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

Proceeding	91212768
Party	Plaintiff INTS It Is Not The Same, GmbH
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Submission	Motion for Summary Judgment
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Date	11/11/2015
Attachments	1433-55 Opposer's MSJ.pdf(5445928 bytes)

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

In the Matter of Application Serial No. 85/836,544
Published in the Official Gazette on August 27, 2013

INTS It Is Not The Same, GmbH,	§	
	§	
Opposer,	§	
	§	
v.	§	Opposition No. 91212768
	§	
Disidual Clothing, LLC,	§	
	§	
Applicant.	§	

**OPPOSER INTS IT IS NOT THE SAME, GMBH'S MOTION FOR SUMMARY
JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure and T.B.M.P. § 528, INTS It Is Not The Same, GmbH ("Opposer") respectfully moves the Board for entry of summary judgment on the basis of likelihood of confusion, and Opposer requests the Board deny registration of Disidual Clothing, LLC's ("Applicant") "DISIDUAL" mark, U.S. App. Serial No. 85/836,544 ("544 application"). Summary judgment and dismissal are proper in this proceeding because there is no genuine issue of material fact, and because Opposer is entitled to judgment as a matter of law. Applicant lacks priority in relation to the "DISIDUAL" mark, and the mark is likely to be confused with Opposer's "DESIGUAL" registrations.

This Motion for Summary Judgment is submitted prior to the commencement of Opposer's testimony period and is based on the attached Memorandum of Law, Declaration of Kevin S. Wilson and attached Exhibits ("Wilson Decl."), Applicant's Responses to Opposer's Requests for Admissions, and Applicant's Supplemental Responses to Opposer's Requests for Production. The interests of judicial economy and fairness to both parties are best served by concluding this

Opposition proceeding at this time. Therefore, It is respectfully requested that this Motion for Summary Judgment be granted and that Trademark Application No. 85/836,544 be denied registration. Pursuant to Trademark Rule 2.127(d) of the Trademark Rules of Practice, it is also requested that the proceedings be suspended pending the disposition of this motion.

Respectfully submitted,

November 11, 2015

Date

/1433-55/

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CERTIFICATE OF SERVICE

I hereby certify that Opposer's Motion for Summary Judgment, Memorandum of Law in Support thereof, Declaration of Kevin S. Wilson, and the attached Exhibits are being sent by first class mail on November 11, 2015, to the correspondence of record for Applicant at the following address:

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JSE:mfs
Our File: 1433-55

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Opposition No. 91212768

**MEMORANDUM OF LAW IN SUPPORT OF OPPOSER INTS IT IS NOT THE SAME,
GMBH'S MOTION FOR SUMMARY JUDGMENT**

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I. PRELIMINARY STATEMENT

INTS It Is Not The Same, GmbH, a Corporation organized under the laws of Sweden and located at Baarerstrasse 98, Zug, Switzerland, CH-6302 ("Opposer"), filed its Notice of Opposition on October 2, 2013, alleging priority and likelihood of confusion with Disidual Clothing, LLC's ("Applicant") "DISIDUAL" mark ("Applicant's Mark"). Opposer's Notice of Opposition based its likelihood of confusion claim on Opposer's U.S. Trademark Registration No. 3,737,499, "DESIGUAL (Stylized)", U.S. Trademark Registration No. 3,982,329, "DESIGUAL AND DESIGN", U.S. Trademark Registration No. 4,113,640, "DESIGUAL (Stylized)", U.S. Trademark Registration No. 4,269,396, "DESIGUAL (Stylized)", and Opposer's common law "DESIGUAL" mark used in commerce since at least as early as 1995 (collectively referred to as "Opposer's Marks").

Priority is not an issue in this proceeding, because Opposer owns earlier registrations for Opposer's "DESIGUAL" Marks. Nevertheless, as will be shown in this Memorandum of Law, and as revealed through discovery in this proceeding, Opposer's use of the term "DESIGUAL" precedes any alleged use of a similar term by Applicant. Indeed, Opposer's first use in commerce of Opposer's Marks commenced at least as early as 1995, a date that is more than seventeen years prior to Applicant's January 30, 2013 filing date for its "DISIDUAL" mark and approximately fifteen years prior to Applicant's June 1, 2010 alleged first use date. Moreover, Applicant has admitted that Applicant did not use Applicant's Mark in interstate commerce prior to June 1, 2010. *See* [Wilson Decl. Ex. F: Applicant's Response to Opposer's Requests For Admission No. 1]. The constructive first use of Opposer's "DESIGUAL" Marks is at least as early as the October 25, 2007 filing date of Opposer's Trademark Registration No. 3,737,499 for the mark "DESIGUAL (Stylized)". *See* [Wilson Decl. Ex. A: U.S. Registration No. 3,737,499]. For these reasons, Opposer has priority of

use with regard to the "DESIGUAL" mark. Opposer's Motion for Summary Judgment should be granted and registration of Applicant's confusingly similar "DISIDUAL" mark should be denied.

II. STATEMENT OF UNDISPUTED FACTS

A. Opposer INTS It Is Not The Same, GmbH.

Opposer Opposer INTS It Is Not The Same, GmbH is a Corporation organized under the laws of Sweden and located at Baarerstrasse 98, Zug, Switzerland, CH-6302. Opposer is the sole owner of U.S. Trademark Registration No. 3,737,499, "DESIGUAL (Stylized)", U.S. Trademark Registration No. 3,982,329, "DESIGUAL AND DESIGN", U.S. Trademark Registration No. 4,113,640, "DESIGUAL (Stylized)", and U.S. Trademark Registration No. 4,269,396, DESIGUAL (Stylized)". *See* [Wilson Decl. Ex. A: U.S. Registration No. 3,737,499, Ex. B: U.S. Registration No. 3,982,329, Ex. C: U.S. Registration No. 4,113,640, Ex. D: U.S. Registration No. 4,269,396].

B. Applicant Disidual Clothing, LLC.

Upon information and belief, Applicant is a Limited Liability Company organized under the laws of Washington and located at 4208 Meridan Street, Bellingham, Washington, 98226. Applicant is the owner of the "DISIDUAL" trademark application in the United States, U.S. App. Ser. No. 85/836,544, which was filed on January 30, 2013 for use on the following goods in International Class 25:

Apparel, namely, t-shirts, tank-tops, shorts, hats, jackets, sweatshirts, hooded sweatshirts, beanies, socks, pants, dresses, swimsuits, knit face masks, gloves, belts.

See [Wilson Decl. Ex. E: U.S. Application No. 85/836,544].

C. Opposer's Constructive First Use of the "DESIGUAL" Mark is at least as early as October 25, 2007.

Opposer claims a first use date of the "DESIGUAL" mark of at least as early as 1995. *See* [Opposer's Notice of Opposition]. Furthermore, the constructive first use of Opposer's

"DESIGUAL" Marks is at least as early as the October 25, 2007 filing date of Opposer's Trademark Registration No. 3,737,499 for the mark "DESIGUAL (Stylized)". *See* [Wilson Decl. Ex. A: U.S. Registration No. 3,737,499].

D. Applicant's First Use of the "DISIDUAL" Mark is Not Prior to June 1, 2010.

Applicant's "DISIDUAL" trademark application was filed January 30, 2013, based on use in commerce. *See* [Wilson Decl. Ex. E: U.S. Application No. 85/836,544]. Applicant's "DISIDUAL" trademark application contains an alleged first use date of June 1, 2010. *See* [Wilson Decl. Ex. E: U.S. Application No. 85/836,544]. Through discovery responses, Applicant confirmed that it did not use the "DISIDUAL" mark in interstate commerce prior to June 1, 2010. *See* [Wilson Decl. Ex. F: Applicant's Response to Opposer's Requests For Admission No. 1].

III. SUMMARY JUDGMENT BASED ON PRIORITY AND LIKELIHOOD OF CONFUSION

A. Summary Judgment Standard.

Summary judgment is appropriate where there are no genuine issues of material fact to be tried and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56. The Supreme Court has held that the "[s]ummary judgment procedure is properly regarded not as a disfavored procedural shortcut, but rather as an integral part of the Federal Rules as a whole, which are designed 'to secure the just, speedy and inexpensive determination of every action.'" *Celotex Corp. v. Catrett*, 477 U.S. 317, 327 (1986); *see also Sweats Fashions, Inc. v. Pannill Knitting Co.*, 833 F.2d 1560, 1562 (Fed. Cir. 1987). The evidence must be sufficient for the court to hold that no reasonable trier of fact could find other than for the moving party. *First Nat 'I Bank v. Cities Service Co.*, 391 U.S. 253 (1968).

In this case, the discovery period has already ended and the parties served their discovery responses. The parties do not require additional information in order to present their respective cases. Summary judgment is particularly appropriate where, as here, actual testimony is unlikely to address any new or additional evidence which might bear on the critical factual issues or which would reasonably be expected to change the result. *Pure Gold, Inc. v. Syntex (U.S.A.) Inc.*, 222 USPQ 741,743 (Fed. Cir. 1984); *Person's Co., Ltdy. Christman*, 9 U.S.P.Q.2d 1477, 1478 (TTAB 1988), affd, 900 F.2d 1565 (Fed. Cir. 1990). The Court of Appeals for the Federal Circuit has found summary judgment to be appropriate on the question of likelihood of confusion between two marks. *See Keebler Company v. Murray Bakery Products, Inc.*, 9 USPQ2d 1736 (Fed. Cir. 1989).

In the present case, the legal issues are squarely presented. A decision can be made now based on a comparison of the marks and the goods and services contained in the respective registrations and application. Therefore, "(f)urther litigation in this case not only would put the parties to unnecessary expense but also, equally important, would be wasteful of judicial resources." *Pure Gold Inc. v. Syntex (U.S.A.), Inc.*, 222 USPQ 741, 744 (Fed. Cir. 1984). In *Pure Gold*, the Federal Circuit stated that the routine disposition of cases on motions for summary judgment was to be commended:

The adoption of similar practice is to be encouraged in inter partes cases before the Trademark Trial and Appeal Board, which seem particularly suitable to this type of disposition. Too often we see voluminous records which would be appropriate to an infringement or unfair competition suit but are wholly unnecessary to resolution of the issue of registrability of a mark.

Id. at 744, n.2.

The Trademark Trial and Appeal Board has repeated the Federal Circuit's decisions in favor of increased use of summary judgment. *See, Nature's Way Products, Inc. v. Nature's Herbs Inc.*, 9

USPQ2d 2077 (TTAB 1989). Similarly, the U.S. Supreme Court has encouraged the use of Summary Judgment. *See, e.g., Celotex Corp. v. Catrett*, 477 U.S. 317 (1986).

B. Opposer has Priority over Applicant's Mark.

It is well established, hornbook law that "priority is not in issue in an opposition where opposer pleads (and later proves) that it owns a registration for its pleaded mark." TBMP § 309.03(c) (citing *King Candy Co., Inc. v. Eunice King's Kitchen, Inc.*, 496 F.2d 1400, 182 USPQ 108, 110 (CCPA 1974); *Syngenta Crop Protection Inc. v. Bio-Chek LLC*, 90 USPQ2d 1112, 1119 (TTAB 2009) (had opposer properly introduced its pleaded registrations, priority would have been removed as an issue to be proved)).

Applicant's filing date for the "DISIDUAL" mark is January 30, 2013 for use on clothing and apparel in Class 25. *See* [Wilson Decl. Ex. E: U.S. Application No. 85/836,544]. Applicant's "DISIDUAL" trademark application contains an alleged first use date of June 1, 2010. *See* [Wilson Decl. Ex. E: U.S. Application No. 85/836,544]. Through discovery responses, Applicant confirmed that it did not use the "DISIDUAL" mark in interstate commerce prior to June 1, 2010. *See* [Wilson Decl. Ex. F: Applicant's Response to Opposer's Requests For Admission No. 1].

The constructive first use of Opposer's "DESIGUAL" Marks for use in association with clothing in International Class 25 is at least as early as the October 25, 2007 filing date of Opposer's Trademark Registration No. 3,737,499 for the mark "DESIGUAL (Stylized)". *See* [Wilson Decl. Ex. A: U.S. Registration No. 3,737,499]. In addition, the first use of Opposer's "DESIGUAL" Marks is at least as early as 1995. *See* [Opposer's Notice of Opposition]. Opposer's "DESIGUAL" Marks for use in association with clothing in International Class 25 and other related goods and services have all been registered prior to the filing of Applicant's Mark. *See* [Wilson Decl. Ex. A: U.S. Registration No. 3,737,499, Ex. B: U.S. Registration No. 3,982,329, Ex. C: U.S. Registration

No. 4,113,640, Ex. D: U.S. Registration No. 4,269,396]. To this day, Opposer continues to sell its goods and render services at retail stores owned and operated by Opposer, in such locations as Las Vegas, Miami, New York, San Francisco, and West Palm Beach. *See* [Wilson Decl. Ex. J: Print out from Opposer's website].

As a result, Opposer clearly has priority over Applicant's Mark. Opposer's cited registrations, including the status and title copies submitted by Opposer for those registrations, are prima facie evidence of Opposer's ownership and that each registration is subsisting; priority is therefore not an issue. *See L.C. Licensing Inc. v. Berman*, 86 USPQ2d 1883, 1887 (TTAB 2008).

- C. Applicant's mark "DISIDUAL" for various types of clothing in Class 25 is likely to cause confusion with Opposer's "DESIGUAL" Marks for various types of clothing in Class 25.

The Federal Circuit has set forth a list of thirteen factors which, when of record, are to be considered in testing for a likelihood of confusion. *See In re E.I. duPont de Nemours & Co.*, 177 USPQ 563 (CCPA 1973). Analysis regarding likelihood of confusion "considers all of the DuPont factors for which there is record evidence, but may focus on dispositive factors, such as similarity of the marks and relatedness of the goods." *Herbko International Inc. v. Kappa Books Inc.*, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002) (emphasis added). The basic principle in determining likelihood of confusion between marks is that the marks are to be compared in their entireties and in connection with the nature of the goods and services on which they are used. *In re National Data Corp.*, 224 USPQ 749, 750 (Fed. Cir. 1985). When marks appear on identical goods, the degree of similarity in the marks necessary to support a conclusion of likely confusion declines. *Interstate Brands Corp. v. McKee Foods Corp.*, 53 USPQ2d 1910, 1913 (TTAB 2000). When comparing marks, courts will consider the sight, sound, and meaning of the marks, but do not have to find that the marks are similar in all three of these elements to support a finding of likelihood of confusion.

Id. at 1914. In appropriate cases, a finding of similarity as to one of these three elements may be sufficient to support a likelihood of confusion. *In re White Swan, Ltd.*, 8 USPQ2d 1534 (TTAB 1998).

- i. DuPont Factor One: The similarity or dissimilarity of the marks in their entirety as to appearance, sound, connotation, and commercial impression.*

The similarity between Applicant's "DISIDUAL" application and Opposer's "DESIGUAL" registrations serves as the foundation upon which a finding of likelihood of confusion rests. Applicant's "DISIDUAL" trademark application is very similar in appearance, sound, connotation, and commercial impression to Opposer's "DESIGUAL" Marks. The Board has consistently held that the degree of similarity of marks needed to prove likelihood of confusion varies with the difference in the goods and services of the parties. *See, e.g., Century 21 Real Estate Corp. v. Century Life of America*, 23 USPQ2d 1698 (Fed. Cir. 1992). If the goods and services are directly competitive, the degree of similarity required to prove a likelihood of confusion is less than in the case of dissimilar products. *Id.* at 1700. Conversely, the greater the similarity in the marks, the lesser the similarity required in the goods and services of the parties to support a finding of likely confusion. *In re Opus One, Inc.*, 60 USPQ2d 1812, 1815 (TTAB 2001). If the marks are very similar, it is "only necessary that there be a viable relationship between the goods or services in order to support a holding of likelihood of confusion." *In re Concórdia International Forwarding Corp.*, 222 USPQ 355, 356 (TTAB 1983).

In the current Opposition, the marks are highly similar, because Applicant's Mark bears a strong resemblance to Opposer's Marks in terms of appearance, sound, and commercial impression. Applicant's Mark and Opposer's Marks are both eight letters long. Applicant's "DISIDUAL" mark merely replaces the first letter "E" that is present in Opposer's "DESIGUAL" Marks with the letter

"I". Applicant's Mark then replaces the fifth letter "G" that is present in Opposer's "DESIGUAL" Marks with the letter "D". As a result, Applicant's Mark shares 75% of the same letters in the same order as Opposer's Marks. From a visual perspective, Applicant's "DISIDUAL" mark looks very similar to Opposer's "DESIGUAL" Marks. Applicant's Mark merely replaces two letters from Opposer's Marks, which also does little to change the sound of the respective marks. Consumers will inevitably pronounce the marks in a very similar fashion. The similarities between the marks are so strong that typing the term "DISIDUAL" into the Google search engine will return a number of number of "DESIGUAL" results at the bottom of the page under the heading "Searches related to disidual." *See* [Wilson Decl. Ex. K: search results for the term "DISIDUAL" when typed into the Google search engine]. When entering Applicant's Mark into the Google search engine, the terms "DESIGUAL" and "DESIGUAL HATS" were both suggested to be searches related to the term "DISIDUAL".

