilarity of trade channels. Summary Judgment based off these factors is not entitled.

**a. The Marks are Sufficiently Distinct to Avoid Confusion in the Marketplace**

Opposer argues that similarity between Applicant's Mark and Opposer's MARK AND DESIGN, in appearance, sound, connotation, and commercial impression is a "predominant inquiry," and that the literal portion of their mark is dominant. While it is often true that the words in a composite word and design mark are considered to be dominant, that is not always the case. In *Viterra*, the Federal Circuit acknowledged this general rule while affirming a Board decision that

found the dominant portion of the registered mark  was the literal portion (XSEED) rather than the stylized letter "X" alone, *see* 101 USPQ2d at 1911; but it also found no inconsistency between the Board's *Viterra* decision and its earlier decision in *In re White Rock Distilleries, Inc.*, 92 USPQ2d 1282, 1284 (TTAB 2009), wherein the Board found no likelihood of confusion between applicant's standard character mark VOLTA for caffeine-infused vodka and the cited mark (shown below) for wines, due to the prominent design in the registered mark:



**TERZA**  
VOLTA

*See also Ferro Corp. v. Ronco Labs., Inc.*, 356 F.2d 122, 124, 148 USPQ 497, 498-99 (CCPA 1966) (confusion was unlikely between applicant's

mark  and several marks owned by opposer consisting of or containing FERRO, due to the dominance of the design elements of applicant's mark and the relatively small typeface in which FERRO appeared); *accord Parfums de Coeur Ltd. v. Lazarus*, 83 USPQ2d 1012 (TTAB 2007) (prominently displayed design considered to be dominant



element of the mark because it catches the eye and engages the viewer before the viewer looks at the word "Bodyman"); *Steve's Ice Cream v. Steve's Famous Hot Dogs*, 3 USPQ2d 1477, 1478-79 (TTAB



1987) (no likelihood of confusion between  for restaurant services and STEVE'S for ice cream; "Even with the word 'STEVE'S'

appearing above the hot dog figures, applicant's mark is distinguishable from the registered mark of opposer, which is simply the word 'STEVE'S' in block letter form.").

For the reasons discussed above, it is clear that the overall commercial impression of Opposer's MARK AND DESIGN is heavily dominated by its design features, particularly the featured snake head, and that this weighs heavily against a conclusion that confusion is likely.

In addition, the literal portion of Opposer's MARK AND DESIGN is inseparable to the snake head design portion because they are both consistently visible on their respective International Class 25 items, and when viewed together, make a strong commercial impression. The literal term "VENUM" which, "consists of a fanciful spelling of the term 'venom' by replacing the letter 'o' with the letter 'u'," Motion, p.10, is written in a stylized font underneath the snake head so that the 'N' depicts a set of fangs to the viewer. When the Opposer's MARK AND DESIGN is viewed in its entirety, a strong conclusion is made that "VENUM" refers to the venom of a snake specifically, opposed to any other animal. <sup>[1]</sup>

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<sup>1</sup> "Venom" is defined as "The poisonous matter which certain animals, such as serpents, scorpions, bees, etc., secrete and communicate by biting or stinging." Webster's Collegiate Dictionary (5th ed. 1946). The Board may take judicial notice of dictionary definitions. *University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co., Inc.*, 213 USPQ 594 (TTAB 1982), *aff'd*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983).

Opposer uses their MARK AND DESIGN to “connote the concepts of danger, deadliness, or power; concepts that are favorable for creating a brand image that is tough, extreme, edgy, or hardcore,” and defends these concepts as the core of their branding efforts and commercial impression. Motion, p.10. The commercial impression of Applicant’s Mark differs vastly in that it is in block letter form and has no visual or implied association with the venom of a snake, nor connotes deadliness or danger. Applicant seeks registration for the mark “VENM” which plays off the widely used environmental acronym VENM or Virgin Excavated Natural Material. The Protection of the Environment Operations Act 1997 (POEO Act) defines VENM as “natural material (such as clay, gravel, sand, soil or rock fines): (a) that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues, as a result of industrial, commercial, mining or agricultural activities, and (b) that does not contain any sulfidic ores or soils or any other waste.” *See* Exh. B, excerpted from the POEO Act. As an Environmental Scientist by profession, Applicant has managed environmental projects in the United States and Australia, and specifically selected the VENM Mark based on its environmental elements. VENM connotes a brand that is clean, pure, and eco-friendly, and uses dance fabric made from recycled plastic and other sustainable finishings and packaging.

Applicant's Mark and Opposer's MARK AND DESIGN are vastly different in appearance, sound, connotation, and commercial impression such that persons who encounter the marks would be very unlikely to assume a connection between the parties. The ultimate conclusion rests on consideration of the marks in their entireties, *In re Nat'l Data Corp.*, 753 F.2d 1056, 1058, 224 USPQ 749, 750-51 (Fed. Cir. 1985), and analysis cannot be predicated on dissection of the involved marks. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 110 USPQ2d 1157, 1161 (Fed. Cir. 2014); *Franklin Mint Corp. v. Master Mfg. Co.*, 667 F.2d 1005, 212 USPQ 233, 234 (CCPA 1981) ("It is axiomatic that a mark should not be dissected and considered piecemeal; rather, it must be considered as a whole in determining likelihood of confusion.")

**b. The Goods are Sufficiently Distinct to Avoid Confusion in the Marketplace**

Opposer argues that a "viable relationship" exists between Applicant's goods and Opposer's goods by stretching the use of its mark "VENUM," restricted exclusively to martial arts related products, to cover Applicant's mark "VENM," which seeks registration in International Class 25 for "dance costumes." Opposer offers no evidence of expanded recognition of its mark on goods used other than for the sole purpose of martial arts, rather, the hypothetical possibility that the Applicant may

mimic and sell side by side a highly traditional “capoeira” specific uniform, described to incorporate elements of dance and acrobatics. Although the niche martial art form of capoeira may incorporate elements of dance and acrobatics, the uniform is exclusively used in a martial arts setting where the essential characteristics remain that of combat and self-defense.<sup>[2]</sup> Without sufficient evidence that Applicant’s goods in the cited registration are related, it is well established that the board must not be concerned with mere “theoretical possibilities” of likelihood of confusion. *In re Shell Oil Co.*, 992 F.2d 1204, 26 USPQ2d 1687, 1692 (Fed. Cir. 1993); *Edwards Lifesciences Corp. v. VigiLanz Corp.*, 94 USPQ2d 1399 (T.T.A.B. 2010). Evaluation must be based on the goods as they are identified in the cited registration and application, regardless of what the record may reveal as to the particular nature of the Applicant’s goods. *See Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 110 USPQ2d 1157, 1161 (Fed. Cir. 2014); *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 62 USPQ2d 1001 (Fed. Cir. 2002); *Octocom Systems, Inc. v. Houston Computers Services Inc.*, 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990).

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<sup>2</sup> The term “Dance” is defined as “a series of movements that match the speed and rhythm of a piece of music.” The term “Martial Arts” is defined as “various sports or skills, mainly of Japanese origin, that originated as forms of self-defense or attack, such as judo, karate, and kendo.” The New Oxford American Dictionary (2nd ed. 2005).

Applicant's goods are limited to clothing used in connection with a particular sport, namely dance. Likewise, Opposer's goods are narrowly constrained to clothing used in connection with the entirely different sport of martial arts. Therefore, the possibility of confusion as to the source of a child's ballet costume or karate kimono, an example concerning Opposer, is highly unlikely. Average consumers do not ordinarily associate these sports with one another, and indeed would not expect that a company offering a line of dance clothing, including ballet, would also be selling martial arts kimonos or vice versa.

Furthermore, products which perform different functions, even if used next to each other or together, are not necessarily in competition such that confusion is likely. *Life Technologies, Inc. v. Gibbco Scientific, Inc.*, 826 F.2d 775, 776 (8<sup>th</sup> Cir. 1987) (No confusion between GIBCO for micro-biological and tissue culture products and GIBBCO for blood chemistry analyzers). The differences between the sports of dance and martial arts translate into significant differences in the purpose and function of the actual goods in question. Dance is a form of self-expression in which rhythmic movement is determined by a specific style of music.<sup>[2]</sup> The purpose of dance clothing is to showcase the wearer's artistic nature through unique patterns and prints, while functioning to adhere and accentuate the body's shape and form. *See* Exh. C. In contrast, martial arts is a form of fighting and self-defense in which movements

are combative and undetermined by musical factors.<sup>[2]</sup> The purpose and function of martial arts clothing is to protect the wearer from their opponent, and survive the wear and tear inherent of the sport. Given these different purposes and functions, there is no risk that a consumer would accidentally select Applicant's goods believing them appropriate for judo match, or select Opposer's goods believing them appropriate for a Jazzercise class.

Moreover, the sports of dance and martial arts appeal to entirely different sets of interests, and thus the markets and audiences for the goods associated therewith are entirely distinct. The market for dance for example, are individuals interested in self-expression, creativity, art, and conveying emotion through rhythm and music. None of those interests, however, overlap with the interests served by the martial arts, which as described directly by the Opposer, "speak to an enjoyment of physical confrontation, and mastering the techniques of defeating an opponent in hand-to-hand combat." Exh. D, at 3.

Because of the different interests served by the dance and martial arts industries, average consumers do not associate these sports with one another, and thus would not expect a common source of origin even were they to encounter a similar trademark.<sup>[3]</sup> Moreover, the line of cases cited by Opposer, specifically *Cambridge Rubber Co. v. Cluett, Peabody & Co.*, 286 F.2d 623, 128 U.S.P.Q. 549 (C.C.P.A.1961); *Cook United, Inc.*,

185 U.S.P.Q. 444 (T.T.A.B. 1975); *Esquire Sportswear Mfg. Co. v. Genesco Inc.*, 114 U.S.P.Q. 400 (T.T.A.B. 1964); and *Leisure Craft Indus., Inc.*, Ser. No. 85384900, 2014 WL 1246730 (T.T.A.B. Mar. 12, 2014) are not applicable, as none of these cases involve specialty clothing intended for use with a particular sport. Each of these cases involve general, everyday clothing items such as shoes, shirts, pants, and underwear, which are found related regardless of whether they are marketed to men, women, or children. This holding makes sense in the context of everyday clothing items, where the general industry practice is for one company to offer lines of clothing for men, women, and children. The same logic, however, cannot be extended to specialty clothing, where there is no common industry practice to serve both the dance and martial arts markets. Indeed extending this line of cases to cover dance and martial arts clothing is tantamount to holding that every good in International Class 25 is related to every other good in the class, which would stretch the reasoning of the cases well past its breaking point.

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<sup>3</sup> Opposer argues evidence that a number of third-party marks are registered for use in connection with the same or similar goods as those of Applicant and Opposer in this case and show that kimonos and sport shoes, as identified in Opposer's VENUM registrations, and Applicant's dance costumes are of a type that may emanate from a single source. Most all of the third-party registrations submitted by Opposer are for marks which cover an endless variety of goods, including a range of sports e.g., Registration No. 4272359 for DEAD DEADLABEL for goods ranging from ski and snowboard wear to golf wear to party hats, to football bibs to wetsuits. Also, Registration No. 4155014 for DARE TO

DEFY for goods ranging from ski and snowboard shoes to miniskirts to trench coats to eyeshades to maternity bands. These registrations have little value in demonstrating that consumers would regard all the goods listed therein as being related. Moreover, third-party registrations are not evidence that the marks shown therein are in commercial use, or that the public is familiar with them. Further evidence must be presented to demonstrate this fact. For example, testimony or declarations showing that through telephone contact it was verified that a number of the marks in the registrations or in the website evidence are in fact in use for the goods or services indicated. See *Anthony's Pizza & Pasta Int'l Inc. v. Anthony's Pizza Holding Co.*, 95 1271 USPQ2d (TTAB 2009), aff'd 415 Fed. Appx. 222 (Fed. Circ. 2010).

During prosecution of Reg. No. 3927787, Opposer sought registration of the mark "VENUM" in International Class 25. The registration was initially rejected by an Office Action dated April 22, 2010 as likely causing confusion with Reg. No. 3,676,523, which is directed to the mark "VENOM" for the use in connection with "Ski and snowboard wear, namely jackets, sweaters, fleece pants, shirts, t-shirts, gloves, hats, caps, hoods, mittens, sweatshirts, waterproof and water repellant jackets and pants" in International Class 25.

In Opposer's response, filed on October 22, 2010, attached hereto as Exh. D, Opposer argued that "both marks are specifically and narrowly directed to clothing used in connection with the entirely unrelated sports of skiing and martial arts respectively [...]" Opposer then went on to admit that "cited mark coexists with a number of registered VENOM-formative marks for other sporting goods [...]" Exh. D, at 3, and that "the VENOM mark itself is widely used in the sporting goods industry,

and is registered by different parties in connection with the sports of baseball, cycling, billiards, and sport shooting.” Exh. D, at 3.

Opposer goes on to admit that marital arts goods are not likely to be confused with any other type of sporting goods by consumers in the marketplace. In particular, Opposer argues that “[s]port is a very broad category that encompasses many different types of activities that speak to widely varied interests [...]” Exh. D, at 4, and that the traditional likelihood of confusion analysis simply does not apply to different types of specialty markets. Exh. D, at 5.

Based on these admissions and the discussion above, it is clear that the Applicant’s goods and the Opposer’s goods are sufficiently distinct to avoid confusion in the marketplace.

**c. The Differing Channels of Trade Also Make Confusion Unlikely**

In addition to the differences between the goods themselves, Applicant’s goods do not generally travel through the same channels of trade as martial arts clothing, thus making confusion even more unlikely. In a statement made to secure the registration of its mark, Opposer argues that martial arts goods are most commonly sold through specialty retailers. For example, Opposer argued that “[martial arts] goods are most commonly sold through specialized stores which cater exclusively to the fight sports and marital arts markets” Exh. D, at 5 (emphasis added).

These stores do not offer dance clothing and are not likely to be encountered by consumers seeking out dance clothing. Thus, most consumers who encounter the Opposer's mark will do so at these specialty stores where confusion is highly unlikely. Opposer now attempts to assert its mark to cover dance costumes, in a direct contravention of the argument made to secure registration of its mark, by staking claim to nearly every conceivable channel of trade. Opposer should not be allowed to argue that its mark is distinctive as it is restricted to an exclusive channel of trade for fight sports and martial arts markets, and then use the same mark to oppose what it claims is a similar channel of trade directed to dance costumes.

Moreover, in the theoretical event that Applicant and Opposer's goods may both be available at the department store-like sporting goods stores, such as Sports Authority or Dicks Sporting Goods, they will be in different departments, and thus are unlikely to be encountered by the same consumers. *See Recot Inc. v. M.C. Becton*, 214 F.3d 1322, 1330 (Fed. Cir. 2000) ("the law is that products should not be deemed related simply because they are sold in the same kind of establishments" such as a supermarket or department store). Also, consumers at these stores are readily able to distinguish between VENOM marks in different departments, as they will very likely also encounter VENOM baseball bats (Reg. No. 2,969,824), VENOM billiard cues (Reg. No. 3,577,338),

and VENOM rifle scopes (Reg. No. 3,858,110), amongst other VENOM formative goods. *See* Ex. A

#### **IV. CONCLUSION**

Given the vast differences in the markets served by Applicant and Opposer, and the significant differences between the two marks, Opposer's Motion seeking Summary Judgment is without merit. Accordingly, Summary Judgment should be made in favor of Applicant on Applicant's Application Serial No. 85/848,528. The evidence should be viewed in a light most favorable to Applicant as the non-movant, and all justifiable inferences should be drawn in Applicant's favor. *See Lloyd's Food Prods. Inc. v. Eli's Inc.*, 987 F.2d 766, 767, 25 U.S.P.Q.2d 2027, 2029 (Fed. Cir. 1993); *Opryland USA Inc. v. Great Am. Music Show Inc.*, 970 F.2d 850, 23 U.S.P.Q.2d 1471, 1472 (Fed. Cir. 1992)

“No mechanical rule determines likelihood of confusion, and each case requires weighing of the facts and circumstances of the particular mark,” *Mighty Leaf*, 94 U.S.P.Q. 2d 1259 (Fed.Cir.2010), and any single “*duPont*” factor may outweigh the other factors in favor of the non-movant. *Kellogg Co. v. Pack'em Enterprises Inc.*, 951 F.2d 330, 21 USPQ2d 1142, 1145 (Fed. Cir. 1991) (“We know of no reason why, in a particular case, a single du Pont factor may not be dispositive”).

