

ESTTA Tracking number: **ESTTA643820**

Filing date: **12/11/2014**

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	ICON DE Holdings LLC		
Entity	limited liability company	Citizenship	Delaware
Address	103 Foulk Road Wilmington, DE 19803 UNITED STATES		

Attorney information	Theodore R. Remaklus Wood, Herron & Evans, L.L.P. 441 Vine Street 2700 Carew Tower Cincinnati, OH 45202 UNITED STATES tremaklus@whe-law.com Phone:513-241-2324
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Applicant Information

Application No	86326154	Publication date	11/18/2014
Opposition Filing Date	12/11/2014	Opposition Period Ends	12/18/2014
Applicants	<p>Nicholson, Logan Apt. 98 Alexandria, LA 71303 UNITED STATES</p> <p>Patterson, Gary Apt. 98 Alexandria, LA 71303 UNITED STATES</p> <p>Lind, Jeremy Apt. 98 Alexandria, LA 71303 UNITED STATES</p> <p>Banks, Phillip Apt. 98 Alexandria, LA 71303 UNITED STATES</p> <p>Vance, Chris Apt. 98 Alexandria, LA 71303 UNITED STATES</p> <p>Ford, Scott Apt. 98 Alexandria, LA 71303</p>		

	<p>UNITED STATES</p> <p>Boyd, Jason Apt. 98 Alexandria, LA 71303 UNITED STATES</p> <p>Saldana, Johnny Apt. 98 Alexandria, LA 71303 UNITED STATES</p> <p>Burnham, Nick Apt. 98 Alexandria, LA 71303 UNITED STATES</p> <p>Birdsong, Brian Apt. 98 Alexandria, LA 71303 UNITED STATES</p>
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Goods/Services Affected by Opposition

<p>Class 025. First Use: 2012/03/01 First Use In Commerce: 2012/03/01 All goods and services in the class are opposed, namely: Hats; Hooded sweatshirts; Shirts; T-shirts</p>

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1992148	Application Date	02/27/1995
Registration Date	08/06/1996	Foreign Priority Date	NONE
Word Mark	MUDD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1995/09/00 First Use In Commerce: 1995/09/00 jeans, overalls, skirts, shirts, shorts, dresses		

U.S. Registration No.	2537262	Application Date	12/23/1997
Registration Date	02/05/2002	Foreign Priority Date	NONE
Word Mark	MUDD		
Design Mark			
Description of Mark	NONE		

Goods/Services	<p>Class 009. First use: First Use: 1999/06/25 First Use In Commerce: 1999/06/25 eyeglasses, eyeglass frame, and sunglasses</p> <p>Class 014. First use: First Use: 1999/06/16 First Use In Commerce: 1999/06/16 costume jewelry, watches</p> <p>Class 018. First use: First Use: 1998/12/03 First Use In Commerce: 1998/12/03 [Leather goods, namely, wallets, card cases, pocket organizers;] backpacks, luggage, tote bags, cosmetics cases sold empty</p> <p>Class 025. First use: First Use: 1998/07/20 First Use In Commerce: 1998/07/20 Athletic shoes, shoes, hosiery, jackets, coat s, swim wear, sweat suits, sweat pants, shorts, t-shirts, warm up suits, socks and clothing belts</p> <p>Class 026. First use: First Use: 1999/06/16 First Use In Commerce: 1999/06/16 hair bows, hair ornaments, hair pins and hair bands</p>
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U.S. Registration No.	4142970	Application Date	02/26/2009
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Registration Date	05/15/2012	Foreign Priority Date	NONE
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Word Mark	MUDD
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Design Mark	
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Description of Mark	The mark consists of the literal element "Mudd" with a heart, peace and flower design stacked above.
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Goods/Services	<p>Class 018. First use: First Use: 2009/02/28 First Use In Commerce: 2009/02/28 Handbags; Purses; Tote bags</p> <p>Class 025. First use: First Use: 2009/02/28 First Use In Commerce: 2009/02/28 Dresses; Hats; Jeans; Knit shirts; Long-sleeved shirts; Pants; Shirts; Shoes; Skirts; Sweaters; T-shirts</p>
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U.S. Registration No.	4369445	Application Date	01/12/2012
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Registration Date	07/16/2013	Foreign Priority Date	NONE
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Word Mark	MUDD
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Design Mark	MUDD
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 2005/03/01 First Use In Commerce: 2005/03/01 handbags and purses