Applicant's Mark and Opposer's Marks also likely impart a similar commercial impression to consumers, simply by failing to convey a specific meaning to consumers. Opposer's "DESIGUAL" Mark translates from Spanish into English as "unequal." However, the term "DESIGUAL" is not likely to be recognized by most U.S. consumers as a Spanish word that translates into English as "unequal." It is rather unlikely that the typical consumer will "stop and translate" the term, even if that consumer has a passing knowledge of Spanish. Applicant's "DISIDUAL" Mark does not appear to have any single meaning in English. In the absence of a readily apparent meaning, consumers will be forced to rely more heavily on appearance and sound to interpret the marks. As previously discussed, the slight modifications in spelling between the marks is of little significance, because that difference is very difficult to hear when the marks are pronounced. Furthermore, Applicant's Mark does not impart a dramatically different meaning or

commercial impression when compared to Opposer's Marks. Accordingly, no further analysis is required. A simple comparison of the impression of the marks and the goods clearly demonstrates a likelihood of confusion. *See*, 4 J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition §23:20.50 (2006).

- ii. *DuPont Factor Two: The similarity or dissimilarity and nature of the goods or services as described in the application or registration in connection with which a prior mark is in use.*

The goods sold under Applicant's Mark are essentially identical to the goods sold under Opposer's Marks. Applicant's clothing products are the same and commercially related to Opposer's clothing products, which strongly supports a finding of likelihood of confusion. When, as in this case, the Applicant's mark is substantially similar to the registered marks, there need only be a viable relationship between the goods to find that there is a likelihood of confusion. *In re Shell Oil Co.*, 992 F.2d 1204, 26 USPQ2d 1687, 1689 (Fed. Cir. 1993) ("even when the goods or services are not competitive or intrinsically related, the use of identical marks can lead to the assumption that there is a common source"). The goods listed in Applicant's application include various types of clothing. *See* [Wilson Decl. Ex. E: U.S. Application No. 85/836,544]. The goods sold under Opposer's Marks also include various types of clothing. *See* [Wilson Decl. Ex. A: U.S. Registration No. 3,737,499, Ex. B: U.S. Registration No. 3,982,329]. The goods sold under Opposer's Marks further include other fashion and related home goods and services. *See* [Ex. C: U.S. Registration No. 4,113,640, Ex. D: U.S. Registration No. 4,269,396]. Moreover, there is strong overlap in the exact articles of clothing sold by the respective parties. The clothing listed Applicant's Identification of Goods as well as Opposer's Identification of Goods both include t-shirts, shorts, hats and other headwear, jackets, pants, and types of footwear. *Compare* [Wilson Decl. Ex. A: U.S. Registration No.

3,737,499, Ex. B: U.S. Registration No. 3,982,329]; *with* [Wilson Decl. Ex. E: U.S. Application No. 85/836,544].

The goods listed in Applicant's trademark application in Class 25 are commercially related and essentially identical to goods sold under Opposer's Marks, which is a critical factor weighing in favor of a likelihood of confusion between Opposer's "DEGISUAL" Marks and Applicant's "DISIDUAL" trademark application.

iii. DuPont Factor Three: The similarity or dissimilarity of established, likely-to-continue trade channels.

Goods sold under Opposer's "DESIGUAL" Marks and goods sold under Applicant's "DISIDUAL" mark are presumed to move in the same channels of trade, which strongly supports a finding of likelihood of confusion. *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981) (holding that where there are no explicit restrictions as to trade channels and classes of consumers, it is presumed that goods move in all normal channels of trade and to all normal classes of purchasers). As set forth in the pleaded registrations and the opposed application, there are no limitations on the channels of trade of either party's goods. *See* [Wilson Decl. Ex. A: U.S. Registration No. 3,737,499, Ex. B: U.S. Registration No. 3,982,329, Ex. C: U.S. Registration No. 4,113,640, Ex. D: U.S. Registration No. 4,269,396].; *see also* [Wilson Decl. Ex. E: U.S. Application No. 85/836,544].

Since the goods are unrestricted and commercial related, they are presumed to travel through all normal channels of trade and to all normal classes of purchasers. *See Canadian Imperial Bank v. Wells Fargo Bank*, 811 F.2d 1490, 1 USPQ2d 1813, 1815 (Fed. Cir. 1987); *see also CBS v. Morrow*, 218 USPQ 198, 199 (Fed. Cir. 1983) (espousing that it is proper to construe an Applicant's description of goods in the manner most favorable to Opposer (internal citations omitted)). Accordingly, the channels of trade for goods sold under Opposer's "DESIGUAL" Marks and goods

sold under Applicant's "DISIDUAL" mark are the same or similar, which is a critical factor when determining the likelihood of confusion between Opposer's "DESIGUAL" Marks and Applicant's "DISIDUAL" trademark application.

iv. DuPont Factor Four: The conditions under which sales are made and to whom sales are made.

The goods listed in Applicant's trademark application and Opposer's registrations are marketed and sold to all consumers seeking the goods contained within the respective identification of goods, which supports a finding of likelihood of confusion. The conditions under which sales are made and to whom the sales are made normally attempts to determine the likelihood of confusion for a "reasonably prudent consumer." *In re Save Venice New York, Inc.*, 259 F.3d 1346, 1355 (Fed. Cir. 2001) ("The related goods test measures whether a reasonably prudent consumer would believe that non-competitive but related goods sold under similar marks derive from the same source, or are affiliated with, connected with, or sponsored by the same trademark owner.").

In the case at bar, there is no reason to believe that the class of consumers seeking the clothing sold by Applicant and Opposer will tend to be skewed in favor of a high level of sophistication. Instead, it is highly likely that the class of consumers seeking either Applicant's goods or Opposer's goods will not tend to exercise a high level of care in acquiring such goods, and those consumers will be prone to impulse purchases. Thus, the consumers are unlikely to possess the level of sophistication required to elevate these consumers to "discriminating purchasers" utilizing an enhanced level of care. *Cf. Sally Beauty Co. v. Beautyco, Inc.*, 304 F.3d 964 (10th Cir. 2002) ("A sophisticated consumer is more likely to exercise a high level of care and less likely to be confused."); *cf.* 2 J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition* § 23:28 at 130 (2d ed.1984) ("In making purchasing decisions regarding 'expensive' goods, the

reasonably prudent person standard is elevated to the standard of the 'discriminating purchaser.'"). The unsophisticated nature of the consumers of Opposer's goods and Applicant's goods, as well as the low degree of care those consumers will exhibit in acquiring the goods of the respective parties, weighs in favor of a likelihood of confusion between Opposer's "DESIGUAL" Marks and Applicant's "DISIDUAL" trademark application.

v. *DuPont Factor Five: Opposer's "DESIGUAL" Marks are well-known.*

Opposer's marks are well-known to consumers, which supports a finding of likelihood of confusion. Opposer's "DESIGUAL" Marks have been in use in U.S. commerce for approximately twenty years. *See* [Opposer's Notice of Opposition]. Opposer continues to sell its products to this day at retail stores owned and operated by Opposer, in such locations as Las Vegas, Miami, New York, San Francisco, and West Palm Beach. *See* [Wilson Decl. Ex. J: Print out from Opposer's website]. Goods bearing Opposer's "DESIGUAL" Marks are easily accessible to consumers, as evidenced by the fact that in 2010, goods sold under Opposer's "DESIGUAL" Marks resulted in an annual turnover of 450 million Euros and over 15,000,000 garments sold at over 8,800 points of sale in 72 different countries, including the U.S. *See* [Wilson Decl. Ex. I: Print out from Opposer's website]. The fact that Opposer's "DESIGUAL" Marks are widely sold and distributed throughout the United States, and throughout the world, bolsters a finding of likelihood of confusion between Opposer's "DESIGUAL" Marks and Applicant's "DISIDUAL" trademark application.

vi. *Remaining DuPont Factors.*

There is scant evidence to present on the remaining *DuPont* factors; thus, they are of limited value in this application of the test and should therefore be given limited or no weight. *See Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 947 (Fed. Cir. 2000) (standing for the proposition that the Board can satisfy the "*DuPont* test by considering each of the *DuPont* factors for which

evidence was presented in the record."). The majority of the *DuPont* factors mentioned above heavily weigh in favor of a finding of likelihood of confusion between Opposer's "DESIGUAL" Marks and Applicant's "DISIDUAL" trademark application. Subsequently, Applicant's trademark application should not be registered, because it is likely to cause confusion with Opposer's Marks and will cause irreparable damage to Opposer.

IV. CONCLUSION

In summary, the similarities between Applicant's mark and Opposer's marks are so great that there is clearly a likelihood of confusion between the two marks, particularly when applied to similar and related goods. Because this is simply a case involving trademarks highly similar in sound and appearance that are applied to virtually identical goods, this is precisely the type of case which should be readily disposed of by means of summary judgment. Accordingly, Opposer moves for summary judgment based on priority of Opposer's first use in commerce and the likelihood that Applicant's "DISIDUAL" mark will cause confusion with Opposer's "DESIGUAL" Marks. Opposer respectfully requests that registration of Applicant's "DISIDUAL" mark be denied.

Respectfully submitted,

November 11, 2015

Date

/1433-55/

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Opposition No. 91212768

DECLARATION OF KEVIN S. WILSON

1. "My name is Kevin S. Wilson. I am over the age of eighteen, have never been convicted of a felony, and am fully qualified to make this Declaration. I file this Declaration under 28 U.S.C. 1746.

2. I am an attorney with the office of Egbert Law Offices, PLLC, attorneys for INTS It Is Not The Same, GmbH, in the above-entitled and numbered opposition proceeding. I have personal knowledge of the matters contained in this declaration, and if called upon to testify, I could and would testify competently thereto. I submit this affidavit in support of Opposer's Motion for Summary Judgment.

3. Attached hereto as **Exhibit A** is a true and correct copy of printouts from the United States Patent and Trademark Office's Trademark Electronic Search System (TESS), Trademark Applications and Registrations Retrieval (TARR) and assignment databases showing the relevant information and status of U.S. Reg. No. 3,737,499 for the mark "DESIGUAL (Stylized)" in the name of INTS It Is Not The Same, GmbH ("Opposer").

4. Attached hereto as **Exhibit B** is a true and correct copy of printouts from the United States Patent and Trademark Office's Trademark Electronic Search System (TESS), Trademark Applications and Registrations Retrieval (TARR) and assignment databases showing the relevant information and status of U.S. Reg. No. 3,982,329 for the mark "DESIGUAL AND DESIGN" in the name of INTS It Is Not The Same, GmbH ("Opposer").

5. Attached hereto as **Exhibit C** is a true and correct copy of printouts from the United States Patent and Trademark Office's Trademark Electronic Search System (TESS), Trademark Applications and Registrations Retrieval (TARR) and assignment databases showing the relevant information and status of U.S. Reg. No. 4,113,640 for the mark "DESIGUAL (Stylized)" in the name of INTS It Is Not The Same, GmbH ("Opposer").

6. Attached hereto as **Exhibit D** is a true and correct copy of printouts from the United States Patent and Trademark Office's Trademark Electronic Search System (TESS), Trademark Applications and Registrations Retrieval (TARR) and assignment databases showing the relevant information and status of U.S. Reg. No. 4,269,396 for the mark "DESIGUAL (Stylized)" in the name of INTS It Is Not The Same, GmbH ("Opposer").

7. Attached hereto as **Exhibit E** is a true and correct copy of printouts from the United States Patent and Trademark Office's Trademark Electronic Search System (TESS), Trademark Applications and Registrations Retrieval (TARR) and assignment databases showing the relevant information and status of U.S. App. Ser. No. 85/836,544 for the mark "DISIDUAL" in the name of Disidual Clothing, LLC ("Applicant").

8. On October 2, 2013, Opposer filed its Notice of Opposition of U.S. App. No. 85/836,544 for the mark "DISIDUAL" for "apparel, namely, t-shirts, tank-tops, shorts, hats, jackets, sweatshirts, hooded sweatshirts, beanies, socks, pants, dresses, swimsuits, knit face masks, gloves, belts" in International Class 25 in the name of Applicant.

9. Opposer's Notice of Opposition states, in part, that Opposer has priority of use with regard to Opposer's "DESIGUAL" Marks due to continuous use of the mark "since at least as early as 1995," a date that is "long prior to the filing date of Applicant's 'DISIDUAL' mark, Application No. 85/836,544, filed on January 30, 2013 and claiming a date of first use in commerce of June 1, 2010." Opposer's Notice of Opposition also states that "Applicant's 'DISIDUAL' mark, U.S. Application No. 85/836,544, so resembles Opposer's 'DESIGUAL' Marks as to be likely to cause confusion or mistake," which Applicant denied.

10. On December 20, 2013, Applicant filed its Answer to Opposer's Notice of Opposition denying the Opposer's claims of priority of use and likelihood of confusion, and Applicant filed a Counterclaim against Trademark Registration No. 2,088,319 for the mark "DESIGUAL AND DESIGN".

11. On June 8, 2015, Opposer served discovery requests on Applicant, which included Requests for Admissions, Requests for Production, and Interrogatories. Pursuant to a fifteen day extension of time agreed upon by the parties, Applicant's Responses to these discovery requests were served July 28, 2015. However, Applicant's responses merely consisted of Responses to Opposer's Requests for Admissions and objections to Opposer's Requests for Production. Applicant objected to Opposer's Interrogatory Requests on the ground that they exceed the maximum number permitted. Attached hereto as **Exhibit F** is a true and correct copy of Applicant's discovery responses that consisted merely of Applicant's Responses to Opposer's Requests for Admissions and objections to Opposer's Requests for Production.

12. On August 4, 2015, Opposer was forced to send a letter to Applicant detailing the Applicant's discovery deficiencies and explaining that Opposer's thirteen Interrogatory Requests, which were comprised of a total of twenty two subparts, did not exceed the maximum allowable seventy five Interrogatory Requests. Opposer's letter concluded by requesting that Applicant serve supplemental written discovery responses. Attached hereto as **Exhibit G** is a true and correct copy of Opposer's August 4, 2015 letter to Applicant detailing the Applicant's discovery deficiencies.

13. On August 11, 2015, Applicant served Interrogatory Responses, all of which were designated "subject to protective order - trade secret/commercially-sensitive information," and Applicant served Supplemental Responses to Opposer's Requests for Production. Attached hereto as **Exhibit H** is a true and correct copy of Applicant's Supplemental Responses to Opposer's Requests for Production.

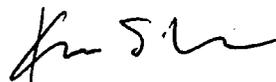
14. Attached hereto as **Exhibit I** is a true and correct copy of a portion of Opposer's website located at <https://www.desigual.com/staticFiles/doc/DesigualProfileEN.pdf>. This item references the fact that in 2010, goods sold under Opposer's "DESIGUAL" Marks resulted in an annual turnover of 450 million Euros and over 15,000,000 garments sold at over 8,800 points of sale in 72 different countries. I personally printed out a copy of the pages on October 31, 2015.

15. Attached hereto as **Exhibit J** is a true and correct copy of a portion of Opposer's website located at http://www.desigual.com/en_US/stores/usa/. This item references all of the physical store locations owned and operated by Opposer in the U.S. I personally printed out a copy of the pages on November 10, 2015.

16. Attached hereto as **Exhibit K** is a true and correct copy of the results of an internet search for the term "DISIDUAL" using the Google search engine. I personally printed out a copy of the pages on November 10, 2015.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing statements are true and correct."

Executed on the 10th day of November 2015.



Kevin S. Wilson

Exhibit "A"

Generated on: This page was generated by TSDR on 2015-10-31 18:09:14 EDT

Mark: DESIGUAL

Desigual

US Serial Number: 77313234 Application Filing Date: Oct. 25, 2007
US Registration Number: 3737499 Registration Date: Jan. 12, 2010
Register: Principal
Mark Type: Trademark
Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.
Status Date: Jul. 29, 2015
Publication Date: Jun. 02, 2009 Notice of Allowance Date: Aug. 25, 2009

Mark Information

Mark Literal Elements: DESIGUAL
Standard Character Claim: No
Mark Drawing Type: 5 - AN ILLUSTRATION DRAWING WITH WORD(S) /LETTER(S)/ NUMBER(S) INSTYLIZED FORM
Color(s) Claimed: Color is not claimed as a feature of the mark.
Translation: The foreign wording in the mark translates into English as unequal.

Related Properties Information

Claimed Ownership of US 2088319
Registrations:

Foreign Information

Priority Claimed: Yes
Foreign Application Number: 2769646 Foreign Application Filing Date: Apr. 27, 2007
Foreign Registration Number: 2.769.646/4 Foreign Registration Date: Sep. 04, 2007
Foreign Application/Registration Country: SPAIN Foreign Expiration Date: Sep. 04, 2017

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "*" identify additional (new) wording in the goods/services.

