

RSVP	2,919,304	Dinnerware In General and Beverage Glassware	QVC, Inc.
R.S.V.P.	819,689	Handbags and pocketbooks	Carter Hawley Hale Stores, Inc.
RSVP	2,844,882	Shoes and footwear	Zappos.com, Inc.

Specifically, the Examining Attorney has refused registration on the grounds that the Applicant's mark and the cited marks are similar in sound, appearance and commercial impression. The Examiner further argues that the parties' respective goods are related because Applicant offers retail store services featuring, *inter alia*, tableware and fashion accessories. The Applicant disagrees with the Trademark Examining Attorney for the following reasons:

1. There is sufficient evidence of dilution of the term "RSVP" for tableware as evidenced by the existence of the two (2) registrations of two (2) unrelated parties cited by the Examiner and the co-existence of an additional registration owned by an unrelated party for RSVP all for goods more closely related to each other than to Applicant's retail store services.
2. Cited Reg. No. 819,689 for RSVP for "handbags and pocketbooks" has been cancelled and is no longer a bar to registration of the subject application.
3. The goods contained in cited Reg. No. 2,844,882 are sufficiently distinct and unrelated such that confusion is unlikely.
4. Consumers of Applicant's services and the goods in the cited registrations are sophisticated and informed consumers who exercise a high degree of care in making their purchasing decisions, thus significantly reducing any likelihood of confusion.

I. THERE IS NO LIKELIHOOD OF CONFUSION WITH REG. NOS. 807,791 AND 2,919,304

A. The Term RSVP Is Diluted For Tableware

Applicant submits that the Office has permitted the registration of marks incorporating RSVP for goods that the Examiner has classified as “tableware” of unrelated parties to co-exist on the Register. In particular, Applicant respectfully points out the co-existence of the following three (3) registrations of unrelated entities, which contain the term RSVP for products more closely related to each other than the Applicant’s retail store services featuring a myriad of items that include not only tableware, but also jewelry, watches, fashion accessories and related home décor items.

<u>Mark</u>	<u>Reg. No.</u>	<u>Goods & Services</u>	<u>Owner</u>
R.S.V.P.	807,791	Sterling Silver Flatware	Syratech Corporation
RSVP	2,919,304	Dinnerware In General and Beverage Glassware	QVC, Inc.
RSVP	2,145,513 Cancelled Sec. 8 12/18/2004	Table linens, namely, tablecloths, table napkins, table runners all made of fabric and table mats made of fabric	Terrisol Corp.

See TARR records attached hereto as Exhibit A. Applicant notes that although Registration No. 2,145,513 has been cancelled, such registration co-existed with the two cited registrations for several years.

The Applicant respectfully submits that the existence of these third party registrations, all of which contain RSVP, and are for goods that, according to the Examiner’s reasoning, constitute tableware, shows that the Office recognizes the weakness of such term for such goods and that the term’s distinctiveness in the customer’s mind is diluted. It is clear that by permitting

such marks which contain the term RSVP of unrelated parties to co-exist on the Register, the Office recognizes that the term RSVP for tableware has a very limited scope of protection and that other elements in the marks or differences in their respective goods or services, however minor, are sufficient to avoid confusion. American Hospital Supply v. Air Products and Chemicals, 194 USPQ 340 (TTAB 1977).

Whether a mark is strong or weak is an important factor in the consideration of the likelihood of confusion. Applicant believes that there is sufficient evidence of dilution of the term RSVP, foremost evidenced by the co-existence of the three registrations of unrelated owners on the Register for RSVP for goods, that, following the Examiner's logic, are considered tableware, such that Applicant's mark RSVP for retail store services featuring tableware should be permitted to exist.

B. Applicant's Services And The Goods In The Cited Registrations Are Sufficiently Distinct To Avoid A Likelihood Of Confusion.

Examiner finds similarity in the parties' respective goods and services because both "would be encountered by the same purchasers," confusing the mark used on the goods with the mark used by Applicant's retail store services featuring goods which could encompass the goods of the Registrants.