Respectfully Submitted,

VENM, LLC

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/s/ Holly Moore

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Phone: 630-352-9719

Dated: March 11, 2016

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing OPPOSITION of MOTION FOR SUMMARY JUDGEMENT, and all exhibits thereto, was served on Opposer's counsel by mailing said copy on March 11 2016 via First Class Mail, by prior agreement of the parties, to:

Aaron Y. Silverstein  
SAUNDERS & SILVERSTEIN LLP  
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E: asilverstein@massiplaw.com

/s/ Holly Moore  
Holly Moore

Exhibit A

Proceeding Number 91212231  
Dragon Bleu (SARL) and  
VTEC Limited

v

VENM, LLC  
Offered by VENM, LLC



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2	86050687		VENOM OUTDOOR.COM	TSDR	LIVE
3	86011630		VENOM	TSDR	LIVE
4	86010666		VENOM	TSDR	LIVE
5	86008738		VENOM LIFT	TSDR	LIVE
6	85742835		MUSCLE VENOM	TSDR	LIVE
7	85952690		VENOM	TSDR	LIVE
8	85809997		VENOM	TSDR	LIVE
9	85897638		VENOM	TSDR	LIVE
10	85931715		VENOM	TSDR	LIVE
11	85902917	4392397	VENOM	TSDR	LIVE
12	85902609	4392396	VENOM STEEL	TSDR	LIVE
13	85527287		VENOM	TSDR	LIVE
14	85906550		BLACKVENOM PRODUCTS	TSDR	LIVE
15	85714670	4371133	RODIAL BEE VENOM	TSDR	LIVE
16	85789658	4368241	VENOM TACTICAL	TSDR	LIVE
17	85696163		MERCHANT OF VENOM	TSDR	LIVE
18	85489798	4354817	VIPER VENOM	TSDR	LIVE
19	85329461	4356154	VENOM 1000 TWIN TURBO	TSDR	LIVE
20	85849126		LEMON VENOM	TSDR	LIVE
21	85904927		HYPERVERNOM	TSDR	LIVE
22	85535608	4314403	VENUM	TSDR	LIVE

23	85581072		SUPER VENOM	TSDR	LIVE
24	85362406	4121033	VENOM DATA	TSDR	LIVE
25	85620443		VENOM CHOPPERS	TSDR	LIVE
26	85493611	4183313	VINNY VENOM	TSDR	LIVE
27	85450835	4160703	VENOM	TSDR	LIVE
28	85636028		VENOM	TSDR	LIVE
29	85264233	4134124	VENOM INDUSTRIES, LLC WWW.VENOMINDUSTRIES.US	TSDR	LIVE
30	85281475	4045206	VENOM	TSDR	LIVE
31	85081392	4003775	VENOM	TSDR	LIVE
32	79090846	4017907	VENUM	TSDR	LIVE
33	79975084	3896673	VENUM	TSDR	LIVE
34	79063381	3927787	VENUM	TSDR	LIVE
35	78934934	3233490	SPYDER VENOM	TSDR	LIVE
36	78934908	3676523	VENOM	TSDR	LIVE
37	78693005	3295058	VENOM SST	TSDR	LIVE
38	78948240	3272350	S VENOM	TSDR	LIVE
39	78952660	3905822	VENOM	TSDR	LIVE
40	78865173	3227470	VENOM LIVE	TSDR	LIVE
41	78595625	3066058	VENOM POWER	TSDR	LIVE
42	78963426	3405576	VENOM-X	TSDR	LIVE
43	78743891	3299491	VENOM	TSDR	LIVE
44	78713814	3274379	VENEM	TSDR	LIVE
45	78241340	2969824	VENOM	TSDR	LIVE
46	78185027	2978387	VENOM	TSDR	LIVE
47	78346022	2917378	VENOM FLASH	TSDR	LIVE
48	78346021	2917377	VENOM GLOSS	TSDR	LIVE
49	78308032	3016188	VENOM	TSDR	LIVE
50	78301080	2950242	VENOM	TSDR	LIVE

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51	78223174	2887768	VENOM	TSDR	LIVE
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53	77886107	3868624	VENOM	TSDR	LIVE
54	77786207	3742477	VENOM BITE	TSDR	LIVE
55	77630369	3998588	VENOM GT	TSDR	LIVE
56	77630364	3998587	VENOM GT	TSDR	LIVE
57	77630353	3998585	VENOM GT	TSDR	LIVE
58	77752168	4045855	VENOM	TSDR	LIVE
59	77956478	3949046	VENOM VIXEN V V	TSDR	LIVE
60	77938691	3856223	VIPER VENOM FUELS	TSDR	LIVE
61	77839565	3858110	VENOM	TSDR	LIVE
62	77696434	3797145	INVICTA VENOM	TSDR	LIVE
63	77690159	3762404	VENOM LACROSSE	TSDR	LIVE
64	77509696	3786627	VENOM VODKA	TSDR	LIVE
65	77290965	3562141	INNOVENOM	TSDR	LIVE
66	77340803	3795390	VENOM	TSDR	LIVE
67	77480461	3951214	VENOM	TSDR	LIVE
68	77472329	3553718	VENOM	TSDR	LIVE
69	77424960	3608291	VENENO MUSICAL	TSDR	LIVE
70	77316517	3475399	VENOMGIRLS	TSDR	LIVE
71	77313774	3453287	VENOMGIRLS.COM	TSDR	LIVE
72	77289738	3577338	VENOM	TSDR	LIVE
73	77274013	3613212	VINUM	TSDR	LIVE

74	76408050	3298425	VELENO	TSDR	LIVE
75	76714859		SIMPLY VENOM	TSDR	LIVE
76	76403294	2894158	VELENO	TSDR	LIVE
77	76557789	3248777	VENOM RACING	TSDR	LIVE
78	76314961	2829005	VENOM PALE ALE	TSDR	LIVE
79	76206615	2592852	VENOM	TSDR	LIVE
80	76497440	2949108	VENOM FIREWORKS VENOMFIREWORKS.COM	TSDR	LIVE
81	76672389	3543977	VENOM	TSDR	LIVE
82	75923302	2528428	LIP VENOM	TSDR	LIVE
83	75763623	2404885	VENOM	TSDR	LIVE
84	75511132	2414998	VENOM	TSDR	LIVE
85	75123093	2117538	VENOM	TSDR	LIVE
86	74315335	1846272	VENOM	TSDR	LIVE
87	74268250	1844354	VENOM	TSDR	LIVE
88	73655980	1466301	SUPER VENOM	TSDR	LIVE

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# VENUM ENTERTAINMENT

<b>Word Mark</b>	VENUM ENTERTAINMENT
<b>Goods and Services</b>	IC 041. US 100 101 107. G & S: Entertainment in the nature of dance performances. FIRST USE: 20060720. FIRST USE IN COMMERCE: 20060720
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	78927571
<b>Filing Date</b>	July 12, 2006
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	February 27, 2007
<b>Registration Number</b>	3295728
<b>Registration Date</b>	September 18, 2007
<b>Owner</b>	(REGISTRANT) Burgos, Jaime III INDIVIDUAL UNITED STATES Apt. 9 14322 Valerio Street Van Nuys CALIFORNIA 91405
<b>Attorney of Record</b>	Mark G Falkin

10/6/13

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**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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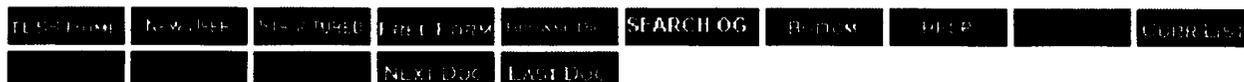


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# VENUM

**Word Mark** VENUM

**Goods and Services** IC 010. US 026 039 044. G & S: spinal braces for medical use. FIRST USE: 20121008. FIRST USE IN COMMERCE: 20121008

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 85535608

**Filing Date** February 7, 2012

**Current Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** July 17, 2012

**Registration Number** 4314403

**Registration Date** April 2, 2013

**Owner** (REGISTRANT) OPTEC USA, INC. CORPORATION GEORGIA 975 Progress Circle Lawrenceville GEORGIA 30043

**Attorney of Record** Arthur A. Gardner

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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#### Word Mark HYPERVENOM

**Goods and Services** IC 018. US 001 002 003 022 041. G & S: Bags, namely, all purpose sports bags, tote bags, duffle bags, messenger bags, backpacks, purses, umbrellas, luggage, wallets, key fobs, portfolios, cosmetic and toiletry cases

IC 025. US 022 039. G & S: Clothing, footwear and headwear

IC 028. US 022 023 038 050. G & S: Sports equipment, namely soccer balls, shin guards, protective padding for playing soccer, bags specially adapted for carrying sports equipment and sports balls

**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Serial Number** 85904927

**Filing Date** April 15, 2013

**Current Basis** 1B

**Original Filing Basis** 1B

**Owner** (APPLICANT) Nike, Inc. CORPORATION OREGON One Bowerman Drive DF-4 Beaverton OREGON 97005

**Attorney of**

10/6/13

Trademark Electronic Search System (TESS)

**Record** Jaime M. Lemons

**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of HYPERVENOM in a stylized format.

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# MUSCLE VENOM

<b>Word Mark</b>	MUSCLE VENOM
<b>Goods and Services</b>	IC 005. US 006 018 044 046 051 052. G & S: Dietary supplements IC 025. US 022 039. G & S: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85742835
<b>Filing Date</b>	October 1, 2012
<b>Current Basis</b>	1B
<b>Original Filing Basis</b>	1A;1B
<b>Owner</b>	(APPLICANT) Promera Health, LLC LIMITED LIABILITY COMPANY MASSACHUSETTS 61 Accord Park Drive Norwell MASSACHUSETTS 02061
<b>Attorney of Record</b>	Scott D. Woldow
<b>Disclaimer</b>	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "MUSCLE" APART FROM THE MARK AS SHOWN
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL

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**TSDR** **ASSIGN Status** **TTAB Status** ( Use the "Back" button of the Internet Browser to return to TESS)

# SPYDER VENOM

**Word Mark** SPYDER VENOM

**Goods and Services** IC 025. US 022 039. G & S: Ski and snowboard wear, jackets, pants, insulated jackets, insulated pants, one piece insulated suits, fleece tops, fleece jackets, sweaters, fleece pants, shirts, t-shirts, gloves, hats, caps, hoods, mittens, sweatshirts, waterproof and water repellent jackets and pants. FIRST USE: 20060500. FIRST USE IN COMMERCE: 20060701

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 78934934

**Filing Date** July 21, 2006

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for** February 6, 2007

**Opposition**

**Registration**

10/6/13

Trademark Electronic Search System (TESS)

**Number** 3233490

**Registration Date** April 24, 2007

**Owner** (REGISTRANT) Spyder Active Sports, Inc. CORPORATION COLORADO 4725 Walnut Street Boulder COLORADO 80301

**Attorney of Record** Terri DiPaolo

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# SUPER VENOM

**Word Mark** SUPER VENOM

**Goods and Services** IC 025. US 022 039. G & S: Clothing, namely, caps; Dress shirts; Golf shirts; Jackets; Long-sleeved shirts; Polo shirts; Shirts; Sweat shirts, T-shirts, Tops

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 85581072

**Filing Date** March 27, 2012

**Current Basis** 1B

**Original Filing Basis** 1B

**Published for Opposition** March 26, 2013

**Owner** (APPLICANT) HPE Design, LLC LIMITED LIABILITY COMPANY TEXAS 9281 SW I10 Frontage Rd Sealy TEXAS 77474

**Attorney of Record** Benjamin Ashurov

**Prior Registrations** 3998585;3998587;3998588

**Type of Mark** TRADEMARK

10/8/13

Trademark Electronic Search System (TESS)

**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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TESS HOME	NEW USER	REGISTER	FILE CLAIM	RENEWAL	SEARCH LOG	TOP	HELP	CURR LIST
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## Trademarks > Trademark Electronic Search System (TESS)

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[ISDR](#) [ASSIGN Status](#) [TTAB Status](#) ( Use the "Back" button of the Internet Browser to return to TESS)

# VENOM

### Word Mark VENOM

**Goods and Services** IC 025. US 022 039. G & S: Ski and snowboard wear, namely, jackets, pants, insulated jackets, insulated pants, one piece insulated suits, fleece tops, fleece jackets, sweaters, fleece pants, shirts, t-shirts, gloves, hats, caps, hoods, mittens, sweatshirts, waterproof and water repellent jackets and pants. FIRST USE: 19990600. FIRST USE IN COMMERCE: 19990800

### Standard Characters Claimed

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 78934908

**Filing Date** July 21, 2006

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for** June 16, 2009

**Opposition Registration**

10/8/13

Trademark Electronic Search System (TESS)

**Number** 3676523

**Registration Date** September 1, 2009

**Owner** (REGISTRANT) Spyder Active Sports, Inc. CORPORATION COLORADO 4725 Walnut Street Boulder COLORADO 80301

**Attorney of Record** Terri DiPaolo

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

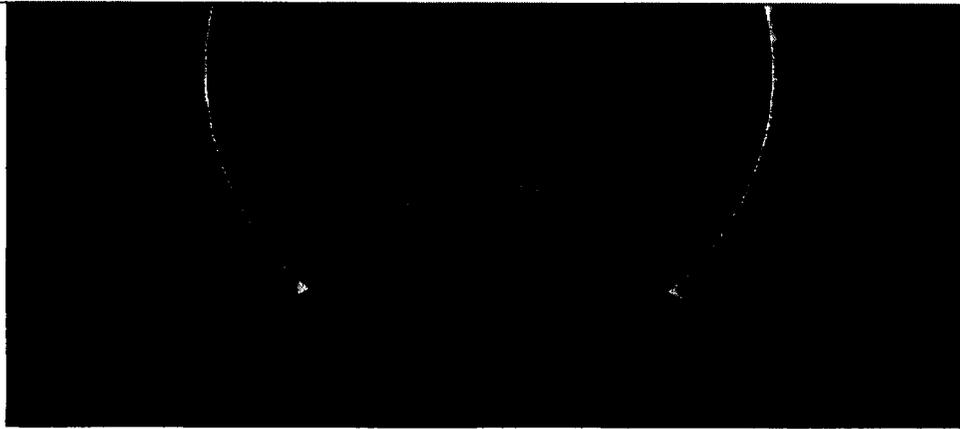
**Live/Dead Indicator** LIVE

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TESS Home	NEW TMR	SEARCHED	FILED TMR	FILED DOC	SEARCH LOG	TOP	HELP	CORRECT
NEAR LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC				

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Venom is located in Memphis TN Venom 4465 Poplar Avenue Suite 106 (Oak Court Mall) Memphis TN 38117 Venom is a streetwear shop that carries 10 Deep, A1fe, The Hundreds, Crooks & Castles, Supra, Clac, Gourmet, Miska, Undeafated, Rocksmith, Tokyo, Kid Robot, Akomplue, LRG, Blac Labe, Creative Recreation, Puma, etc.

Stay up on NEW Goods & Sales. Sign up for our newsletter



Venom Newsletter & Mailing List

Email:

[Visit this group](#)

Facebook Badge

Pat Hamud



Create Your Badge

About Us

**Venom**  
Memphis, TN, United States

Venom is a 2 store operation strategically placed in Memphis to make sure that you are within 15 minutes of us no matter where you may be in the city. Venom spawned in November of 2007 in Memphis, TN where a "True" streetwear shop was nonexistent. Venom made and continues to make a huge impact by being the first to carry the more "underground" brands with strong roots and influences from all aspects of hip hop, skate, and street culture. Not only can you expect the more exclusive brands that will set you apart from the

Saturday, June 19, 2010

### Huge Sale going on at Venom

Take advantage of the sales going on at Venom this weekend.

The Hundreds Snapbacks starting at \$10  
 Any New Era you want is 30% OFF  
 Vael Project Shoes on SALE for \$49  
 C1RCA Shoes \$49  
 All of The Hundreds is 35% OFF  
 ALL 10 Deep is 30% OFF  
 ALL Gley is 25% OFF  
 ALL Supras are 30% OFF  
 All Stussy is 30% OFF  
 All DC shoes are on SALE!!!

Odai

Posted by Venom at 1:28 PM 0 comments 

Labels: Sales, Venom, Venom Clothing Store, Venom-Memphis

Friday, June 18, 2010

### Diamond Supply Co. and Deadline collaboration available at Venom

Labels
10 Deep
Android Homme
Benny Gold
BIKE
Bio
Black Scale
BRANDS
C1RCA
Coming Soon
Crooks and Castles
Crooks and castles bike
DC
DC LIFE
Diamond Supply
Disslzt
Funny Videos
G-Shock
Holiday 2009
HUF
Hundreds Clothes
Hundreds Clothing
Kidrobot
King Stampede
Lil Wayne
LRG

10/6/13

cookie cutter dressing crowd that infiltrates the streets, but also that we will never settle as we are always doing our homework on the different brands and scouring high and low for the up and coming brands. Being innovative and always listening to our customers is what we abide by and what keeps our customers coming back.

[View my complete profile](#)

**Hours & Locations**

**FOLLOW ME ON twitter**

Venom  
 4465 Poplar Avenue Suite#103  
 Memphis, TN 38117  
 901-818-3883  
 Mon-Sat 10-9  
 Sunday 12-6  
[www.venom-memphis.blogspot.com](http://www.venom-memphis.blogspot.com)  
[www.facebook.com/venommemphis](http://www.facebook.com/venommemphis)  
[www.twitter.com/venommemphis](http://www.twitter.com/venommemphis)  
[www.myspace.com/dressvenom](http://www.myspace.com/dressvenom)

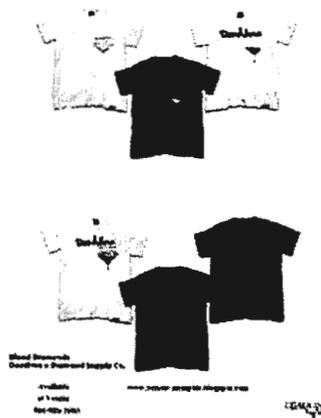
Venom  
 1296 Southland Mall  
 Memphis, TN 38116  
 901-396-9226  
 Mon-Sat 10-9  
 Sunday 12-6

Twitter

**Brands**

- 10 Deep
- Acapulco Gold
- Akomplice
- Alife
- Android Homme
- Artful Dodger
- Benny Gold
- Black Scale
- C1RCA
- Capital
- Chubby Boob
- Circle of Success
- Clae
- Creative Recreation
- Crooks & Castles
- DC
- DC Life
- Diamond Supply Co.