For: Bleaching preparations for household use and other substances, namely, laundry detergent for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices

International Class(es): 003 - Primary Class

U.S. Class(es): 001, 004, 006, 050, 051, 052

Class Status: ACTIVE

Basis: 1(a) 44(e)

First Use: Oct. 14, 2009

Use in Commerce: Oct. 14, 2009

For: Sunglasses, spectacle cases, spectacle frames, sports glasses, contact lenses, cases for contact lenses, chains and cords for glasses, namely, pince-nez; scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signaling, checking, supervision, life-saving and teaching apparatus and instruments, namely, sensing and signaling devices for measurement and quality control of materials processing by laser; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, namely, splices for electrical transmission lines, power-line transmission machines and apparatus; apparatus for recording, transmission or reproduction of sound or images; blank magnetic data carriers, blank record discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus

International Class(es): 009 - Primary Class

U.S. Class(es): 021, 023, 026, 036, 038

Class Status: ACTIVE

Basis: 1(a) 44(e)

First Use: Oct. 14, 2009

Use in Commerce: Oct. 14, 2009

For: Handbags, purses, traveling bags, backpacks, haversacks, traveling sets made of leather, namely, suitcases; trunks; umbrellas; parasols and walking sticks; purses made of leather; whips, harnesses and saddlery; wallets made of leather

International Class(es): 018 - Primary Class

U.S Class(es): 001, 002, 003, 022, 041

Class Status: ACTIVE

Basis: 1(a) 44(e)

First Use: Oct. 14, 2009

Use In Commerce: Oct. 14, 2009

For: Ready-made clothing for women, men and children, namely, pants, shorts, shirts, T-shirts, jackets, blouses, skirts, dresses; footwear; headgear, namely, hats and caps

International Class(es): 025 - Primary Class

U.S Class(es): 022, 039

Class Status: ACTIVE

Basis: 1(a) 44(e)

First Use: Oct. 14, 2009

Use In Commerce: Oct. 14, 2009

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: Yes	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: Yes	Amended 44E: Yes
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: INTS IT IS NOT THE SAME, GmbH
Owner Address: Baarenstrasse 98
Zug SWITZERLAND CH-6302
Legal Entity Type: CORPORATION
State or Country Where Organized: SWITZERLAND

Attorney/Correspondence Information

Attorney of Record
Attorney Name: John S. Egbert
Attorney Primary Email Address: mail@egbertlawoffices.com
Docket Number: 1433-28
Attorney Email Authorized: Yes

Correspondent
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HOUSTON, TEXAS UNITED STATES 77002
Phone: 713-224-8080
Fax: 713-223-4873
Correspondent e-mail: mail@egbertlawoffices.com
Correspondent e-mail Authorized: Yes

Domestic Representative
Domestic Representative Name: John S. Egbert
Phone: 713-224-8080
Fax: 713-223-4873
Domestic Representative e-mail: mail@egbertlawoffices.com
Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Jul. 29, 2015	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Jul. 29, 2015	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	76533
Jun. 24, 2015	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	76533
Jul. 29, 2015	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76533
Jul. 20, 2015	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76533
Jun. 24, 2015	TEAS SECTION 8 & 15 RECEIVED	

Sep. 25, 2013	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Sep. 25, 2013	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Jan. 12, 2010	REGISTERED-PRINCIPAL REGISTER	
Dec. 04, 2009	LAW OFFICE REGISTRATION REVIEW COMPLETED	76539
Nov. 30, 2009	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Nov. 06, 2009	STATEMENT OF USE PROCESSING COMPLETE	66530
Oct. 20, 2009	USE AMENDMENT FILED	66530
Nov. 06, 2009	CASE ASSIGNED TO INTENT TO USE PARALEGAL	66530
Oct. 20, 2009	TEAS STATEMENT OF USE RECEIVED	
Aug. 25, 2009	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Jun. 02, 2009	PUBLISHED FOR OPPOSITION	
May 13, 2009	NOTICE OF PUBLICATION	
Apr. 27, 2009	LAW OFFICE PUBLICATION REVIEW COMPLETED	76539
Apr. 24, 2009	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 08, 2009	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Apr. 07, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Apr. 07, 2009	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Dec. 24, 2008	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Dec. 24, 2008	NON-FINAL ACTION E-MAILED	6325
Dec. 24, 2008	NON-FINAL ACTION WRITTEN	82094
Nov. 18, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Nov. 18, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Nov. 18, 2008	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Oct. 15, 2008	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Oct. 15, 2008	LETTER OF SUSPENSION E-MAILED	6332
Oct. 15, 2008	SUSPENSION LETTER WRITTEN	82094
Aug. 11, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	76539
Aug. 11, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	76539
Aug. 11, 2008	ASSIGNED TO LIE	76539
Aug. 06, 2008	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Feb. 07, 2008	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Feb. 07, 2008	NON-FINAL ACTION E-MAILED	6325
Feb. 07, 2008	NON-FINAL ACTION WRITTEN	82094
Feb. 06, 2008	ASSIGNED TO EXAMINER	82094
Oct. 30, 2007	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Continued Section 8 - Accepted
Use:

Affidavit of Section 15 - Accepted
Incontestability:

TM Staff and Location Information

TM Staff Information - None
File Location

Current Location: TMEG LAW OFFICE 104

Date in Location: Jul. 29, 2015

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Opposition

Proceeding Number: 91212768

Filing Date: Oct 02, 2013

Status: Pending

Status Date: Oct 02, 2013

Interlocutory Attorney: GEORGE POLOGEORGIS

Defendant

Name: Disidual Clothing, LLC

Correspondent Address: CRAIG A. BEAKER
MARSHALL GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE 6300 WILLIS TOWER
CHICAGO IL UNITED STATES, 60606-6357

Correspondent e-mail: gchinlund@marshallip.com, cbeaker@marshallip.com, kking@marshallip.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
DISIDUAL	Opposition Pending	<u>85836544</u>	

Plaintiff(s)

Name: INTS It Is Not The Same, GmbH

Correspondent Address: JOHN S EGBERT
EGBERT LAW OFFICES PLLC
1314 TEXAS, 21ST FLOOR
HOUSTON TX UNITED STATES, 77002

Correspondent e-mail: mail@egbertlawoffices.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
DESIGUAL	Renewed	<u>75047585</u>	<u>2088319</u>
DESIGUAL	Section 8 and 15 - Accepted and Acknowledged	<u>77313234</u>	<u>3737499</u>
DESIGUAL	Registered	<u>77935125</u>	<u>3982329</u>
DESIGUAL	Registered	<u>79102706</u>	<u>4113640</u>
DESIGUAL	Registered	<u>85449056</u>	<u>4269396</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Oct 02, 2013	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Oct 02, 2013	Nov 11, 2013
3	PENDING, INSTITUTED	Oct 02, 2013	
4	D APPEARANCE / POWER OF ATTORNEY	Nov 11, 2013	
5	D MOT FOR EXT W/O CONSENT	Nov 11, 2013	
6	D APPEARANCE / POWER OF ATTORNEY	Nov 26, 2013	
7	EXTENSION OF TIME GRANTED	Dec 06, 2013	
8	D MOT TO STRIKE	Dec 20, 2013	
9	ANSWER AND COUNTERCLAIM (FEE)	Dec 20, 2013	
10	STIP FOR EXT	Jan 07, 2014	
11	P'S MOT TO EXTEND TIME GRANTED; PROCEEDINGS SUSPENDED PENDING DISP OF D'S MOT TO STRIKE	Jan 07, 2014	
12	P OPP/RESP TO MOTION	Jan 23, 2014	
13	D'S MOT TO STRIKE DENIED; TRIAL DATES RESET	Mar 31, 2014	
14	P MOT TO DISMISS COUNTERCLAIM: FRCP 12(B)	Apr 21, 2014	
15	SUSP PEND DISP OF OUTSTNDNG MOT	Apr 21, 2014	
16	D OPP/RESP TO MOTION	May 12, 2014	
17	CHANGE OF CORRESP ADDRESS	May 14, 2014	
18	P REPLY IN SUPPORT OF MOTION	May 30, 2014	
19	P'S MOT TO DISMISS COUNTERCLAIM DENIED; TRIAL DATES RESET	Aug 28, 2014	
20	ANSWER TO COUNTERCLAIM	Sep 03, 2014	
21	D'S PETITION TO DISQUALIFY	Dec 23, 2014	

22	SUSP PEND DISP OF OUTSTANDING PETITION	Dec 30, 2014
23	P OPP/RESP TO MOTION	Jan 09, 2015
24	D REPLY IN SUPPORT OF MOTION	Jan 29, 2015
25	PROCEEDINGS RESUMED	Mar 28, 2015



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No assignment has been recorded at the USPTO

For Serial Number: 77313234

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.5
Web interface last modified: July 25, 2014 v.2.5

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Exhibit "B"

First Use: Nov. 22, 2010

Use in Commerce: Nov. 22, 2010

For: Handbags, purses, traveling bags, backpacks, haversacks, traveling sets made of leather, namely, suitcases; trunks; umbrellas; parasols and walking sticks; purses made of leather; whips, harnesses and saddlery; wallets made of leather

International Class(es): 018 - Primary Class

U.S Class(es): 001, 002, 003, 022, 041

Class Status: ACTIVE

Basis: 1(a)

First Use: Nov. 22, 2010

Use in Commerce: Nov. 22, 2010

For: Ready-made clothing for women, men and children, namely, pants, shorts, shirts, T-shirts, jackets, blouses, skirts, dresses; footwear; headgear, namely, hats and caps

International Class(es): 025 - Primary Class

U.S Class(es): 022, 039

Class Status: ACTIVE

Basis: 1(a)

First Use: Nov. 22, 2010

Use in Commerce: Nov. 22, 2010

For: Retail shops for clothing, fashion and home design accessories of all kinds; dissemination of advertisements; modelling for advertising or sales promotion; organisation of trade fairs for commercial or advertising purposes; advertising services; direct mail advertising

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 1(a)

First Use: Nov. 22, 2010

Use in Commerce: Nov. 22, 2010

For: Distribution services, namely, delivery of clothing, fashion and home design accessories

International Class(es): 039 - Primary Class

U.S Class(es): 100, 105

Class Status: ACTIVE

Basis: 1(a)

First Use: Nov. 22, 2010

Use in Commerce: Nov. 22, 2010

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: INTS IT IS NOT THE SAME, GmbH
Owner Address: Baarerstrasse 98
Zug CH-6302
SWITZERLAND
Legal Entity Type: CORPORATION
State or Country Where Organized: SWITZERLAND

Attorney/Correspondence Information

Attorney Name: John S. Egbert	Attorney of Record	Docket Number: 1433-38
Attorney Primary Email Address: mail@egbertlawoffices.com		Attorney Email Authorized: No
Correspondent Name/Address: JOHN S. EGBERT EGBERT LAW OFFICES, PLLC 412 MAIN ST FL 7 HOUSTON, TEXAS 77002-1897 UNITED STATES	Correspondent	
Phone: 713-224-8080		Fax: 713-223-4873
Correspondent e-mail: mail@egbertlawoffices.com		Correspondent e-mail Authorized: No
Domestic Representative John S. Egbert	Domestic Representative	Phone: 713-224-8080

Name:

Fax: 713-223-4873

Domestic Representative e-mail: mail@egbertlawoffices.com

Domestic Representative Yes
e-mail Authorized:

Prosecution History

Date	Description	Proceeding Number
Jun. 21, 2011	REGISTERED-PRINCIPAL REGISTER	
May 20, 2011	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
May 19, 2011	LAW OFFICE REGISTRATION REVIEW COMPLETED	77312
May 18, 2011	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Apr. 28, 2011	STATEMENT OF USE PROCESSING COMPLETE	76538
Apr. 26, 2011	USE AMENDMENT FILED	76538
Apr. 28, 2011	CASE ASSIGNED TO INTENT TO USE PARALEGAL	76538
Apr. 26, 2011	TEAS STATEMENT OF USE RECEIVED	
Nov. 02, 2010	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Sep. 07, 2010	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Sep. 07, 2010	PUBLISHED FOR OPPOSITION	
Jul. 31, 2010	LAW OFFICE PUBLICATION REVIEW COMPLETED	77312
Jul. 31, 2010	ASSIGNED TO LIE	77312
Jul. 17, 2010	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jul. 09, 2010	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jul. 08, 2010	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jul. 08, 2010	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
May 17, 2010	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
May 17, 2010	NON-FINAL ACTION E-MAILED	6325
May 17, 2010	NON-FINAL ACTION WRITTEN	74645
May 14, 2010	ASSIGNED TO EXAMINER	74645
Feb. 19, 2010	NOTICE OF DESIGN SEARCH CODE AND PSEUDO MARK MAILED	
Feb. 18, 2010	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Feb. 16, 2010	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: May 19, 2011

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Opposition

Proceeding Number: [91212768](#)

Filing Date: Oct 02, 2013

Status: Pending

Status Date: Oct 02, 2013

Interlocutory Attorney: GEORGE POLOGEORGIS

Defendant

Name: Disidual Clothing, LLC

Correspondent Address: CRAIG A. BEAKER
MARSHALL GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE 8300 WILLIS TOWER
CHICAGO IL , 60606-6357
UNITED STATES

Correspondent e-mail: gchinlund@marshallip.com, cbeaker@marshallip.com, kking@marshallip.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
DISIDUAL	Opposition Pending	<u>85836544</u>	
	Plaintiff(s)		

Name: INTS It Is Not The Same, GmbH

Correspondent Address: JOHN S EGBERT
 EGBERT LAW OFFICES PLLC
 1314 TEXAS, 21ST FLOOR
 HOUSTON TX , 77002
 UNITED STATES

Correspondent e-mail: mail@egbertlawoffices.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
DESIGUAL	Renewed	<u>75047585</u>	<u>2088319</u>
DESIGUAL	Section 8 and 15 - Accepted and Acknowledged	<u>77313234</u>	<u>3737499</u>
DESIGUAL	Registered	<u>77935125</u>	<u>3982329</u>
DESIGUAL	Registered	<u>79102706</u>	<u>4113640</u>
DESIGUAL	Registered	<u>85449056</u>	<u>4269396</u>

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Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Oct 02, 2013	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Oct 02, 2013	Nov 11, 2013
3	PENDING, INSTITUTED	Oct 02, 2013	
4	D APPEARANCE / POWER OF ATTORNEY	Nov 11, 2013	
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8	D MOT TO STRIKE	Dec 20, 2013	
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10	STIP FOR EXT	Jan 07, 2014	
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12	P OPP/RESP TO MOTION	Jan 23, 2014	
13	D'S MOT TO STRIKE DENIED; TRIAL DATES RESET	Mar 31, 2014	
14	P MOT TO DISMISS COUNTERCLAIM: FRCP 12(B)	Apr 21, 2014	
15	SUSP PEND DISP OF OUTSTNDNG MOT	Apr 21, 2014	
16	D OPP/RESP TO MOTION	May 12, 2014	
17	CHANGE OF CORRESP ADDRESS	May 14, 2014	
18	P REPLY IN SUPPORT OF MOTION	May 30, 2014	
19	P'S MOT TO DISMISS COUNTERCLAIM DENIED; TRIAL DATES RESET	Aug 28, 2014	
20	ANSWER TO COUNTERCLAIM	Sep 03, 2014	
21	D'S PETITION TO DISQUALIFY	Dec 23, 2014	
22	SUSP PEND DISP OF OUTSTANDING PETITION	Dec 30, 2014	
23	P OPP/RESP TO MOTION	Jan 09, 2015	
24	D REPLY IN SUPPORT OF MOTION	Jan 29, 2015	
25	PROCEEDINGS RESUMED	Mar 28, 2015	



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No assignment has been recorded at the USPTO

For Serial Number: 77935125

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.5
Web Interface last modified: July 25, 2014 v.2.5

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Exhibit "C"

Generated on: This page was generated by TSDR on 2015-10-31 18:10:52 EDT

Mark: DESIGUAL

Dezigual

US Serial Number: 79102706

Application Filing Date: May 26, 2011

US Registration Number: 4113640

Registration Date: Mar. 20, 2012

Register: Principal

Mark Type: Trademark, Service Mark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Mar. 20, 2012

Publication Date: Jan. 03, 2012

Mark Information

Mark Literal Elements: DESIGUAL

Standard Character Claim: No

Mark Drawing Type: 5 - AN ILLUSTRATION DRAWING WITH WORD(S) /LETTER(S)/ NUMBER(S) INSTYLIZED FORM

Description of Mark: The mark consists of the stylized word "DESIGUAL" where the letter "S" is backwards.

Color(s) Claimed: Color is not claimed as a feature of the mark.

Translation: The English translation of the foreign word(s) in the mark is: UNEQUAL.

Transliteration: The transliteration of the non-Latin characters in the mark is: DESIGUAL.

Related Properties Information

International Registration Number: 1091107

International Registration Date: May 26, 2011

Claimed Ownership of US Registrations: 2088319, 3737499, 3982329

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parentheses ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "*" identify additional (new) wording in the goods/services.