Tableware goods, such as flatware and dinnerware, are subject to minute distinctions in the commerce, such that confusion is unlikely based upon distinguishing characteristics like placement and display in the retail establishment, price of the items, and weakness of marks, such as the diluted term "RSVP," used on the goods. See Lenox, Inc. v. Ranmaru U.S.A. Corp., 17 USPQ2d 1696 (S.D.N.Y. 1990)(relatedness of products begins and ends with shared membership in the "plate family"); Imperial Knife Assoc. Companies, Inc. v. Dalton, 153 USPQ 422 (TTAB 1967). Even if initial confusion were to exist, which Applicant denies, a shopper

logically would turn the plate over to ascertain its source. See id. This examination would reveal the manufacturer of the plate. It is reasonable to assume that the Office recognizes this distinction by virtue of the co-existence of the three registrations for RSVP owned by unrelated parties set forth above. This same reasoning applies equally in the instant case.

The Board has noted that “no reasonable person would mistakenly find a product in the course of looking for a service.” In re Best Products, Inc., 231 USPQ 988 (TTAB 1986). The Board has decided on a number of occasions that no likelihood of confusion exists despite the fact that the marks are the same or similar and were being used on related goods and/or services. See Brass & Copper Co., Incorporated v. Special Springs, Inc., 199 USPQ 243 (TTAB 1978); In re Sentry Drug Centers, Inc., 177 USPQ 208 (TTAB 1973). Thus, the simple fact that, as the Examiner argues, Registrant’s goods could be sold in the Applicant’s retail stores, does not lead to the conclusion that confusion is likely.

II. REGISTRATION NO. 819,689 HAS BEEN CANCELLED

Applicant respectfully points out that Registration No. 819,689 for R.S.V.P., for “handbags and pocketbooks” has been cancelled. Records of the United States Patent and Trademark Office indicate that Registration No. 819,689 was cancelled under Section 8 on September 8, 2007. See Attached Exhibit B. Accordingly, the cited Registration No. 819,689 is no longer a bar to Applicant’s application and Applicant respectfully requests that the Examining Attorney withdraw his objections based on this registrations.

III. APPLICANT’S SERVICES AND THE GOODS IN REGISTRATION 2,844,882 ARE SUFFICIENTLY DISTINCT TO AVOID A LIKELIHOOD OF CONFUSION

The Examiner has cited Registration No. 2,844,882, RSVP for “shoes and footwear” as a bar to registration under Section 2(d) of the Trademark Act due to the similarity of the mark and alleged relatedness of the goods. The Examiner finds similarity in the parties’ respective goods

on the basis that Applicant's retail store services featuring "fashion accessories" could ostensibly include Registrant's shoes, arguing that shoes constitute a non-essential "fashion accessory."

The Applicant respectfully disagrees with the Examiner's characterization of the relatedness of Applicant's retail store services with the particular goods of Registrant, which are unrelated and sold through different channels of trade.

Shoes are not a "fashion accessory." See attached definition of fashion and fashion accessories at Exhibit C. Moreover, the simple fact that shoes may be related to other pieces of wearing apparel does not give rise to a determination of likelihood of confusion, because although both may be present in the same retail store, they are not always companion items or displayed in the same section, such as with fashion accessories, which mitigates any likelihood of confusion. See In re British Bulldog, Ltd., 224 USPQ 854 (TTAB 1984); see also In re The Shoe Works, Inc., 6 USPQ2d 1890 (TTAB 1988)(use of the mark "Palm Bay" may be made for both men's women's and children's pants and shorts and for shoes by another entity without a likelihood of confusion).

Fashion accessories are items that are used to complement fashion apparel. See attached Exhibit C. Fashion accessories can include jewelry, belts, handbags, gloves and other items that add detail to an outfit, modifying the garment's style or the visual effects of the fabric from which the garment is made. Fashion accessories are worn in connection with fashion apparel, such as clothing worn for special occasions, i.e. a wedding, party or a night on the town. Shoes cover a broad spectrum of essential clothing and are not added to change the style thereof, but are a main component of clothing and, in fact, may not be "fashionable," e.g. work shoes, athletic shoes or slippers. See attached Exhibit D. Shoes and fashion accessories such as watch chains, necklaces and bracelets are unrelated and non-competitive goods notwithstanding that

such items are sold at times in the same store. See General Shoe Corp. v. Forstner Chain Corp., 46 USPQ 231 (CCPA 1940).

