

ESTTA Tracking number: **ESTTA572061**

Filing date: **11/20/2013**

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

|                        |   |
|------------------------|---|
| Proceeding             | 91212932  |
| Party                  | Defendant<br>High Cotton Outfitters, LLC  |
| Correspondence Address | HIGH COTTON OUTFITTERS, LLC<br>HIGH COTTON OUTFITTERS, LLC<br>1320 MAIN ST STE 300<br>COLUMBIA, SC 29201-3266<br><br>slittlejohn@highcottonoutfitters.com   |
| Submission             | Answer  |
| Filer's Name           | Eric J Menhart  |
| Filer's e-mail         | p17a44@Lexero.com   |
| Signature              | /Eric J Menhart/  |
| Date                   | 11/20/2013  |
| Attachments            | 20131120 - Answer.pdf(37163 bytes )<br>Exhibit #1 - High Cotton Outfitters LLC.pdf(29827 bytes )<br>Exhibit #2 - High Cotton Ties Corporate Records.pdf(40419 bytes )<br>Exhibit #3 - HighCottonOutfitters.com Regged 2010.pdf(107254 bytes )<br>Exhibit #4 - HighCottonTies.com Regged 2010.pdf(154871 bytes ) |

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

---

|   |                                |
|---|--------------------------------|
| <p>High Cotton Ties LLC</p> <p>v.</p> <p>High Cotton Outfitters LLC</p> | <p>Proceeding No. 91212932</p> |
|---|--------------------------------|

---

**ANSWER**

High Cotton Outfitters LLC (“Defendant”), through undersigned counsel, hereby responds to High Cotton Ties LLC (“Plaintiff”) as follows:

1. Admitted.
2. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent a response is required, the statements of that paragraph are denied.
3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent a response is required, the statements of that paragraph are denied.
4. Admitted.
5. Admitted.
6. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent a response is required, the statements of that paragraph are denied.
7. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent a response is required, the statements of that paragraph are denied.

8. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent a response is required, the statements of that paragraph are denied.

9. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent a response is required, the statements of that paragraph are denied.

10. Denied.

11. Denied.

12. Denied.

13. Denied.

14. Denied.

15. Denied.

### **AFFIRMATIVE DEFENSES**

Defendant further defends by asserting the following affirmative defenses:

#### **No Likelihood of Confusion**

16. The proposed '479 mark is not likely to be confusing to consumers when compared to the Plaintiff's marks.

17. The goods and services of the parties are unrelated. Plaintiff's marks protect only "Bow ties, cummerbunds, pocket squares, belts, dress shirts, all the aforesaid goods made in whole or in substantial part of cotton." See U.S. Trademark Registration No. 4,162,782. Applicant's mark seeks to protect "Baseball caps and hats; Polo shirts; Short-sleeved or long-sleeved t-shirts; T-shirts; Visors." See U.S. Trademark Serial No. 85,790,479.

18. Moreover, Plaintiff's website makes it clear that "High Cotton Ties is currently focusing on providing our community with *two products*, 100% Cotton Bow Ties and 100% Cotton Cummerbunds." See High Cotton Ties, About Us *available at* [http://highcottonties.com/about\\_us](http://highcottonties.com/about_us) (*last visited* Nov. 20, 2013) (emphasis added). On the other hand, Applicant's website advertises each of the applied for goods. See High Cotton Outfitters, *available at* <http://www.highcottonoutfitters.com> (*last visited* November 20, 2013).

19. The goods and services of the parties are sold to different classes of consumers. Plaintiff targets sophisticated consumers, including consumers that would attend "fraternity formals, debutante balls, and weddings." See High Cotton Ties, About Us *available at* [http://highcottonties.com/about\\_us](http://highcottonties.com/about_us) (*last visited* Nov. 20, 2013). On the other hand, Defendant sells comfortable clothing to a broad spectrum of buyers.

20. Consumers in the marketplaces at issue are sophisticated. Plaintiff targets consumers willing to pay a premium price for higher-end formal wear. These consumers seek highly specialized clothing specifically designed for formal events. Defendant, to the contrary, targets men, women, and children of all shapes and sizes and economic backgrounds.

21. Finally, on information and belief, there is no evidence of actual confusion in the marketplace. Plaintiff has yet to provide any particular instance of confusion, and Defendant is not aware of any actual confusion between the marks at issue.