For: Bed linen, namely, bed blankets, bed spreads, bed covers, bed pads, pillow cases, mattress covers, bed sheets, sheet sets, duvets; table linen, namely, table cloths, not of paper, place mats, not of paper; towels; travelling rugs; bath linen, except clothing, namely, shower curtains

International Class(es): 024 - Primary Class

U.S Class(es): 042, 050

Class Status: ACTIVE

Basis: 66(a)

For: Retail store services featuring all kinds of ready-made clothing and accessories in the fields of fashion and design; dissemination of advertising matter; modeling for advertising or sales promotion; organization of trade fairs for commercial or advertising purposes; advertising; direct mail advertising

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 66(a)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: Yes

Currently 66A: Yes

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: INTS IT IS NOT THE SAME, GMBH
Owner Address: Baarerstrasse 98
CH-6302 ZUG
SWITZERLAND
Legal Entity Type: Gesellschaft mit beschränkter Haftung (GmbH) **State or Country Where Organized:** SWITZERLAND

Attorney/Correspondence Information

Attorney Name: John S. Egbert
Attorney Primary Email Address: mail@egbertlawoffices.com
Correspondent Name/Address: John S. Egbert
EGBERT LAW OFFICES, PLLC
1314 Texas, 21st Floor
HOUSTON, TEXAS 77002
UNITED STATES
Phone: 713-224-8080
Correspondent e-mail: mail@egbertlawoffices.com

Attorney of Record
Docket Number: 1433-44
Attorney Email No Authorized:
Correspondent
Correspondent e-mail Authorized: Yes

Domestic Representative
Domestic Representative Name: JOHN S. EGBERT

Prosecution History

Date	Description	Proceeding Number
Apr. 22, 2013	FINAL DECISION TRANSACTION PROCESSED BY IB	
Nov. 01, 2012	NOTIFICATION PROCESSED BY IB	
Sep. 10, 2012	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jun. 21, 2012	FINAL DISPOSITION NOTICE SENT TO IB	
Jun. 21, 2012	FINAL DISPOSITION PROCESSED	68359
Jun. 20, 2012	FINAL DISPOSITION NOTICE CREATED, TO BE SENT TO IB	
Jun. 09, 2012	CHANGE OF NAME/ADDRESS REC'D FROM IB	
Mar. 20, 2012	REGISTERED-PRINCIPAL REGISTER	
Jan. 03, 2012	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jan. 03, 2012	PUBLISHED FOR OPPOSITION	
Dec. 14, 2011	NOTIFICATION OF POSSIBLE OPPOSITION SENT TO IB	
Dec. 14, 2011	NOTICE OF START OF OPPOSITION PERIOD CREATED, TO BE SENT TO IB	
Dec. 14, 2011	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Nov. 29, 2011	LAW OFFICE PUBLICATION REVIEW COMPLETED	73787
Nov. 29, 2011	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 29, 2011	EXAMINER'S AMENDMENT ENTERED	88888
Nov. 29, 2011	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Nov. 29, 2011	EXAMINERS AMENDMENT E-MAILED	6328
Nov. 29, 2011	EXAMINERS AMENDMENT -WRITTEN	80819
Nov. 28, 2011	TEAS/EMAIL CORRESPONDENCE ENTERED	73787
Nov. 28, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	73787
Nov. 16, 2011	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Nov. 05, 2011	REFUSAL PROCESSED BY IB	
Oct. 19, 2011	NON-FINAL ACTION MAILED - REFUSAL SENT TO IB	
Oct. 19, 2011	REFUSAL PROCESSED BY MPU	72589

Oct. 19, 2011	NON-FINAL ACTION (IB REFUSAL) PREPARED FOR REVIEW	
Oct. 18, 2011	DATA MODIFICATION COMPLETED	73787
Oct. 18, 2011	ASSIGNED TO LIE	73787
Oct. 18, 2011	NON-FINAL ACTION WRITTEN	80819
Oct. 14, 2011	APPLICATION FILING RECEIPT MAILED	
Oct. 10, 2011	ASSIGNED TO EXAMINER	80819
Oct. 10, 2011	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Oct. 07, 2011	LIMITATION FROM ORIGINAL APPLICATION ENTERED	68359
Oct. 06, 2011	SN ASSIGNED FOR SECT 66A APPL FROM IB	

International Registration Information (Section 66a)

International Registration Number: 1091107	International Registration Date: May 26, 2011
Intl. Registration Status: REQUEST FOR EXTENSION OF PROTECTION PROCESSED	Date of International Registration Status: Oct. 06, 2011
Notification of Designation Date: Oct. 06, 2011	Date of Automatic Protection: Apr. 06, 2013
International Registration Renewal Date: May 26, 2021	
First Refusal Flag: Yes	

TM Staff and Location Information

TM Staff Information - None
File Location

Current Location: PUBLICATION AND ISSUE SECTION Date in Location: Mar. 20, 2012

Assignment Abstract Of Title Information

Summary

Total Assignments: 1 Registrant: INTS IT IS NOT THE SAME, GMBH

Assignment 1 of 1

Conveyance: CHANGE OF ADDRESS

Reel/Frame: 4797/0144

Pages: 2

Date Recorded: Jun. 09, 2012

Supporting Documents: assignment-tm-4797-0144.pdf

Assignor

Name: INTS IT IS NOT THE SAME, GMBH

Execution Date: Mar. 26, 2012

Legal Entity Type: UNKNOWN

State or Country Where Organized: SWITZERLAND

Assignee

Name: INTS IT IS NOT THE SAME, GMBH

State or Country Where Organized: NOT PROVIDED

Legal Entity Type: NOT PROVIDED

Address: BAARERSTRASSE 98
CH-6302 ZUG, SWITZERLAND

Correspondent

Correspondent Name: INTS IT IS NOT THE SAME, GMBH

Correspondent Address: BAARERSTRASSE 98
CH-6302 ZUG
SWITZERLAND

Domestic Representative - Not Found

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Opposition

Proceeding Number: 91212768

Filing Date: Oct 02, 2013

Status: Pending

Status Date: Oct 02, 2013

Interlocutory Attorney: GEORGE POLOGEORGIS

Defendant

Name: Disidual Clothing, LLC

Correspondent Address: CRAIG A. BEAKER
MARSHALL GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE#300 WILLIS TOWER
CHICAGO IL , 60606-6357
UNITED STATES

Correspondent e-mail: gchinlund@marshallip.com , cbeaker@marshallip.com , kking@marshallip.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
DISIDUAL	Opposition Pending Plaintiff(s)	<u>75047585</u>	<u>2088319</u>

Name: INTS It Is Not The Same, GmbH

Correspondent Address: JOHN S EGBERT
EGBERT LAW OFFICES PLLC
1314 TEXAS, 21ST FLOOR
HOUSTON TX , 77002
UNITED STATES

Correspondent e-mail: mail@egbertlawoffices.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
DESIGUAL	Renewed	<u>75047585</u>	<u>2088319</u>
DESIGUAL	Section 8 and 15 - Accepted and Acknowledged	<u>77313234</u>	<u>3737499</u>
DESIGUAL	Registered	<u>77935125</u>	<u>3982329</u>
DESIGUAL	Registered	<u>79102706</u>	<u>4113640</u>
DESIGUAL	Registered	<u>85449056</u>	<u>4269396</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Oct 02, 2013	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Oct 02, 2013	Nov 11, 2013
3	PENDING, INSTITUTED	Oct 02, 2013	
4	D APPEARANCE / POWER OF ATTORNEY	Nov 11, 2013	
5	D MOT FOR EXT W/O CONSENT	Nov 11, 2013	
6	D APPEARANCE / POWER OF ATTORNEY	Nov 26, 2013	
7	EXTENSION OF TIME GRANTED	Dec 06, 2013	
8	D MOT TO STRIKE	Dec 20, 2013	
9	ANSWER AND COUNTERCLAIM (FEE)	Dec 20, 2013	
10	STIP FOR EXT	Jan 07, 2014	
11	P'S MOT TO EXTEND TIME GRANTED; PROCEEDINGS SUSPENDED PENDING DISP OF D'S MOT TO STRIKE	Jan 07, 2014	
12	P OPP/RESP TO MOTION	Jan 23, 2014	
13	D'S MOT TO STRIKE DENIED; TRIAL DATES RESET	Mar 31, 2014	
14	P MOT TO DISMISS COUNTERCLAIM: FRCP 12(B)	Apr 21, 2014	
15	SUSP PEND DISP OF OUTSTNDNG MOT	Apr 21, 2014	
16	D OPP/RESP TO MOTION	May 12, 2014	
17	CHANGE OF CORRESP ADDRESS	May 14, 2014	
18	P REPLY IN SUPPORT OF MOTION	May 30, 2014	
19	P'S MOT TO DISMISS COUNTERCLAIM DENIED; TRIAL DATES RESET	Aug 28, 2014	
20	ANSWER TO COUNTERCLAIM	Sep 03, 2014	
21	D'S PETITION TO DISQUALIFY	Dec 23, 2014	
22	SUSP PEND DISP OF OUTSTANDING PETITION	Dec 30, 2014	

23	P OPP/RESP TO MOTION	Jan 09, 2015
24	D REPLY IN SUPPORT OF MOTION	Jan 29, 2015
25	PROCEEDINGS RESUMED	Mar 28, 2015



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Trademark Assignment Abstract of Title

Total Assignments: 1

Serial #: [79102706](#)

Filing Dt: 05/26/2011

Reg #: [4113640](#)

Reg. Dt: 03/20/2012

Registrant: INTS IT IS NOT THE SAME, GMBH

Mark: DESIGUAL

Assignment: 1

Reel/Frame: [4797/0144](#)

Recorded: 06/09/2012

Pages: 2

Conveyance: CHANGE OF ADDRESS

Assignor: [INTS IT IS NOT THE SAME, GMBH](#)

Exec Dt: 03/26/2012

Entity Type: UNKNOWN

Citizenship: SWITZERLAND

Entity Type: NOT PROVIDED

Citizenship: NOT PROVIDED

Assignee: [INTS IT IS NOT THE SAME, GMBH](#)

BAARERSTRASSE 98

CH-6302 ZUG, SWITZERLAND

Correspondent: INTS IT IS NOT THE SAME, GMBH

BAARERSTRASSE 98

CH-6302 ZUG

SWITZERLAND

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Web interface last modified: July 25, 2014 v.2.5

Exhibit "D"

Generated on: This page was generated by TSDR on 2015-10-31 18:11:31 EDT

Mark: DESIGUAL

Dezigual

US Serial Number: 85449056 Application Filing Date: Oct. 17, 2011
US Registration Number: 4269396 Registration Date: Jan. 01, 2013
Register: Principal
Mark Type: Trademark
Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.
Status Date: Jan. 01, 2013
Publication Date: Apr. 03, 2012 Notice of Allowance Date: May 29, 2012

Mark Information

Mark Literal Elements: DESIGUAL
Standard Character Claim: No
Mark Drawing Type: 5 - AN ILLUSTRATION DRAWING WITH WORD(S) /LETTER(S)/ NUMBER(S) INSTYLIZED FORM
Description of Mark: The mark consists of the term "DESIGUAL" in stylized lettering.
Color(s) Claimed: Color is not claimed as a feature of the mark.
Translation: The English translation of "DESIGUAL" in the mark is "UNEQUAL".

Related Properties Information

Claimed Ownership of US 2088319, 3737499, 3982329
Registrations:

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [.] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Precious metals and their alloys; goods of precious metals or coated therewith, not included in other classes, namely, rings, bracelets, necklaces and watches; jewelry, precious stones; horological and chronometric instruments

International Class(es): 014 - Primary Class

U.S Class(es): 002, 027, 028, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Feb. 20, 2012

Use in Commerce: Feb. 20, 2012

For: Furniture mirrors, picture frames; goods, not included in other classes, of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials or of plastics, namely, chairs, poufs, pillows, armchairs, stools, umbrella stands, tables

International Class(es): 020 - Primary Class

U.S Class(es): 002, 013, 022, 025, 032, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Feb. 20, 2012

Use in Commerce: Feb. 20, 2012

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: INTS IT IS NOT THE SAME, GmbH
Owner Address: Baarerstrasse 98
Zug SWITZERLAND CH-6302
Legal Entity Type: CORPORATION

State or Country Where Organized: SWITZERLAND

Attorney/Correspondence Information

Attorney of Record

Attorney Name: John S. Egbert
Attorney Primary Email Address: mail@egbertlawoffices.com

Docket Number: 1433-42
Attorney Email No Authorized:

Correspondent

Correspondent Name/Address: John S. Egbert
EGBERT LAW OFFICES, PLLC
1314 Texas, 21st Floor
HOUSTON, TEXAS UNITED STATES 77002

Phone: 713-224-8080

Fax: 713-223-4873

Correspondent e-mail: mail@egbertlawoffices.com

Correspondent e-mail Yes Authorized:

Domestic Representative

Domestic Representative Name: John S. Egbert

Phone: 713-224-8080

Fax: 713-223-4873

Domestic Representative e-mail: mail@egbertlawoffices.com

Domestic Representative e-mail Yes Authorized:

Prosecution History

Date	Description	Proceeding Number
Jan. 01, 2013	REGISTERED-PRINCIPAL REGISTER	
Nov. 28, 2012	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Nov. 27, 2012	LAW OFFICE REGISTRATION REVIEW COMPLETED	67287
Nov. 26, 2012	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Nov. 26, 2012	STATEMENT OF USE PROCESSING COMPLETE	69302
Nov. 16, 2012	USE AMENDMENT FILED	69302
Nov. 20, 2012	CASE ASSIGNED TO INTENT TO USE PARALEGAL	69302
Nov. 16, 2012	TEAS STATEMENT OF USE RECEIVED	
Sep. 10, 2012	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
May 29, 2012	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Apr. 03, 2012	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Apr. 03, 2012	PUBLISHED FOR OPPOSITION	
Mar. 14, 2012	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Feb. 27, 2012	LAW OFFICE PUBLICATION REVIEW COMPLETED	67287
Feb. 27, 2012	TEAS/EMAIL CORRESPONDENCE ENTERED	67287
Feb. 27, 2012	CORRESPONDENCE RECEIVED IN LAW OFFICE	67287
Feb. 24, 2012	TEAS VOLUNTARY AMENDMENT RECEIVED	
Feb. 24, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Feb. 23, 2012	PREVIOUS ALLOWANCE COUNT WITHDRAWN	
Feb. 22, 2012	ASSIGNED TO LIE	67287
Feb. 07, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Feb. 07, 2012	EXAMINER'S AMENDMENT ENTERED	88888
Feb. 07, 2012	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Feb. 07, 2012	EXAMINERS AMENDMENT E-MAILED	6328
Feb. 07, 2012	EXAMINERS AMENDMENT -WRITTEN	80815
Feb. 03, 2012	ASSIGNED TO EXAMINER	80815

Oct. 21, 2011 NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM
 Oct. 20, 2011 NEW APPLICATION ENTERED IN TRAM

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Nov. 27, 2012

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Opposition

Proceeding Number: 91212768

Filing Date: Oct 02, 2013

Status: Pending

Status Date: Oct 02, 2013

Interlocutory Attorney: GEORGE POLOGEORGIS

Defendant

Name: Disidual Clothing, LLC

Correspondent Address: CRAIG A. BEAKER
 MARSHALL GERSTEIN & BORUN LLP
 233 SOUTH WACKER DRIVE 6300 WILLIS TOWER
 CHICAGO IL UNITED STATES , 60606-6357

Correspondent e-mail: gchintlund@marshallip.com , cbeaker@marshallip.com , kking@marshallip.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
DISIDUAL	Opposition Pending Plaintiff(s)	85836544	

Name: INTS It Is Not The Same, GmbH

Correspondent Address: JOHN S EGBERT
 EGBERT LAW OFFICES PLLC
 1314 TEXAS, 21ST FLOOR
 HOUSTON TX UNITED STATES , 77002

Correspondent e-mail: mail@egbertlawoffices.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
DESIGUAL	Renewed	75047585	2088319
DESIGUAL	Section 8 and 15 - Accepted and Acknowledged	77313234	3737499
DESIGUAL	Registered	77935125	3982329
DESIGUAL	Registered	79102706	4113640
DESIGUAL	Registered	85449056	4269396

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Oct 02, 2013	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Oct 02, 2013	Nov 11, 2013
3	PENDING, INSTITUTED	Oct 02, 2013	
4	D APPEARANCE / POWER OF ATTORNEY	Nov 11, 2013	
5	D MOT FOR EXT W/O CONSENT	Nov 11, 2013	
6	D APPEARANCE / POWER OF ATTORNEY	Nov 26, 2013	
7	EXTENSION OF TIME GRANTED	Dec 06, 2013	
8	D MOT TO STRIKE	Dec 20, 2013	
9	ANSWER AND COUNTERCLAIM (FEE)	Dec 20, 2013	
10	STIP FOR EXT	Jan 07, 2014	
11	P'S MOT TO EXTEND TIME GRANTED; PROCEEDINGS SUSPENDED PENDING DISP OF D'S MOT TO STRIKE	Jan 07, 2014	

12	P OPP/RESP TO MOTION	Jan 23, 2014
13	D'S MOT TO STRIKE DENIED; TRIAL DATES RESET	Mar 31, 2014
14	P MOT TO DISMISS COUNTERCLAIM: FRCP 12(B)	Apr 21, 2014
15	SUSP PEND DISP OF OUTSTNDNG MOT	Apr 21, 2014
16	D OPP/RESP TO MOTION	May 12, 2014
17	CHANGE OF CORRESP ADDRESS	May 14, 2014
18	P REPLY IN SUPPORT OF MOTION	May 30, 2014
19	P'S MOT TO DISMISS COUNTERCLAIM DENIED; TRIAL DATES RESET	Aug 28, 2014
20	ANSWER TO COUNTERCLAIM	Sep 03, 2014
21	D'S PETITION TO DISQUALIFY	Dec 23, 2014
22	SUSP PEND DISP OF OUTSTANDING PETITION	Dec 30, 2014
23	P OPP/RESP TO MOTION	Jan 09, 2015
24	D REPLY IN SUPPORT OF MOTION	Jan 29, 2015
25	PROCEEDINGS RESUMED	Mar 28, 2015



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No assignment has been recorded at the USPTO

For Serial Number: 85449056

If you have any comments or questions concerning the data displayed, contact PRD/Assignments at 571-272-3350. v.2.5
Web interface last modified: July 25, 2014 v.2.5

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Exhibit "E"

Mark: DISIDUAL

DISIDUAL

US Serial Number: 85836544

Application Filing Date: Jan. 30, 2013

Register: Principal

Mark Type: Trademark

Status: An opposition after publication is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Oct. 02, 2013

Publication Date: Aug. 27, 2013

Mark Information

Mark Literal Elements: DISIDUAL

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "*" identify additional (new) wording in the goods/services.