The Examining Attorney contends that the Applicant's retail services featuring fashion accessories is related to Registrant's shoes and footwear. In support of this conclusion the Examiner provides evidence of jewelry, clothing and fashion accessories sold by mass-licensed brands that are not similar to the goods and services at issue in the present Application or the cited Registration. For example, the Examiner has cited evidence from Gucci, Kenneth Cole and Coach showing the brands' retailing of a large variety of clothing, jewelry and fashion accessories. The Board has squarely addressed and rejected the identical claim the Examining Attorney has made in In re Thomas, 79 USPQ2d 1021 (TTAB 2006). In determining whether a likelihood of confusion would exist for MARCHE NOIR (translated as "Black Market") for jewelry and BLACK MARKET for clothing, the Board rejected the examining attorney's argument that clothing and fashion accessories such as jewelry are highly related. See id. Third-party registrations covering both types of goods were unpersuasive. See id. (citing In re Shell Oil, 992 F.2d 1204 (Fed. Cir. 1993)). This reasoning applies equally in the present matter.

IV. PURCHASERS OF APPLICANT'S GOODS ARE SOPHISTICATED AND EXERCISE A GREATER DEGREE OF CARE

In evaluating likelihood of confusion, consideration also must be given to the degree of care likely to be exercised by purchasers. Litton Systems, Inc. v. Whirlpool Corp., 221 USPQ 97 (Fed. Cir. 1984). Likelihood of confusion is diminished where, as here, the prospective purchasers of Applicant's services featuring luxury goods are sophisticated individuals who are inclined to exercise a greater degree of care. McGregor-Doniger, Inc. v. Drizzle, Inc., 202 USPQ 81 (2d Cir. 1979); Kiekhaefer Corp. v. Willys-Overland Motors, Inc., 111 USPQ 105 (CCPA 1956).

Not only are Applicant's services purchased with an increased sophistication and standard of care, the Board has found that even "shoes are purchased with care, usually with the assistance of a salesman." In re British Bulldog, Ltd., 224 USPQ 854 (TTAB 1984). Similarly, the purchase of dinnerware is customarily an important one and is preceded by substantial thought and attention. See Lenox, Inc. v. Ranmaru U.S.A. Corp., 17 USPQ2d 1696 (S.D.N.Y. 1990). It is well established that when buyers exercise a higher standard of care in making purchasing decisions, confusion is not likely to occur. See In re Shipp, 4 USPQ2d 1174 (TTAB 1987); See also, Kiekhaefer v. Willys-Overland Motors, Inc., 111 USPQ 105 (CCPA 1956); McCarthy on Trademarks, §23:96 (the more care that is taken, the less likelihood of confusion).

As noted in L.J. Mueller Furnace Co. v. United Conditioning Corp., 106 USPQ 112 (CCPA 1955), the Courts have generally recognized that customers of "expensive goods" exercise a greater degree of care than do purchasers of inexpensive items, such as snack foods or other sundry items, which are purchased on impulse. Customers purchasing luxury goods, such as fine jewelry, watches, tableware and fashion accessories do so only after careful consideration. Consumers of Applicant's retail services featuring fine jewelry, watches and fashion accessories would not make such purchases on impulse, but would instead make such purchases only after careful consideration. Like fine tableware, fashion accessories are items that are generally not impulse type products but, rather, constitute goods that are purchased by sophisticated and highly discriminating purchasers for a particular purpose – to highlight fashion apparel. Fortunoff Silver Sales, Inc. v. Norman Press, Inc., 225 USPQ 863 (TTAB 1985).

