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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 to Amend Pleading/Amended Pleading
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**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.

Disidual Clothing, LLC,

Applicant.

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Opposition No. 91212768

OPPOSER'S MOTION FOR LEAVE TO AMEND NOTICE OF OPPOSITION

Opposer, INTS It Is Not The Same, GmbH ("Opposer") hereby moves for an Order granting leave to amend its Notice of Opposition to add an additional grounds upon which to oppose U.S. Application No. 85/836,544 ("Applicant's "DISIDUAL" mark") pursuant to TBMP § 507.02(a). Opposer respectfully requests that the Board suspend this proceeding pending the resolution of this motion. In support of its Motion for Leave, Opposer states as follows:

BACKGROUND

Applicant is a Limited Liability Company organized under the laws of Washington, with an address of 4208 Meridan Street, Bellingham, Washington 98226. Applicant filed its trademark application for the "DISIDIUAL" mark, U.S. Serial No. 85/836,544, on January 30, 2013, for use on "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 025.

Opposer is a Corporation organized under the laws of Switzerland and located at Baarerstrasse 98, Zug, Switzerland, CH-6302. Opposer filed opposition number 91212768 against Applicant in regard to the above-mentioned "DISIDUAL" mark alleging priority and likelihood of

confusion with Applicant's mark. Applicant filed an Answer to Notice of Opposition on December 20, 2013.

ARGUMENT

Fed. R. Civ. P. 15(a) states that leave to amend "should be freely given when justice so requires." According to TBMP § 507.02, "the Board liberally grants leave to amend pleadings at any stage of a proceeding when justice so requires, unless entry of the proposed amendment would violate settled law or be prejudicial to the rights of the adverse party or parties." The Board has also held that there is generally no prejudice to an Applicant where a motion to amend is filed prior to the start of the trial period. *See Hurley International L.L.C. v. Volta*, 82 U.S.P.Q. 2d 1339, 1341 (T.T.A.B. 2007 (granting motion to amend before the start of trial)); *Cool-Ray, Inc. v. Eye Care, Inc.*, 183 U.S.P.Q. 618, 621 (T.T.A.B. 1974) (finding no prejudice where trial period had not yet commenced).

Accordingly, Opposer seeks to amend its Notice of Opposition to include three additional claim against Applicant's trademark application that was learned through the course of discovery. *See* [Opposer's Amended Notice of Opposition, attached with this motion]. First, Opposer seeks to amend its Notice of Opposition to include a claim that Applicant's trademark application is *void ab initio*. Applicant failed to use its mark in association with all of the goods contained within the Identification of Goods for Applicant's mark at the time Applicant's use-based trademark application was filed, and the mark is now void. Second, Applicant is still not using its mark on all of the goods contained within the Identification of Goods for its mark, and Applicant's mark has been abandoned with regard to those goods. Third, Opposer seeks to amend its Notice of Opposition to include a claim that Applicant has committed fraud on the USPTO by filing its trademark application based

on use, despite Applicant's knowledge that the "DISIDUAL" mark was not being used in association with all of goods listed on the trademark application at the time the trademark application was filed.

At the time of Opposer's Notice of Opposition, the above-mentioned grounds for a counterclaim were not known to the Opposer. *See* TBMP § 507.02(a) (referring to 37 CFR §§ 2.106(b)(2)(i) and 2.114(b)(2)(i)). Without further information gathered through discovery, it would have been improper under Fed. R. Civ. P. 11 to file a Notice of Opposition that included such grounds. *See also* TBMP § 318. The Applicant initially refused to provide proper discovery responses, forcing Opposer to send a letter to Applicant on August 4, 2015, in which Opposer threatened to file a Motion to Compel Discovery if proper discovery responses were not served. After receiving Applicant's discovery responses on August 11, 2015, Opposer was finally able to begin constructing the additional claims upon which Applicant's trademark application should be opposed. In an effort to mitigate the amount of time and resources the parties and the Board would need to dedicate to this proceeding, Opposer first filed a Motion for Summary Judgment on November 11, 2015 based on the claim of priority and likelihood of confusion. On February 17, 2016, the Board issued an Order Denying Opposer's Motion for Summary Judgment.

Applicant is now able to file this Motion for Leave to File an Amended Notice of Opposition "promptly after the grounds therefor are learned," as required by TBMP § 507.02(a). The record demonstrates that Applicant's trademark application is *void ab initio*, because Applicant failed to use the "DISIDUAL" mark in association with all of the goods contained within the Identification of Goods at the time Applicant's use-based trademark application was filed. The record reflects that Applicant is still not using its mark on all of the goods contained within the Identification of Goods for its mark, and Applicant's mark has been abandoned with regard to those goods. Finally, the record establishes Applicant has committed fraud on the USPTO. The Applicant filed its trademark

application based on use, despite the Applicant's knowledge that the "DISIDUAL" mark was not being used in association with all of goods listed on the trademark application at the time the trademark application was filed.