### **Priority**

22. Defendant's priority in the marketplace is superior to Plaintiff's. Defendant's business was registered with the State of South Carolina on September 25, 2009 as "HIGH COTTON OUTFITTERS, LLC." See Exhibit #1, Defendant Corporate Record. Plaintiff, on the

other hand, did not register its business with the State of North Carolina until February 19, 2010. See Exhibit #2, Plaintiff Corporate Records.

23. Moreover, Defendant registered its operating domain name before Plaintiff. Defendant registered “HighCottonOutfitters.com” on September 24, 2009, just one day prior to its formal business registration. See Exhibit #3, Domain Registration Records. Plaintiff, on the other hand, did not register its domain name “HighCottonTies.com” until January 7, 2010. See Exhibit #4.

24. Given its superior priority, Defendant is considering a separate Cancellation action against Plaintiff’s marks. Defendant will make a decision as to such a proceeding in short order.

**RELIEF REQUESTED**

For all the foregoing, Defendant respectfully requests that this proceeding be dismissed, with prejudice.

Respectfully submitted,



---

Eric Menhart, Esq.  
Lexero Law  
10 G St NE, Suite 710  
Washington, DC 20002  
Phone: 855-4-LEXERO (855-453-9376) Ext. 101  
Fax: 855-4-LEXERO (855-453-9376)  
<http://www.Lexero.com>

**CERTIFICATE OF SERVICE**

I hereby certify that on the date of this filing a copy of the foregoing was sent via first class mail, postage prepaid, to Plaintiff's counsel:

Karl S. Sawyer, Jr.  
K&L Gates LLP  
Hearst Tower, 47th Floor  
214 North Tryon Street  
Charlotte, NC 28202

A handwritten signature in black ink, appearing to read "Eric J. Menhart", with a long horizontal flourish extending to the right.

---

Eric J. Menhart



## HIGH COTTON OUTFITTERS, LLC

*Note: This online database was last updated on 11/19/2013 6:01:39 PM.*

*See our Disclaimer.*

|   |                          |
|---|--------------------------|
| <b>DOMESTIC / FOREIGN:</b>                    | Domestic                 |
| <b>STATUS:</b>                                | Good Standing            |
| <b>STATE OF INCORPORATION / ORGANIZATION:</b> | SOUTH CAROLINA<br>Profit |

### REGISTERED AGENT INFORMATION

|                               |                     |
|-------------------------------|---------------------|
| <b>REGISTERED AGENT NAME:</b> | STEFAN M LITTLEJOHN |
| <b>ADDRESS:</b>               | 1332 MAIN ST        |
| <b>CITY:</b>                  | COLUMBIA            |
| <b>STATE:</b>                 | SC                  |
| <b>ZIP:</b>                   | 29201               |
| <b>SECOND ADDRESS:</b>        | STE 62              |
| <b>FILE DATE:</b>             | 09/25/2009          |
| <b>EFFECTIVE DATE:</b>        | 09/25/2009          |
| <b>DISSOLVED DATE:</b>        | //                  |

### Corporation History Records

| CODE         | FILE DATE  | COMMENT | Document |
|--------------|------------|---------|----------|
| Domestic LLC | 09/25/2009 | AT WILL |          |

**Disclaimer:** The South Carolina Secretary of State's Business Filings database is provided as a convenience to our customers to research information on business entities filed with our office. Updates are uploaded every 48 hours. Users are advised that the Secretary of State, the State of South Carolina or any agency, officer or employee of the State of South Carolina does not guarantee the accuracy, reliability or timeliness of such information, as it is the responsibility of the business entity to inform the Secretary of State of any updated information. While every effort is made to insure the reliability of this information, portions may be incorrect or not current. Any person or entity who relies on information obtained from this database does so at his own risk.

Physical Address: Edgar Brown Building - 1205 Pendleton Street Suite 525 Columbia, SC 29201

Mailing Address: SC Secretary of State's Office 1205 Pendleton Street Suite 525 Columbia, SC 29201



Elaine F. Marshall  
Secretary

North Carolina

DEPARTMENT OF THE  
SECRETARY OF STATE

PO Box 29622 Raleigh, NC 27626-0622 (919)807-2000

[Account Login](#)   [Register](#)

Date: 11/20/2013

Click here to:

[View Document Filings](#) | [File an Annual Report](#) |



[Print a Pre-populated Annual Report Fillable PDF Form](#) | [Amend A Previous Annual Report](#) |

## Corporation Names

| Name                    | Name Type |
|-------------------------|-----------|
| NC HIGH COTTON TIES LLC | LEGAL     |