**Venom-Memphis**



The highly sought after Diamond Supply Co. and Deadline collaboration tees are now available at Venom. They are very limited and they will go fast. It is a reminder of the corruption, violence, and deceit that diamonds rightfully nicknamed blood diamonds, bring to this world.

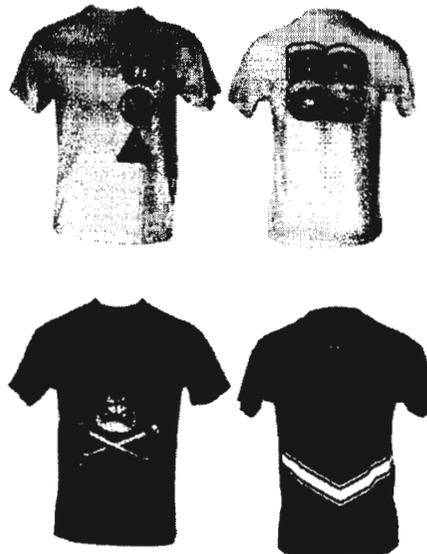
Pat  
 901-818-3883

Posted by Venom at 2:39 PM 0 comments

Labels: [Deadline](#), [Diamond Supply](#), [Venom](#), [Venom Clothing Store](#), [Venom-Memphis](#)

Wednesday, June 16, 2010

**Chubby Boob now available at Venom**



Magazine
Memphis
Mishka
Oak Court Mall
OBEY
Play Cloths
Puff Daddy
Puma
Rampage
Rocksmith Tokyo
Rudolf Dassler
Sales
SE RACING
Sneaker Freaker Magazine
Southland Mall
stussy
Supra
Supra NS
Terry Kennedy
The Daily Helsman
The Hundreds
The Hundreds bike
TK Society
twitter
UFC
Undefeated
University of Memphis
Venom
Venom Clothing Store
Venom-Memphis
Watches

Dissizit
G Shock
Gourmet
Gravis
HUF
Kid Robot
King Stampede
Krew
Levis Footwear
Lira
LRG
Mishka
Obey
Play Cloths
Puma (Alexander McQueen)
Puma (Rudolf Dassler)
REBEL 8
Rocksmith Tokyo
Rogue Status
Sneaker Freaker
Stussy
Supra
The Hundreds
Undefeated
Us Vs Them
Vael Project

**Venom Advocates**

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**Members (13)**

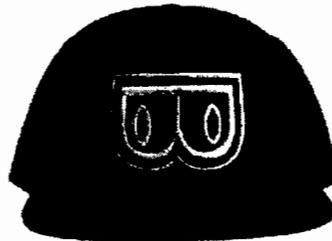


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June (7)
May (8)
April (9)
March (17)

Venom-Memphis



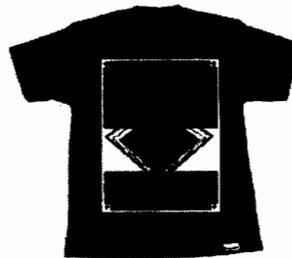
Making a fast name for itself, Chubby Boob has come to be known as exclusively a clothing brand. However, clothing is merely only one of their creative outlets. Chubby Boob actually first started out as an art entity, as are all artists first and foremost. They have firm roots grounded in not only street art but the fine arts as well. Chubby Boob intends to grow and expand both as an art based lifestyle brand as well as an art entity. Come check it out at Venom.

Posted by [Venom](#) at 5:08 PM 0 comments 

Labels: [Chubby Boob](#), [Venom](#), [Venom Clothing Store](#), [Venom-Memphis](#)

**New Collection of Diamond Supply now available at Venom**

DIAMOND SUPPLY CO. SPRING 2010  
STYLE: STANDARD TEE SHIRT



Available at  
Venom  
901-818-3883



10/6/13

February (8)
January (9)
December (20)
November (18)
October (9)
September (9)
August (9)
June (1)
May (6)
April (3)
March (2)

### Venom-Memphis

DIAMOND SUPPLY CO. SPRING 2010  
STYLE: DIAMOND SHOP TEE 28827



Available at  
Venom  
901-818-3883



Available at Venom  
901-818-3883

DIAMOND SUPPLY CO. SPRING 2010  
STYLE: CHAMPION TEE 28827



Available at  
Venom  
901-818-3883



Hands down - the Best selling brand Venom carries - Diamond Supply, is at Venom. The Spring Delivery 2 collection is now available at Venom.

Posted by: Venom at 2:31 PM 0 comments

Labels: Diamond Supply, Venom, Venom Clothing Store, Venom-Memphis

Monday, June 7, 2010

### Sales going on at Venom

Take advantage of the sales going on at Venom. All Rogue Status Half Off. The Hundreds - 30% Off. All Mishka Half Off. CIRCA Shoes starting at \$39, A1fe shoes starting at \$49 and many others. Stop by Venom in Oak Court.

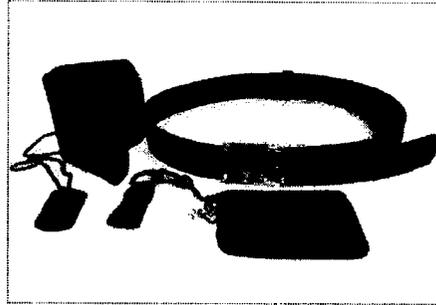
PaT

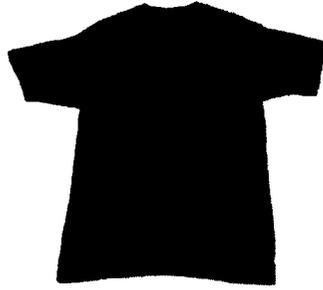
Posted by Venom at 12:10 PM 0 comments

Labels: [Alife](#) [CIRCA](#) [Mishka](#) [Rogue Status](#) [Sales](#) [The Hundreds](#)

Friday, June 4, 2010

### Play Cloths Summer 2010 shipment has arrived





Play Cloths Summer 2010 Collection now available at Venom .

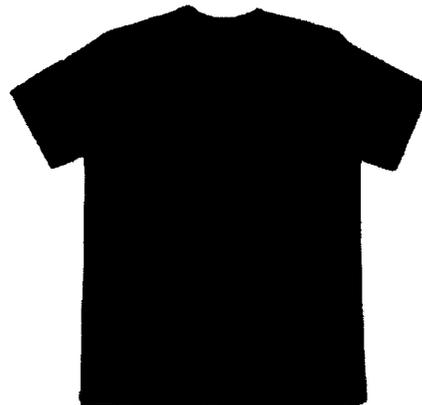
Pat

Posted by Venom at 10:51 AM 0 comments

Labels: [Play Cloths](#) [Venom Clothing Store](#) [Venom-Memphis](#)

Wednesday, June 2, 2010

**Akomplice Summer 2010 Collection now available at Venom**



Akomplce Summer 2010 Collection now available at Venom. Limited quantities, so come before they go.

Pat

Posted by Venom at 1:09 PM 0 comments 

Labels: **Akomplce**, **Akomplce Summer 2010**, **Venom Clothing Store**, **Venom-Memphis**

Friday, May 28, 2010

**New Delivery of G-Shocks available at Venom**



Venom-Memphis



A nice assortment of G-Shocks came into Venom today. Included is the much sought after Black and Gold DW-6900, the new G100 G-Shock, and an array of colors in the 5000's, 6000's, 7900's.

Oda

Posted by Venom at 8:10 PM 0 comments 

Labels: **G-Shock**

Thursday, May 20, 2010

**ALIFE Summer 2010 now available at Venom**



New to arrive at Venom is the Summer Collection of Alife. A couple of different low top canvas kicks as well as a fresh ass shortie mid. We have so many different tops from Stussy, The Hundreds and others that will compliment the shoes. Come check it out.

PaT

Posted by Venom at 1:42 PM 0 comments 

Labels: [Alife](#) [Venom Clothing Store](#) [Venom-Memphis](#)

Wednesday, May 12, 2010

### Venom Goody Bag



**VENOM CLOTHING**



There comes a time that doesn't come often where we offer a crazy ass deal that shouldn't be passed up. This is one of those times. I present to you the **Venom x The Hundreds Goody Bag**. In this goody bag and for a price of \$190, you will get the following: A Hundreds T-Shirt, Hundreds Shoes, Hundreds Jeans, and a Hundreds Snapback as well as some stickers. Crazy right? We know! All you have to do is tell us your size and WE will put it together. Give us a call if you have any questions. 901-818-3823.

Order

Posted by [Venom](#) at 5:07 PM 0 comments

Labels: [Sales](#), [The Hundreds](#), [Venom-Memphis](#)

Monday, May 10, 2010

### Huge Sale at Venom in Southland Mall

I'm gonna keep it short but sweet. EVERYTHING in Venom in Southland Mall is HALF OFF!!!! Our Southland Mall location will be relocating in 1 month and the last day is this Friday. So from now until then, HALF OFF on anything. Things are going fast and sizes are going to be tough to find if you wait till last minute.

Order

Posted by Venom at 1:18 PM 0 comments

Labels: Sales, Venom Clothing Store, Venom-Memphis

Friday, May 7, 2010

### Diamond Supply available at Venom



It took quite a while to finally get some goods in, but nonetheless, Venom is OFFICIALLY your go to spot in Memphis TN for Diamond Supply Co goods. Tees, hats and belts in so many styles it'll give you anxiety about so you will know which one to go with (or logically buy as many as you can). That's all folks.

NO

Posted by Venom at 4:57 PM 0 comments

Labels: Diamond Supply, Venom Clothing Store, Venom-Memphis

Wednesday, May 5, 2010

### Stussy Summer 2010 Collection available at Venom



Stop by Venom in Oak Court Mall to check out the Stussy Summer 2010 Collection. Extremely dope shit in all seriousness, the hats which include Snapback New Eras and six panel hats are the best I've seen yet. And to make it all the more sweeter and monster selection of Stussy tees in all sizes. Stussy is one of those brands that goes pretty quick and most people get frustrated when they show up a week after I post on our blog that it came in. So for you people get in before they go.

PEP

Posted by Venom at 4:32 PM 0 comments

Labels: stussy, Venom Clothing Store, Venom-Memphis

Tuesday, May 4, 2010

### Acapulco Gold available at Venom

Venom-Memphis



Nothing more fitting than Acapulco Gold's Venom tees and snap backs for the undisputed streetwear shop in Tennessee, Venom. Come check out the collection at Venom.

PaT

Posted by Venom at 5:11 PM 0 comments

Labels: [Acapulco Gold](#) [Venom](#) [Venom-Memphis](#)

**Venom x The Hundreds Snap back Sale**

**HUGE SALE ON** The Hundreds Snap backs. Now is the time to get as many as you can from Venom. Over 100 Snapbacks from The Hundreds and a big SALE price. They range from \$15-\$23. No excuses, first come first serve.

PaT

Posted by Venom at 4:46 PM 0 comments

Labels: [Sales](#), [The Hundreds](#), [Venom Clothing Store](#), [Venom-Memphis](#)

Monday, April 26, 2010

**The Hundreds Summer 2010 Footwear available at Venom**





Always one to bring fire with every collection they put out, The Hundreds does it again with their Summer 2010 shoes that are available at Venom. I'm impressed with what they have been pulling out with their still relatively new footwear program. Come check them out at Venom.

Pat  
901-818-0883

Posted by Venom at 1:10 PM 0 comments

Labels: Hundreds Summer 2010, Shoes, The Hundreds, Venom Clothing Store, Venom-Memphis

10/6/13

Venom-Memphis

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**Venom Clothing**  
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Clothing  
website (shop): <http://venomwear.bigcartel.com/>  
Twitter: <https://twitter.com/VenomWear>

3,865

1

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Venom Clothing shared a link.  
July 20

Hello People I have a new website selling minecraft Games  
<http://minecraftaccount4sale.bigcartel.com/>



**Minecraft Account Sale — Home**  
[minecraftaccount4sale.bigcartel.com](http://minecraftaccount4sale.bigcartel.com)

We are selling Cheap Minecraft account for sale. Save Over 90% of your money investing in a secondhand account. Payment via paypal 100% SAFE

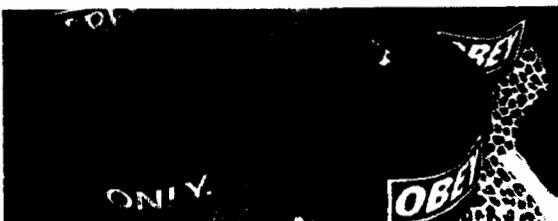
Chat (6)

by Others on Venom Clothing

Like · Comment · Share



Venom Clothing changed their cover photo.  
April 8



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Sarina Staurseth

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Ako Talaga To

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Jeff Christian

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Wauwaw Execution

Maff ganggu :) Mau bikin beanies(kupluk) 20  
July 3 at 12:44am



Declan Molloy

Do you have an E-Mail address?  
April 8 at 5:01pm



Rojen Rai

Holy shit! Venom clothing! :O  
3 · January 24 at 11:34am

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Venom Clothing  
April 8

Snapback Restock 2013 April (10 photos)

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Black and white \$1  
Mafia and other  
bestselling design  
and innovation.

10/6/13



**Venom Clothing**  
April 8

Snapback and beanie restock: Venom Clothing

Like · Comment · Share

1



**Venom Clothing** shared a link.  
March 17

<http://www.venomwear.co.uk/product/obey-propaganda-snapback>

**Venom — Obey Propaganda Snapback**  
[www.venomwear.co.uk](http://www.venomwear.co.uk)

Obey Propaganda Snapback One size 20% wool and 80 Acrylic OSFA OBEY

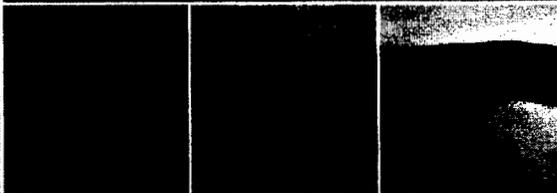
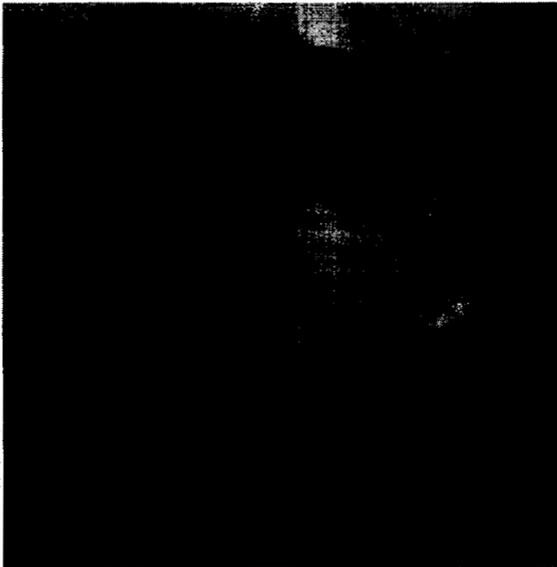
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1



**Venom Clothing**  
March 15

**Dope Snapbacks (5 photos)**



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2



**Venom Clothing**  
March 12

Obey Leopard design £9.99

<https://www.facebook.com/Venomwear>

Venom Clothing



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4 2



**Venom Clothing** shared a link.  
March 12

Leopard YMCMB SnapBack Black £9.99 Buy Now  
<http://venomwear.bigcartel.com/product/leopard-ymcmb-snapback-black>

**Venom — Leopard YMCMB SnapBack Black**  
[venomwear.bigcartel.com](http://venomwear.bigcartel.com)

Leopard YMCMB SnapBack Black Brand New without tag

Like · Comment · Share



**Venom Clothing** shared a link.  
March 12

Heather Grey T-Shirt £6.99 Sale  
<http://venomwear.bigcartel.com/product/heather-grey-t-shirt>

**Venom — Heather Grey T-Shirt**  
[venomwear.bigcartel.com](http://venomwear.bigcartel.com)

A uni-sex, Heather Grey T-Shirt, with the Venom logo professionally printed on the chest. Size Small | Medium | Large

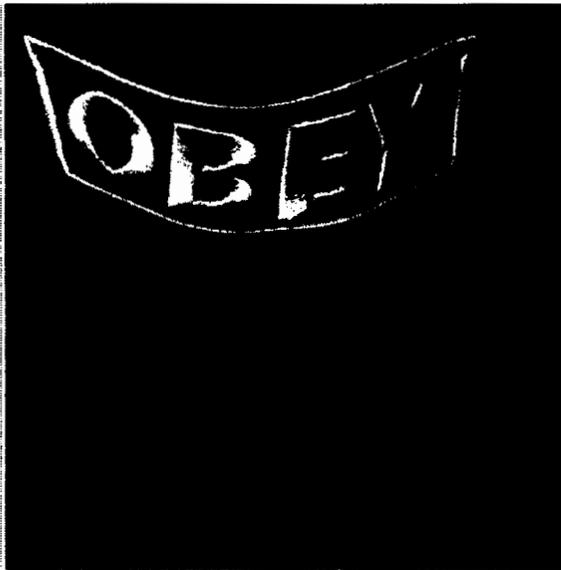
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1 1