Attachments	77678963#TMSN.png(bytes) 85515175#TMSN.png(bytes) Notice of Opposition.pdf(34415 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	/theodore r remaklus/
Name	Theodore R. Remaklus
Date	12/11/2014

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

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ICON DE HOLDINGS LLC,) Opposition No. _____
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Opposer,))
)) Application No. 86/326,154
v.) Published: November 18, 2014
))
BRIAN BIRDSONG, NICK BURNHAM,))
JOHNNY SALDANA, JASON BOYD,))
SCOTT FORD, CHRIS VANCE,))
PHILLIP BANKS, JEREMY LIND,))
GARY PATTERSON,))
LOGAN NICHOLSON,))
))
Applicants.))
_____)

NOTICE OF OPPOSITION

Opposer, ICON DE Holdings LLC, a Delaware limited liability company having a place of business at 103 Foulk Road, Wilmington, Delaware 19803 ("Opposer"), believes that it will be damaged by registration of the trademark SOUTHERN MUDD JUNKIES of Application No. 86/326,154 for "Hats; Hooded sweatshirts; Shirts; T-shirts" in International Class 25, and hereby opposes the same.

GROUND FOR OPPOSITION

As grounds for this opposition, Opposer alleges as follows:

1. Opposer is the owner of the MUDD brand, a popular fashion brand. The MUDD brand was created in 1995, and has become one of the most popular fashion brands in the United States, with a 95% brand awareness among its demographic.

2. Opposer is the owner of the following MUDD-bearing United States Trademark

Registrations:

MUDD Registration No. 1,992,148 (incontestable), registered on August 6, 1996, claiming a first use date of September, 1995
Class 25 - Jeans, overalls, skirts, shirts, shorts, dresses

Mudd Registration No. 2,397,457 (incontestable), registered on October 24, 2000, claiming a first use date of April, 1999 in Classes 9 and 14, December, 1998 in Class 18, and September 1995 in Class 25
Class 9 - Sunglasses
Class 14 - Costume jewelry, watches
Class 18 - Leather goods, namely, wallets, credit card cases, and business card cases; backpacks, tote bags, cosmetics cases sold empty
Class 25 - Shoes, hosiery, jackets, sweat suits, sweat pants, shorts, t-shirts, warm up suits, socks, clothing belts, jeans

MUDD Registration No. 2,537,262 (incontestable), registered on February 5, 2002, claiming a first use date of June 25, 1999 in Class 9, June 16, 1999 in Class 14, December 3, 1998 in Class 18, July 20, 1998 in Class 25 and June 16, 1999 in Class 26
Class 9 - Eyeglasses, eyeglass frame, and sunglasses
Class 14 - Costume jewelry, watches
Class 18 - Backpacks, luggage, tote bags, cosmetics cases sold empty
Class 25 - Athletic shoes, shoes, hosiery, jackets, coats, swim wear, sweat suits, sweat pants, shorts, t-shirts, warm up suits, socks and clothing belts
Class 26 - Hair bows, hair ornaments, hair pins and hair bands



Registration No. 4,142,970, registered on May 15, 2012, claiming a first use date of February 28, 2009

Class 18 - Handbags; Purses; Tote bags
Class 25 - Dresses; Hats; Jeans; Knit shirts; Long-sleeved shirts; Pants; Shirts; Shoes; Skirts; Sweaters; T-shirts

MUDD Registration No. 4,369,445, registered on July 16, 2013, claiming a first use date of March 1, 2005
Class 18 – Handbags and purses

The above marks are referred to collectively herein as the "MUDD Marks".