## Limited Liability Company Information

|                              |                |
|------------------------------|----------------|
| <b>SOSID:</b>                | 1137305        |
| <b>Status:</b>               | Current-Active |
| <b>Effective Date:</b>       | 2/19/2010      |
| <b>Citizenship:</b>          | DOMESTIC       |
| <b>State of Inc.:</b>        | NC             |
| <b>Duration:</b>             | PERPETUAL      |
| <b>Annual Report Status:</b> | ADM REVIEW     |

## Registered Agent

|                         |                                      |
|-------------------------|--------------------------------------|
| <b>Agent Name:</b>      | HILL, FRANK H                        |
| <b>Office Address:</b>  | 218 HILLCREST RD<br>RALEIGH NC 27605 |
| <b>Mailing Address:</b> | 218 HILLCREST RD<br>RALEIGH NC 27605 |

## Principal Office

|                         |   |
|-------------------------|---|
| <b>Office Address:</b>  | 19 W HARGETT ST STE 100<br>RALEIGH NC 27601 |
| <b>Mailing Address:</b> | PO BOX 2086<br>RALEIGH NC 27602             |

## Officers

|                          |   |
|--------------------------|---|
| <b>Title:</b>            | MEMBER  |
| <b>Name:</b>             | JAMES E HILL                                  |
| <b>Business Address:</b> | 120 ST. ALBANS DR APT 492<br>RALEIGH NC 27609 |
| <b>Title:</b>            | MEMBER  |
| <b>Name:</b>             | FRANK C HILL                                  |

**Business Address:** 2101 16TH ST NW #720  
WASHINGTON DC 20009

**Title:** **MEMBER**  
**Name:** PATRICK H HILL

**Business Address:** 218 HILLCREST RD  
RALEIGH NC 27605

**Title:** **MEMBER/MANAGER**  
**Name:** JUDITH V HILL

**Business Address:** 218 HILLCREST RD  
RALEIGH NC 27605

This website is provided to the public as a part of the Secretary of State Knowledge Base (SOSKB) system. Version: 1997



## WHOIS LOOKUP

highcottonoutfitters.com

[PRODUCTS](#) [SOLUTIONS](#) [PRICING](#) [SUPPORT](#) [ABOUT](#)

[Home](#) » [Whois Lookup](#) » [Highcottonoutfitters.com](#)

## HighCottonOutfitters.com Whois Record

Search Whois Records

[Whois Record](#) [Site Profile](#) [Registration](#) [Server Stats](#) [My Whois](#)

### My Whois View

[Show Help](#)

#### Related Domains For Sale or At Auction

[TeamSportOutfitters.com](#) (\$799)    [YachtOutfitters.com](#) (\$2,500)    [VintageOutfitters.com](#) (\$3,488)  
[VegasOutfitters.com](#) (\$3,900)    [UniversalOutfitters.com](#) (\$2,188)    [TravelOutfitters.com](#) (\$3,288)

Domain Name: HIGHCOTTONOUTFITTERS.COM  
 Registry Domain ID:  
 Registrar WHOIS Server: whois.tucows.com  
 Registrar URL: http://tucowsdomains.com  
 Updated Date: 2013-09-09 07:11:09  
 Creation Date: 2009-09-24 18:23:15  
 Registrar Registration Expiration Date: 2014-09-24 18:23:15  
 Registrar: TUCOWS, INC.  
 Registrar IANA ID: 69  
 Registrar Abuse Contact Email:  
 Registrar Abuse Contact Phone:  
 Reseller: FatCow  
 Reseller: [support@fatcow.com](mailto:support@fatcow.com)  
 Reseller: 888-278-9780  
 Domain Status: clientTransferProhibited  
 Domain Status: clientUpdateProhibited  
 Registry Registrant ID:  
 Registrant Name: Melinda Edwards  
 Registrant Organization: Fign Design  
 Registrant Street: 2213 Rosewood Drive  
 Registrant City: Columbia  
 Registrant State/Province: SC  
 Registrant Postal Code: 29205  
 Registrant Country: US  
 Registrant Phone: +1.8037275196  
 Registrant Phone Ext:  
 Registrant Fax:  
 Registrant Fax Ext:  
 Registrant Email: [melinda@rocketmail.com](mailto:melinda@rocketmail.com)  
 Registry Admin ID:  
 Admin Name: Melinda Edwards  
 Admin Organization: Fign Design  
 Admin Street: 2213 Rosewood Drive  
 Admin City: Columbia  
 Admin State/Province: SC  
 Admin Postal Code: 29205  
 Admin Country: US  
 Admin Phone: +1.8037275196  
 Admin Phone Ext:  
 Admin Fax:  
 Admin Fax Ext:  
 Admin Email: [melinda@rocketmail.com](mailto:melinda@rocketmail.com)  
 Registry Tech ID:  
 Tech Name: Domain Administrator  
 Tech Organization: FatCow  
 Tech Street: 70 Blanchard Road  
 Tech City: Burlington  
 Tech State/Province: MA  
 Tech Postal Code: 01803  
 Tech Country: US  
 Tech Phone: +1.8882789780  
 Tech Phone Ext:

#### ONE-CLICK MONITORING

Create a [Domain Monitor](#) to monitor future changes to "highcottonoutfitters.com".