**Venom Clothing**  
March 11

10/6/13

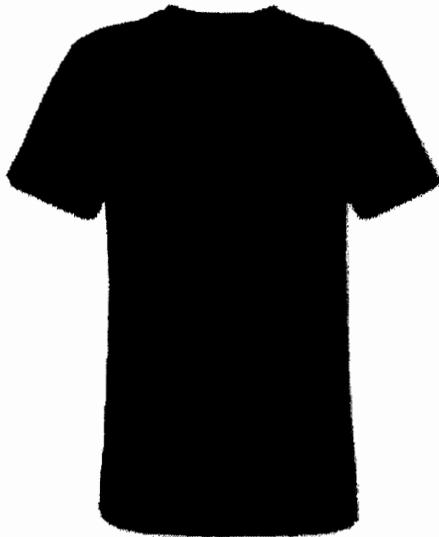


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4



Venom Clothing  
March 11



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7 2 2



Venom Clothing  
March 11

Venom Clothing

Obey Snakeskin texture design £9.99



Like · Comment · Share

5



Venom Clothing  
March 11



Like · Comment · Share

3



Venom Clothing changed their cover photo.  
March 11



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3 1 1

10/6/13

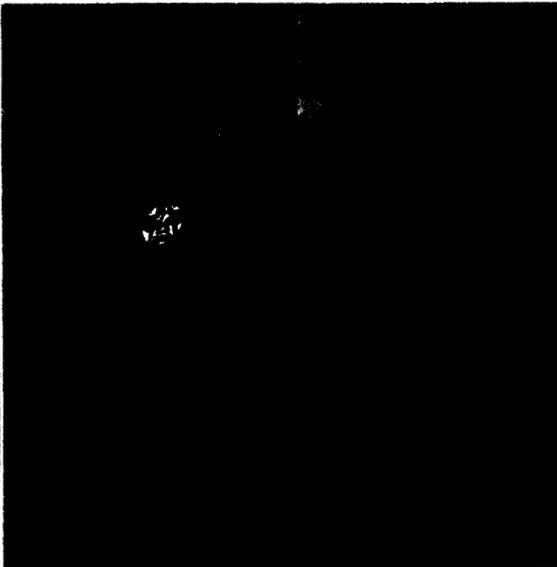


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9



**Snapbacks (16 photos)**  
Obey - Dope - Supreme - YMCMB



Like · Comment · Share

2 2



<http://venomwear.bigcartel.com/product/burgundy-hoodie>

### Venom Clothing



Snow Leopard Snapback only £9.99



Like · Comment · Share

1



UP TO  
50% off all our clothes check them out: [www.venomwear.co.uk](http://www.venomwear.co.uk)  
Hoodies for £9.99  
Sweater £9.89  
Tees £6.99

Venom — Home  
[www.venomwear.co.uk](http://www.venomwear.co.uk)

UK Clothing brand supplying Urban Street wear at affordable price. We sell high quality hoodies, sweaters and t shirt

Like · Comment · Share

2 1



<http://venomwear.bigcartel.com/product/charcoal-hoodie>

Venom — Charcoal Hoodie  
[venomwear.bigcartel.com](http://venomwear.bigcartel.com)

A uni-sex, Charcoal Grey Hoodie, with the white Venom logo professionally printed on the chest. Size (Inches) Small 38

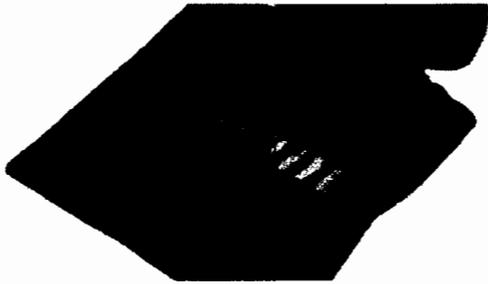
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2

10/6/13

Venom Clothing

Check out our burgundy hoodie



Venom — Burgundy Hoodie  
venomwear.bigcartel.com

A uni-sex, Burgundy Hoodie, with the white Venom logo professionally printed on the chest. Size (Inches) Small 38

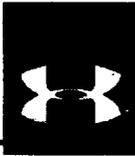
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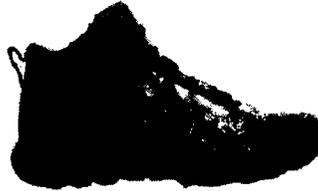
Hunting

Running



**Men's UA Valsetz Venom Low Tactical Boots**  
\$109.99

Add to Compare



**Men's UA Valsetz Venom Mid Tactical Boots**  
\$119.99

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**Women's UA PIP Micro G® Spine Venom**  
\$66.99 ~~\$89.99~~

Add to Compare



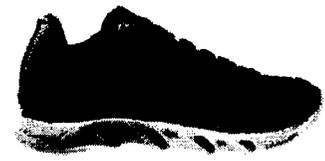
**Boys' UA Spine™ Venom Grade School Running Shoes**  
\$52.99 ~~\$69.99~~

Add to Compare



**Boys' UA Spine™ Venom Pre-School Shoes**  
\$44.99 ~~\$59.99~~

Add to Compare



**Girls' Grade School Spine Venom Running Shoes**  
\$52.99 ~~\$69.99~~

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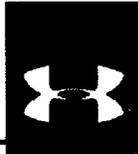


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### MEN'S UA VALSETZ VENOM LOW TACTICAL BOOTS

(1) Q&A (7) STYLE # 1236890

\$109.99

BLACK (001)



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11	11.5	12	13	14	

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Men's UA TAC Mid GTX Boots \$169.99



Men's UA Valsetz Venom Mid Tactical Boots \$119.99



Men's UA Valsetz 7" Tactical Boots \$109.99



Men's UA OPS Tactical



Men's Chetco II Trail



Men's WWP UA Charge RC 2

#### WHAT'S IT DO?

Our police and military customers had a problem. They needed a boot that was durable and rugged enough to put up with all terrains, but light enough for speed and maneuverability. UA took up the challenge, designing a running-shoe-tactical-boot hybrid. What you get is a boot we're proud to get positive feedback about...from the streets of Chicago to the hills of Afghanistan.

#### THE FUNDAMENTALS

- Aggressive UA Spine chassis forms a lightweight structure around the sole, delivering incredible support without sacrificing flexibility
- Water-resistant, high-abrasion ripstop nylon upper is tough, but breathable, for superior comfort
- Synthetic overlays add support, not weight, and won't absorb moisture
- Durable EVA midsole delivers cushioning and shock absorption, protecting your foot in any terrain
- Lightweight PU footbed, giving you a comfortable fit
- Push through protection plate to keep hazards at bay
- Textured, high-abrasion rubber toe rand protects your foot
- Imported

10/8/13

Men's UA Valsetz Venom Low Tactical Boots | 1236890 | Under Armour US

Training Shoes  
\$129.99

Running Shoes  
\$79.99

Running Shoes  
\$119.99

### PRODUCT REVIEWS (1)

AVERAGE RATING: ★★★★★ 5 of 5

RATING BREAKDOWN:

SIZE	Runs Small	Runs Large	1
WIDTH	Runs Narrow	Runs Wide	0
COMFORT	Min.	Max.	0
PERFORMANCE	Min.	Max.	0

### WRITE A REVIEW

★★★★★ (5)

SIZE	Runs Small	Runs Large
WIDTH	Runs Narrow	Runs Wide
COMFORT	Min.	Max.
PERFORMANCE	Min.	Max.

#### Great for all day wear

August 12, 2013 Posted by [Mike Papa](#) | Gender: Man Athlete type: Avid Age: 25 to 29  
Height: 5'4"-5'6" Size Purchased: 9.5

These shoes ("boots") are by far the most comfortable shoes I have had in a long time. They fit perfect. I wore these shoes from 7am till 2am the next morning. I work retail in the morning then in the afternoon I wore these shoes for a 12 Hr bike patrol duties.

3 people found this review helpful.

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### PRODUCT Q & A (7)

#### SUBMIT A QUESTION

Most helpful answers

I would like to know the weight?

1 answer

What makes this shoe better than the mirage tactical running shoe?

1 answer

Are these polishable

1 answer

Can you special order in a size 15?

1 answer

Do also make women's sizes?

1 answer

Is this a lace up shoe, your website doesnt let me have access to a top view?

1 answer

Are they ansi aor astm rated?

0 answers

1 of 1

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## About us

The name "Cherry Venom" might bring to mind a strange mix of daring and sweetness, but that's not all it is. For starters, the ladies behind this brand, Michelle Romero, and Nicole Suarez, would gladly ask you to "pick your poison." And why should you?

Designed for the free-spirited woman, Cherry Venom's style combines the sexy and the sweet, the pretty lady and the party animal. This approach produced a signature style that's eclectic yet elegant, quirky yet classy—a Cherry Venom vixen is someone who always puts together an ensemble that packs a punch. From prints to solid colors, loose fits and tailored pieces, Cherry Venom's mix-and-match attitude brings out the fabulous and the practical with pieces that can go from day to night and from seriously stylish to simply spectacular. Check out Cherry Venom's collections to see for yourself, if you dare.

Get bold. Get bitten. Get hooked on Cherry Venom.

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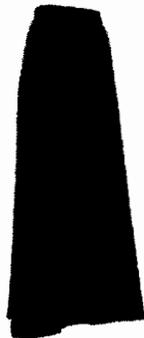


**PALTROW x BLACK JUMPSUIT** Available in small & medium sizes. Php2,190

**MARIANNE x White Cape Dress.** Php 1800

**NICOLE 2PC. ENSEMBLE** x Red Orange Cropped Top and Pencil Cut Skirt. Available in small & medium sizes. Php 2,190

**UNDER THE SEA x Aqua Blue Maxi Skirt** Php1990



**QUEEN x Salmon Uneven Hem Top.** Php 1350

**STRIPE ME DOWN x Maxi Skirt with Black Leatherette Belt.** Php 1,990

**HEATWAVE x Kaftan Striped Cover Up** Free size. Fits small, medium and large frames. Php 1780

**CHIEF x Kaftan Indian Print Cover Up** Free size. Fits small, medium and large frames. Php 1780

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## Product and Price List

New Collection  
Old Collection

MARIANNE x White Cape Dress - Php1,800 PALTROW x BLACK JUMPSUIT Available in small & medium sizes - Php2, 190

DRAMA QUEEN x Salmon Uneven Hem Top - Php1,350

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CHERRYVENOM CLOTHING |

NICOLE 2PC. ENSEMBLE x Red Orange Cropped Top and Pencil Cut Skirt. Available in small & medium sizes – Php2,190

STRIPE ME DOWN x Maxi Skirt with Black Leatherette Belt – Php1,990

UNDER THE SEA x Aqua Blue Maxi Skirt – Php1,990

HEATWAVE x Kaftan Striped Cover Up Free size. Fits small, medium and large frames – Php1,780

CHIEF x Kaftan Indian Print Cover Up Free size. Fits small, medium and large frames – Php1,780

CAT WOMAN x LEATHER LEGGINGS Php1,000 \*Comes in METALLIC SILVER

LILIAN x WHITE SHEER UNEVEN HEM TOP Free size Php550

KATELYN x BLACK SHEER UNEVEN HEM TOP Free size Php550

LOUISE x EMERALD GREEN ASYMMETRICAL HEM TOP Php1,200 Free size. Fits small & medium frames.

KENDALL x WHITE SLEEVELESS PEPLUM \*Comes in Yellow and Coral Pink Free size. Php 780

KYLIE x YELLOW SLEEVELESS PEPLUM \*Comes in White and Coral Pink Free size Php780

KIMBERLY x CORAL PINK SLEEVELESS PEPLUM \*Comes in White and Yellow Free size Php780

MEGAN DEE x BLACK PAISLEY PRINTED COVER UP Php1,300

KATHA DEE x RED PRINTED COVER UP Php1,300

NIGHT CRAWLER x PRINTED UNEVEN HEM TOP May be used as a top or cover up. Php1250

JADA x PRINTED SHIFT DRESS Free size in stretch cotton. Recommended for small to medium frames. Php1,050

GEORGE x BLUE PRINTED SHIFT DRESS. Free size Php1050

GRETCH x BLACK PRINTED SHIFT DRESS. Free size Php1050.

AALIYAH x YELLOW SHEER THREE FOURTHS with gold spikes Free size Php780

DANIELLE x WHITE SHEER THREE FOURTHS with gold spikes Free size Php780

JACQUELINE x BLACK SHEER THREE FOURTHS with gold spikes Free size Php780

Red Mesh Skirt \*Comes in Black Leatherette, Red, Gray and Plain Black Php620

Gray Mesh Skirt Comes in Black Leatherette, Red, Gray and Plain Black. Php620

Black Mesh Skirt \*Comes in Black Leatherette, Red, Gray and Plain Black Php620

BUCKTHORN x Green Printed Harem Pants. Free size. Php800

ARMSTRONG x SILVER SPACE LEGGINGS Php1,000 \*Comes in BLACK LEATHER

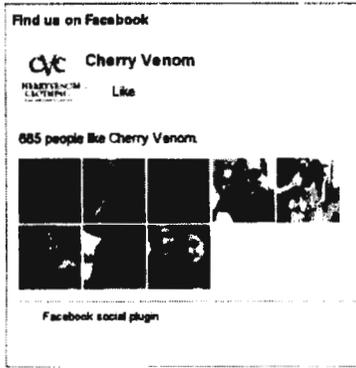
CYPRESS x PAISLEY PRINTED LEGGINGS Free Size Php890

UNION JACK x UK PRINT LEGGINGS Free Size – Fits Small to Medium Frames. Php890

LEOPARD x Assymetrical Top. Php990

THELMA x Black Assymetrical Hem Top. Free size. Php1,200

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Exhibit B

Proceeding Number 91212231  
Dragon Bleu (SARL) and  
VTEC Limited

v

VENM, LLC  
Offered by VENM, LLC

# Protection of the Environment Operations Act 1997

As at 1 December 2015

**Does not include amendments by:**

*Biosecurity Act 2015 No 24* (not commenced)

*Mining and Petroleum Legislation Amendment (Harmonisation) Act 2015 No 40* (not commenced)

**Reprint history:**

Reprint No 1

8 February 2000

Reprint No 2

18 July 2000

Reprint No 3

3 September 2002

Reprint No 4

2 May 2006

Reprint No 5

4 August 2009

**Long Title**

An Act to protect the environment; to replace other environment protection legislation; and for other purposes.

## Part 3 – Definitions

### Division 1 – Waste classifications

#### 49 Definitions of waste classifications

(1) In this Schedule: "**general solid waste (non-putrescible)**" means waste (other than special waste, hazardous waste, restricted solid waste, general solid waste (putrescible) or liquid waste) that includes any of the following:

- (a) glass, plastic, rubber, plasterboard, ceramics, bricks, concrete or metal,
- (b) paper or cardboard,
- (c) household waste from municipal clean-up that does not contain food waste,
- (d) waste collected by or on behalf of local councils from street sweeping,
- (e) grit, sediment, litter and gross pollutants collected in, and removed from, stormwater treatment devices or stormwater management systems, that has been dewatered so that it does not contain free liquids,
- (f) grit and screenings from potable water and water reticulation plants that has been dewatered so that it does not contain free liquids,
- (g) garden waste,
- (h) wood waste,
- (i) waste contaminated with lead (including lead paint waste) from residential premises or educational or child care institutions,
- (j) containers, having previously contained dangerous goods, from which residues have been removed by washing or vacuuming,
- (k) drained oil filters (mechanically crushed), rags and oil absorbent materials that only contain non-volatile petroleum hydrocarbons and do not contain free liquids,
- (l) drained motor oil containers that do not contain free liquids,
- (m) non-putrescible vegetative waste from agriculture, silviculture or horticulture,
- (n) building cavity dust waste removed from residential premises, or educational or child care institutions, being waste that is packaged securely to prevent dust emissions and direct contact,
- (o) synthetic fibre waste (from materials such as fibreglass, polyesters and other plastics) being waste that is packaged securely to prevent dust emissions, but excluding asbestos waste,
- (p) virgin excavated natural material,
- (q) building and demolition waste,
- (r) asphalt waste (including asphalt resulting from road construction and waterproofing works),
- (s) biosolids categorised as unrestricted use, or as restricted use 1, 2 or 3, in accordance with the criteria set out in the *Biosolids Guidelines*,
- (t) cured concrete waste from a batch plant,
- (u) fully cured and set thermosetting polymers and fibre reinforcing resins,
- (v) fully cured and dried residues of resins, glues, paints, coatings and inks,
- (w) anything that is classified as general solid waste (non-putrescible) pursuant to an EPA Gazettal notice,
- (x) anything that is classified as general solid waste (non-putrescible) pursuant to the Waste Classification Guidelines,
- (y) any mixture of anything referred to in paragraphs (a)-(x).

**"general solid waste (putrescible)"** means waste (other than special waste, hazardous waste, restricted solid waste or liquid waste) that includes any of the following:

- (a) household waste containing putrescible organics,
- (b) waste from litter bins collected by or on behalf of local councils,
- (c) manure and nightsoil,
- (d) disposable nappies, incontinence pads or sanitary napkins,
- (e) food waste,
- (f) animal waste,
- (g) grit or screenings from sewage treatment systems that have been dewatered so that the grit or screenings do not contain free liquids,
- (h) anything that is classified as general solid waste (putrescible) pursuant to an EPA Gazettal notice,
- (i) anything that is classified as general solid waste (putrescible) pursuant to the Waste Classification Guidelines,
- (j) a mixture of anything referred to in paragraphs (a)-(i).