Applicant will not be prejudiced by the additional grounds upon which to base the Notice of Opposition. *See* TBMP § 507.02. In order to file a trademark application based on use, the Applicant must first be using the mark on all of the goods listed in the Identification of Goods. *See* 15 U.S.C. § 1051(a). If Opposer's additional claim is allowed, Opposer will be permitted to prove that Applicant's use-based trademark application was not being used in association with all of the goods listed on the trademark application. Furthermore, the Opposer will be able to demonstrate that the Applicant still does not use the mark in association with all of the goods listed on the trademark application. Applicant has been on notice about the possibility of this claim since at least as early as June 8, 2015, the date Opposer served its discovery requests. Applicant was given fair notice that Opposer would pursue, if necessary, claims related to *void ab initio*, abandonment, and fraud.

CONCLUSION

It is apparent from the foregoing that the additional grounds upon which to base Opposer's Notice of Opposition could not have been known to Opposer when filing its Notice of Opposition. In view of the recently discovered facts, Opposer was only recently able to determine that the additional proposed grounds existed for a Notice of Opposition. Therefore, since Applicant would not be prejudiced by the additional claim to be added to Opposer's Notice of Opposition, Opposer's Motion for Leave to Amend its Notice of Opposition should be granted.

Respectfully Submitted,

March 1, 2016

Date

/1433-55/

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ATTORNEYS FOR OPPOSER
INTS It Is Not The Same, GmbH

CERTIFICATE OF SERVICE

This is to certify that on March 1, 2016, a true and correct copy of the foregoing document is being sent by regular mail to the following attorney of record for the Applicant:

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

ATTORNEYS FOR APPLICANT
Disidual Clothing, LLC

Respectfully submitted,

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INTS It Is Not The Same, GmbH

JSE:mfs
Our File: 1433-55

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Opposition No. 91212768

FIRST AMENDED NOTICE OF OPPOSITION

The Opposer, INTS It Is Not The Same, GmbH ("Opposer"), a Corporation organized under the laws of Switzerland and located at Baarerstrasse 98, Zug, Switzerland, CH-6302, believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. The Applicant, Disidual Clothing, LLC ("Applicant"), a Limited Liability Company organized under the laws of Washington and located at 4208 Meridan Street, Bellingham, Washington, 98226, has filed an application to register the "DISIDUAL" mark for use in connection with "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 025. Said application was filed on January 30, 2013 under Section 1(a) of the Trademark Act, was assigned U.S. Application No. 85/836,544 and was published for Opposition in the Official Gazette on August 27, 2013. Applicant's application was filed based on use of the mark claiming a date of

first use of at least as early as June 1, 2010 and a date of first use in commerce of at least as early as June 1, 2010.

2. Opposer is a leading manufacturer and seller of various products in various international classes, including clothing in International Class 025.

COUNT 1 - PRIORITY AND LIKELIHOOD OF CONFUSION

3. Commencing long prior to Applicant's filing date and alleged date of first use in commerce, Opposer has engaged, and is now engaged in the manufacture, distribution, sale, advertising and promotion in interstate commerce of clothing in International Class 025.

4. In connection therewith, Opposer is the owner of the following marks:

- a. the "DESIGUAL AND DESIGN" mark, U.S. Registration No. 2,088,319, filed on January 23, 1996 and registered on the Principal Register on August 12, 1997, for "clothing, namely footwear and headwear" in International Class 025. *See* [Exhibit A, U.S. Reg. No. 2,088,319].
- b. the "DESIGUAL (Stylized)" mark, U.S. Registration No. 3,737,499, filed on October 25, 2007 and registered on the Principal Register on January 12, 2010, 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" in International Class 003, "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" in International Class 009, "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" in International Class 018, and "ready-made clothing for women, men and children, namely, pants, shorts, shirts, T-shirts, jackets, blouses, skirts, dresses; footwear; headgear, namely, hats and caps" in International Class 025. *See* [Exhibit B, U.S. Reg. No. 3,737,499].