[Monitor Highcottonoutfitters.com](#)

### Add Missing Screenshot:

This domain has been queued for a screenshot. Please check back in a few hours.

**Country TLDs**    **General TLDs**

Available domains for registration:

- [HighCottonOutfitters.at](#) [Register](#)
- [HighCottonOutfitters.ch](#) [Register](#)
- [HighCottonOutfitters.cn](#) [Register](#)
- [HighCottonOutfitters.co.uk](#) [Register](#)
- [HighCottonOutfitters.de](#) [Register](#)
- [HighCottonOutfitters.dk](#) [Register](#)
- [HighCottonOutfitters.es](#) [Register](#)
- [HighCottonOutfitters.eu](#) [Register](#)
- [HighCottonOutfitters.fr](#) [Register](#)
- [HighCottonOutfitters.in](#) [Register](#)

[Register All Selected >](#)

[Show all \(18\) >](#)

Tech Fax: +1.7812726550  
 Tech Fax Ext:  
 Tech Email: [domreg@fatcow.com](mailto:domreg@fatcow.com)  
 Name Server: NS2.FATCOW.COM  
 Name Server: NS1.FATCOW.COM  
 DNSSEC:  
 URL of the ICANN WHOIS Data Problem Reporting System: <http://wdprs.internic.net/>

Registration Service Provider:  
 FatCow, [support@fatcow.com](mailto:support@fatcow.com)  
 888-278-9780

Whois Directory

[a](#) [b](#) [c](#) [d](#) [e](#) [f](#) [g](#) [h](#) [i](#) [j](#) [k](#) [l](#) [m](#) [n](#) [o](#) [p](#) [q](#) [r](#) [s](#) [t](#) [u](#) [v](#) [w](#) [x](#) [y](#) [z](#) [0](#) [1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#)

[Home](#) [Contact Us](#) [Blog](#) [Terms of Service](#) [Privacy Policy](#)

[Like](#) 12k [YouTube](#) [in](#) [RSS](#) [Follow](#) [g+](#) 1.2k

**DOMAIN RESEARCH**

- Whois Lookup
- Domain Search
- Reverse Whois
- Whois History
- Screenshots
- Domain Marketplace
- Domain Report

**NETWORK RESEARCH**

- IP Whois Lookup
- Reverse IP Lookup
- Reverse NS Lookup
- Reverse IP Whois
- Hosting History

**MONITORING**

- Brand Monitor
- Registrant Monitor
- Name Server Monitor
- IP Monitor
- Domain Monitor

**ENTERPRISE-SCALE DATA**

- Reverse Whois IRM
- APIs
- Custom Data Feeds
- DomainTools Labs

**MORE PRODUCTS**

- Domain Sales History
- Domain Suggestions
- Domain Typo Finder
- Bulk Check
- Dropping Names
- My IP Address
- IP Explorer
- DNS Tools
- Desktop Tools

**SOLUTIONS FOR:**

- Cybercrime Investigation
- Brand Protection
- Domain Professionals
- Enterprise Solutions

**PRODUCT PRICING**

- Pricing
- Upgrade

**DOMAINTOOLS APPS**





WHOIS LOOKUP

highcottonties.com

- [PRODUCTS](#)
- [SOLUTIONS](#)
- [PRICING](#)
- [SUPPORT](#)
- [ABOUT](#)

[Home](#) » [Whois Lookup](#) » [Highcottonties.com](#)

# HighCottonTies.com Whois Record

Search Whois Records

- [Whois Record](#)
- [Site Profile](#)
- [Registration](#)
- [Server Stats](#)
- [My Whois](#)

## My Whois View

[Show Help](#)

### Related Domains For Sale or At Auction

1 2 3 [More >](#)

- [CottonPajamas.com](#) (\$1,999)
- [CottonWool.com](#) (\$2,995)
- [CottonSheet.com](#) (\$1,749)
- [CottonScrubs.com](#) (\$4,000)
- [OrganicCottonSheets.com](#) (\$2,099)
- [Cottonwoodinn.com](#) (\$6,700)