Because of the unique consumers of Applicant's goods, they can be considered to be reasonably discriminating buyers and they are not likely to be confused as to the source of the merchandise. Thus, Applicant's services offering fine jewelry, watches, fashion accessories and

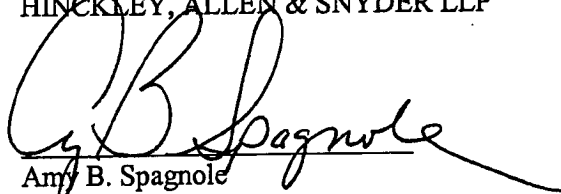
related items are simply not purchased absent at least some degree of study and consideration. Such study and consideration significantly reduces the chances for likelihood of confusion to occur. Electronic Designs & Sales v. Electronic Data Systems, 21 USPQ2d 1388, 1392 (Fed. Cir. 1992).

CONCLUSION

In view of the foregoing, Applicant respectfully requests the Examining Attorney withdraw his refusal and pass the mark on for publication in the Official Gazette at his earliest convenience. If for any reason, however, the Examining Attorney does not grant this Request for Reconsideration, Applicant hereby appeals the final rejection. Attached as Exhibit E, is a copy of the Notice of Appeal being filed concurrently herewith. Any questions that the Examining Attorney may have that would expedite the examination of this application can be directed to the undersigned attorney.

Respectfully submitted,

HINCKLEY, ALLEN & SNYDER LLP



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Attorneys for Applicant

Date: October 1, 2007

Certificate Of Mailing

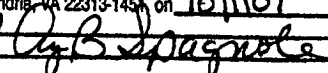
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to the Commissioner for Trademarks, PO Box 1451, Alexandria, VA 22313-1451 on 10/1/07
Date 10/1/07 

EXHIBIT A

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-09-20 11:31:14 ET

Serial Number: 72213818 Assignment Information Trademark Document Retrieval

Registration Number: 807791

Mark (words only): R.S.V.P.

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2006-10-14

Filing Date: 1965-03-10

Transformed into a National Application: No

Registration Date: 1966-05-03

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2006-10-14

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. SYRATECH CORPORATION

Address:

SYRATECH CORPORATION
175 MCCLELLAN HIGHWAY
EAST BOSTON, MA 021289114
United States

Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

U.S. Class: 028 (International Class 014)
Class Status: Active

STERLING SILVER FLATWARE

Basis: 1(a)

First Use Date: 1965-02-17

First Use in Commerce Date: 1965-02-17

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2007-08-08 - Assignment Of Ownership Not Updated Automatically

2006-10-27 - TEAS Change Of Correspondence Received

2006-10-14 - Second renewal 10 year

2006-10-14 - Section 8 (10-year) accepted/ Section 9 granted

2006-09-07 - Assigned To Paralegal

2006-06-21 - Combined Section 8 (10-year)/Section 9 filed

2006-06-21 - TEAS Section 8 & 9 Received

2004-05-10 - TEAS Change Of Correspondence Received

1986-05-03 - First renewal

1985-12-23 - Section 9 filed/check record for Section 8

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

Karl M. Zielaznicki, Esq.
Troutman Sanders LLP
c/o Trademark Docket Clerk
600 Peachtree Street, NE, Suite 5200
Atlanta GA 30308-2216

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-09-20 11:31:36 ET

Serial Number: 76276881 Assignment Information Trademark Document Retrieval

Registration Number: 2919304

Mark (words only): RSVP

Standard Character claim: No

Current Status: Registered.

Date of Status: 2005-01-18

Filing Date: 2001-06-26

Transformed into a National Application: No

Registration Date: 2005-01-18

Register: Principal

Law Office Assigned: LAW OFFICE 106

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2004-12-09

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. QVC, INC.

Address:

QVC, INC.
Studio Park
West Chester, PA 19380
United States

Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 021

Class Status: Active

DINNERWARE IN GENERAL AND BEVERAGE GLASSWARE

Basis: 1(a)

First Use Date: 2002-12-11

First Use in Commerce Date: 2002-12-11

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2005-01-18 - Registered - Principal Register
2004-11-19 - Law Office Registration Review Completed
2004-11-08 - Assigned To LIE
2004-10-25 - Allowed for Registration - Principal Register (SOU accepted)
2004-10-12 - Assigned To Examiner
2004-10-07 - Statement of use processing complete
2004-09-23 - Amendment to Use filed
2004-09-23 - PAPER RECEIVED
2004-03-23 - Notice of allowance - mailed
2003-12-30 - Published for opposition
2003-12-10 - Notice of publication
2003-10-10 - Approved for Pub - Principal Register (Initial exam)
2003-08-06 - Communication received from applicant
2003-09-09 - Case File In TICRS
2003-08-08 - PAPER RECEIVED
2003-07-09 - Letter of suspension mailed
2003-03-12 - PAPER RECEIVED