For: Apparel, namely, t-shirts, tank-tops, shorts, hats, jackets, sweatshirts, hooded sweatshirts, beanies, socks, pants, dresses, swimsuits, knit face masks, gloves, belts

International Class(es): 025 - Primary Class

U.S. Class(es): 022, 039

Class Status: ACTIVE

Basis: 1(a)

First Use: Jun. 01, 2010

Use in Commerce: Jun. 01, 2010

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: Disidual Clothing, LLC

Owner Address: 4208 Meridan Street
Bellingham, WASHINGTON 98226
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: WASHINGTON

Attorney/Correspondence Information

Attorney Name: Gregory J. Chinlund

Attorney Primary Email Address: doCKET@marshallip.com

Attorney of Record

Docket Number: 32291-10000

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Gregory J. Chinlund
Marshall, Gerstein & Borun LLP
Suite 6300

233 South Wacker Drive
Chicago, ILLINOIS 60606
UNITED STATES

Phone: 3124746300

Correspondent e-mail: doCKET@marshallip.com

Correspondent e-mail Yes
Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Oct. 22, 2014	ASSIGNED TO EXAMINER	82422
Sep. 17, 2014	ATTORNEY REVOKED AND/OR APPOINTED	
Sep. 17, 2014	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Oct. 02, 2013	OPPOSITION INSTITUTED NO. 999999	212768
Sep. 25, 2013	EXTENSION OF TIME TO OPPOSE RECEIVED	
Aug. 27, 2013	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Aug. 27, 2013	PUBLISHED FOR OPPOSITION	
Aug. 07, 2013	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Jul. 24, 2013	LAW OFFICE PUBLICATION REVIEW COMPLETED	68171
Jul. 24, 2013	ASSIGNED TO LIE	68171
Jul. 03, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 14, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jun. 13, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jun. 13, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jun. 05, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jun. 05, 2013	NON-FINAL ACTION E-MAILED	6325
Jun. 05, 2013	NON-FINAL ACTION WRITTEN	72737
Jun. 03, 2013	PREVIOUS ALLOWANCE COUNT WITHDRAWN	
Jun. 01, 2013	WITHDRAWN FROM PUB - OG REVIEW QUERY	76621
May 15, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
May 14, 2013	ASSIGNED TO EXAMINER	72737
Feb. 05, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Feb. 02, 2013	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Attorney: MIDDLETON, BERNICE L	TM Staff Information
	Law Office Assigned: LAW OFFICE 106
	File Location
Current Location: PUBLICATION AND ISSUE SECTION	Date in Location: Jul. 24, 2013

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: 91212768	Filing Date: Oct 02, 2013
Status: Pending	Status Date: Oct 02, 2013
Interlocutory Attorney: GEORGE POLOGEORGIS	Defendant
Name: Disidual Clothing, LLC	
Correspondent Address: CRAIG A. BEAKER MARSHALL GERSTEIN & BORUN LLP 233 SOUTH WACKER DRIVE6300 WILLIS TOWER CHICAGO IL , 60606-6357 UNITED STATES	

Correspondent e-mail: gchinlund@marshallip.com , cbeaker@marshallip.com , kking@marshallip.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
DISIGUAL	Opposition Pending Plaintiff(s)	<u>85836544</u>	

Name: INTS It Is Not The Same, GmbH

Correspondent Address: JOHN S EGBERT
EGBERT LAW OFFICES PLLC
1314 TEXAS, 21ST FLOOR
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UNITED STATES

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Associated marks

Mark	Application Status	Serial Number	Registration Number
DESIGUAL	Renewed	<u>75047585</u>	<u>2088319</u>
DESIGUAL	Section 8 and 15 - Accepted and Acknowledged	<u>77313234</u>	<u>3737499</u>
DESIGUAL	Registered	<u>77935125</u>	<u>3982329</u>
DESIGUAL	Registered	<u>79102706</u>	<u>4113640</u>
DESIGUAL	Registered	<u>85449056</u>	<u>4269396</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Oct 02, 2013	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Oct 02, 2013	Nov 11, 2013
3	PENDING, INSTITUTED	Oct 02, 2013	
4	D APPEARANCE / POWER OF ATTORNEY	Nov 11, 2013	
5	D MOT FOR EXT W/O CONSENT	Nov 11, 2013	
6	D APPEARANCE / POWER OF ATTORNEY	Nov 26, 2013	
7	EXTENSION OF TIME GRANTED	Dec 06, 2013	
8	D MOT TO STRIKE	Dec 20, 2013	
9	ANSWER AND COUNTERCLAIM (FEE)	Dec 20, 2013	
10	STIP FOR EXT	Jan 07, 2014	
11	P'S MOT TO EXTEND TIME GRANTED; PROCEEDINGS SUSPENDED PENDING DISP OF D'S MOT TO STRIKE	Jan 07, 2014	
12	P OPP/RESP TO MOTION	Jan 23, 2014	
13	D'S MOT TO STRIKE DENIED; TRIAL DATES RESET	Mar 31, 2014	
14	P MOT TO DISMISS COUNTERCLAIM: FRCP 12(B)	Apr 21, 2014	
15	SUSP PEND DISP OF OUTSTNDNG MOT	Apr 21, 2014	
16	D OPP/RESP TO MOTION	May 12, 2014	
17	CHANGE OF CORRESP ADDRESS	May 14, 2014	
18	P REPLY IN SUPPORT OF MOTION	May 30, 2014	
19	P'S MOT TO DISMISS COUNTERCLAIM DENIED; TRIAL DATES RESET	Aug 28, 2014	
20	ANSWER TO COUNTERCLAIM	Sep 03, 2014	
21	D'S PETITION TO DISQUALIFY	Dec 23, 2014	
22	SUSP PEND DISP OF OUTSTANDING PETITION	Dec 30, 2014	
23	P OPP/RESP TO MOTION	Jan 09, 2015	
24	D REPLY IN SUPPORT OF MOTION	Jan 29, 2015	
25	PROCEEDINGS RESUMED	Mar 28, 2015	

Type of Proceeding: Extension of Time

Proceeding Number: 85836544

Filing Date: Sep 25, 2013

Status: Terminated

Status Date: Oct 26, 2013

Interlocutory Attorney:

Defendant

Name: Disidual Clothing, LLC

Correspondent Address: TEJPAL S. HANSRA
HANSRA INTELLECTUAL PROPERTY LAW
1313 E MAPLE ST STE 223
BELLINGHAM WA , 98225-5708
UNITED STATES

Associated marks

Mark	Application Status	Serial Number	Registration Number
DISIDUAL	Opposition Pending		<u>85836544</u>

Name: INTS IT IS NOT THE SAME, GmbH

Correspondent Address: John S. Egbert
Egbert Law Offices, PLLC
1314 Texas, 21st Floor
Houston TX , 77002
UNITED STATES

Correspondent e-mail: mail@egbertlawoffices.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	Prosecution History		
Entry Number	History Text	Date	Due Date
1	INCOMING - EXT TIME TO OPPOSE FILED	Sep 25, 2013	
2	EXTENSION OF TIME GRANTED	Sep 25, 2013	



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No assignment has been recorded at the USPTO

For Serial Number: 85836544

If you have any comments or questions concerning the data displayed, contact PRD/Assignments at 571-272-3350. v.2.5
Web Interface last modified: July 25, 2014 v.2.5

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Exhibit "F"

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

INTS It Is Not The Same, GmbH,

Opposer,

v.

Disidual Clothing, LLC,

Applicant.

Serial No. 85/836,544

Opposition No. 91212768

Mark: DISIDUAL

**DISIDUAL CLOTHINGS'S RESPONSES AND OBJECTIONS TO OPPOSER'S
FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT**

Pursuant to the provisions of 37 C.F.R. § 2.120 and Rule 36 of the Federal Rules of Civil Procedure, Applicant Disidual Clothing, LLC ("Disidual"), through its counsel, Marshall, Gerstein & Borun LLP, hereby responds to Opposer INTS It Is Not The Same, GmbH's ("Opposer") First Set of Requests for Admission to Applicant ("Admission Request(s)" or "Request(s)"). In furnishing these answers and objections, Disidual does not admit or concede the relevance, materiality, authenticity, and/or admissibility in evidence of any such responses or admissions.

GENERAL PRELIMINARY STATEMENT

1. Disidual's responses and objections are made to the best of its present knowledge, information, and belief following a reasonable investigation. Disidual expressly reserves its right to amend or supplement these responses in accordance with applicable rules to incorporate further documents and information and to offer such further documents and information at any trial or hearing in this case.

2. The responses provided herein are subject to the right of Disidual to object on any grounds, at any time, to a demand for further responses to these or other discovery requests, or other discovery procedures involving the subject matter of these Admission Requests.

3. No incidental or implied admissions are intended by the responses herein. The fact that Disidual has answered or objected to any Admission Request should not be taken as an admission that Disidual accepts or admits the existence of any "facts" set forth or assumed by such Admission Request, and shall not be construed to be a waiver by Disidual of any objection to any Admission Request.

4. A partial response to any Admission Request is not a waiver of any objection made to that Admission Request.

5. The assertion by Disidual of various General Objections or Specific Objections is not, and should not be deemed as, a waiver of other objections that might be applicable or become so at some future time.

GENERAL OBJECTIONS

6. Disidual objects to each Admission Request to the extent it seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other doctrine, privilege, or immunity. The responses given herein by Disidual to any one or more of the Admission Requests shall not be deemed to waive protection under any doctrine, privilege, or immunity. Disidual reserves the right to assert all applicable privileges and protections.

7. Disidual objects generally to each Admission Request insofar as it seeks information beyond the scope of applicable rule(s), law(s), and/or statute(s).

8. Disidual objects to each Admission Request to the extent it is vague, ambiguous, not limited in scope, overly broad, unduly burdensome, oppressive, not relevant, or not reasonably calculated to lead to the discovery of admissible evidence.

9. Disidual objects generally to each Admission Request to the extent that it purports to demand production of information not in Disidual's possession, custody, or control and/or to require a search of files that do not reasonably relate to one or more of the specific requests contained in the Admission Requests.

OBJECTIONS TO DEFINITIONS

10. Disidual objects to Opposer's definition of "Applicant" to the extent it includes persons and entities outside the control of Disidual.

11. Disidual objects to Registrant's definition of "identify" as it refers to a person, documents, or communications to the extent that it requires Disidual to describe information that is on the face of a document if that document is produced or to identify information outside the scope of Disidual's knowledge, possession, or control.

12. Disidual objects to Opposer's definition of the term "DISIDUAL" to the extent that it is overly broad and irrelevant to the issues in this proceeding, namely, the registration of the DISIDUAL mark.

13. Disidual objects to Opposer's definition of the term "Applicant's Mark" to the extent that it is overly broad and seeks to include other marks incorporating DISIDUAL that are not the subject of this proceeding.

SPECIFIC OBJECTIONS AND RESPONSES

REQUEST NO. 1

Admit that Applicant did not use Applicant's Mark, which is the subject of this Opposition proceeding, in interstate commerce before June 1, 2010.

RESPONSE: ADMITTED.

REQUEST NO. 2

Admit that Applicant has not used Applicant's Mark in connection with all of the goods recited in Application Serial No. 85/836,544 in United States commerce.

RESPONSE: Admitted, in part. Disidual admits that it has not used the DISIDUAL mark in connection with dresses, belts, and gloves. Disidual has used the DISIDUAL mark in connection with each and every other good recited in the application in question.

REQUEST NO. 3

Admit that Applicant did not conduct a search for possibly conflicting marks prior to Applicant's selection of Applicant's Mark.

RESPONSE: DENIED.

REQUEST NO. 4

Admit that Applicant knew of Opposer's continuous use of its "DESIGUAL" marks in the United States on clothing prior to Applicant's January 30, 2013 filing date.

RESPONSE: DENIED.

REQUEST NO. 5

Admit that all documents provided in Applicant's Responses to Opposer's First Set of Requests for Production are true and accurate copies of documents provided in Applicant's Document Production.

RESPONSE: ADMITTED.

REQUEST NO. 6

Admit that Applicant knew about the use of Opposer's Marks in the United States before selecting Applicant's Mark.

RESPONSE: DENIED.

REQUEST NO. 7

Admit that Applicant's Mark is similar in appearance to Opposer's Marks.

RESPONSE: DENIED.

REQUEST NO. 8

Admit that Applicant's Mark is similar in sound to Opposer's Marks.

RESPONSE: DENIED.

REQUEST NO. 9

Admit that the goods sold under Applicant's Mark are related to the goods sold under Opposer's Marks.

RESPONSE: DENIED.

REQUEST NO. 10

Admit that the goods sold under Applicant's Mark would travel in the same channels of trade as the goods sold under Opposer's Marks.

RESPONSE: In addition to the General Objections, Disidual objects to this Admission Request on the grounds that it seeks a response to a hypothetical situation. Subject to and without waiving its General and Specific Objections, Disidual denies this Admission Request.

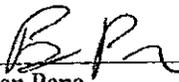
REQUEST NO. 11

Admit that Opposer owns U.S. Registration Nos. 2,088,319, 3,737,499, 3,982,329, 4,113,640, and 4,269,396.

RESPONSE: Disidual is unable to admit or deny at this time. Without waiving its General Objections and based solely upon information publicly available through the U.S. Patent and Trademark Office's Trademark Status and Document Retrieval ("TSDR") system, Opposer is currently listed as the registrant for U.S. Registration Nos. 2,088,319, 3,737,499, 3,982,329, 4,113,640, and 4,269,396. However, Disidual is unable to admit or deny this Request based solely on this information.

Respectfully submitted,

Dated: 7/21/2015



Brendan Pape
DISIDUAL CLOTHING, LLC

CERTIFICATE OF SERVICE

The undersigned affirms that DISIDUAL CLOTHING'S RESPONSES AND OBJECTIONS TO OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT was served by first class mail upon the following:

John S. Egbert
Egbert Law Offices, PLLC
1314 Texas, 21st Floor
Houston, TX 77002

Dated: July 28, 2015

/Craig A. Beaker/
Craig A. Beaker

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

INTS It Is Not The Same, GmbH,

Opposer,

v.

Disidual Clothing, LLC,

Applicant.

Serial No. 85/836,544

Opposition No. 91212768

Mark: DISIDUAL

**DISIDUAL CLOTHINGS'S RESPONSES AND OBJECTIONS TO OPPOSER'S
FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO APPLICANT**

Pursuant to the provisions of 37 C.F.R. § 2.120 and Rule 34 of the Federal Rules of Civil Procedure, Applicant Disidual Clothing, LLC ("Disidual"), through its counsel, Marshall, Gerstein & Borun LLP, hereby responds to Opposer INTS It Is Not The Same, GmbH's ("Opposer") First Set of Requests for Production of Documents to Applicant ("Document Request(s)"). In furnishing these documents and objections, Disidual does not admit or concede the relevance, materiality, authenticity, and/or admissibility in evidence of any such responses or documents.

GENERAL PRELIMINARY STATEMENT

1. Disidual's responses and objections are made to the best of its present knowledge, information, and belief following a reasonable investigation. Disidual expressly reserves its right to amend or supplement these responses in accordance with applicable rules to incorporate further documents and information and to offer such further documents and information at any trial or hearing in this case.

2. Disidual does not waive its right to object to the admissibility in evidence of any documents provided in response to these Document Requests. Disidual further does not waive

its right to raise all questions of authenticity, competency, relevancy, materiality, admissibility, or privilege for any purpose with regard to the documents and things identified and/or produced in response to Opposer's Document Requests, which may arise in any subsequent proceeding and/or the trial of this or any other action.

3. The responses provided herein are subject to the right of Disidual to object on any grounds, at any time, to a demand for further responses to these or other discovery requests, or other discovery procedures involving the subject matter of the Document Requests.

4. Disidual interprets Opposer's Document Requests to Disidual as not seeking any information or documents constituting or referring to communications between Disidual and its attorney or any notes or memoranda of Disidual's attorneys. To the extent these Document Requests call for such privileged information or documents (or otherwise privileged documents) and thereby seek to require Disidual to identify such materials in a privilege log, Disidual objects to the Document Requests as overbroad, oppressive, and unduly burdensome in addition to improperly seeking privileged information.