**"hazardous waste"** means waste (other than special waste or liquid waste) that includes any of the following:

- (a) anything that is classified as:
  - (i) a substance of Class 1, 2, 5 or 8 within the meaning of the *Transport of Dangerous Goods Code*, or
  - (ii) a substance to which Division 4.1, 4.2, 4.3 or 6.1 of the *Transport of Dangerous Goods Code* applies,
- (b) containers, having previously contained:
  - (i) a substance of Class 1, 3, 4, 5 or 8 within the meaning of the *Transport of Dangerous Goods Code*, or
  - (ii) a substance to which Division 6.1 of the *Transport of Dangerous Goods Code* applies,

from which residues have not been removed by washing or vacuuming,

- (c) coal tar or coal tar pitch waste (being the tarry residue from the heating, processing or burning of coal or coke) comprising more than 1% (by weight) of coal tar or coal tar pitch waste,
- (d) lead-acid or nickel-cadmium batteries (being waste generated or separately collected by activities carried out for business, commercial or community services purposes),
- (e) lead paint waste arising otherwise than from residential premises or educational or child care institutions,
- (f) anything that is classified as hazardous waste pursuant to an EPA Gazettal notice,
- (g) anything that is classified as hazardous waste pursuant to the Waste Classification Guidelines,
- (h) a mixture of anything referred to in paragraphs (a)-(g).

**"liquid waste"** means any waste (other than special waste) that includes any of the following:

- (a) anything that:
  - (i) has an angle of repose of less than 5 degrees above horizontal,
  - or
  - (ii) becomes free-flowing at or below 60°C or when it is transported, or
  - (iii) is generally not capable of being picked up by a spade or

shovel,

(b) anything that is classified as liquid waste pursuant to an EPA Gazettal notice.

**"restricted solid waste"** means any waste (other than special waste, hazardous waste or liquid waste) that includes any of the following:

- (a) anything that is classified as restricted solid waste pursuant to the Waste Classification Guidelines,
- (b) anything that is classified as restricted solid waste pursuant to an EPA Gazettal notice.

**"special waste"** means any of the following:

- (a) clinical and related waste,
- (b) asbestos waste,
- (c) waste tyres,
- (d) anything that is classified as special waste pursuant to an EPA Gazettal notice.

(2) Despite subclause (1), in this Schedule, any waste that is classified as one of the following classes of waste, in accordance with an immobilised contaminants approval granted under Part 10 of the *Protection of the Environment Operations (Waste) Regulation 2014*, is taken to be waste of that class:

- (a) general solid waste (non-putrescible),
- (b) general solid waste (putrescible),
- (c) hazardous waste,
- (d) restricted solid waste,
- (e) special waste.

## **Division 2 – Other definitions**

### **50 Other definitions**

(1) In this Schedule: **"animal waste"** includes dead animals and animal parts and any mixture of dead animals and animal parts. **"asbestos"** means the fibrous form of those mineral silicates that belong to the serpentine or amphibole groups of rock-forming minerals, including actinolite, amosite (brown asbestos), anthophyllite, chrysotile (white asbestos), crocidolite (blue asbestos) and tremolite. **"asbestos waste"** means any waste that contains asbestos. **"Australian Explosives Code"** means the document entitled *Australian Code for the Transport of Explosives by Road and Rail*, published by the Commonwealth Department of Infrastructure, Transport, Regional Development and Local Government and as in force from time to time. **"biosolids"** means the organic product that results from sewage treatment processes (sometimes referred to as sewage sludge). **"Biosolids Guidelines"** means the document entitled *Environmental Guidelines: Use and Disposal of Biosolids Products*, published by the EPA and as in force from time to time, copies of which are held in the offices of the EPA. A copy of the guidelines is available on the EPA's website ([www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)). **"building and demolition waste"** means unsegregated material (other than material containing asbestos waste or liquid waste) that results from:

- (a) the demolition, erection, construction, refurbishment or alteration of buildings other than:
  - (i) chemical works, or
  - (ii) mineral processing works, or
  - (iii) container reconditioning works, or
  - (iv) waste treatment facilities, or

(b) the construction, replacement, repair or alteration of infrastructure development such as roads, tunnels, sewage, water, electricity, telecommunications and airports,

and includes materials such as:

(c) bricks, concrete, paper, plastics, glass and metal, and

(d) timber, including unsegregated timber, that may contain timber treated with chemicals such as copper chrome arsenate (CCA), high temperature creosote (HTC), pigmented emulsified creosote (PEC) and light organic solvent preservative (LOSP),

but does not include excavated soil (for example, soil excavated to level off a site prior to construction or to enable foundations to be laid or infrastructure to be constructed). "**clinical and related waste**" means:

(a) clinical waste, or

(b) cytotoxic waste, or

(c) pharmaceutical, drug or medicine waste, or

(d) sharps waste.

"**clinical waste**" means any waste resulting from medical, nursing, dental, pharmaceutical, skin penetration or other related clinical activity, being waste that has the potential to cause injury, infection or offence, and includes waste containing any of the following:

(a) human tissue (other than hair, teeth and nails),

(b) bulk body fluids or blood,

(c) visibly blood-stained body fluids, materials or equipment,

(d) laboratory specimens or cultures,

(e) animal tissue, carcasses or other waste from animals used for medical research,

but does not include any such waste that has been treated by a method approved in writing by the Director-General of the Department of Health. "**coal**" includes any other carbonaceous material. "**coal seam gas**" means petroleum that:

(a) consists of naturally occurring hydrocarbons, or a naturally occurring mixture of hydrocarbons and non-hydrocarbons, the principal constituent of which is methane, and

(b) is in a gaseous state at standard temperature and pressure, and

(c) is extracted from coal beds.

"**contaminated soil**" means soil that contains a substance at a concentration above the concentration at which the substance is normally present in soil from the same locality, being a presence that presents a risk of harm to human health or any other aspect of the environment, where "**harm to the environment**" includes any direct or indirect alteration of the environment that has the effect of degrading the environment. "**cytotoxic waste**" means any substance contaminated with any residues or preparations that contain materials that are toxic to cells principally through their action on cell reproduction. "**dangerous goods**" has the same meaning as it has in the *Transport of Dangerous Goods Code*. "**effluent**" means:

(a) waste water from sewage collection or treatment plants, or

(b) waste water from collection or treatment systems that are ancillary to processing industries involving livestock, agriculture, wood, paper or food, being waste water that is conveyed from the place of generation by means of a pipe, canal or conventional method used in irrigation (but not by means of a tanker or truck), or

(c) waste water from collection or treatment systems that are ancillary to

intensive livestock, aquaculture or mariculture, being waste water that is released by means of a pipe, canal or other conventional method used in irrigation as part of day to day farming operations.

**"electricity plant"** includes all associated water storage, ash recovery and waste management facilities. **"EPA Gazettal notice"** means a notice that has been published in the Gazette by the EPA, copies of which are held in the offices of the EPA. A copy of each EPA Gazettal notice is available on the EPA's website

([www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)). **"excluded material"** means contaminated soil, grease trap waste, waste stored prior to its lawful discharge to a sewer or waters, septic tank waste, stormwater or recoverable oil or oil and water mixture. **"explosives"** has the same meaning as it has in the *Australian Explosives Code*. **"food waste"** means waste from the manufacture, preparation, sale or consumption of food but does not include grease trap waste. **"garden waste"** means waste that consists of branches, grass, leaves, plants, loppings, tree trunks, tree stumps and similar materials, and includes any mixture of those materials. **"grease trap waste"** means any grease, oil, solids, water or other matter:

- (a) that results from the preparation or manufacturing of food, and
- (b) that is collected in a grease trap in the usual course of the operation of the grease trap.

**"manure"** includes any mixture of manure and biodegradable animal bedding (such as straw). **"metropolitan area"** means the area of Sydney, Newcastle, Central Coast and Wollongong bounded by and including the local government areas of Newcastle, Lake Macquarie, Wyong, Gosford, Hawkesbury, Blue Mountains, Penrith, Liverpool, Camden, Campbelltown, Wollongong and Shellharbour. **"mobile plant"** means any equipment or machinery that:

- (a) is capable of carrying on any one or more of the activities referred to in Part 1 of this Schedule, and
- (b) is capable of moving under its own motive power or being transported, and
- (c) is operated at a particular site on a temporary basis only (that is, for a total period of not more than 6 months in any 12-month period),

but does not include rolling stock. **"natural organic fibrous materials"** means bagasse, peat, seed hulls and husks, straw and the like, and includes any mixture of those materials. **"on site"** --see subclause (2). **"organics"** means natural organic fibrous materials of waste and non-waste origin, including:

- (a) putrescible organics (such as meat, fish, poultry, fruit, vegetable and their cooked or processed products, biosolids and animal materials), and
- (b) non-putrescible organics (such as timber, garden trimmings, agricultural, forestry and crop materials, and natural fibrous organic and vegetative materials),

but does not include:

- (c) human-made organic chemicals (such as solvents, industrial, agricultural, mining, household chemical cleaning agents and personal care products), or
- (d) naturally occurring organic chemicals that have been refined and concentrated by human activity (such as oil, petrol, diesel and coal tar).

**"pharmaceutical, drug or medicine waste"** means waste:

- (a) that has been generated by activities carried out for business or commercial purposes, and
- (b) that consists of pharmaceutical or other chemical substances specified

in the Poisons List made under section 8 of the *Poisons and Therapeutic Goods Act 1966*.

**"regulated area"** means the area comprising the local government areas of Ashfield, City of Auburn, Ballina, Bankstown City, Bellingen, Blacktown City, Blue Mountains City, Botany Bay City, Burwood, Byron, Camden, Campbelltown City, Canada Bay, Canterbury City, Cessnock City, Clarence Valley, Coffs Harbour City, Dungog, Fairfield City, Gloucester, Gosford City, Great Lakes, Greater Taree City, Hawkesbury City, Holroyd City, Hornsby, Hunter's Hill, Hurstville City, Kempsey, Kiama, City of Kogarah, Ku-ring-gai, Kyogle, Lake Macquarie City, Lane Cove, Leichhardt, Lismore City, Liverpool City, Maitland City, Manly, Marrickville, Mosman, Muswellbrook, Nambucca, Newcastle City, North Sydney, Parramatta City, Penrith City, Pittwater, Port Macquarie-Hastings, Port Stephens, Randwick City, Richmond Valley, Rockdale City, Ryde City, Shellharbour City, Shoalhaven City, Singleton, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Tweed, Upper Hunter Shire, Warringah, Waverley, Willoughby City, Wingecarribee, Wollondilly, Wollongong City, Woollahra and Wyong. **"rolling stock"** means:

- (a) railway vehicles used or intended to be used to transport passengers or freight for reward, or
- (b) railway vehicles used or intended to be used to maintain railway track and equipment (whether or not for reward),

but does not include railway vehicles that are used solely for heritage purposes. **"sharps"** means those things:

- (a) that have sharp points or edges capable of cutting, piercing or penetrating the skin (such as needles, syringes with needles or surgical instruments), and
- (b) that are designed for the purpose of cutting, piercing or penetrating the skin, and
- (c) that have the potential to cause injury or infection.

**"sharps waste"** means any waste collected from designated sharps waste containers used in the course of business, commercial or community service activities, being waste resulting from the use of sharps for any of the following purposes:

- (a) human health care by health professionals and other health care providers,
- (b) medical research or work on cadavers,
- (c) veterinary care or veterinary research,
- (d) skin penetration or the injection of drugs or other substances for medical or non-medical reasons,

but does not include waste that has been treated on the site where it was generated (and to a standard specified in an EPA Gazettal notice) or waste that has been treated by a method approved in writing by the Secretary of the Ministry of Health. **"thermal treatment"** means the processing of wastes by burning, incineration, thermal oxidation, gasification, pyrolysis, plasma or other thermal treatment processes. **"toxic substance"** has the same meaning as it has in the *Transport of Dangerous Goods Code*. **"Transport of Dangerous Goods Code"** means the document called the *Australian Code for the Transport of Dangerous Goods by Road and Rail* (7th edition) approved by the Ministerial Council for Road Transport and published by the Commonwealth Government from time to time. **"virgin excavated natural material"** means natural material (such as clay,

gravel, sand, soil or rock fines):

(a) that has been excavated or quarried from areas that are not contaminated with manufactured chemicals, or with process residues, as a result of industrial, commercial, mining or agricultural activities, and

(b) that does not contain any sulfidic ores or soils or any other waste,

and includes excavated natural material that meets such criteria for virgin excavated natural material as may be approved for the time being pursuant to an EPA Gazettal notice. "**Waste Classification Guidelines**" means the document entitled *Waste Classification Guidelines*, published by the EPA and as in force from time to time, copies of which are held in the offices of the EPA. A copy of the guidelines is available on the EPA's website ([www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)). "**waste tyres**" means used, rejected or unwanted tyres, including casings, seconds, shredded tyres or tyre pieces. "**wood waste**" means sawdust, timber offcuts, wooden crates, wooden packaging, wooden pallets, wood shavings and similar materials, and includes any mixture of those materials, but does not include wood treated with chemicals such as copper chrome arsenate (CCA), high temperature creosote (HTC), pigmented emulsified creosote (PEC) and light organic solvent preservative (LOSP).

(2) A reference to something being done in relation to waste "**on site**" is a reference to that thing being done only on the premises on which the waste was generated.

Exhibit C

Proceeding Number 91212231  
Dragon Bleu (SARL) and  
VTEC Limited

v

VENM, LLC  
Offered by VENM, LLC

Unique and Artistic VENM Prints on Eco-Friendly Fabric Made From Recycled Plastic

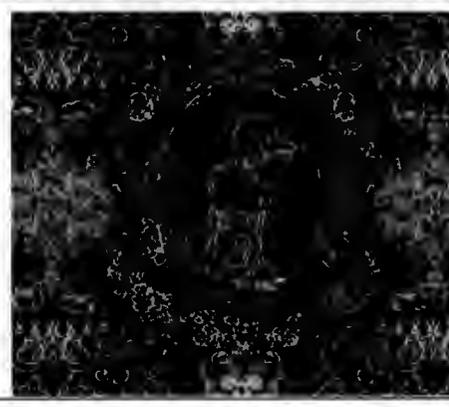
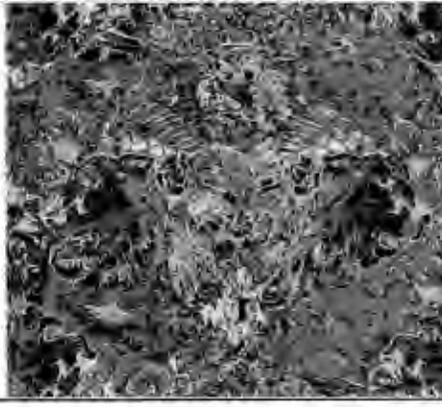
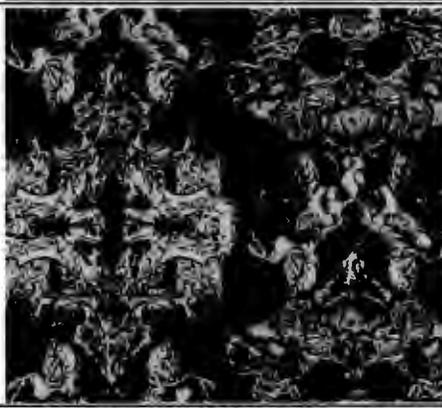
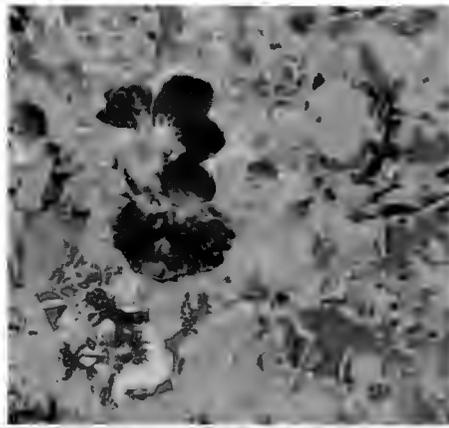
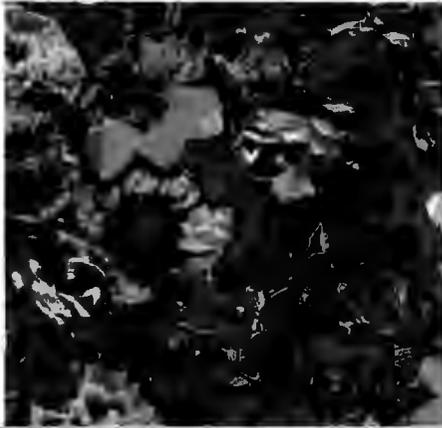


Exhibit D

Proceeding Number 91212231  
Dragon Bleu (SARL) and  
VTEC Limited

v

VENM, LLC  
Offered by VENM, LLC

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	79063381
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 105
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	
<p style="text-align: center;"><b><u>RESPONSE TO OFFICE ACTION DATED APRIL 22, 2010</u></b></p> <p>In an Office Action dated April 22, 2010, the Examining Attorney preliminarily refused registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), citing Reg. No. 3,676,523 for the mark VENOM for use in connection with "Ski and snowboard wear, namely, jackets, pants, insulated jackets, insulated pants, one piece insulated suits, fleece tops, fleece jackets, sweaters, fleece pants, shirts, t-shirts, gloves, hats, caps, hoods, mittens, sweatshirts, waterproof and water repellent jackets and pants" in International Class 25.</p> <p>The Examining Attorney also refused registration based on the alleged indefinite nature of the description of services. Based on the following analysis, Applicant respectfully requests the Examining Attorney withdraw his refusal and pass Applicant's mark to publication.</p> <p style="text-align: center;"><b><u>AMENDMENTS</u></b></p> <p>Applicant amends the identification of goods in International Class 25 to read as follows:</p> <p>"Martial arts and boxing clothes, namely, martial arts uniforms, shorts, kimonos; Sport shoes, especially for the practice of martial arts"</p> <p style="text-align: center;"><b><u>REMARKS</u></b></p> <p><b>I. Identification of Goods in Class 25</b></p> <p>The Examining attorney rejected the identification of goods and services in International Class 25 as indefinite. The applicant has thus amended the goods and services as follows:</p> <p><del>Clothing</del> <u>Martial arts and boxing clothes</u>, namely, <del>fight sports and boxing clothes</del>, namely, t-shirts,</p>	

~~fight sports; martial arts uniforms, shorts, kimonos; headgear, namely, hats, caps; shirts; belts as clothing; gloves as clothing;~~ Sport shoes, especially for the practice of ~~fight sports~~ martial arts

The revised description adopts the language proposed by the Examining Attorney, and further narrows the scope of the identified goods. Accordingly, it is respectfully submitted that the identification of goods and services in Class 25 should be accepted as amended.