2003-01-09 - Final refusal mailed

2002-11-26 - Assigned To Examiner

2002-01-18 - Communication received from applicant

2001-08-27 - Non-final action mailed

2001-08-24 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

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Serial Number: 75209010 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2145513

Mark (words only): RSVP

Standard Character claim: No

Current Status: Registration canceled under Section 8.

Date of Status: 2004-12-18

Filing Date: 1996-12-05

Transformed into a National Application: No

Registration Date: 1998-03-17

Register: Principal

Law Office Assigned: LAW OFFICE 109

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Current Location: 900 -File Repository (Franconia)

Date In Location: 1998-03-19

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. TerriSol Corp.

Address:

TerriSol Corp.
254 Fifth Avenue
New York, NY 10001
United States

Legal Entity Type: Corporation

State or Country of Incorporation: New York

GOODS AND/OR SERVICES

International Class: 024

Class Status: Section 8 - Cancelled

table linens, namely, tablecloths, table napkins, table runners all made of fabric, and table mats made of fabric

Basis: 1(a)

First Use Date: 1997-05-01

First Use in Commerce Date: 1997-05-01

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-12-18 - Canceled Section 8 (6-year)

1998-03-17 - Registered - Principal Register

1998-01-23 - Allowed for Registration - Principal Register (SOU accepted)

1998-01-22 - Examiners Amendment - Written

1997-12-23 - Statement of use processing complete

1997-11-17 - Amendment to Use filed

1997-08-19 - Notice of allowance - mailed

1997-05-27 - Published for opposition

1997-04-25 - Notice of publication

1997-03-25 - Approved for Pub - Principal Register (Initial exam)

1997-03-19 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

THOMAS L CREEL

Correspondent

THOMAS L CREEL

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EXHIBIT B

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-09-25 18:37:29 ET

Serial Number: 72239168 Assignment Information Trademark Document Retrieval

Registration Number: 819689

Mark

R.S.V.P.

(words only): R.S.V.P.

Standard Character claim: No

Current Status: This registration was not renewed and is considered to be expired.

Date of Status: 2007-09-08

Filing Date: 1966-02-18

Transformed into a National Application: No

Registration Date: 1966-12-06

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2001-10-24

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CARTER HAWLEY HALE STORES, INC.

Address:

**CARTER HAWLEY HALE STORES, INC.
550 SOUTH FLOWER ST.**

LOS ANGELES, CA 90071
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

U.S. Class: 003 (International Class 018)
Class Status: Expired
HANDBAGS AND POCKETBOOKS
Basis: 1(a)
First Use Date: 1964-08-15
First Use in Commerce Date: 1964-08-15

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2007-09-08 - Canceled Section 8 (10-year)/Expired Section 9
1986-12-06 - First renewal
1986-11-03 - Section 9 filed/check record for Section 8

ATTORNEY/CORRESPONDENT INFORMATION

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650 SOUTH GRAND AVENUE
LOS ANGELES, CA 90017

EXHIBIT C

WordNet Search - 3.0 - [WordNet home page](#) - [Glossary](#) - [Help](#)

Word to search for:

Display Options:

Key: "S:" = Show Synset (semantic) relations, "W:" = Show Word (lexical) relations

Noun

- **S:** (n) **manner, mode, style, way, fashion** (how something is done or how it happens) "*her dignified manner*"; "*his rapid manner of talking*"; "*their nomadic mode of existence*"; "*in the characteristic New York style*"; "*a lonely way of life*"; "*in an abrasive fashion*"
- **S:** (n) **fashion** (characteristic or habitual practice)
- **S:** (n) **fashion** (the latest and most admired style in clothes and cosmetics and behavior)
- **S:** (n) **fashion** (consumer goods (especially clothing) in the current mode)

Verb

- **S:** (v) **fashion, forge** (make out of components (often in an improvising manner)) "*She fashioned a tent out of a sheet and a few sticks*"

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Fashion accessory Help us improve Wikipedia by supporting it financially.

