

ESTTA Tracking number: **ESTTA625048**

Filing date: **09/03/2014**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Genesco Brands, LLC
Granted to Date of previous extension	09/03/2014
Address	300 Delaware Avenue, 9th Floor Wilmington, DE 19801 UNITED STATES
Attorney information	Tywanda H. Lord Kilpatrick Townsend & Stockton LLP 1100 Peachtree Street Suite 2800 Atlanta, GA 30309 UNITED STATES tlord@ktslaw.com, tadmin@ktslaw.com, nchollet@ktslaw.com, tibrown@ktslaw.com, lcrumbley@ktslaw.com

Applicant Information

Application No	86099403	Publication date	05/06/2014
Opposition Filing Date	09/03/2014	Opposition Period Ends	09/03/2014
Applicant	Scruggs, Marthel 912 Ward Street Nashville, TN 37207 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Clothing, namely, shirts, t-shirts, sweaters, cardigans, dresses, skirts, pants, undergarments, hats, gloves, scarves, coats, vests, jackets, ties, and shoes
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Grounds for Opposition

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

U.S. Registration No.	2054259	Application Date	10/24/1995
Registration Date	04/22/1997	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1987/12/31 First Use In Commerce: 1987/12/31 shoes and clothing, namely, shirts, T-shirts, sweatshirts, jackets, [pants, shorts,] socks and hats

U.S. Registration No.	3232063	Application Date	04/10/2001
Registration Date	04/24/2007	Foreign Priority Date	NONE

Word Mark	NONE
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 1987/12/31 First Use In Commerce: 1987/12/31 retail store services in the fields of footwear, apparel, backpacks, sports bags, jewelry and fashion accessories

Attachments	75009503#TMSN.png(bytes) 76238378#TMSN.png(bytes) 2014.09.03 Notice of Opposition.pdf(117588 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Nichole Davis Chollet/
Name	Nichole Davis Chollet
Date	09/03/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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GENESCO BRANDS, LLC)	
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Opposer,)	
)	Serial No.: 86/099,403
)	Mark: CLASSIE SHARPE COLLECTION
)	& Handprint Design
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)	
v.)	Opposition No. _____
)	
Marthel Scruggs.)	
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)	
Applicant.)	



Classie Sharpe Collection

NOTICE OF OPPOSITION

Opposer Genesco Brands, LLC will be damaged by registration in International Class 25 of the CLASSIE SHARPE COLLECTION & Handprint Design mark shown in application Serial No. 86/099,403 and states the following grounds under 15 U.S.C. § 1063 and 37 C.F.R. §§ 2.101 and 2.104 for its opposition to that application:

1. Opposer Genesco Brands, LLC is the owner and licensor of the trademark JOURNEYS, alone and in conjunction with other words and designs, used in connection with a well-known chain of over seven hundred JOURNEYS and JOURNEYS KIDZ retail stores located in major shopping malls throughout the United States, which are owned and operated by Opposer Genesco Brands, LLC's predecessor and exclusive licensee, Genesco Inc. (Opposer Genesco Brands, LLC, Genesco Inc., and their predecessors are collectively referred to as

“Genesco”). The stores operating under the JOURNEYS trademarks sell a wide range of footwear, clothing, fashion accessories, novelties, bags, backpacks, and other goods in connection with the JOURNEYS marks.

2. The JOURNEYS stores and virtually all advertising for JOURNEYS stores prominently feature the design mark depicted below (the “Handprint Design Mark”), which is owned by Genesco Brands, LLC. By virtue of its use of the Handprint Design Mark, Genesco owns common-law rights in the design.



3. Genesco’s Handprint Design Mark is used in connection with JOURNEYS stores and on point of purchase materials in connection with clothing, footwear, accessories, bags, novelties, and other products sold in those stores.

4. Genesco also owns federal Registration No. 2,054,259 of its Handprint Design Mark for “*shoes and clothing, namely, shirts, T-shirts, sweatshirts, jackets, socks, and hats*” in International Class 25. In addition, Genesco owns federal Registration No. 3,232,063 of its Handprint Design mark for “*retail store services in the fields of footwear, apparel, backpacks, sports bags, jewelry and fashion accessories*” in International Class 35.

5. Genesco has used its Handprint Design Mark in commerce in connection with the advertising, promotion, distribution, and sale of footwear and clothing and other goods, as well as retail store services, since at least as early as December 31, 1987.

6. By virtue of the continuous and extensive advertising of the Handprint Design Mark in connection with JOURNEYS stores and the products sold therein, and of the extensive

sales under the mark for over 25 years, Genesco's Handprint Design Mark is widely and favorably known by the public throughout the United States.

7. Genesco's Handprint Design Mark is symbolic of the substantial goodwill and consumer recognition established by Genesco as a result of the outstanding quality and extensive sales of products through its retail stores throughout the United States for many years. Genesco has expended large amounts of money, time, and effort in advertising and promoting such goods and services under the Handprint Design Mark. By reason of Genesco's extensive use and advertising of the Handprint Design Mark and resulting favorable public recognition, the Handprint Design Mark uniquely identifies Genesco and its retail stores and related products and services to the public. As such, Genesco has acquired extensive rights in the Handprint Design Mark in connection with its retail store services and with footwear, clothing and other goods.

8. Applicant Mr. Marthel Scruggs ("Applicant") filed intent-to-use application Serial No. 86/099,403 on October 23, 2013 to register the mark CLASSIE SHARPE COLLECTION & Handprint Design ("Applicant's Mark"), which is reproduced below:



Classie Sharpe Collection

Applicant's Mark was published for opposition in the Official Gazette on May 6, 2014, covers, "*clothing, namely, shirts, t-shirts, sweaters, cardigans, dresses, skirts, pants, undergarments, hats, gloves, scarves, coats, vests, jackets, ties, and shoes*" in International Class 25.

9. Genesco continuously has used its Handprint Design Mark long before the October 23, 2013 filing date of Applicant's application and/or any claimed date of first use in commerce.

10. Applicant's Mark prominently incorporates a handprint design that is virtually identical in appearance and commercial impression to Genesco's Handprint Design Mark.

11. Applicant's Mark is used in connection with goods in International Class 25 that are identical and/or highly related to the goods and services Genesco offers under its Handprint Design Mark.

12. Genesco will be damaged by the registration of Applicant's Mark in International Class 25 because the mark so resembles Genesco's previously used Handprint Design Mark as to be likely to cause consumer confusion, mistake and deception in violation of Section 2(d) of the Lanham Act, 15, U.S.C. § 1052(d). Consumers familiar with Genesco's Handprint Design Mark would be likely, erroneously, to believe that Applicant's goods are those of Genesco or are endorsed, sponsored, or licensed by Genesco. Thus, registration of Applicant's Mark on the Principal Register would be inconsistent with Genesco's rights in its Handprint Design Mark.

13. The required opposition fee of \$300 for the opposition against Application Serial No. 86/099,403 in International Class 25 is filed herewith. The Director is authorized to debit Kilpatrick Townsend & Stockton LLP's Trademark Deposit Account No. 20-1430 for any deficiency in the required fee.

Opposer Genesco Brands, LLC therefore requests that application Serial No. 86/099,403 be refused registration.

Date: September 3, 2014

Respectfully Submitted:

/Nichole Davis Chollet/
Tywanda H. Lord
Nichole Davis Chollet

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being filed electronically through the U.S. Patent and Trademark Office's ESTTA system on September 3, 2014.

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