## **II. THERE IS NO LIKELIHOOD OF CONFUSION WITH REGISTRATION NO. 3,676,523**

Applicant respectfully submits that Applicant's VENUM (plus design) mark is not likely to cause confusion with the cited registration for VENOM because both marks are specifically and narrowly directed to clothing used in connection with the entirely unrelated sports of skiing and martial arts respectively, especially when cited mark coexists with a number of registered VENOM-formative marks for other sporting goods. Given the different natures of the goods, the different sets of interests that these sports appeal to, and the different channels of trade, the marks are sufficiently distinct to make confusion unlikely.

In determining whether a likelihood of confusion exists, each case must be decided on the basis of all relevant factors, including the goods and services in question and the marketing environment in which consumers normally encounter them. *In re Bigelow, Inc.*, 199 USPQ 38, 40 (TTAB 1978). Even where similar marks are applied to goods used in a common industry, the Trademark Trial and Appeal Board has not hesitated to find an absence of likelihood of confusion where goods differ or where there is no evidence that the respective goods would be encountered by the same consumers. *In re Fesco, Inc.*, 219 USPQ 437 (TTAB 1983) (FESCO for farm equipment distributorships not likely to be confused with FESCO for fertilizer and processing equipment). Furthermore, products which perform different functions, even if used next to each other or together, are not necessarily in competition such that confusion is likely. *Life Technologies, Inc. v. Gibbco Scientific, Inc.*, 826 F.2d 775, 776 (8th Cir. 1987) (No confusion between GIBCO for micro-biological and tissue culture products and GIBBCO for blood chemistry analyzers).

### **A. The Goods Are Sufficiently Distinct to Avoid Confusion in the Marketplace**

As amended, Applicant's goods are limited to clothing used in connection with a particular sport, namely martial arts. Likewise, registrant's goods are narrowly constrained to clothing used in connection with the entirely different sport of skiing. Average consumers do not ordinarily associate

these sports with one another, and indeed would not expect that a company offering a line of skiwear would also be selling martial arts kimonos, or vice versa.

The differences between the sports of skiing and martial arts translate into significant differences in the nature and function of the actual goods in question. Skiing is an outdoor winter sport where the purpose and function of the clothing is to protect the wearer from the cold and other weather conditions. In contrast, martial arts is an indoor sport not associated with any particular season, where the objective of Applicant's goods is to survive the wear and tear inherent in the sport while keeping the wearer cool. Given these different purposes and functions, there is no risk that a consumer would accidentally select Applicant's goods believing them appropriate for the ski slopes, or select the registered mark's goods believing them appropriate for the octagon.

Moreover, the sports of skiing and martial arts appeal to entirely different sets of interests, and thus the markets and audiences for the goods associated therewith are entirely distinct. Sport is a very broad category that encompasses many different types of activities that speak to widely varied interests.

Because of this, even identical marks are allowed to coexist for sporting goods associated with different sports. Indeed, the VENOM mark itself is widely used in the sporting goods industry, and is registered by different parties in connection with the sports of baseball, cycling, billiards, and sport shooting. *See* Ex. A (collecting registrations for VENOM for use in connection with baseball bats, bicycles, billiard cues, and rifle scopes).

The market for skiing, for example, is individuals who are interested winter sports, the outdoors, and the rush of going downhill fast, among others. None of those interests, however, overlap with the interests served by the martial arts, which speak to an enjoyment of physical confrontation, and mastering the techniques of defeating an opponent in hand-to-hand combat. Indeed, the interests served by skiing are far more similar to cycling — in which the cited mark coexists with Reg. No. 3,000,634 covering VENOM for bicycles — than it does with the martial arts. *See* Ex. A. With such vastly different interests served by these sports, the skiing and martial arts industries are not related in any meaningful manner, and thus, given the different markets for Applicant's and Registrant's goods, confusion is unlikely.

In addition, because of the different interests served by the skiing and martial arts industries, average consumers do not associate these sports with one another, and thus would not expect a common source

of origin even were they to encounter a similar trademark.<sup>[1]</sup> Moreover, the *Cambridge Rubber Co. v. Cluett, Peabody & Co.*, 286 F.2d 623 (C.C.P.A. 1961) line of cases are not applicable, as none of these cases involve specialty clothing intended for use with a particular sport. Each of the cases cited by the examiner involve general, everyday clothing items such as shoes, shirts, pants, and underwear, which are found related regardless of whether they are marketed to men, women, or children. This holding makes sense in the context of everyday clothing items, where the general industry practice is for one company to offer lines of clothing for men, women, and children. The same logic, however, cannot be extended to specialty clothing, where there is no common industry practice to serve both the martial arts and skiwear markets. Indeed, extending this line of cases to cover skiwear and martial arts clothing is tantamount to holding that every good in International Class 25 is related to every other good in the class, which would stretch the reasoning of these cases well past its breaking point.

**B. The Differing Channels of Trade Also Make Confusion Unlikely**

In addition to the differences between the goods themselves, Applicant's goods do not generally travel through the same channels of trade as skiwear, thus making confusion even more unlikely.

Applicant's goods are most commonly sold through specialized stores which cater exclusively to the fight sports and martial arts markets. See Ex. B. These stores do not offer skiwear and are not likely to be encountered by consumers seeking out skiwear. See e.g., Ex. C, [www.fightrack.com](http://www.fightrack.com). Thus, most consumers who encounter Applicant's mark will do so at these specialty stores, where confusion is highly unlikely.

Moreover, to the extent that Applicant's goods may be available at the department store-like sporting goods stores, such as Sports Authority or Dicks Sporting Goods, they will be in different departments, and thus are unlikely to be encountered by the same consumers. See *Recot Inc. v. M.C. Becton*, 214 F.3d 1322, 1330 (Fed. Cir. 2000) ("the law is that products should not be deemed related simply because they are sold in the same kind of establishments" such as a supermarket or department store).

Also, consumers at these stores are readily able to distinguish between VENOM marks in different departments, as they will very likely also encounter VENOM baseball bats (Reg. No. 2,969,824), VENOM bicycles (Reg. No. 3,000,634), VENOM billiard cues (Reg. No. 3,577,338), and VENOM rifle scopes (Reg. No. 3,858,110). See Ex. A.

**C. Given the Different Goods, the Marks Are Sufficiently Distinct to Render Confusion Unlikely**

As discussed above, the goods claimed by Applicant are significantly different from those in the cited registration. Given these differences and the number of VENOM-formative marks associated with sporting goods, the marks in question are sufficiently different to make confusion unlikely in the marketplace.

Visually, the marks are readily distinguishable by the prominent design element and novel spelling of Applicant's VENUM mark. Ordinary consumers, who (as discussed above) are unlikely to associate skiwear with martial arts clothing in the first place, will readily pick up on these differences to distinguish Applicant's goods from the pack of other VENUM formative sporting goods marks. Thus, the clear differences in the marks will avoid any possibility of confusion in the crowded marketplace. Moreover, because of the limited goods claimed in connection with both marks, and the number of other VENOM-formative marks, consumers who encounter the marks aurally will likely do so in a context that makes the goods and their origin plain. For example, if they hear a radio advertisement for a VENUM kimono, there will be no confusion as to whose products are being advertised. Thus, the marks are distinct enough to avoid confusion when used in connection with the widely different goods claimed in connection with these marks.

#### I. CONCLUSION

The cited VENOM mark for skiwear coexists in the marketplace with a number of VENOM branded sporting goods, and thus there is no reason to suspect that the use of Applicant's VENUM (plus design) mark for the totally unrelated sports of martial arts and boxing will cause confusion if registered. This is especially true, given that the clothing items in question are significantly different and the sports themselves appeal to an entirely different audiences with greatly different interests. Thus, Applicant respectfully requests that the pending office action be withdrawn and that its application be allowed to proceed to publication.

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[1] Applicant notes that the third party registrations cited by the examiner do not prove that the alleged overlap between skiwear and martial arts clothing is so pervasive that ordinary consumers will presume both emanate from a common source. First and foremost, Registration No. 3,223,416 for DJ DERTY JERSEY is suspect given the fact that it is owned by an individual and claims a laundry list of goods including everything from hockey pants to baby bibs, and yet whose products do not appear to be available for sale via any online retailer.

For the remaining registrations, the fact they only include "ski gloves" and do not include the other skiwear goods one would expect, such as ski pants, parkas, and the like, tends to suggest that the registrant doesn't really deal in skiwear. In any event, three registrations that mention gloves in

passing is hardly sufficient evidence from which to conclude that consumers ordinarily presume skiwear and martial arts clothing emanate from a common source, especially where there is no evidence of record of any company actually selling both a line of skiwear and martial arts clothing.

**EVIDENCE SECTION**

<b>EVIDENCE FILE NAME(S)</b>	
<b>ORIGINAL PDF FILE</b>	<u>evi 64140207110-120216982 . exhibit a final.pdf</u>
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<b>DESCRIPTION OF EVIDENCE FILE</b>	Exhibit A - USPTO trademark registration records. Exhibit B - Screenshot of applicant's website. Exhibit C - Screenshot of website.
<b>GOODS AND/OR SERVICES SECTION (current)</b>	
<b>INTERNATIONAL CLASS</b>	025
<b>DESCRIPTION</b>	
Clothing, namely, fightsports and boxing clothes, namely, t-shirts, fightsports, shorts, kimonos; headgear, namely, hats, caps; shirts; belts as clothing; gloves as clothing; sport shoes, especially for the practice of fightsports	
<b>GOODS AND/OR SERVICES SECTION (proposed)</b>	
<b>INTERNATIONAL CLASS</b>	025
<b>TRACKED TEXT DESCRIPTION</b>	
<del>Clothing, namely, fightsports and boxing clothes, namely, t-shirts, fightsports, shorts, kimonos; Martial arts and boxing clothes, namely, martial arts uniforms, shorts, kimonos; headgear, namely, hats, caps; Sport shoes, especially for the practice of martial arts; shirts; belts as clothing; gloves as clothing; sport shoes, especially for the practice of fightsports</del>	
<b>FINAL DESCRIPTION</b>	
Martial arts and boxing clothes, namely, martial arts uniforms, shorts, kimonos; Sport shoes, especially for the practice of martial arts	
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/silverstein/
<b>SIGNATORY'S NAME</b>	Aaron Silverstein
<b>SIGNATORY'S POSITION</b>	Attorney of record, Massachusetts bar member
<b>DATE SIGNED</b>	10/22/2010
<b>AUTHORIZED SIGNATORY</b>	YES

<b>CONCURRENT APPEAL NOTICE FILED</b>	NO
<b>FILING INFORMATION SECTION</b>	
<b>SUBMIT DATE</b>	Fri Oct 22 12:52:42 EDT 2010
<b>TEAS STAMP</b>	USPTO/RFR-64.140.207.110-20101022125242357077-79063381-470c4742aec2e8cee7bb2d04bc7ed45a-N/A-N/A-20101022120216982121

PTO Form (Rev. 4/2000)  
OMB No. 0651-0047 (Exp. 06/30/2004)

**Request for Reconsideration after Final Action  
To the Commissioner for Trademarks:**

Application serial no. **79063381** has been amended as follows:

**ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

**RESPONSE TO OFFICE ACTION DATED APRIL 22, 2010**

In an Office Action dated April 22, 2010, the Examining Attorney preliminarily refused registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), citing Reg. No. 3,676,523 for the mark VENOM for use in connection with "Ski and snowboard wear, namely, jackets, pants, insulated jackets, insulated pants, one piece insulated suits, fleece tops, fleece jackets, sweaters, fleece pants, shirts, t-shirts, gloves, hats, caps, hoods, mittens, sweatshirts, waterproof and water repellent jackets and pants" in International Class 25.

The Examining Attorney also refused registration based on the alleged indefinite nature of the description of services. Based on the following analysis, Applicant respectfully requests the Examining Attorney withdraw his refusal and pass Applicant's mark to publication.

**AMENDMENTS**

Applicant amends the identification of goods in International Class 25 to read as follows:

"Martial arts and boxing clothes, namely, martial arts uniforms, shorts, kimonos; Sport shoes, especially for the practice of martial arts"

**REMARKS**

## **I. Identification of Goods in Class 25**

The Examining attorney rejected the identification of goods and services in International Class 25 as indefinite. The applicant has thus amended the goods and services as follows:

~~Clothing~~ Martial arts and boxing clothes, namely, ~~fightsports and boxing clothes, namely, t-shirts, fightsports,~~ martial arts uniforms, shorts, kimonos; ~~headgear, namely, hats, caps; shirts; belts as clothing; gloves as clothing;~~ Sport shoes, especially for the practice of ~~fightsports~~ martial arts

The revised description adopts the language proposed by the Examining Attorney, and further narrows the scope of the identified goods. Accordingly, it is respectfully submitted that the identification of goods and services in Class 25 should be accepted as amended.

## **II. THERE IS NO LIKELIHOOD OF CONFUSION WITH REGISTRATION NO. 3,676,523**

Applicant respectfully submits that Applicant's VENUM (plus design) mark is not likely to cause confusion with the cited registration for VENOM because both marks are specifically and narrowly directed to clothing used in connection with the entirely unrelated sports of skiing and martial arts respectively, especially when cited mark coexists with a number of registered VENOM-formative marks for other sporting goods. Given the different natures of the goods, the different sets of interests that these sports appeal to, and the different channels of trade, the marks are sufficiently distinct to make confusion unlikely.

In determining whether a likelihood of confusion exists, each case must be decided on the basis of all relevant factors, including the goods and services in question and the marketing environment in which consumers normally encounter them. *In re Bigelow, Inc.*, 199 USPQ 38, 40 (TTAB 1978). Even where similar marks are applied to goods used in a common industry, the Trademark Trial and Appeal Board has not hesitated to find an absence of likelihood of confusion where goods differ or where there is no evidence that the respective goods would be encountered by the same consumers. *In re Fesco, Inc.*, 219 USPQ 437 (TTAB 1983) (FESCO for farm equipment distributorships not likely to be confused with FESCO for fertilizer and processing equipment). Furthermore, products which perform different functions, even if used next to each other or together, are not necessarily in competition such that confusion is likely. *Life Technologies, Inc. v. Gibbco Scientific, Inc.*, 826 F.2d 775, 776 (8th Cir. 1987) (No confusion between GIBCO for micro-biological and tissue culture products and GIBBCO for blood

chemistry analyzers).

**A. The Goods Are Sufficiently Distinct to Avoid Confusion in the Marketplace**

As amended, Applicant's goods are limited to clothing used in connection with a particular sport, namely martial arts. Likewise, registrant's goods are narrowly constrained to clothing used in connection with the entirely different sport of skiing. Average consumers do not ordinarily associate these sports with one another, and indeed would not expect that a company offering a line of skiwear would also be selling martial arts kimonos, or vice versa.

The differences between the sports of skiing and martial arts translate into significant differences in the nature and function of the actual goods in question. Skiing is an outdoor winter sport where the purpose and function of the clothing is to protect the wearer from the cold and other weather conditions. In contrast, martial arts is an indoor sport not associated with any particular season, where the objective of Applicant's goods is to survive the wear and tear inherent in the sport while keeping the wearer cool. Given these different purposes and functions, there is no risk that a consumer would accidentally select Applicant's goods believing them appropriate for the ski slopes, or select the registered mark's goods believing them appropriate for the octagon.

Moreover, the sports of skiing and martial arts appeal to entirely different sets of interests, and thus the markets and audiences for the goods associated therewith are entirely distinct. Sport is a very broad category that encompasses many different types of activities that speak to widely varied interests.

Because of this, even identical marks are allowed to coexist for sporting goods associated with different sports. Indeed, the VENOM mark itself is widely used in the sporting goods industry, and is registered by different parties in connection with the sports of baseball, cycling, billiards, and sport shooting. *See Ex. A* (collecting registrations for VENOM for use in connection with baseball bats, bicycles, billiard cues, and rifle scopes).