5. No incidental or implied admissions are intended by the responses herein. The fact that Disidual has answered or objected to any Document Request should not be taken as an admission that Disidual accepts or admits the existence of any "facts" set forth or assumed by such Document Request, and shall not be construed to be a waiver by Disidual of any objection to any Document Request. Disidual's responses to Opposer's Document Requests, and any documents produced in relation thereto, are made subject to these General Objections and any additional Specific Objections that may be asserted.

6. The responses given herein to any one or more of the Document Requests shall not be construed or deemed as an admission as to the existence or non-existence of any document, or as

an admission or waiver of any question or right of objection as to authenticity, competency, relevancy, materiality, admissibility, privilege, or any other objection Disidual may have. Such objections are expressly reserved.

7. A partial response to any Document Request is not a waiver of any objection made to that Document Request.

8. The assertion by Disidual of various General Objections or Specific Objections is not, and should not be deemed as, a waiver of other objections that might be applicable or become so at some future time.

GENERAL OBJECTIONS

9. Disidual objects to Opposer's Document Requests to the extent Opposer seeks to impose requirements or obligations on Disidual beyond those of the Federal Rules of Civil Procedure.

10. Disidual objects to each Document Request to the extent it is vague, ambiguous, not limited in scope, overly broad, unduly burdensome, oppressive, irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, or is obtainable from some other source that is more convenient, less burdensome, or less expensive. To the extent that Disidual provides answers or produces documents in response to these Document Requests, Disidual does not concede that the information provided is relevant to this case or admissible at any hearing or trial.

11. Disidual objects to each Document Request to the extent it seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other doctrine, privilege, or immunity. The responses given herein by Disidual to any one or more of the Document Requests shall not be deemed to waive protection under any doctrine, privilege, or

immunity. Disidual reserves the right to assert all applicable privileges and protections from production.

12. Disidual objects to each Document Request to the extent it seeks information that is not within its possession, custody, or control.

13. Disidual objects to each Document Request to the extent it seeks information that is already in the possession, custody, or control of Opposer.

14. The Specific Objections stated in the responses do not limit or restrict Disidual's General Objections, which are hereby incorporated into each response. Disidual's General Preliminary Statement and these General Objections are to be considered applicable to, and are hereby incorporated into, each and every response, and each response is made without waiver of any of the General Objections.

OBJECTIONS TO DEFINITIONS

15. Disidual objects to Opposer's definition of "Applicant" to the extent it includes persons and entities outside the control of Disidual.

16. Disidual objects to Registrant's definition of "identify" as it refers to a person, documents, or communications to the extent that it requires Disidual to describe information that is on the face of a document if that document is produced or to identify information outside the scope of Disidual's knowledge, possession, or control.

17. Disidual objects to Opposer's definition of the term "DISIDUAL" to the extent that it is overly broad and irrelevant to the issues in this proceeding, namely, the registration of the DISIDUAL mark.

18. Disidual objects to Opposer's definition of the term "Applicant's Mark" to the extent that it is overly broad and seeks to include other marks incorporating DISIDUAL that are not the subject of this proceeding.

SPECIFIC OBJECTIONS AND RESPONSES

REQUEST NO. 1

All documents and things identified or referenced in Opposer's First Set of Interrogatories to Applicant (Nos. 1-13).

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request on the grounds that it is vague, overly broad, and Opposer's First Set of Interrogatories to Disidual exceeded the number of interrogatories permitted under Trademark Trial and Appeal Board Manual of Procedure ("TBMP") § 405.03.

REQUEST NO. 2

All documents and things referring to or relating to the decision to create, select, or adopt the "DISIDUAL" mark, and Applicant's Mark that is the subject of this Opposition proceeding, including correspondence with and memoranda between Applicant and any name consultant, design firm, advertising agency, advertising media, suppliers and printers.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, on the grounds that it is overly broad, unduly burdensome, and outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual will produce non-privileged, responsive documents within its possession, custody, or control to the extent such documents

exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 3

With respect to each product in connection with which Applicant's Mark has been used, all documents which evidence, refer, or relate to Applicant's first use in interstate commerce of Applicant's Mark in connection with each such product.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks all documents evidencing, referring, or relating to Disidual's first use of the DISIDUAL mark, on the grounds that the Request is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent that Opposer seeks information regarding the first use of the DISIDUAL mark in connection with each product, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Further, Disidual objects to this Request on the grounds that the terms "each product" are vague and confusing. Subject to and without waiving its General and Specific Objections, Disidual will produce non-privileged, responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 4

With respect to each product in connection with which Applicant's Mark that is the subject of this Opposition proceeding has been used, all documents which evidence, refer or relate to Applicant's continuous use in interstate commerce of Applicant's Mark in connection with each such product.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks all documents evidencing, referring, or relating to Disidual's continuous use of the DISIDUAL mark, on the grounds that the Request is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent that Opposer seeks information regarding each product in connection with which the DISIDUAL mark has been used, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Further, Disidual objects to this Request on the grounds that the terms "each product" are vague and confusing. Subject to and without waiving its General and Specific Objections, Disidual will produce non-privileged, responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 5

All documents that list, show, explain or describe each of the products sold, or intended to be sold, under Applicant's Mark that is the subject of this Opposition proceeding, including, but not limited to, catalogues, brochures, training guides, CD-ROM's, or video/audio media related to such products.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks all documents that show, explain, or describe each of the products sold under the DISIDUAL mark, on the grounds that the Request is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent that Opposer seeks information regarding each of the products sold under the DISIDUAL mark, because it seeks information

outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual will produce non-privileged, responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 6

A sample (or in lieu thereof a photograph sufficiently legible to show the product, the product packaging and any marks written thereon) of each product sold, or intended to be sold, under Applicant's Mark, including a sample of each variation of such product(s) and/or product packaging, along with a sample of each display, tag, label, warranty, insert, and any other material included, or intended to be included, with such products when offered for sale, sold, and/or shipped in interstate commerce.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks a sample of each product sold or intended to be sold, and each display, tag, label, warranty, insert, and any other material included or intended to be included with such product, on the grounds that the Request is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual will produce a representative sample of non-privileged, responsive documents within its possession, custody, or control to the extent such

documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 7

A sample of each advertisement, sign, handbill, stationery, business card, identification card, display, preprinted contract or form, decal, badge, label, and other advertising, promotional, and/or printed materials on which Applicant's Mark has been displayed or on which Applicant intends to display Applicant's Mark.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks a sample of each advertisement, sign, handbill, stationery, business card, identification card, display, preprinted contract or form, decal, badge, label, and other advertising, promotional, and/or printed materials on which the DISIDUAL mark has been displayed or is intended to be displayed, on the grounds that the Request is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual will produce a representative sample of non-privileged, responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 8

A sample of each advertisement in the form of audio/video tapes, CD's, DVD's, Internet web site(s), or any other media type intended for viewing and/or listening by an electronic device

which mentions or displays Applicant's Mark and/or the products sold and/or offered for sale under Applicant's Mark that is the subject of this Opposition Proceeding.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks a sample of each audio/video tape, CD, DVD, Internet web site(s), or any other media type that mentions or display the DISIDUAL mark, on the grounds that the Request is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual will produce a representative sample of non-privileged, responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 9

Documents sufficient to show each catalog, sales outlet, Internet web site, retail outlet, and wholesale outlet in which Applicant has (or intends to have) its goods advertised, promoted, sold, offered for sale and/or distributed under Applicant's Mark that is the subject of this Opposition proceeding.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad and unduly burdensome. Disidual also objects to this Request, to the extent that Opposer seeks documents showing each catalog, sales outlet, Internet web site, etc., because the burden or expense of production outweighs its likely probative value. Subject to and without waiving its General and Specific Objections, Disidual will produce non-

privileged, responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 10

All search reports and investigation reports prepared by, or for, Applicant referring to, relating to or commenting upon the term “DISIDUAL”, Applicant’s trade name or Applicant’s Mark and any opinions requested or received regarding the right of any person to use and/or register the term “DISIDUAL”, Applicant’s Mark or any variation thereof.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual further objects to this Request to the extent it seeks documents covered by the attorney-client privilege, the attorney work-product doctrine, or any other applicable doctrine, privilege, or immunity. Subject to and without waiving its General and Specific Objections, Disidual is not aware of any documents within its possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 11

All documents referring or relating to Applicant’s Mark that is the subject of this Opposition proceeding that have been filed with or received from any federal, state or local governmental office or regulatory agency, including, but not limited to, all documents filed in connection with efforts to obtain approval to offer any services or sell any products under Applicant’s Mark or to obtain registration of Applicant’s Mark.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Last, to the extent that the Request seeks information that is accessible through the U.S. Patent and Trademark Office website or is otherwise publicly available, Disidual objects to this Request on the grounds that the requested information is equally accessible to Opposer. Subject to and without waiving its General and Specific Objections, Disidual will produce non-privileged, responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 12

All documents which evidence, support, or show the denials in Applicant's Answer to the Notice of Opposition.

RESPONSE: In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad, unduly burdensome, vague, and the burden or expense of production outweighs its likely probative value. Subject to and without waiving its General and Specific Objections, Disidual is not aware of any documents within its possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 13

All documents which evidence, support, or show Applicant's Affirmative Defenses as pleaded in Applicant's Answer and Affirmative Defenses to the Notice of Opposition.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks all documents that evidence, support, or show Applicant's Affirmative Defenses, on the grounds that the Request is overly broad, unduly burdensome, vague, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is publicly available and/or in Opposer's possession, custody, or control. Subject to and without waiving its General and Specific Objections, Disidual is not aware of any documents within its possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 14

Documents sufficient to show monthly sales, in units sold and gross revenues, for each product sold under Applicant's Mark that is the subject of this Opposition proceeding from the date of first use of Applicant's Mark to the present.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks sales information regarding products that are not relevant to this proceeding, on the grounds that it is overly broad, unduly burdensome, irrelevant to a party's claim or defense, and the burden or expense of production outweighs its likely probative value. Subject to and without waiving its General and Specific Objections, Disidual will produce non-privileged, responsive documents within its possession, custody, or control to the extent

such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 15

Documents sufficient to show or evidence Applicant's advertising expenditures in connection with Applicant's Mark that is the subject of this Opposition proceeding for each product sold under Applicant's Mark, by month, from the date of first use of Applicant's Mark through the present.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks advertising expenditure information regarding products that are not relevant to this proceeding, on the grounds that it is overly broad, unduly burdensome, irrelevant to a party's claim or defense, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual is not aware of any documents within its possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 16

All documents relating and/or referring to the channels of trade through which products bearing Applicant's Mark that is the subject of this Opposition proceeding for each product sold under Applicant's Mark, by month, from the date of first use of Applicant's Mark through the present.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks information regarding channels of trade for products that are not

relevant to this proceeding, on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, to the extent such documents exist, Disidual will produce non-privileged, responsive documents within its possession, custody, or control that relate and/or refer to the channels of trade through which products bearing the DISIDUAL mark have been sold. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 17

All documents which evidence, support, refer or relate to any license, assignment, agreement, understanding or other grant or transfer of rights referring or relating to Applicant's Mark.

RESPONSE: In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual is not aware of any documents within its possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 18

Each document which shows, evidences, or supports Applicant's response to Opposer's First Requests for Admissions, served concurrently herewith.

RESPONSE: In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad, unduly burdensome, vague, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual is not aware of any documents within its possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 19

Each document which shows, evidences, or supports Applicant's response to Opposer's First Set of Interrogatories, served concurrently herewith.

RESPONSE: In addition to the General Objections, Disidual objects to this Request on the grounds that it is vague, overly broad, and Opposer's First Set of Interrogatories to Disidual exceeded the number of interrogatories permitted under Trademark Trial and Appeal Board Manual of Procedure ("TBMP") § 405.03.

REQUEST NO. 20

A complete copy of each version of any Internet web site linked to a domain name registered to Applicant, from the creation of the web site through the present, at which Applicant features, or intends to feature, products under Applicant's Mark.

RESPONSE: In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Further, Disidual has not maintained a copy of each version of any Internet web site linked to a domain name registered to Disidual that features products sold under the DISIDUAL mark. Subject to and without waiving its General and Specific Objections, Disidual directs Opposer to the following websites: www.disidual.com; www.facebook.com/disidual; <https://instagram.com/disidual>; <https://twitter.com/disidual>.

REQUEST NO. 21

All marketing plans, marketing projections, market share analysis or sales approach documents prepared by or for Applicant relating to its sale, or proposed sale, of products bearing Applicant's Mark.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that this Request seeks "all" marketing plans, marketing projections, market share analysis or sales approach documents, on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent that Opposer seeks information regarding products that are not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Disidual is not aware of any documents within its possession, custody, or control that are

responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 22

All documents referring to, relating to, comprising, or commenting on Applicant's standards or mechanisms for controlling the quality of the goods sold, or intended to be sold, under Applicant's Mark that is the subject of this Opposition proceeding.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that this Request seeks all documents referring to, relating to, comprising, or commenting on Applicant's standards or mechanisms for controlling the quality of the goods sold under the DISIDUAL mark, on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual is not aware of any documents within its possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO 23

All documents relating to any objection, lawsuit, opposition proceeding, cancellation proceeding or other proceeding involving or relating to Applicant's Mark.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that this Request seeks all documents relating to any objection, lawsuit, opposition proceeding, cancellation proceeding or other proceeding involving or relating to the DISIDUAL

mark, on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Disidual further objects to this Request to the extent that the requested information is publicly available or otherwise easily accessible to Opposer. Subject to and without waiving its General and Specific Objections, with the exception of the current proceeding, Disidual is not aware of any documents within its possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 24

All documents that reflect, relate to, or refer to any confusion as to origin, endorsement, approval, or sponsorship of goods sold, distributed, or offered by Applicant under Applicant's Mark and/or by Opposer under Opposer's Marks.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that this Request seeks all documents that reflect, relate to, or refer to any confusion between the DISIDUAL mark and Opposer's Marks, as defined in Opposer's First Set of Interrogatories to Applicant, on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual is not aware of any documents within its possession,

custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 25

All documents and things referring or relating to any modification by Applicant of Applicant's Mark since the mark was adopted, including all documents relating to the reason such modification was made.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that this Request seeks all documents referring or relating to any modification by Disidual of the DISIDUAL mark, on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual is not aware of any documents within its possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 26

All documents and filings not produced with respect to Paragraphs 1 to 25 above that Applicant will, or may, rely on in this opposition proceeding.

RESPONSE: In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad, unduly burdensome, vague, and the burden or expense of production outweighs its likely probative value.

Respectfully submitted,

A handwritten signature in cursive script that reads "Craig Beaker". The signature is written in black ink and is positioned above a horizontal line.

Dated: July 28, 2015

Gregory J. Chinlund
Craig A. Beaker
MARSHALL, GERSTEIN & BORUN LLP
6300 Willis Tower
233 South Wacker Drive
Chicago, Illinois 60606
(312) 474-6300

Attorneys for Disidual Clothing, LLC

CERTIFICATE OF SERVICE

The undersigned affirms that DISIDUAL CLOTHING'S RESPONSES AND OBJECTIONS TO OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO APPLICANT was served by first class mail upon the following:

John S. Egbert
Egbert Law Offices, PLLC
1314 Texas, 21st Floor
Houston, TX 77002

Dated: July 28, 2015



Craig A. Beaker

Exhibit "G"

EGBERT LAW OFFICES, PLLC

GREAT SOUTHWEST BUILDING
1314 TEXAS, 21ST FLOOR
HOUSTON, TEXAS 77002

TELEPHONE (713) 224-8080
FACSIMILE (713) 223-4873
mail@egbertlawoffices.com

PATENT, TRADEMARK,
COPYRIGHT &
TECHNOLOGY-RELATED MATTERS

August 4, 2015

Gregory Chinlund, Esq.
Matthew Ciesielski, Esq.
Craig A. Beaker, Esq.
Marshall Gerstein & Borun LLP
233 South Wacker Drive, 6300 Willis Tower
Chicago, IL 60606

VIA EMAIL
AND REGULAR MAIL

Re: Our File: 1433-55
For: Trademark "DISIDUAL"
Opposition No. 91212768
INTS It Is Not The Same, GmbH v. Disidual Clothing, LLC

Dear Mr. Chinlund:

This letter is being sent in furtherance of your client's responses to Opposer's written discovery requests in this proceeding, as well as our July 28, 2015 email correspondence. The Applicant's responses to Opposer's Interrogatories were wholly devoid of any substantive responses, as Applicant failed entirely to answer any of Opposer's Interrogatories to Applicant, Nos. 1-13. Instead of providing Interrogatory responses, your July 28, 2015 email simply stated that Opposer's Interrogatories exceed the limit permitted under TBMP § 405.03 and no additional explanation was provided. Furthermore, at no time during the more than forty five days to respond to the Opposer's discovery requests did your firm make an objection to the number of interrogatories.