- c. the "DESIGUAL AND DESIGN" mark, U.S. Registration No. 3,982,329, filed on February 12, 2010 and registered on the Principal Register on June 21, 2011, 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" in International Class 003, "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" in International Class 009, "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" in International Class 018, "ready-made clothing for women, men and children, namely, pants, shorts, shirts, T-shirts, jackets, blouses, skirts, dresses; footwear; headgear, namely, hats and caps" in International Class 025, "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" in International Class 035, and "distribution services, namely, delivery of clothing, fashion and home design accessories" in International Class 039. *See* [Exhibit C, U.S. Reg. No. 3,982,329].

- d. the "DESIGUAL (Stylized)" mark, U.S. Registration No. 4,113,640, filed on May 26, 2011 and registered on the Principal Register on March 20, 2012, 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" in International Class 024 and "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" in International Class 035. *See* [Exhibit C, U.S. Reg. No. 4,113,640].
- e. the "DESIGUAL (Stylized)" mark, U.S. Registration No. 4,269,396, filed on October 17, 2011 and registered on the Principal Register on January 1, 2013, 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" in International Class 014 and "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" in International Class 020. See [Exhibit C, U.S. Reg. No. 4,269,396].

- f. the "DESIGUAL" mark, a common law mark used by Opposer since at least as early as 1995 for "clothing, footwear, and headwear" in International Class 025.

[Hereinafter collectively referred to as Opposer's "DESIGUAL" Marks].

5. Opposer's use of its "DESIGUAL AND DESIGN" mark, as reflected by U.S. Reg. No. 2,088,319, has been continuous, exclusive, public, and substantial since a date of first use in commerce at least as early as March 17, 1995. Opposer's use of its common law "DESIGUAL" mark has been continuous, exclusive, public, and substantial since a date of first use in commerce at least as early as 1995. Opposer's use of its "DESIGUAL (Stylized)" mark, as reflected by U.S. Reg. No. 3,737,499, has a constructive first use date of October 25, 2007. Opposer's use of its "DESIGUAL AND DESIGN" mark, as reflected by U.S. Reg. No. 3,982,329, has a constructive first use date of February 12, 2010. Opposer's use of its "DESIGUAL (Stylized)" mark, as reflected by U.S. Reg. No. 4,113,640, has a constructive first use date of May 26, 2011. Opposer's use of its "DESIGUAL (Stylized)" mark, as reflected by U.S. Reg. No. 4,269,396, has a constructive first use date of October 17, 2011.

6. Such first use dates and constructive first use dates for Opposer's "DESIGUAL" Marks are 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.

7. Applicant's "DISIDUAL" mark would be confusingly similar because:

- a. the mark is confusingly similar in appearance to Opposer's "DESIGUAL" Marks;
- b. the mark is confusingly similar in sound to Opposer's "DESIGUAL" Marks;
- c. the mark is confusingly similar in connotation to Opposer's "DESIGUAL" Marks;
- d. the goods of Opposer and the goods of Applicant are closely related and/or marketed through the same or overlapping channels of trade and/or to the same classes of consumers;
- e. Opposer's "DESIGUAL" Marks enjoy a high level of distinctiveness.

8. Since Opposer's initial use of Opposer's "DESIGUAL" Marks, Opposer has made a substantial investment in advertising and promoting its goods under its trademarks. Opposer has extensively used, advertised, promoted and offered Opposer's goods and rendered services bearing Opposer's "DESIGUAL" Marks to the public through various channels of trade in commerce, with the result that Opposer's customers and the public in general have come to know and recognize Opposer's "DESIGUAL" Marks and associate the same with Opposer and/or goods sold by Opposer and/or services rendered by Opposer. As a result of such extensive use and advertisement, Opposer's customers and the public in general will in the future know and recognize Opposer's "DESIGUAL" Marks and associate the same with Opposer and/or the goods sold by Opposer and/or services rendered by Opposer.

9. Opposer's "DESIGUAL" Marks constitute the lawful, valued, subsisting, and exclusive property of the Opposer. As a result of the high quality of Opposer's goods and services that are sold under Opposer's "DESIGUAL" Marks, and the extensive sales and advertising made

under Opposer's "DESIGUAL" Marks, the aforementioned marks have become an intrinsic and essential part of the valuable goodwill and property of Opposer, and are recognizable and associated by the public as a symbol identifying and distinguishing Opposer's goods and services as those of exceptional quality.

10. 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, to suggest a connection, or to deceive purchasers into believing that Applicant's goods originate with the Opposer and/or are endorsed or sponsored by the Opposer, and/or that Applicant and/or its goods are otherwise affiliated with the Opposer and its goods.