3. Opposer and/or its predecessors-in-interest and/or licensees have used the MUDD Marks continuously on or in connection with the above goods since the date of first use recited in

the registrations. Those marks have also been the subject of substantial marketing and advertising in the United States in connection with the goods of Opposer, and Opposer, its predecessors-in-interest and licensees have spent millions of dollars in promoting the goods under the MUDD Marks. As a result of the long and continuous use and promotion of the MUDD Marks, those marks have come to be associated exclusively with Opposer and/or its predecessors-in-interest, as identifying goods emanating from Opposer, and are famous.

4. On information and belief, Applicants are Brian Birdsong, Nick Burnham, Johnny Saldana, Jason Boyd, Scott Ford, Chris Vance, Phillip Banks, Jeremy Lind, Gary Patterson and Logan Nicholson, each having an address of 920 Twin Bridges Road, Apt. 98, Alexandria, Louisiana 71303 (hereinafter "Applicants").

5. On information and belief, Applicants filed Application No. 86,326,154 (hereinafter "the '154 Application") on July 1, 2014, claiming a first-use date of March 1, 2012, for the trademark SOUTHERN MUDD JUNKIES for "Hats; Hooded sweatshirts; Shirts; T-shirts" in International Class 25, which was published for opposition on November 18, 2014.

6. Applicants' filing date and first use date are subsequent to Opposer's first use of the MUDD trademark.

7. The trademark SOUTHERN MUDD JUNKIES incorporates the entirety of Opposer's MUDD mark, and a dominant portion of the SOUTHERN MUDD JUNKIES mark is the word "Mudd", which is identical to the MUDD Marks of Opposer.

8. Likewise, the goods in the '154 Application with which the SOUTHERN MUDD JUNKIES are allegedly intended to be used are identical to those sold by Opposer and its licensees under the MUDD Marks.

9. As a result of the similarity of the marks and goods, the use by Applicants of the SOUTHERN MUDD JUNKIES mark would be likely to cause confusion among consumers of those goods.

10. The SOUTHERN MUDD JUNKIES mark is likely to cause confusion or to cause mistake or to deceive consumers by creating the false impression that Applicants' goods originate with or are from the same source as Opposer's goods, or are endorsed by, sponsored by, or otherwise connected or affiliated in some way with Opposer and the MUDD Marks.

11. Applicants' SOUTHERN MUDD JUNKIES mark is likely to dilute Opposer's distinctive and famous MUDD Marks in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

12. Applicants are not entitled to use or register the SOUTHERN MUDD JUNKIES trademark for the goods recited in the '154 Application.

13. Under Section 7(b) of the Lanham Act, 15 U.S.C. § 1057(b), if a certificate of registration were to issue to Applicants it would be *prima facie* evidence of, among other things, its right to use the mark in commerce on the goods recited in the application, and such use would be likely to cause confusion, or to cause mistake, or to deceive purchasers by reason of the similarity thereof to Opposer's MUDD Marks.

WHEREFORE, Opposer believes that it will be damaged by registration of the SOUTHERN MUDD JUNKIES trademark, and prays that the '154 Application be refused and registration denied.

The fee required under 37 C.F.R. § 2.6(a)(17) is being submitted herewith. The Commissioner is authorized to charge Deposit Account No. 23-3000 for any deficiencies in the filing fee and any and all other fees associated with filing the Notice of Opposition.

Respectfully submitted,

ICON DE Holdings LLC

Date: December 11, 2014

By: /s/ Theodore R. Remaklus
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Attorneys for Opposer
ICON DE Holdings LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Notice of Opposition** has been served by first class mail, postage prepaid, upon Logan Nicholson, 920 Twin Bridges Road, Apt. 980, Alexandria, Louisiana 71303, the listed correspondence address, this 11th day of December, 2014.

/s/ Theodore R. Remaklus

Theodore R. Remaklus

Attorney for Opposer
ICON DE Holdings LLC