Domain Name: HIGHCOTTONTIES.COM  
 Registrar URL: http://www.godaddy.com  
 Updated Date: 2013-10-24 13:15:16  
 Creation Date: 2010-01-07 19:54:44  
 Registrar Expiration Date: 2016-01-07 19:54:44  
 Registrar: GoDaddy.com, LLC  
 Registrant Name: Judy Hill  
 Registrant Organization:  
 Registrant Street: 10496 Gunnison Ln.  
 Registrant City: Charlotte  
 Registrant State/Province: North Carolina  
 Registrant Postal Code: 28277  
 Registrant Country: United States  
 Admin Name: Judy Hill  
 Admin Organization:  
 Admin Street: 10496 Gunnison Ln.  
 Admin City: Charlotte  
 Admin State/Province: North Carolina  
 Admin Postal Code: 28277  
 Admin Country: United States  
 Admin Phone: (703) 309-1988  
 Admin Fax:  
 Admin Email: [judyhill178@gmail.com](mailto:judyhill178@gmail.com)  
 Tech Name: Judy Hill  
 Tech Organization:  
 Tech Street: 10496 Gunnison Ln.  
 Tech City: Charlotte  
 Tech State/Province: North Carolina  
 Tech Postal Code: 28277  
 Tech Country: United States  
 Tech Phone: (703) 309-1988  
 Tech Fax:  
 Tech Email: [judyhill178@gmail.com](mailto:judyhill178@gmail.com)  
 Name Server: NS1.HIGHCOTTONTIES.COM  
 Name Server: NS2.HIGHCOTTONTIES.COM

### Whois Directory

[a](#) [b](#) [c](#) [d](#) [e](#) [f](#) [g](#) [h](#) [i](#) [j](#) [k](#) [l](#) [m](#) [n](#) [o](#) [p](#) [q](#) [r](#) [s](#) [t](#) [u](#) [v](#) [w](#) [x](#) [y](#) [z](#) [0](#) [1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#)

**ONE-CLICK MONITORING**  
 Create a [Domain Monitor](#) to monitor future changes to "highcottonties.com".  
**Monitor Highcottonties.com**



Last checked October 21, 2013

[Queue Screenshot for Update](#)

Country TLDs    General TLDs

Available domains for registration:

- [HighCottonTies.at](#) [Register](#)
  - [HighCottonTies.be](#) [Register](#)
  - [HighCottonTies.ch](#) [Register](#)
  - [HighCottonTies.cn](#) [Register](#)
  - [HighCottonTies.co.uk](#) [Register](#)
  - [HighCottonTies.dk](#) [Register](#)
  - [HighCottonTies.es](#) [Register](#)
  - [HighCottonTies.eu](#) [Register](#)
  - [HighCottonTies.fr](#) [Register](#)
  - [HighCottonTies.in](#) [Register](#)
- [Register All Selected >](#)   [Show all \(18\) >](#)

[Home](#)   [Contact Us](#)   [Blog](#)   [Terms of Service](#)   [Privacy Policy](#)

[Like](#) 12k        [Follow](#)  1.2k

**DOMAIN RESEARCH**

- [Whois Lookup](#)
- [Domain Search](#)
- [Reverse Whois](#)
- [Whois History](#)
- [Screenshots](#)
- [Domain Marketplace](#)
- [Domain Report](#)

**NETWORK RESEARCH**

- [IP Whois Lookup](#)
- [Reverse IP Lookup](#)
- [Reverse NS Lookup](#)
- [Reverse IP Whois](#)
- [Hosting History](#)

**MONITORING**

- [Brand Monitor](#)
- [Registrant Monitor](#)
- [Name Server Monitor](#)
- [IP Monitor](#)
- [Domain Monitor](#)

**ENTERPRISE-SCALE DATA**

- [Reverse Whois IRM](#)
- [APIs](#)
- [Custom Data Feeds](#)
- [DomainTools Labs](#)

**MORE PRODUCTS**

- [Domain Sales History](#)
- [Domain Suggestions](#)
- [Domain Typo Finder](#)
- [Bulk Check](#)
- [Dropping Names](#)
- [My IP Address](#)
- [IP Explorer](#)
- [DNS Tools](#)
- [Desktop Tools](#)

**SOLUTIONS FOR:**

- [Cybercrime Investigation](#)
- [Brand Protection](#)
- [Domain Professionals](#)
- [Enterprise Solutions](#)

**PRODUCT PRICING**

- [Pricing](#)
- [Upgrade](#)

**DOMAINTOOLS APPS**