11. Use of Applicant's "DISIDUAL" mark will inexorably have an adverse effect upon the value of Opposer's "DESIGUAL" Marks. If this Opposition is not sustained, any defect, objection to, or fault found with Applicant's goods provided under the "DISIDUAL" mark would necessarily reflect on and seriously injure the valuable goodwill and reputation that Opposer has established, and will establish, for its goods and services.

12. Based on the foregoing arguments, registration of the mark "DISIDUAL" for use in connection with "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 025, as found in U.S. Application No. 85/836,544, filed on January 30, 2013 and published for Opposition in the Official Gazette on August 27, 2013, will cause injury and damage to Opposer.

COUNT 2 - APPLICANT'S MARKS IS VOID AB INITIO FOR FAILURE TO USE THE MARK AT THE TIME THE USE-BASED APPLICATION WAS FILED

13. During discovery in this matter, Applicant produced no documentary or other evidence of its use of the "DISIDUAL" mark in commerce on belts, gloves, dresses, and knit face masks at the time of filing its use-based "DISIDUAL" trademark application.

14. Despite Opposer's Requests for documents, Applicant produced no documents relating to its creation, development, marketing, advertising and/or sale of belts, gloves, dresses, and knit face masks bearing the "DISIDUAL" trademark at the time it filed its trademark application.

15. Applicant admitted in Response to Opposer's Requests for Production #2 that it has not used the "DISIDUAL" mark on dresses, belts, and gloves.

16. At the time Applicant filed its "DISIDUAL" trademark application, Applicant did not use the "DISIDUAL" mark in U.S. commerce in connection with all of the goods identified in the "DISIDUAL" application, as required by 15 U.S.C. § 1051(a).

17. Opposer therefore respectfully requests that this opposition be sustained and Applicant's application to register the "DISIDUAL" mark be refused, because the mark is *void ab initio* for failure to use the mark at the time the use-based application was filed.

COUNT 3 - APPLICANT HAS ABANDONED ITS MARK THROUGH NONUSE

18. At the time Applicant filed its "DISIDUAL" trademark application, Applicant did not use the "DISIDUAL" mark in U.S. commerce in connection with all of the goods identified in the "DISIDUAL" application, as required by 15 U.S.C. § 1051(a).

19. During discovery in this matter, Applicant produced no documentary or other evidence of its use of the "DISIDUAL" mark in commerce on belts, gloves, dresses, and knit face masks at the time of filing its use-based "DISIDUAL" trademark application.

20. Despite Opposer's Requests for documents, Applicant produced no documents relating to its creation, development, marketing, advertising and/or sale of belts, gloves, dresses, and knit face masks bearing the "DISIDUAL" trademark at the time it filed its trademark application.

21. Applicant admitted in Response to Opposer's Requests for Production #2 that it has not used the "DISIDUAL" mark on dresses, belts, and gloves, despite the fact that the trademark application was filed based on use in commerce.

22. Applicant has abandoned its mark through failure to use the mark in the ordinary course of trade, and the Applicant is not entitled to register the mark.

COUNT 4 - FRAUD ON THE USPTO

23. At the time Applicant filed its "DISIDUAL" trademark application, Applicant did not use the "DISIDUAL" mark in U.S. commerce in connection with all of the goods identified in the "DISIDUAL" application, as required by 15 U.S.C. § 1051(a).

24. Applicant claimed a June 1, 2010 date of first use and first use in commerce of its mark in association with all of its goods, which include "Apparel, namely, t-shirts, tank-tops, shorts, hats, jackets, sweatshirts, hooded sweatshirts, beanies, socks, pants, dresses, swimsuits, knit face masks, gloves, belts."

25. During discovery in this matter, Applicant produced no documentary or other evidence of its use of the "DISIDUAL" mark in commerce on belts, gloves, dresses, and knit face masks at the time of filing its use-based "DISIDUAL" trademark application.

26. Despite Opposer's Requests for documents, Applicant produced no documents relating to its creation, development, marketing, advertising and/or sale of belts, gloves, dresses, and knit face masks bearing the "DISIDUAL" trademark at the time it filed its trademark application.

27. Applicant admitted in Response to Opposer's Requests for Production #2 that it has not used the "DISIDUAL" mark on dresses, belts, and gloves, despite the fact that the trademark application was filed based on use in commerce.

28. In Applicant's trademark application, filed January 30, 2013, Applicant declared under oath, being warned that willful false statements, and the like, may jeopardize the validity of the declaration, that "The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended." The Applicant went on to state that "[t]he mark was first used at least as early as 06/01/2010 and first used in commerce at least as early as 06/01/2010 , and is now in use in such commerce."

29. Applicant knowingly, with an intent to deceive the United States Patent and Trademark Office, included within its use-based trademark application a number of goods on which the mark was not in use, including, dresses, belts, gloves, and knit face masks in International Class 025.