With respect to Applicant's responses to Opposer's Requests for Production, the majority of the responses stated that "Disidual will produce non-privileged, responsive documents within its possession, custody, or control to the extent such documents exist." Furthermore, no documents whatsoever were produced. As such, no documents whatsoever were produced for Requests for Production Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 14, 16, 19, 20, and 26. In addition, not even a promise to supplement was included in the initial responses provided by Applicant in its Response to Requests for Production Nos. 1, 19, 20, and 26, as those responses merely consisted of objections. Applicant has also not provided a timetable during which we can expect supplementation to occur.

Gregory Chinlund, Esq.
Matthew Cieseilski, Esq.
Craig A. Beaker, Esq.
Marshall Gerstein & Borun LLP
August 4, 2015
Page 2

With respect to Requests for Production Nos. 10, 12, 13, 14, 15, 17, 18, 21, 22, 23, 24, and 25, Applicant has ambiguously stated that "Disidual is not aware of any documents within its possession, custody, or control that are responsive to this Request." Applicant's response is not proper. If no documents exist responsive to these requests, then Applicant should state that no documents exist responsive to this request. If documents do exist that are responsive to the request, then Applicant should produce those documents at this time.

At this time, Opposer requests that your client serve Answers to Opposer's First Set of Interrogatories without objections, because objections and responses are past due. Opposer also requests Supplemental Responses to Opposer's First Set of Requests for Production. Such filings will, of course, eliminate the need for Opposer to file a Motion to Compel Discovery Answers and Responses in this proceeding. We ask that the Supplemental Responses be served on or before August 11, 2015. Due to the upcoming testimony period, if proper supplemental responses are not made, we intend to immediately file a Motion to Compel Discovery Responses.

Applicant has only provided email correspondence objecting to Opposer's First Set of Interrogatories. Therefore, Opposer hereby requests verified answers, without objections, to Interrogatories Nos. 1-13 since no answer at all has been provided by Applicant in response to those interrogatories.

Although your July 28, 2015 email alleged that Opposer's thirteen Interrogatory Requests exceed the seventy five subparts permitted under TBMP § 405.03, our July 28, 2015 email explained that Opposer's thirteen Interrogatory Requests consist of twenty two subparts and are well below the maximum seventy five subparts permitted. For your convenience, we have attached that email correspondence with this letter. *See Attachment "A"*.

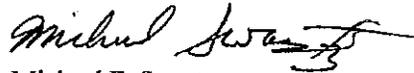
At this point in time, Applicant has not sufficiently responded to Opposer's First Set of Requests for Production. Therefore, Opposer hereby requests that all documents are produced responsive to Applicant's Requests for Production Nos. 1-26. To the extent that no documents exist responsive to the request, the Applicant should so state.

This letter shall serve as Opposer's good faith effort under 37 C.F.R. 2.120(e) to resolve this discovery dispute. If the issues raised in this letter are not promptly addressed by the Applicant, Opposer intends to file the above-mentioned Motion to Compel.

Gregory Chinlund, Esq.
Matthew Cieseilski, Esq.
Craig A. Beaker, Esq.
Marshall Gerstein & Borun LLP
August 4, 2015
Page 3

If you have any questions or concerns, please feel free to contact our office at any time.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael Swartz".

Michael F. Swartz

Enclosure

Exhibit "A"

Subject: RE: Trademark Opposition No. 91212768 against the mark "DISIDUAL" (Our Ref. No. 32291-10000)
From: Craig A Beaker (cbeaker@marshallip.com)
To: mswartz@egbertlawoffices.com;
Cc: kwilson@egbertlawoffices.com; gchinlund@marshallip.com; MGBtmrecords@marshallip.com;
Date: Friday, July 31, 2015 1:54 PM

Dear Mr. Swartz:

As stated in our email dated July 28, 2015, it is our position that Opposer's First Set of Interrogatories to Applicant ("Interrogatories") exceeds the number of interrogatories allowed under TBMP § 405.03(d). We reviewed the TTAB order that you forwarded to us along with the parties' briefs in the NATURX case. While we understand that the TTAB granted your motion to compel, we note that opposing counsel failed to raise several issues with your interrogatories. Of note, your definition in Paragraph 5 of the Interrogatories states that "Unless otherwise specified, all items include the past, present, and the future." Moreover, as defined in Paragraph 7, the term "identify" asks for several separate pieces of information when a person, document, or communication is identified. We view these requests as separate subparts, which constitute separate questions (see, e.g., TBMP § 405.03(d); *Kellogg Co. v. Nugget Distributors' Cooperative of Am., Inc.* 16 U.S.P.Q.2d 1468 (TTAB 1990)). Finally, many of the Interrogatories contain compound questions and discrete subparts.

Applying the above counting system to your client's interrogatories, it is clear that your client's interrogatories contain more than 75 questions. For example, Interrogatory No. 2 requests information regarding "how Applicant created, conceived, selected, cleared, adopted, acquired, or otherwise made the decision to use Applicant's Mark." These are separate issues, similar to a party's request for both adoption and use of a mark (see TBMP § 405.03(e)). In the same interrogatory, you request that Disidual identify all persons who participated in the adoption of its mark and all documents related thereto. When the separate subparts are combined, this Interrogatory can be counted as *at least* 17 separate interrogatories. Similarly, Interrogatory No. 4 requests that we identify all documents "referring or relating to Opposer's Marks, Applicant's Mark, and/or the adoption of Applicant's Mark as a trademark." These are three separate issues, and when combined with the separate pieces of information that you request to identify documents, this Interrogatory counts as *at least* 21 separate interrogatories.

In your email dated July 28, 2015, you also stated that we should file a motion with the Board if we believe your client's Interrogatories exceed the maximum allowed. While it may be an option, it is not our obligation to file a motion with the Board. According to § 405.03(e) of the TBMP, it is the propounding party's obligation to file a motion to compel discovery.

Since it appears that the parties are unable to resolve this issue, we recommend scheduling a meet and confer conference. We are available on Wednesday, August 5th from 1pm-4pm (CST). Please advise whether this date and time works for your schedule. If not, please propose a different date and time.

Regards,

Craig



Craig A Beaker
Marshall, Gerstein & Borun LLP
233 South Wacker Drive
6300 Willis Tower
Chicago, IL 60606-6357
Direct: (312) 474-9582
Firm: (312) 474-6300
Fax: (312) 474-0448
cbeaker@marshallip.com
www.marshallip.com

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From: Mike Swartz [mailto:m~~sw~~artz@egbertlawoffices.com]
Sent: Tuesday, July 28, 2015 5:13 PM
To: Craig A Beaker
Cc: Kevin Wilson (kwilson@egbertlawoffices.com); Gregory J. Chinlund; MGBTMRecords
Subject: Re: Trademark Opposition No. 91212768 against the mark "DISIDUAL" (Our Ref. No. 32291-10000)

Mr. Craig Beaker,

In light of the extension of time that we have provided to your client to serve discovery responses, we look forward to receiving your client's document production in the very near future.

As for your concern that our client's Interrogatory Requests exceed the maximum permitted, we can say with confidence that your concern is misplaced. You failed to explain why you thought that our client's thirteen Interrogatory Requests, which were comprised of a total of twenty two subparts, would exceed the maximum allowable seventy five Interrogatory Requests (including subparts). We are firmly of the belief that twenty two subparts is well below the maximum seventy five subparts allowed under the TBMP 405.03.

Moreover, we have attached a recent Order by the Board granting our client's Motion to Compel in Opposition No. 91214847. The 91214847 opposition is factually similar to the current case. In the 91214847 opposition, we served sixteen Interrogatory Requests that were also comprised of a total of twenty two subparts and the Board granted our Motion to Compel. We suggest you file a motion with the Board if you believe that our client's Interrogatory Requests exceeds the maximum allowed. Otherwise, we ask that you please serve complete and verified Interrogatory Responses without objections by the end of the week.

As for your client's settlement proposal, we have not yet received a reply from our client. As we have previously indicated, we will let you know as soon as we receive a response from our client.

If you have any questions or concerns, feel free to contact our office at any time.

Best regards,

Mike Swartz

Michael F. Swartz | Egbert Law Offices, PLLC | 1314 Texas, 21st Floor | Houston, Texas 77002 | Voice: 713-224-8080 | Fax: 713-223-4873

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From: Craig A Beaker <cbeaker@marshallip.com>
To: Mike Swartz <mswartz@egbertlawoffices.com>
Cc: "Kevin Wilson (kwilson@egbertlawoffices.com)" <kwilson@egbertlawoffices.com>; Gregory J. Chinlund <gchinlund@marshallip.com>; MGBTMRecords <MGBtmrecords@marshallip.com>
Sent: Tuesday, July 28, 2015 3:20 PM
Subject: RE: Trademark Opposition No. 91212768 against the mark "DISIDUAL" (Our Ref. No. 32291-10000)

Mike:

We write to follow up with you regarding several issues.

First, we are in the process of reviewing your client's responses to our discovery requests, and we will contact you if we have any questions.

Second, attached please find copies of Disidual's responses to your client's first set of document production requests and first set of admission requests. With respect to your client's interrogatories, they exceed the limit permitted under TBMP § 405.03. Accordingly, we request that your client revise its interrogatories and re-serve them.

Third, please let us know whether your client has a response to our client's settlement offer proposed on June 30, 2015.

We look forward to hearing from you regarding the above. Should you have any questions, please do not hesitate to contact me directly.

Regards,
Craig



Craig A Beaker
Marshall, Gerstein & Borun LLP
233 South Wacker Drive
6300 Willis Tower
Chicago, IL 60606-6357
Direct: (312) 474-9582
Firm: (312) 474-6300
Fax: (312) 474-0448
cbeaker@marshallip.com
www.marshallip.com

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From: Mike Swartz [<mailto:mswartz@egbertlawoffices.com>]
Sent: Monday, July 13, 2015 3:46 PM
To: Craig A Beaker
Cc: Gregory J. Chinlund; Kevin Wilson (kwilson@egbertlawoffices.com); MGBTMRecords
Subject: Re: Trademark Opposition No. 91212768 against the mark "DISIDUAL" (Our Ref. No. 32291-10000)

Mr. Craig Beaker,

We forwarded your client's proposal to our client, but we have not yet received a response. We will ask for an update.

If you have any questions or concerns, feel free to contact our office at any time.

Best regards,

Mike Swartz

Michael F. Swartz | Egbert Law Offices, PLLC | 1314 Texas, 21st Floor | Houston, Texas 77002 | Voice: 713-224-8080 |
Fax: 713-223-4873

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From: Craig A Beaker <cbeaker@marshallip.com>
To: Mike Swartz <mswartz@egbertlawoffices.com>
Cc: Gregory J. Chinlund <gchinlund@marshallip.com>; "Kevin Wilson (kwilson@egbertlawoffices.com)" <kwilson@egbertlawoffices.com>; MGBTMRecords <MGBtmrecords@marshallip.com>
Sent: Monday, July 13, 2015 3:43 PM
Subject: RE: Trademark Opposition No. 91212768 against the mark "DISIDUAL" (Our Ref. No. 32291-10000)

Exhibit "H"

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

INTS It Is Not The Same, GmbH,

Opposer,

v.

Disidual Clothing, LLC,

Applicant.

Serial No. 85/836,544

Opposition No. 91212768

Mark: DISIDUAL

**DISIDUAL CLOTHING'S SUPPLEMENTAL RESPONSES AND OBJECTIONS TO
OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO
APPLICANT**

Pursuant to the provisions of 37 C.F.R. § 2.120 and Rule 34 of the Federal Rules of Civil Procedure, Applicant Disidual Clothing, LLC ("Disidual"), through its counsel, Marshall, Gerstein & Borun LLP, hereby provides this supplemental response to Opposer INTS It Is Not The Same, GmbH's ("Opposer") First Set of Requests for Production of Documents to Applicant ("Document Request(s)"). In furnishing these documents and objections, Disidual does not admit or concede the relevance, materiality, authenticity, and/or admissibility in evidence of any such responses or documents.

GENERAL PRELIMINARY STATEMENT

1. Disidual's responses and objections are made to the best of its present knowledge, information, and belief following a reasonable investigation. Disidual expressly reserves its right to amend or supplement these responses in accordance with applicable rules to incorporate further documents and information and to offer such further documents and information at any trial or hearing in this case.

2. Disidual does not waive its right to object to the admissibility in evidence of any documents provided in response to these Document Requests. Disidual further does not waive

its right to raise all questions of authenticity, competency, relevancy, materiality, admissibility, or privilege for any purpose with regard to the documents and things identified and/or produced in response to Opposer's Document Requests, which may arise in any subsequent proceeding and/or the trial of this or any other action.

3. The responses provided herein are subject to the right of Disidual to object on any grounds, at any time, to a demand for further responses to these or other discovery requests, or other discovery procedures involving the subject matter of the Document Requests.

4. Disidual interprets Opposer's Document Requests to Disidual as not seeking any information or documents constituting or referring to communications between Disidual and its attorney or any notes or memoranda of Disidual's attorneys. To the extent these Document Requests call for such privileged information or documents (or otherwise privileged documents) and thereby seek to require Disidual to identify such materials in a privilege log, Disidual objects to the Document Requests as overbroad, oppressive, and unduly burdensome in addition to improperly seeking privileged information.

5. No incidental or implied admissions are intended by the responses herein. The fact that Disidual has answered or objected to any Document Request should not be taken as an admission that Disidual accepts or admits the existence of any "facts" set forth or assumed by such Document Request, and shall not be construed to be a waiver by Disidual of any objection to any Document Request. Disidual's responses to Opposer's Document Requests, and any documents produced in relation thereto, are made subject to these General Objections and any additional Specific Objections that may be asserted.

6. The responses given herein to any one or more of the Document Requests shall not be construed or deemed as an admission as to the existence or non-existence of any document, or as

an admission or waiver of any question or right of objection as to authenticity, competency, relevancy, materiality, admissibility, privilege, or any other objection Disidual may have. Such objections are expressly reserved.

7. A partial response to any Document Request is not a waiver of any objection made to that Document Request.

8. The assertion by Disidual of various General Objections or Specific Objections is not, and should not be deemed as, a waiver of other objections that might be applicable or become so at some future time.

GENERAL OBJECTIONS

9. Disidual objects to Opposer's Document Requests to the extent Opposer seeks to impose requirements or obligations on Disidual beyond those of the Federal Rules of Civil Procedure.

10. Disidual objects to each Document Request to the extent it is vague, ambiguous, not limited in scope, overly broad, unduly burdensome, oppressive, irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, or is obtainable from some other source that is more convenient, less burdensome, or less expensive. To the extent that Disidual provides answers or produces documents in response to these Document Requests, Disidual does not concede that the information provided is relevant to this case or admissible at any hearing or trial.

11. Disidual objects to each Document Request to the extent it seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other doctrine, privilege, or immunity. The responses given herein by Disidual to any one or more of the Document Requests shall not be deemed to waive protection under any doctrine, privilege, or

immunity. Disidual reserves the right to assert all applicable privileges and protections from production.

12. Disidual objects to each Document Request to the extent it seeks information that is not within its possession, custody, or control.

13. The Specific Objections stated in the responses do not limit or restrict Disidual's General Objections, which are hereby incorporated into each response. Disidual's General Preliminary Statement and these General Objections are to be considered applicable to, and are hereby incorporated into, each and every response, and each response is made without waiver of any of the General Objections.

OBJECTIONS TO DEFINITIONS

14. Disidual objects to Opposer's definition of "Applicant" to the extent it includes persons and entities outside the control of Disidual.

15. Disidual objects to Opposer's definition of "identify" as it refers to a person, documents, or communications to the extent that it requires Disidual to describe information that is on the face of a document if that document is produced or to identify information outside the scope of Disidual's knowledge, possession, or control.

16. Disidual objects to Opposer's definition of the term "DISIDUAL" to the extent that it is overly broad and irrelevant to the issues in this proceeding, namely, the registration of the DISIDUAL mark.

17. Disidual objects to Opposer's definition of the term "Applicant's Mark" to the extent that it is overly broad and seeks to include other marks incorporating DISIDUAL that are not the subject of this proceeding.

SPECIFIC OBJECTIONS AND RESPONSES

REQUEST NO. 1

All documents and things identified or referenced in Opposer's First Set of Interrogatories to Applicant (Nos. 1-13).