The market for skiing, for example, is individuals who are interested winter sports, the outdoors, and the rush of going downhill fast, among others. None of those interests, however, overlap with the interests served by the martial arts, which speak to an enjoyment of physical confrontation, and mastering the techniques of defeating an opponent in hand-to-hand combat. Indeed, the interests served by skiing are far more similar to cycling — in which the cited mark coexists with Reg. No. 3,000,634 covering VENOM for bicycles — than it does with the martial arts. *See Ex. A*. With such vastly different interests served

by these sports, the skiing and martial arts industries are not related in any meaningful manner, and thus, given the different markets for Applicant's and Registrant's goods, confusion is unlikely.

In addition, because of the different interests served by the skiing and martial arts industries, average consumers do not associate these sports with one another, and thus would not expect a common source of origin even were they to encounter a similar trademark.<sup>[1]</sup> Moreover, the *Cambridge Rubber Co. v. Cluett, Peabody & Co.*, 286 F.2d 623 (C.C.P.A. 1961) line of cases are not applicable, as none of these cases involve specialty clothing intended for use with a particular sport. Each of the cases cited by the examiner involve general, everyday clothing items such as shoes, shirts, pants, and underwear, which are found related regardless of whether they are marketed to men, women, or children. This holding makes sense in the context of everyday clothing items, where the general industry practice is for one company to offer lines of clothing for men, women, and children. The same logic, however, cannot be extended to specialty clothing, where there is no common industry practice to serve both the martial arts and skiwear markets. Indeed, extending this line of cases to cover skiwear and martial arts clothing is tantamount to holding that every good in International Class 25 is related to every other good in the class, which would stretch the reasoning of these cases well past its breaking point.

**B. The Differing Channels of Trade Also Make Confusion Unlikely**

In addition to the differences between the goods themselves, Applicant's goods do not generally travel through the same channels of trade as skiwear, thus making confusion even more unlikely.

Applicant's goods are most commonly sold through specialized stores which cater exclusively to the fight sports and martial arts markets. *See* Ex. B. These stores do not offer skiwear and are not likely to be encountered by consumers seeking out skiwear. *See e.g.*, Ex. C, [www.fightrack.com](http://www.fightrack.com). Thus, most consumers who encounter Applicant's mark will do so at these specialty stores, where confusion is highly unlikely.

Moreover, to the extent that Applicant's goods may be available at the department store-like sporting goods stores, such as Sports Authority or Dicks Sporting Goods, they will be in different departments, and thus are unlikely to be encountered by the same consumers. *See Recot Inc. v. M.C. Becton*, 214 F.3d 1322, 1330 (Fed. Cir. 2000) ("the law is that products should not be deemed related simply because they are sold in the same kind of establishments" such as a supermarket or department store). Also, consumers at these stores are readily able to distinguish between VENOM marks in different departments, as they will very likely also encounter VENOM baseball bats (Reg. No. 2,969,824), VENOM bicycles (Reg. No.

3,000,634), VENOM billiard cues (Reg. No. 3,577,338), and VENOM rifle scopes (Reg. No. 3,858,110).

See Ex. A.

**C. Given the Different Goods, the Marks Are Sufficiently Distinct to Render Confusion Unlikely**

As discussed above, the goods claimed by Applicant are significantly different from those in the cited registration. Given these differences and the number of VENOM-formative marks associated with sporting goods, the marks in question are sufficiently different to make confusion unlikely in the marketplace.

Visually, the marks are readily distinguishable by the prominent design element and novel spelling of Applicant's VENUM mark. Ordinary consumers, who (as discussed above) are unlikely to associate skiwear with martial arts clothing in the first place, will readily pick up on these differences to distinguish Applicant's goods from the pack of other VENUM formative sporting goods marks. Thus, the clear differences in the marks will avoid any possibility of confusion in the crowded marketplace.

Moreover, because of the limited goods claimed in connection with both marks, and the number of other VENOM-formative marks, consumers who encounter the marks aurally will likely do so in a context that makes the goods and their origin plain. For example, if they hear a radio advertisement for a VENUM kimono, there will be no confusion as to whose products are being advertised. Thus, the marks are distinct enough to avoid confusion when used in connection with the widely different goods claimed in connection with these marks.

**I. CONCLUSION**

The cited VENOM mark for skiwear coexists in the marketplace with a number of VENOM branded sporting goods, and thus there is no reason to suspect that the use of Applicant's VENUM (plus design) mark for the totally unrelated sports of martial arts and boxing will cause confusion if registered. This is especially true, given that the clothing items in question are significantly different and the sports themselves appeal to an entirely different audiences with greatly different interests. Thus, Applicant respectfully requests that the pending office action be withdrawn and that its application be allowed to proceed to publication.

---

[1] Applicant notes that the third party registrations cited by the examiner do not prove that the alleged overlap between skiwear and martial arts clothing is so pervasive that ordinary consumers will presume

both emanate from a common source. First and foremost, Registration No. 3,223,416 for DJ DERTY JERSEY is suspect given the fact that it is owned by an individual and claims a laundry list of goods including everything from hockey pants to baby bibs, and yet whose products do not appear to be available for sale via any online retailer.

For the remaining registrations, the fact they only include "ski gloves" and do not include the other skiwear goods one would expect, such as ski pants, parkas, and the like, tends to suggest that the registrant doesn't really deal in skiwear. In any event, three registrations that mention gloves in passing is hardly sufficient evidence from which to conclude that consumers ordinarily presume skiwear and martial arts clothing emanate from a common source, especially where there is no evidence of record of any company actually selling both a line of skiwear and martial arts clothing.

### **EVIDENCE**

Evidence in the nature of Exhibit A - USPTO trademark registration records. Exhibit B - Screenshot of applicant's website. Exhibit C - Screenshot of website. has been attached.

#### **Original PDF file:**

[evi 64140207110-120216982 . exhibit a final.pdf](#)

#### **Converted PDF file(s) (13 pages)**

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)

[Evidence-9](#)

[Evidence-10](#)

[Evidence-11](#)

[Evidence-12](#)

[Evidence-13](#)

#### **Original PDF file:**

[evi 64140207110-120216982 . exhibit b final.pdf](#)

#### **Converted PDF file(s) (7 pages)**

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

#### **Original PDF file:**

[evi 64140207110-120216982 . exhibit c final.pdf](#)

#### **Converted PDF file(s) (7 pages)**

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

Evidence-5

Evidence-6

Evidence-7

## **CLASSIFICATION AND LISTING OF GOODS/SERVICES**

**Applicant proposes to amend the following class of goods/services in the application:**

**Current:** Class 025 for Clothing, namely, fightsports and boxing clothes, namely, t-shirts, fightsports, shorts, kimonos; headgear, namely, hats, caps; shirts; belts as clothing; gloves as clothing; sport shoes, especially for the practice of fightsports

**Original Filing Basis:**

**Filing Basis Section 66(a)**, Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

**Proposed:**

**Tracked Text Description:** ~~Clothing, namely, fightsports and boxing clothes, namely, t-shirts, fightsports, shorts, kimonos; headgear, namely, hats, caps; Sport shoes, especially for the practice of fightsports~~; Martial arts and boxing clothes, namely, martial arts uniforms, shorts, kimonos; headgear, namely, hats, caps; Sport shoes, especially for the practice of martial arts; shirts; belts as clothing; gloves as clothing; sport shoes, especially for the practice of martial arts

Class 025 for Martial arts and boxing clothes, namely, martial arts uniforms, shorts, kimonos; Sport shoes, especially for the practice of martial arts

**Filing Basis Section 66(a)**, Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

## **SIGNATURE(S)**

**Request for Reconsideration Signature**

Signature: /asilverstein/ Date: 10/22/2010

Signatory's Name: Aaron Silverstein

Signatory's Position: Attorney of record, Massachusetts bar member

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 79063381

Internet Transmission Date: Fri Oct 22 12:52:42 EDT 2010

TEAS Stamp: USPTO/RFR-64.140.207.110-201010221252423

57077-79063381-470c4742aec2e8cee7bb2d04b

c7ed45a-N/A-N/A-20101022120216982121

**EXHIBIT A**

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2010-10-21 16:48:09 ET**

**Serial Number: 78241340 Assignment Information      Trademark Document Retrieval**

**Registration Number: 2969824**

**Mark (words only): VENOM**

**Standard Character claim: No**

**Current Status: Registered.**

**Date of Status: 2005-07-19**

**Filing Date: 2003-04-23**

**Transformed into a National Application: No**

**Registration Date: 2005-07-19**

**Register: Principal**

**Law Office Assigned: LAW OFFICE 114**

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location: 650 -Publication And Issue Section**

**Date In Location: 2005-07-19**

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. Nike, Inc.

**Address:**

Nike, Inc.

One Bowerman Drive

Beaverton, OR 970056453

United States

**Legal Entity Type: Corporation**

**State or Country of Incorporation: Oregon**

**Phone Number: 503-671-6453**

**Fax Number: 503-671-5777**

---

**GOODS AND/OR SERVICES**

---

**International Class:** 028  
**Class Status:** Active  
Sports equipment, namely baseball and softball bats  
**Basis:** 1(a)  
**First Use Date:** 2002-01-09  
**First Use in Commerce Date:** 2002-01-09

---

**ADDITIONAL INFORMATION**

---

(NOT AVAILABLE)

---

**MADRID PROTOCOL INFORMATION**

---

(NOT AVAILABLE)

---

**PROSECUTION HISTORY**

---

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2010-10-15 - Attorney Revoked And/Or Appointed  
2010-10-15 - TEAS Revoke/Appoint Attorney Received  
2009-06-23 - Attorney Revoked And/Or Appointed  
2009-06-23 - TEAS Revoke/Appoint Attorney Received  
2008-09-26 - TEAS Change Of Correspondence Received  
2008-08-27 - Attorney Revoked And/Or Appointed  
2008-08-27 - TEAS Revoke/Appoint Attorney Received  
2005-07-19 - Registered - Principal Register  
2005-04-26 - Published for opposition  
2005-04-06 - Notice of publication  
2005-02-08 - Law Office Publication Review Completed  
2005-01-28 - Assigned To LIE  
2005-01-27 - Approved for Pub - Principal Register (Initial exam)  
2004-08-18 - Report Completed Suspension Check Case Still Suspended  
2004-03-04 - Letter of suspension mailed  
2004-01-30 - Communication received from applicant

2004-01-30 - TEAS Response to Office Action Received

2003-10-03 - Non-final action mailed

2003-09-30 - Assigned To Examiner

2003-05-27 - Communication received from applicant

2003-06-12 - Case File In TIGRS

2003-05-27 - TEAS Voluntary Amendment Received

---

**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Attorney of Record**

Jaime M. Lemons, Stephanie J. Vardavas

**Correspondent**

Jaime M. Lemons, Stephanie J. Vardavas

Nike, Inc.

One Bowerman Drive, DF-4

Beaverton OR 97005

Phone Number: 503-671-6453

Fax Number: 503-646-6926

---

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2010-10-21 16:48:37 ET**

**Serial Number: 78228636 Assignment Information      Trademark Document Retrieval**

**Registration Number: 3000634**

**Mark (words only): VENOM**

**Standard Character claim: No**

**Current Status: Registered.**

**Date of Status: 2005-09-27**

**Filing Date: 2003-03-21**

**Transformed into a National Application: No**

**Registration Date: 2005-09-27**

**Register: Principal**

**Law Office Assigned: LAW OFFICE 110**

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location: 650 -Publication And Issue Section**

**Date In Location: 2005-09-27**

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

**1. Raleigh America, Inc.**

**Address:**

Raleigh America, Inc.  
22710 - 72nd Avenue South  
Kent, WA 98032  
United States

**Legal Entity Type: Corporation**

**State or Country of Incorporation: Delaware**

---

**GOODS AND/OR SERVICES**

---

**International Class: 012**

**Class Status: Active**

**Bicycles**

**Basis:** 1(a)  
**First Use Date:** 1996-06-01  
**First Use in Commerce Date:** 1996-06-01

---

**ADDITIONAL INFORMATION**

---

(NOT AVAILABLE)

---

**MADRID PROTOCOL INFORMATION**

---

(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE:** To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2005-09-27 - Registered - Principal Register  
2005-07-05 - Published for opposition  
2005-06-15 - Notice of publication  
2005-03-28 - Law Office Publication Review Completed  
2005-03-25 - Assigned To LIE  
2005-03-19 - Approved for Pub - Principal Register (Initial exam)  
2005-03-17 - Teas/Email Correspondence Entered  
2005-03-11 - Communication received from applicant  
2005-03-11 - TEAS Response to Office Action Received  
2005-01-04 - Final refusal e-mailed  
2005-01-04 - Final Refusal Written  
2004-11-23 - Petition To Revive-Granted  
2004-07-14 - Petition To Revive-Received  
2004-07-09 - PAPER RECEIVED  
2004-05-11 - Abandonment - Failure To Respond Or Late Response  
2003-09-11 - Non-final action e-mailed  
2003-09-11 - Assigned To Examiner

---

**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Correspondent**

Bruce T. Goto  
RIDDELL WILLIAMS P  
1001 4TH AVE STE 4500  
SEATTLE WA 98154-1192

---

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2010-10-21 16:48:59 ET**

**Serial Number: 77289738 Assignment Information      Trademark Document Retrieval**

**Registration Number: 3577338**

**Mark**

# VENOM

**(words only): VENOM**

**Standard Character claim: Yes**

**Current Status: Registered.**

**Date of Status: 2009-02-17**

**Filing Date: 2007-09-26**

**Filed as TEAS Plus Application: Yes**

**Currently TEAS Plus Application: Yes**

**Transformed into a National Application: No**

**Registration Date: 2009-02-17**

**Register: Principal**

**Law Office Assigned: LAW OFFICE 102**

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location: 650 -Publication And Issue Section**

**Date In Location: 2009-01-14**

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

**1. CLAWSON CUSTOM CUES, INC**

**Address:**

CLAWSON CUSTOM CUES, INC  
5055-5 ST AUGUSTINE RD  
JACKSONVILLE, FL 32207  
United States  
**Legal Entity Type:** Corporation  
**State or Country of Incorporation:** Florida  
**Phone Number:** 904-448-8748  
**Fax Number:** 904-448-9151

---

**GOODS AND/OR SERVICES**

---

**International Class:** 028  
**Class Status:** Active  
Billiard cues  
**Basis:** 1(a)  
**First Use Date:** 2007-10-24  
**First Use in Commerce Date:** 2007-10-24

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**ADDITIONAL INFORMATION**

---

(NOT AVAILABLE)

---

**MADRID PROTOCOL INFORMATION**

---

(NOT AVAILABLE)

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**PROSECUTION HISTORY**

---

**NOTE:** To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-02-17 - Registered - Principal Register  
2009-01-14 - Law Office Registration Review Completed  
2009-01-12 - Allowed for Registration - Principal Register (SOU accepted)  
2008-12-12 - Statement Of Use Processing Complete  
2008-12-02 - Use Amendment Filed  
2008-12-10 - Case Assigned To Intent To Use Paralegal  
2008-12-02 - TEAS Statement of Use Received  
2008-12-01 - TEAS Change Of Correspondence Received  
2008-06-03 - NOA Mailed - SOU Required From Applicant  
2008-03-11 - Published for opposition

2008-02-20 - Notice of publication  
2008-02-04 - Law Office Publication Review Completed  
2008-02-04 - Assigned To LIE  
2007-12-26 - Approved For Pub - Principal Register  
2007-12-26 - Assigned To Examiner  
2007-10-01 - New Application Entered In Tram

---

**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Correspondent**  
CLAWSON CUSTOM CUES INC.  
11764 Marco Beach Drive  
Jacksonville FL 32224-7684  
Phone Number: 904-448-8748  
Fax Number: 904-448-9151

---

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2010-10-21 16:49:13 ET**

**Serial Number: 77839565 Assignment Information      Trademark Document Retrieval**

**Registration Number: 3858110**

**Mark**

# VENOM

**(words only): VENOM**

**Standard Character claim: Yes**

**Current Status: Registered.**

**Date of Status: 2010-10-05**

**Filing Date: 2009-10-01**

**Filed as TEAS Plus Application: Yes**

**Currently TEAS Plus Application: Yes**

**Transformed into a National Application: No**

**Registration Date: 2010-10-05**

**Register: Principal**

**Law Office Assigned: LAW OFFICE 109**

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location: 650 -Publication And Issue Section**

**Date In Location: 2010-08-30**

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

**1. Sheltered Wings, Inc.**

**Address:**

Sheltered Wings, Inc.  
2120 West Greenview Drive, Suite Four  
Middletown, WI 53562  
United States  
**Legal Entity Type:** Corporation  
**State or Country of Incorporation:** Wisconsin

---

**GOODS AND/OR SERVICES**

---

**International Class:** 009  
**Class Status:** Active  
Riflescopes  
**Basis:** 1(a)  
**First Use Date:** 2010-05-00  
**First Use in Commerce Date:** 2010-05-00

---

**ADDITIONAL INFORMATION**

---

(NOT AVAILABLE)

---

**MADRID PROTOCOL INFORMATION**

---

(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2010-10-05 - Registered - Principal Register  
2010-08-31 - Notice Of Acceptance Of Statement Of Use E-Mailed  
2010-08-30 - Law Office Registration Review Completed  
2010-08-30 - Assigned To LIE  
2010-08-16 - Allowed for Registration - Principal Register (SOU accepted)  
2010-07-19 - Statement Of Use Processing Complete  
2010-06-22 - Use Amendment Filed  
2010-07-19 - Case Assigned To Intent To Use Paralegal  
2010-06-22 - TEAS Statement of Use Received  
2010-05-04 - NOA Mailed - SOU Required From Applicant  
2010-02-09 - Notice Of Publication E-Mailed