30. Such knowing false or fraudulent statements were relied on by authorized agents of the U.S. Patent and Trademark Office to publish for opposition U.S. Trademark Application No. 85/836,544 for the mark "DISIDUAL", and, reasonably relying on the truth of such false statements, the U.S. Patent and Trademark Office did, in fact, publish the mark for opposition in the name of Applicant.

31. Applicant is therefore not entitled to continue to seek to register U.S. Trademark Application No. 85/836,544 for the mark "DISIDUAL", because Applicant committed fraud in filing its trademark application based on use in commerce. The Declarations accompanying the trademark

application also contained fraudulent statements regarding Applicant's alleged use of its mark in commerce on all of the goods in the Identification of Goods for the mark. The Applicant's trademark application is therefore void.

WHEREFORE, Opposer respectfully requests that the Trademark Trial and Appeal Board find and order that registration by Applicant of the mark "DISIDUAL" in class 025 be denied as damaging to the Opposer and that this opposition is sustained.

Opposer has already submitted the requisite filing fee of \$300.00 for opposing Applicant's application in International Class 025.

Respectfully submitted,

March 1, 2016
Date

/1433-55/
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ATTORNEYS FOR OPPOSER
INTS It Is Not The Same, GmbH

Exhibit "A"



Word Mark DESIGUAL
Translations The English translation of "DESIGUAL" is "unequal, uneven, or different".
Goods and Services IC 025. US 022 039. G & S: clothing, namely footwear and headwear. FIRST USE: 19950317. FIRST USE IN COMMERCE: 19950317
Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code 02.01.33 - Grotesque men formed by letters, numbers, punctuation or geometric shapes; Stick figures
02.03.26 - Grotesque women formed by letters, numbers, punctuation or geometric shapes
Serial Number 75047585
Filing Date January 23, 1996
Current Basis 1A
Original Filing Basis 1B
Published for Opposition August 27, 1996
Registration Number 2088319
Registration Date August 12, 1997
Owner (REGISTRANT) Meyer, Thomas Andreas INDIVIDUAL SWITZERLAND Via Layetana, num. 9, 7o 1a 08003 Barcelona SPAIN

(LAST LISTED OWNER) INTS IT IS NOT THE SAME, GMBH CORPORATION
SWITZERLAND BAARERSTRASSE 112 ZUG SWITZERLAND CH-6302

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record John S. Egbert
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20061229.
Renewal 1ST RENEWAL 20061229
Live/Dead Indicator LIVE

Generated on: This page was generated by TSDR on 2013-09-30 12:28:47 EDT

Mark: DESIGUAL



US Serial Number: 75047585
US Registration Number: 2088319
Register: Principal
Mark Type: Trademark
Status: The registration has been renewed.
Status Date: Dec. 29, 2006
Publication Date: Aug. 27, 1996
Application Filing Date: Jan. 23, 1996
Registration Date: Aug. 12, 1997
Notice of Allowance Date: Nov. 19, 1996

Mark Information

Mark Literal Elements: DESIGUAL
Standard Character Claim: No
Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)
Color(s) Claimed: Color is not claimed as a feature of the mark.
Translation: The English translation of "DESIGUAL" is "unequal, uneven, or different".
Design Search Code(s): 02.01.33 - Grotesque men formed by letters, numbers, punctuation or geometric shapes; Stick figures
02.03.26 - Grotesque women formed by letters, numbers, punctuation or geometric shapes

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
- Asterisks "*" identify additional (new) wording in the goods/services.

For: clothing, namely footwear and headwear

International Class(es): 025 - Primary Class

U.S Class(es): 022, 039

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 17, 1995

Use In Commerce: Mar. 17, 1995

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: 1433.1

Correspondent JOHN S EGBERT
Name/Address: HARRISON & EGBERT
412 MAIN ST 7TH FL
HOUSTON, TEXAS 77002
UNITED STATES

Correspondent

Domestic Representative

Domestic Representative John S. Egbert
Name:

Prosecution History

Date	Description	Proceeding Number
Sep. 25, 2013	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Sep. 25, 2013	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Aug. 06, 2008	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Mar. 06, 2007	CASE FILE IN TICRS	
Dec. 29, 2006	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	74886
Dec. 29, 2006	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Dec. 29, 2006	ASSIGNED TO PARALEGAL	74886
Oct. 25, 2006	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
Oct. 25, 2006	TEAS SECTION 8 & 9 RECEIVED	
Apr. 26, 2003	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Feb. 03, 2003	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Feb. 03, 2003	TEAS SECTION 8 & 15 RECEIVED	
Aug. 12, 1997	REGISTERED-PRINCIPAL REGISTER	
Jun. 23, 1997	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jun. 03, 1997	STATEMENT OF USE PROCESSING COMPLETE	
May 14, 1997	USE AMENDMENT FILED	
Nov. 19, 1996	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Aug. 27, 1996	PUBLISHED FOR OPPOSITION	
Jul. 26, 1996	NOTICE OF PUBLICATION	
Jun. 07, 1996	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 05, 1996	EXAMINER'S AMENDMENT MAILED	
May 31, 1996	ASSIGNED TO EXAMINER	70703

Maintenance Filings or Post Registration Information

Affidavit of Continued Section 8 - Accepted
Use:

Affidavit of Section 15 - Accepted
Incontestability:

Renewal Date: Aug. 12, 2007

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: SCANNING ON DEMAND

Date in Location: Mar. 06, 2007

Assignment Abstract Of Title Information

Summary

Total Assignments: 1

Registrant: Meyer, Thomas Andreas

Assignment 1 of 1

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: 3829/0502

Pages: 3

Date Recorded: Aug. 05, 2008

Supporting Documents: assignment-lm-3829-0502.pdf

Name: MEYER, THOMAS ANDREAS

Assignor

Execution Date: Jul. 16, 2008

Legal Entity Type: INDIVIDUAL

Citizenship: SWITZERLAND

Name: INTS IT IS NOT THE SAME, GMBH

Assignee

Legal Entity Type: CORPORATION

State or Country Where Organized: SWITZERLAND

Address: BAARERSTRASSE 112
ZUG, SWITZERLAND CH-6302

Correspondent

Correspondent Name: JOHN S. EGBERT

Correspondent Address: 412 MAIN ST., 7TH FLOOR
HOUSTON, TX 77002

Domestic Representative

Domestic Representative Name: JOHN S. EGBERT

Domestic Representative Address: 412 MAIN ST., 7TH FLOOR
HOUSTON, TX 77002



Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 1

Serial #: 75047585

Filing Dt: 01/23/1996

Reg #: 2088319

Reg. Dt: 08/12/1997

Registrant: Meyer, Thomas Andreas

Mark: DESIGUAL

Assignment: 1

Reel/Frame: 3829/0502

Recorded: 08/05/2008

Pages: 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: MEYER, THOMAS ANDREAS

Exec Dt: 07/16/2008

Entity Type: INDIVIDUAL

Citizenship: SWITZERLAND

Entity Type: CORPORATION

Citizenship: SWITZERLAND

Assignee: INTS IT IS NOT THE SAME, GMBH

BAARERSTRASSE 112

ZUG, SWITZERLAND CH-6302

Correspondent: JOHN S. EGBERT

412 MAIN ST., 7TH FLOOR

HOUSTON, TX 77002

Domestic rep: JOHN S. EGBERT

412 MAIN ST., 7TH FLOOR

HOUSTON, TX 77002

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If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 671-272-3350. v.2.3.4

Web interface last modified: Jul 8, 2013 v.2.3.4

Exhibit "B"

Dezigual

Word Mark DESIGUAL
Translations The foreign wording in the mark translates into English as unequal.
Goods and Services IC 003. US 001 004 006 050 051 052. G & S: 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. FIRST USE: 20091014. FIRST USE IN COMMERCE: 20091014

IC 009. US 021 023 026 036 038. G & S: 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. FIRST USE: 20091014. FIRST USE IN COMMERCE: 20091014

IC 018. US 001 002 003 022 041. G & S: 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. FIRST USE: 20091014. FIRST USE IN COMMERCE: 20091014

IC 025. US 022 039. G & S: Ready-made clothing for women, men and children, namely, pants, shorts, shirts, T-shirts, jackets, blouses, skirts, dresses; footwear; headgear, namely, hats and caps. FIRST USE: 20091014. FIRST USE IN COMMERCE: 20091014

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

Serial Number 77313234

Filing Date October 25, 2007

Current Basis 1A;44E

Original Filing Basis 1B;44D

Published for Opposition June 2, 2009

Registration Number 3737499

Registration Date January 12, 2010

Owner (REGISTRANT) INTS IT IS NOT THE SAME, GmbH CORPORATION SWITZERLAND
Baarerstrasse 112 Zug SWITZERLAND CH-6302

Attorney of Record John S. Egbert

Priority Date April 27, 2007

Prior Registrations 2088319

Description of

Mark	Color is not claimed as a feature of the mark.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