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request on the grounds that it is vague, overly broad, unduly burdensome, and outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Disidual further objects to this Request to the extent that Opposer's First Set of Interrogatories to Disidual exceeded the number of interrogatories permitted under Trademark Trial and Appeal Board Manual of Procedure ("TBMP") § 405.03. Subject to and without waiving its General and Specific Objections, Disidual directs Opposer to the documents that will be produced in response to Request Nos. 3, 4, 5, 7, 8, and 16. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 2

All documents and things referring to or relating to the decision to create, select, or adopt the "DISIDUAL" mark, and Applicant's Mark that is the subject of this Opposition proceeding, including correspondence with and memoranda between Applicant and any name consultant, design firm, advertising agency, advertising media, suppliers and printers.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, on the grounds that it is overly broad, unduly burdensome, and outside the scope of permissible discovery pursuant to FRCP R. 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual will produce non-privileged,

responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 3

With respect to each product in connection with which Applicant's Mark has been used, all documents which evidence, refer, or relate to Applicant's first use in interstate commerce of Applicant's Mark in connection with each such product.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks all documents evidencing, referring, or relating to Disidual's first use of the DISIDUAL mark, on the grounds that the Request is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent that Opposer seeks information regarding the first use of the DISIDUAL mark in connection with each product, because it seeks information outside the scope of permissible discovery pursuant to FRCP R. 26(b)(1); see TBMP §§ 402.02, 406.02. Further, Disidual objects to this Request on the grounds that the terms "each product" are vague and confusing. Subject to and without waiving its General and Specific Objections, Disidual will produce non-privileged, responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 4

With respect to each product in connection with which Applicant's Mark that is the subject of this Opposition proceeding has been used, all documents which evidence, refer or relate to

Applicant's continuous use in interstate commerce of Applicant's Mark in connection with each such product.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks all documents evidencing, referring, or relating to Disidual's continuous use of the DISIDUAL mark, on the grounds that the Request is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent that Opposer seeks information regarding each product in connection with which the DISIDUAL mark has been used, because it seeks information outside the scope of permissible discovery pursuant to FRCP R. 26(b)(1); see TBMP §§ 402.02, 406.02. Further, Disidual objects to this Request on the grounds that the terms "each product" are vague and confusing. Subject to and without waiving its General and Specific Objections, Disidual will produce non-privileged, responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 5

All documents that list, show, explain or describe each of the products sold, or intended to be sold, under Applicant's Mark that is the subject of this Opposition proceeding, including, but not limited to, catalogues, brochures, training guides, CD-ROM's, or video/audio media related to such products.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks all documents that show, explain, or describe each of the products sold under the DISIDUAL mark, on the grounds that the Request is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative

value. Disidual also objects to this Request, to the extent that Opposer seeks information regarding each of the products sold under the DISIDUAL mark, because it seeks information outside the scope of permissible discovery pursuant to FRCP R. 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual will produce non-privileged, responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 6

A sample (or in lieu thereof a photograph sufficiently legible to show the product, the product packaging and any marks written thereon) of each product sold, or intended to be sold, under Applicant's Mark, including a sample of each variation of such product(s) and/or product packaging, along with a sample of each display, tag, label, warranty, insert, and any other material included, or intended to be included, with such products when offered for sale, sold, and/or shipped in interstate commerce.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks a sample of each product sold or intended to be sold, and each display, tag, label, warranty, insert, and any other material included or intended to be included with such product, on the grounds that the Request is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP R. 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual will produce a representative sample of non-

privileged, responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 7

A sample of each advertisement, sign, handbill, stationery, business card, identification card, display, preprinted contract or form, decal, badge, label, and other advertising, promotional, and/or printed materials on which Applicant's Mark has been displayed or on which Applicant intends to display Applicant's Mark.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks a sample of each advertisement, sign, handbill, stationery, business card, identification card, display, preprinted contract or form, decal, badge, label, and other advertising, promotional, and/or printed materials on which the DISIDUAL mark has been displayed or is intended to be displayed, on the grounds that the Request is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP R. 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual will produce a representative sample of non-privileged, responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 8

A sample of each advertisement in the form of audio/video tapes, CD's, DVD's, Internet web site(s), or any other media type intended for viewing and/or listening by an electronic device which mentions or displays Applicant's Mark and/or the products sold and/or offered for sale under Applicant's Mark that is the subject of this Opposition Proceeding.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks a sample of each audio/video tape, CD, DVD, Internet web site(s), or any other media type that mentions or display the DISIDUAL mark, on the grounds that the Request is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP R. 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, Disidual will produce a representative sample of non-privileged, responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 9

Documents sufficient to show each catalog, sales outlet, Internet web site, retail outlet, and wholesale outlet in which Applicant has (or intends to have) its goods advertised, promoted, sold, offered for sale and/or distributed under Applicant's Mark that is the subject of this Opposition proceeding.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad and unduly burdensome. Disidual also objects to this

Request, to the extent that Opposer seeks documents showing each catalog, sales outlet, Internet web site, etc., because the burden or expense of production outweighs its likely probative value. Subject to and without waiving its General and Specific Objections, Disidual will produce non-privileged, responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 10

All search reports and investigation reports prepared by, or for, Applicant referring to, relating to or commenting upon the term “DISIDUAL”, Applicant’s trade name or Applicant’s Mark and any opinions requested or received regarding the right of any person to use and/or register the term “DISIDUAL”, Applicant’s Mark or any variation thereof.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual further objects to this Request to the extent it seeks documents covered by the attorney-client privilege, the attorney work-product doctrine, or any other applicable doctrine, privilege, or immunity. Subject to and without waiving its General and Specific Objections, no documents exist within Disidual’s possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 11

All documents referring or relating to Applicant’s Mark that is the subject of this Opposition proceeding that have been filed with or received from any federal, state or local governmental office or regulatory agency, including, but not limited to, all documents filed in connection with

efforts to obtain approval to offer any services or sell any products under Applicant's Mark or to obtain registration of Applicant's Mark.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP R. 26(b)(1); see TBMP §§ 402.02, 406.02. Last, to the extent that the Request seeks information that is accessible through the U.S. Patent and Trademark Office website or is otherwise publicly available, Disidual objects to this Request on the grounds that the requested information is equally accessible to Opposer. Subject to and without waiving its General and Specific Objections, Disidual will produce non-privileged, responsive documents within its possession, custody, or control to the extent such documents exist. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 12

All documents which evidence, support, or show the denials in Applicant's Answer to the Notice of Opposition.

RESPONSE: In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad, unduly burdensome, vague, and the burden or expense of production outweighs its likely probative value. Subject to and without waiving its General and Specific Objections, no documents exist within Disidual's possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 13

All documents which evidence, support, or show Applicant's Affirmative Defenses as pleaded in Applicant's Answer and Affirmative Defenses to the Notice of Opposition.

RESPONSE: Objection. In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks all documents that evidence, support, or show Applicant's Affirmative Defenses, on the grounds that the Request is overly broad, unduly burdensome, vague, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is publicly available and/or in Opposer's possession, custody, or control. Subject to and without waiving its General and Specific Objections, no documents exist within Disidual's possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 14

Documents sufficient to show monthly sales, in units sold and gross revenues, for each product sold under Applicant's Mark that is the subject of this Opposition proceeding from the date of first use of Applicant's Mark to the present.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks sales information regarding products that are not relevant to this proceeding, on the grounds that it is overly broad, unduly burdensome, irrelevant to a party's claim or defense, and the burden or expense of production outweighs its likely probative value. Subject to and without waiving its General and Specific Objections, no documents exist within Disidual's possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 15

Documents sufficient to show or evidence Applicant's advertising expenditures in connection with Applicant's Mark that is the subject of this Opposition proceeding for each product sold under Applicant's Mark, by month, from the date of first use of Applicant's Mark through the present.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks advertising expenditure information regarding products that are not relevant to this proceeding, on the grounds that it is overly broad, unduly burdensome, irrelevant to a party's claim or defense, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, no documents exist within Disidual's possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 16

All documents relating and/or referring to the channels of trade through which products bearing Applicant's Mark that is the subject of this Opposition proceeding for each product sold under Applicant's Mark, by month, from the date of first use of Applicant's Mark through the present.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that Opposer seeks information regarding channels of trade for products that are not relevant to this proceeding, on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to

this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP R. 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, to the extent such documents exist, Disidual will produce non-privileged, responsive documents within its possession, custody, or control that relate and/or refer to the channels of trade through which products bearing the DISIDUAL mark have been sold. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 17

All documents which evidence, support, refer or relate to any license, assignment, agreement, understanding or other grant or transfer of rights referring or relating to Applicant's Mark.

RESPONSE: In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, no documents exist within Disidual's possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 18

Each document which shows, evidences, or supports Applicant's response to Opposer's First Requests for Admissions, served concurrently herewith.

RESPONSE: In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad, unduly burdensome, vague, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, no documents exist within Disidual's possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 19

Each document which shows, evidences, or supports Applicant's response to Opposer's First Set of Interrogatories, served concurrently herewith.

RESPONSE: In addition to the General Objections, Disidual objects to this Request on the grounds that it is vague, overly broad, unduly burdensome, and outside the scope of permissible discovery pursuant to FRCP R. 26(b)(1); see TBMP §§ 402.02, 406.02. Disidual further objects to this Request because Opposer's First Set of Interrogatories to Disidual exceeded the number of interrogatories permitted under TBMP § 405.03. Subject to and without waiving its General and Specific Objections, Disidual directs Opposer to the documents that will be produced in response to Request Nos. 3, 4, 5, 7, 8, and 16. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 20

A complete copy of each version of any Internet web site linked to a domain name registered to Applicant, from the creation of the web site through the present, at which Applicant features, or intends to feature, products under Applicant's Mark.

RESPONSE: In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP R. 26(b)(1); see TBMP §§ 402.02, 406.02. Further, Disidual has not maintained a copy of each version of any Internet web site linked to a domain name registered to Disidual that features products sold under the DISIDUAL mark. Subject to and without waiving its General and Specific Objections, Disidual directs Opposer to the following websites: www.disidual.com; www.facebook.com/disidual; <https://instagram.com/disidual>; <https://twitter.com/disidual>. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 21

All marketing plans, marketing projections, market share analysis or sales approach documents prepared by or for Applicant relating to its sale, or proposed sale, of products bearing Applicant's Mark.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that this Request seeks "all" marketing plans, marketing projections, market share analysis or sales approach documents, on the grounds that it is overly broad, unduly burdensome, and the

burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent that Opposer seeks information regarding products that are not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP R. 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, no documents exist within Disidual's possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 22

All documents referring to, relating to, comprising, or commenting on Applicant's standards or mechanisms for controlling the quality of the goods sold, or intended to be sold, under Applicant's Mark that is the subject of this Opposition proceeding.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that this Request seeks all documents referring to, relating to, comprising, or commenting on Applicant's standards or mechanisms for controlling the quality of the goods sold under the DISIDUAL mark, on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP R. 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, no documents exist within Disidual's possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO 23

All documents relating to any objection, lawsuit, opposition proceeding, cancellation proceeding or other proceeding involving or relating to Applicant's Mark.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that this Request seeks all documents relating to any objection, lawsuit, opposition proceeding, cancellation proceeding or other proceeding involving or relating to the DISIDUAL mark, on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP R. 26(b)(1); see TBMP §§ 402.02, 406.02. Disidual further objects to this Request to the extent that the requested information is publicly available or otherwise easily accessible to Opposer. Subject to and without waiving its General and Specific Objections, with the exception of the current proceeding, no documents exist within Disidual's possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 24

All documents that reflect, relate to, or refer to any confusion as to origin, endorsement, approval, or sponsorship of goods sold, distributed, or offered by Applicant under Applicant's Mark and/or by Opposer under Opposer's Marks.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that this Request seeks all documents that reflect, relate to, or refer to any confusion between the DISIDUAL mark and Opposer's Marks, as defined in Opposer's First Set of

Interrogatories to Applicant, on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP R. 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, no documents exist within Disidual's possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 25

All documents and things referring or relating to any modification by Applicant of Applicant's Mark since the mark was adopted, including all documents relating to the reason such modification was made.

RESPONSE: In addition to the General Objections, Disidual objects to this Request, to the extent that this Request seeks all documents referring or relating to any modification by Disidual of the DISIDUAL mark, on the grounds that it is overly broad, unduly burdensome, and the burden or expense of production outweighs its likely probative value. Disidual also objects to this Request, to the extent the information sought is not relevant to any party's claim or defense in this proceeding, because it seeks information outside the scope of permissible discovery pursuant to FRCP 26(b)(1); see TBMP §§ 402.02, 406.02. Subject to and without waiving its General and Specific Objections, no documents exist within Disidual's possession, custody, or control that are responsive to this Request. Disidual reserves the right to supplement or amend this response should documents later be discovered.

REQUEST NO. 26

All documents and filings not produced with respect to Paragraphs 1 to 25 above that Applicant will, or may, rely on in this opposition proceeding.

RESPONSE: In addition to the General Objections, Disidual objects to this Request on the grounds that it is overly broad, unduly burdensome, vague, and the burden or expense of production outweighs its likely probative value.

Respectfully submitted,



Dated: August 11, 2015

Gregory J. Chinlund
Craig A. Beaker
MARSHALL, GERSTEIN & BORUN LLP
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233 South Wacker Drive
Chicago, Illinois 60606
(312) 474-6300

Attorneys for Disidual Clothing, LLC

CERTIFICATE OF SERVICE

The undersigned affirms that DISIDUAL CLOTHING'S RESPONSES AND OBJECTIONS TO OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO APPLICANT was served by first class mail upon the following:

John S. Egbert
Egbert Law Offices, PLLC
1314 Texas, 21st Floor
Houston, TX 77002

Dated: August 11, 2015



Craig A. Beaker

Exhibit "I"

We grow and improve

**Sustained
annual growth
of over 50%**

Our growth is constant and our international expansion unstoppable.

We closed 2010 with an annual turnover of 450 million Euros; we sold over 15,000,000 garments and were present at over 8,800 points of sale in 72 different countries.

2007

86M ▶



2008

162M ▶



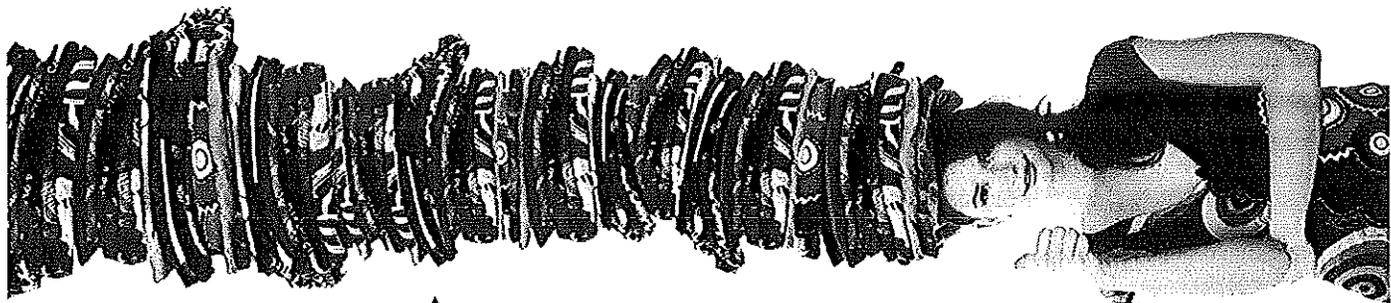
2008

300M ▶



2010

435M ▶



Always Mpi

FIGURES IN MILLION €

Exhibit "J"

USA

Aventura

Desigual Store Miami Aventura Mall

Estero

Desigual Miami Miromar Outlets

Las Vegas

Desigual Miracle Mile

Miami

Desigual Store Miami Dolphin Mall

Miami Beach

Desigual Miami Lincoln Road

New York

Desigual NYork AmericasDesigual Store NY 5th AvenueDesigual Store NY Soho

Orlando

Desigual Orlando Florida Mall

San Francisco

Desigual Store San Francisco Powell

Sunrise

Desigual Outlet Miami Sawgrass Mills

West Palm Beach

Desigual Miami Palm Beach

Exhibit "K"



disidual

Sign In

Web Shopping Videos News Images More Search tools

About 8,720 results (0.43 seconds)

Disidual Clothing

disidual.com/

Disidual clothing - creating quality clothing and accessories tailored for your next outdoor adventure.

4208 Meridian St, Bellingham, WA 98226 (253) 232-6050

Men's

Men's. Showing all 71 results. Default sorting, Sort by ...

Shop

Shop. Showing all 82 results. Default sorting, Sort by ...

Contact

General Information: contact@disidual.com. Sales Inquiries ...

More results from disidual.com »

Women's

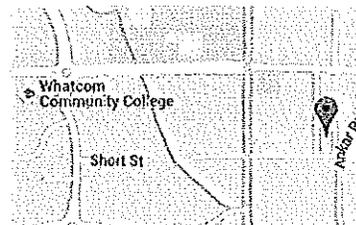
Women's. Showing all 31 results. Default sorting, Sort by ...

Crew

Crew. Britney White · Blaine Gallivan · Jennica Lowell · Sean ...

Roots

Roots. About Us: Disidual- We are Distinct Individuals. Disidual ...



Disidual Clothing

Clothing Store

Address: 4208 Meridian St, Bellingham, WA

Phone: (253) 232-6050

Hours: Open today · 9:00 AM – 5:00 PM

Reviews

Be the first to review

People also search for



Zumiez



Yeager's Sporting Goods



JCPenney

DISIDUAL CLOTHING - Facebook

https://www.facebook.com/disidual/

DISIDUAL CLOTHING, Bellingham, WA. 6624 likes · 11 talking about this. Creating quality clothing and accessories tailored for your next outdoor adventure.

Disidual Clothing - Taking it to the Next Level

www.respectmyregion.com/disidual-clothing-taking-it-to-the-next-level/

Feb 14, 2013 - In the clothing industry, every company including Disidual (unless you have a ton of money) starts out by doing screen printed tees.

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https://twitter.com/disidual

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