2010-02-09 - Published for opposition  
2010-01-07 - Law Office Publication Review Completed  
2010-01-07 - Assigned To LIE  
2009-12-16 - Approved For Pub - Principal Register  
2009-12-16 - Assigned To Examiner  
2009-10-08 - New Application Office Supplied Data Entered In Tram  
2009-10-05 - New Application Entered In Tram

---

**ATTORNEY/CORRESPONDENT INFORMATION**

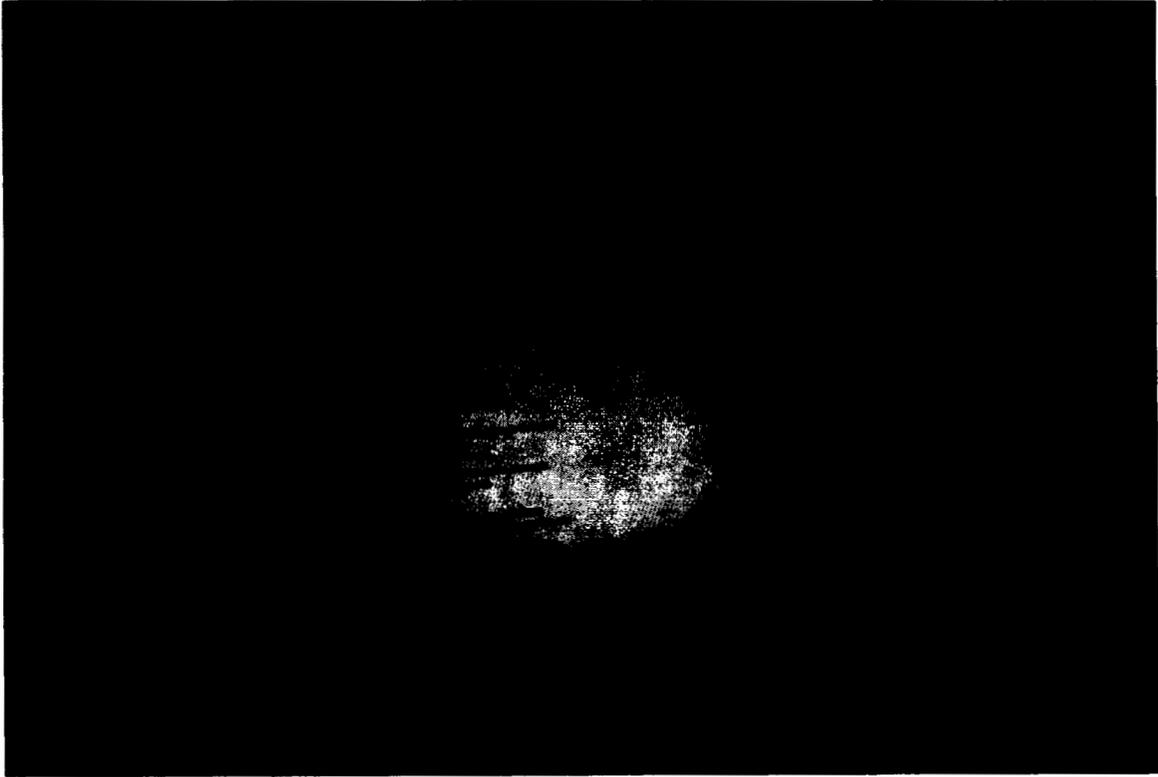
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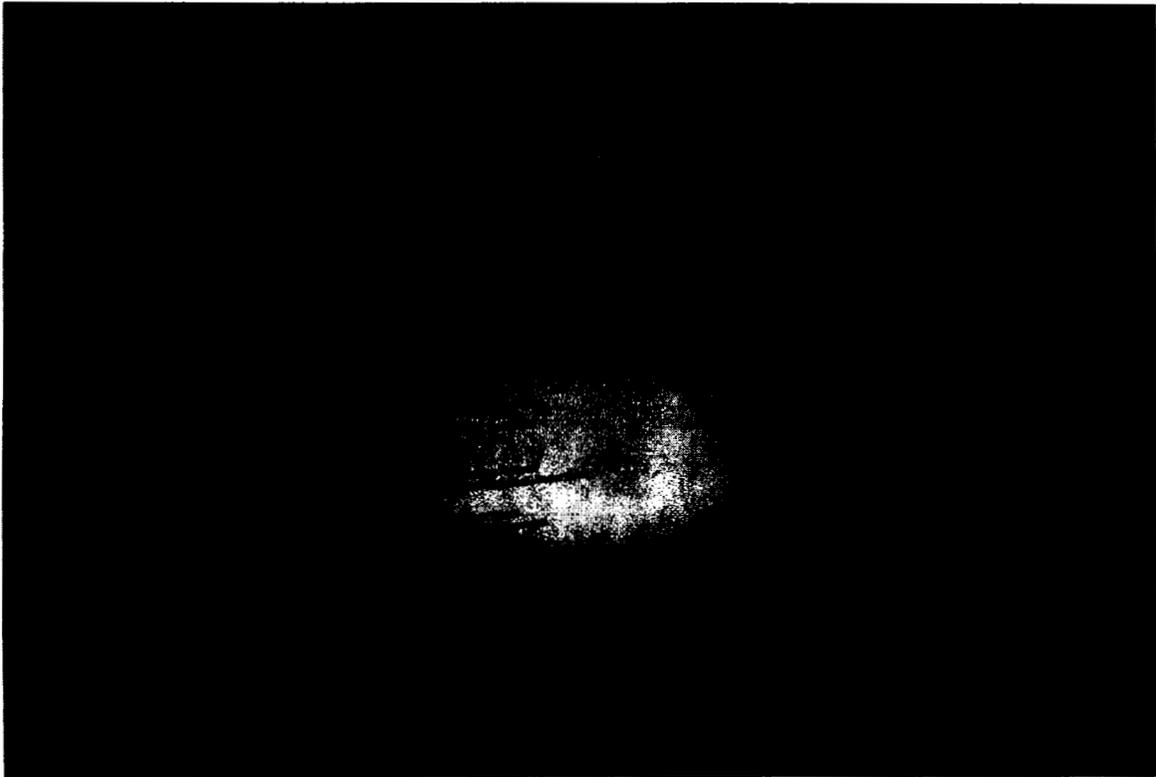
**Attorney of Record**  
Angela V. Langlotz

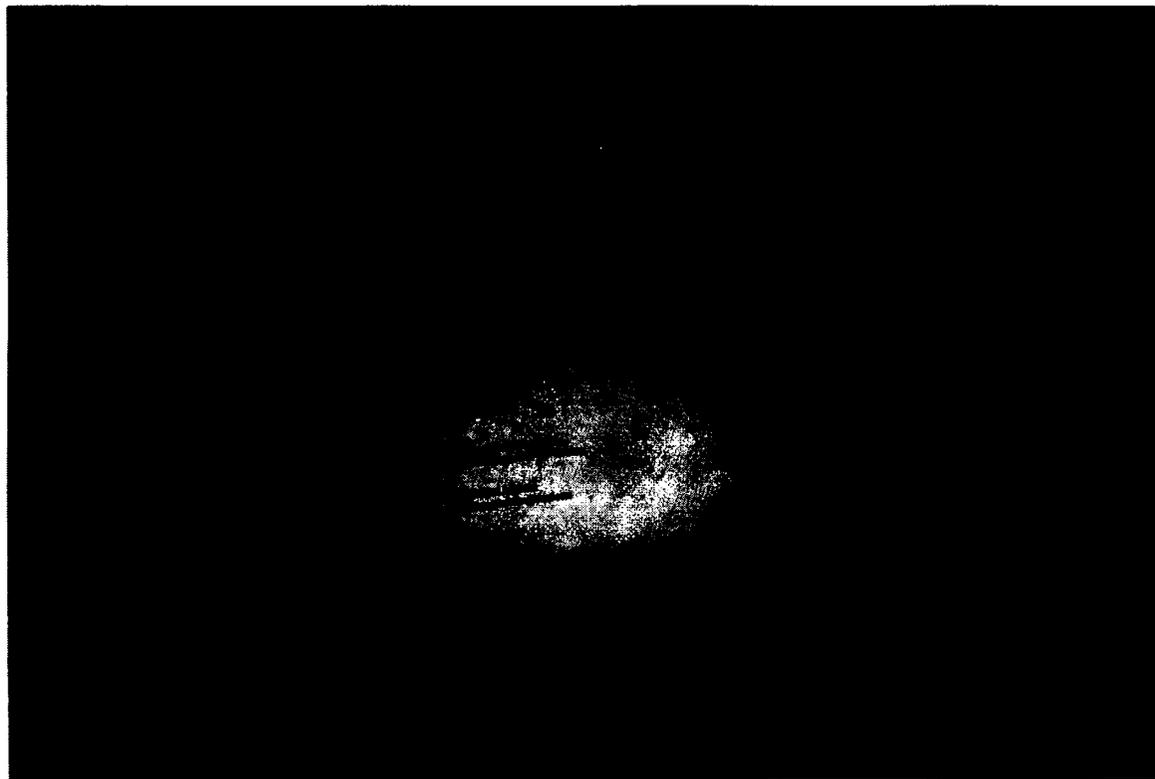
**Correspondent**  
ANGELA V. LANGLOTZ  
LANGLOTZ PATENT & TRADEMARK WORKS, INC.  
PO BOX 96503#37585  
WASHINGTON, DC 20090  
Phone Number: 866-280-5242  
Fax Number: 866-280-5242

---

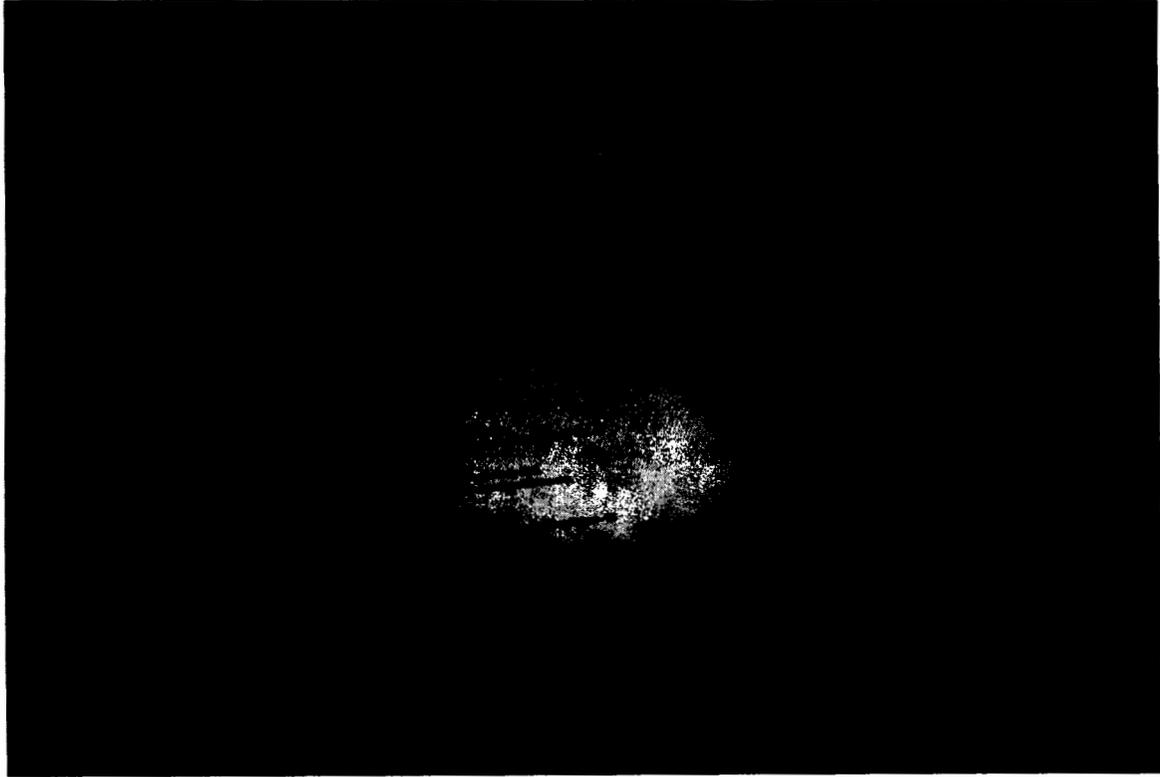
**EXHIBIT B**













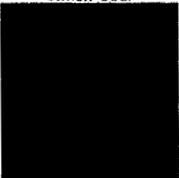
---

**EXHIBIT C**



**HOME** **FIGHTERS** **BRANDS** **VIEW CART**

**SPRAWL** **APPAREL** **CONTACT**

**PUNISHMENT ATHLETICS**  
  
**SPRAWL**  
  
**CLINCH GEAR**  


**TAPOUT**  
  
**VENUM**

**FULL CONTACT FIGHTER**  
  
**UFC**

**WARRIOR INTL.**  
  
**COMBAT SPORTS INTL.**

**FAST FORWARD**  


**WE SUEE INTERNATIONAL**  

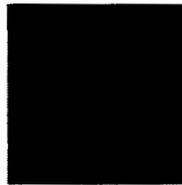

- MEN'S CLOTHING
- WOMEN'S CLOTHING
- YOUTH CLOTHING
- MMA GEAR & EQUIPMENT
- MMA MERCHANDISE
- SALE ITEMS
- SHOP BY PRICE
- SHOP BY SIZE
- SEARCH
- CHUTE BOXE
- CIVIL SPORT
- CLINCH GEAR
- COMBAT SPORTS INTL.
- CROCOP
- DEATH CLUTCH
- FULL CONTACT FIGHTER
- KING OF THE CAGE
- OUANO
- PUNISHMENT ATHLETICS
- SPRAWL
- TAPOUT
- TEAM QUEST
- UFC



Death Clutch



Team Quest



Chute Boxe



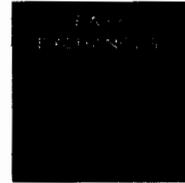
CroCop



Quano



King of the Cage

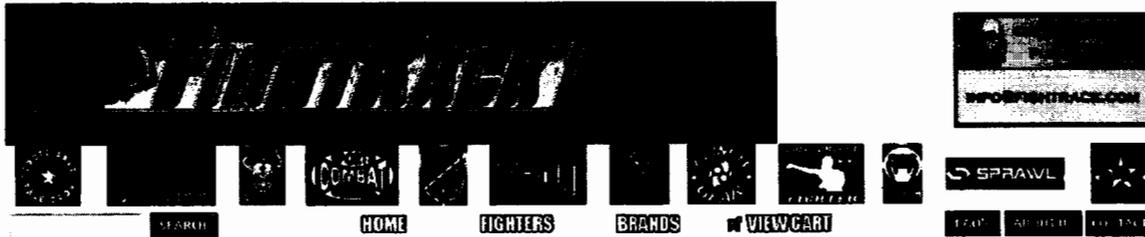


VENUM

WARRIOR INTL.

~~CHUTEBOX CIVIL SPORT CLINCH GEAR COMBAT SPORTS INTL. CROCOD DEATH CLUTCH FEAR CONTACT FIGHTERS KING OF THE CAGE QUANG PUNISHMENT  
ATHLETICS SPRAWL TAPCHIT TEAM QUEST UFC VENUM WARRIOR INTL.  
LINKS SHIPPING PRIVACY POLICY SITEMAP~~

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1 2 3 4 5

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## About Us

FightRack.com is the online retail store of FightRack, Inc. and is run by Bob & Erin Maloney of San Jose, Ca.

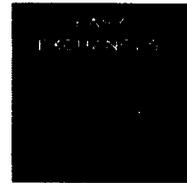
FightRack.com was designed to fill the need of a one-stop shop for value-priced MMA and MMA-related Apparel and Accessories with fast, efficient and reliable shipping provided at a low cost to you.

We hope our products and your love of the sport of Mixed Martial Arts will help expand the growth of this great sport.

We at FightRack hope you find much value with your purchase and hope you come back and use FightRack.com whenever addressing your MMA Apparel or Accessory needs.



- MEN'S CLOTHING**
- WOMEN'S CLOTHING**
- YOUTH CLOTHING**
- MMA GEAR & EQUIPMENT**
- MMA MERCHANDISE**
- SALE ITEMS**
- SHOP BY PRICE**
- SHOP BY SIZE**
- SPONSORS**
- CHUTE BOXE**
- CIVIL SPORT**
- CLINCH GEAR**
- COMBAT SPORTS INTL.**
- CROCOP**
- DEATH CLUTCH**
- FULL CONTACT FIGHTER**
- KING OF THE CAGE**
- OUANO**
- PUNISHMENT ATHLETICS**
- SPRAWL**
- TAPOUT**
- TEAM QUEST**
- UFC**



VENUM

WARRIOR INTL.

[ROUTE BOXE](#) [CIVIL SPORT](#) [CLINCH GEAR](#) [COMBAT SPORTS INTL.](#) [CROCOF](#) [DEATH CLUTCH](#) [FILA](#) [CONTACT FIGHTER](#) [KING OF THE CAGE](#) [QUANG](#) [PUNISHMENT](#)  
[ATHLETICS](#) [SPRAWL](#) [TACHT](#) [TEAM QUEST](#) [JPC](#) [VENUM](#) [WARRIOR INTL.](#)  
[LINKS](#) [SHIPPING](#) [PRIVACY POLICY](#) [SITEMAP](#)

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