Generated on: This page was generated by TSDR on 2013-09-30 12:28:20 EDT

Mark: DESIGUAL

Desigual

US Serial Number: 77313234
US Registration Number: 3737499

Application Filing Date: Oct. 25, 2007
Registration Date: Jan. 12, 2010

Register: Principal
Mark Type: Trademark

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

Status Date: Jan. 12, 2010

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 Registrations: 2088319

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
- 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, travelling 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 68A: No	Currently 68A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: INTS IT IS NOT THE SAME, GmbH
Owner Address: Baarersstrasse 98
Zug CH-6302
SWITZERLAND
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: No

Correspondent

Correspondent Name/Address: JOHN S. EGBERT
EGBERT LAW OFFICES, PLLC
412 MAIN ST FL 7
HOUSTON, TEXAS 77002-1838
UNITED STATES
Phone: 713-224-8080
Fax: 713-223-4873
Correspondent e-mail: mail@egbertlawoffices.com
Correspondent e-mail Authorized: No

Domestic Representative

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

Prosecution History

Date	Description	Proceeding Number
Sep. 25, 2013	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Sep. 28, 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	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date In Location: Dec. 04, 2009



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No assignment has been recorded at the USPTO

For Serial Number: 77313234

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Web interface last modified: Jul 8, 2013 v.2.3.4

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Exhibit "C"



Word Mark DESIGUAL

Translations The English translation of "DESIGUAL" in the mark is "unequal."

Goods and Services IC 003. US 001 004 006 050 051 052. G & S: 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. FIRST USE: 20101122. FIRST USE IN COMMERCE: 20101122

IC 009. US 021 023 026 036 038. G & S: 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. FIRST USE: 20101122. FIRST USE IN COMMERCE: 20101122

IC 018. US 001 002 003 022 041. G & S: 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. FIRST USE: 20101122. FIRST USE IN COMMERCE: 20101122

IC 025. US 022 039. G & S: Ready-made clothing for women, men and children, namely, pants, shorts, shirts, T-shirts, jackets, blouses, skirts, dresses; footwear; headgear, namely, hats and caps. FIRST USE: 20101122. FIRST USE IN COMMERCE: 20101122

IC 035. US 100 101 102. G & S: 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. FIRST USE: 20101122. FIRST USE IN COMMERCE: 20101122

IC 039. US 100 105. G & S: Distribution services, namely, delivery of clothing, fashion and home design accessories. FIRST USE: 20101122. FIRST USE IN COMMERCE: 20101122

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 20.01.04 - Blackboards; Boards, bulletin; Boards, clip; Boards, drawing; Boards, memo; Bulletin and directory boards; Chalk boards; Clip boards; Clipboards; Easels; Memo boards; Palettes for painting (artists' pallets)

Serial Number 77935125

Filing Date February 12, 2010

Current Basis 1A

Original Filing Basis 1B

Published for Opposition September 7, 2010

Registration Number 3982329

Registration Date June 21, 2011

Owner (REGISTRANT) INTS IT IS NOT THE SAME, GmbH CORPORATION SWITZERLAND
Baarerstrasse 98 Zug CH-6302 SWITZERLAND

Attorney of Record John S. Egbert

Prior Registrations 2088319;3737499

Description of Mark The color(s) blue, white, purple, pink, light pink, red, light red, orange, yellow, green, and lime green is/are claimed as a feature of the mark. The mark consists of an abstract splatter paint design with the term "DESIGUAL", containing an inverted letter "S", all in white stylized font. The splatter paint design has the color orange at the top portion of the mark, red on the central and right portion of the mark, blue in the central portion of the mark, purple on the center left portion of the mark, pink on the left portion and right portion of the mark, light pink on the left portion of the mark, light red on the right portion of the mark, yellow randomly dispersed throughout the mark, green on the central portion of the mark, and lime green randomly dispersed throughout the mark.

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

First Use: Nov. 22, 2010

Use In Commerce: Nov. 22, 2010

For: Handbags, purses, travelling 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 of Record

Attorney Name: John S. Egbert
Attorney Primary Email Address: mail@egbertlawoffices.com
Docket Number: 1433-38
Attorney Email Authorized: No

Correspondent

Correspondent Name/Address: JOHN S. EGBERT
EGBERT LAW OFFICES, PLLC
412 MAIN ST FL 7
HOUSTON, TEXAS 77002-1897
UNITED STATES
Phone: 713-224-8080
Fax: 713-223-4873
Correspondent e-mail: mail@egbertlawoffices.com
Authorized: No

Domestic Representative

Domestic Representative: John S. Egbert
Phone: 713-224-8080

Name:

Fax: 713-223-4873

Domestic Representative e-mail: mail@egberlawoffices.com

Domestic Representative e-mail Authorized: Yes

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



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No assignment has been recorded at the USPTO

For Serial Number: 77935125

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Web interface last modified: Jul 8, 2013 v.2.3.4

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Exhibit "D"

DESIGUAL

Word Mark	DESIGUAL
Translations	The transliteration of the non-Latin characters in the mark is: DESIGUAL. The English translation of the foreign word(s) in the mark is: UNEQUAL.
Goods and Services	IC 024. US 042 050. G & S: 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 IC 035. US 100 101 102. G & S: 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
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	79102706
Filing Date	May 26, 2011
Current Basis	66A
Original Filing Basis	66A
Published for Opposition	January 3, 2012
Registration Number	4113640
International Registration Number	1091107
Registration Date	March 20, 2012
Owner	(REGISTRANT) INTS IT IS NOT THE SAME, GMBH Gesellschaft mit beschränkter Haftung (GmbH) SWITZERLAND Baarerstrasse 98 CH-6302 ZUG SWITZERLAND
Attorney of Record	John S. Egbert
Prior Registrations	2088319;3737499;3982329
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the stylized word "DESIGUAL" where the letter "S" is backwards.
Type of Mark	TRADEMARK. SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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Mark: DESIGUAL

Desigual

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: 6 - 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
- 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 of Record

Attorney Name: John S. Egbert Docket Number: 1433-44
Attorney Primary Email Address: mail@egbertlawoffices.com Attorney Email Authorized: No

Correspondent

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

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. 08, 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
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Assignment Abstract Of Title Information

Summary

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

Conveyance:	CHANGE OF ADDRESS	Pages:	2
Reel/Frame:	<u>4797/0144</u>		
Date Recorded:	Jun. 09, 2012		
Supporting Documents:	assignment-tm-4797-0144.pdf		
Assignor		Execution Date: Mar. 26, 2012	
Name:	<u>INTS IT IS NOT THE SAME, GMBH</u>	State or Country Where Organized:	SWITZERLAND
Legal Entity Type:	UNKNOWN		
Assignee		State or Country Where Organized: NOT PROVIDED	
Name:	<u>INTS IT IS NOT THE SAME, GMBH</u>		
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



Assignments on the Web > Trademark Query

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

Search Results as of: 09/30/2013 12:29 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.3.4
Web interface last modified: Jul 8, 2013 v.2.3.4

Exhibit "E"

Desigual

Word Mark DESIGUAL

Translations The English translation of "DESIGUAL" in the mark is "UNEQUAL".

Goods and Services IC 014. US 002 027 028 050. G & S: 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. FIRST USE: 20120220. FIRST USE IN COMMERCE: 20120220

IC 020. US 002 013 022 025 032 050. G & S: 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. FIRST USE: 20120220. FIRST USE IN COMMERCE: 20120220

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

Serial Number 85449056

Filing Date October 17, 2011

Current Basis 1A

Original Filing Basis 1B

Published for Opposition April 3, 2012

Registration Number 4269396

Registration Date January 1, 2013

Owner (REGISTRANT) INTS IT IS NOT THE SAME, GmbH CORPORATION SWITZERLAND
Baarerstrasse 98 Zug SWITZERLAND CH-6302

Attorney of Record John S. Egbert

Prior Registrations 2088319;3737499;3982329

Description of Mark Color is not claimed as a feature of the mark. The mark consists of the term "DESIGUAL" in stylized lettering.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

Generated on: This page was generated by TSDR on 2013-09-30 12:30:15 EDT

Mark: DESIGUAL

Desigual

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 Element(s): 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 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 parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- 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 CH-6302
 SWITZERLAND
 Legal Entity Type: CORPORATION State or Country Where Organized: SWITZERLAND

Attorney/Correspondence Information

Attorney of Record

Attorney Name: John S. Egbert Docket Number: 1433-42
 Attorney Primary Email Address: mail@egbertlawoffices.com Attorney Email Authorized: No

Correspondent

Correspondent Name/Address: John S. Egbert
 EGBERT LAW OFFICES, PLLC
 1314 Texas, 21st Floor
 HOUSTON, TEXAS 77002
 UNITED STATES
 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
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
Oct. 21, 2011 NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM
Oct. 20, 2011 NEW APPLICATION ENTERED IN TRAM

80815

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Nov. 27, 2012



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No assignment has been recorded at the USPTO

For Serial Number: 85449056

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Web interface last modified: Jul 8, 2013 v.2.3.4

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