From Wikipedia, the free encyclopedia

Fashion accessories are items apart from the garment itself, which complement the whole outfit. Fashion accessories include jewelry, gloves, handbags, hats, or scarves.

Accessories can add detail to an outfit, modifying the garment's style or the visual effects of the fabric from which the garment is made. Accessories may also have practical functions. Handbags are useful carrying items, and hats' brims protect the face and the head from harsh conditions.

Many accessories are produced by companies that also produce clothing.

In some cultures or religions, accessories can represent a specific set of meanings, embedded in a wider system of beliefs. For example, in Christianity the cross is worn as a pendant around the neck representing Christ's crucifixion. Purity rings are also worn by some Christians in the USA to represent sexual purity.

In the wider population today, accessories are used everyday. The handbag you see, sunglasses you wear, belts you fashion. These are all accessories and have been around for hundreds of years.

Retrieved from "http://en.wikipedia.org/wiki/Fashion_accessory"

Categories: Fashion stubs | Accessories



Burberry handbag

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Word to search for:

Display Options:

Key: "S:" = Show Synset (semantic) relations, "W:" = Show Word (lexical) relations

Noun

- **S:** (n) [accessory](#), [accoutrement](#), [accouterment](#) (clothing that is worn or carried, but not part of your main clothing)
- **S:** (n) [accessory](#), [appurtenance](#), [supplement](#), [add-on](#) (a supplementary component that improves capability)
- **S:** (n) [accessory](#), [accessary](#) (someone who helps another person commit a crime)

[WordNet home page](#)

Fashion Accessories Definition Apparel Search

Fashion Industry Color Trends / Forecasting Merchandising Fashion I

ADS BY GLAM
**Real Men
Eat
Gardenburger**



Click Here
Nominate your man >>

Fashion Accessories
Find Mfrs & Suppliers of Apparel &
Accessories on Business.com.

Apparel & Footwear ERP
Sourcing & Demand Management for brand
managers & wholesalers

Ads by Google

Fashion accessories and their jewelry counterpart referred to as costume jewelry are items that used as fashion's complementary. Accessories help to bring up the spot that one wants to highlight in a dress or apparel. They can also help to hide some weaknesses' part of a dress. Trends are continuously set by adding accessories to different outfits. Take belts for example, a few years ago girls all started wearing really thick belts that would never fit into belt loops, but this fashion accessory made it big time. Soon everyone was seen wearing them, today big is out, and maybe ribbon belts are in. But these things change an entire look, from handbags to shoes to chandelier earrings and dangle earrings to 80's leg warmers.

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Clothing Definitions

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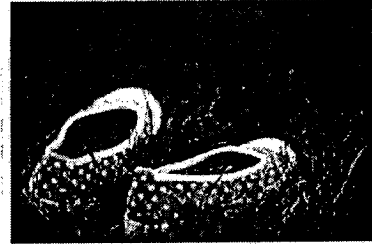
EXHIBIT D

Shoe

*Wikipedia is sustained by people like you. Please **donate** today.*

From Wikipedia, the free encyclopedia

A **shoe** is an item of footwear. Shoes may vary from a simple flip-flop to a complex boot. Shoes may have high or low heels, although in western cultures, high heels are considered a woman's style. Shoe materials include leather or canvas. Athletic shoe soles may be made of rubber.



A photo of a pair of shoes on the grass.

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History

The earliest known shoe dates from about 7000 BCE and was found in California. However, the materials used for making shoes does not normally last for thousands of years, so shoes were probably in use long before this. Physical anthropologist Erik Trinkaus believes he has found evidence that the use of shoes began in the period between about 40,000 and 26,000 years ago, based on the fact that the thickness of the bones of the toes (other than the big toe) decreased during this period, presumably because going barefoot results in greater bone growth before this period.^[1] (<http://news.bbc.co.uk/2/hi/science/nature/4173838.stm>)

Parts of a shoe

Sole

The bottom of a shoe is named the sole.

Insole

The insole is the interior bottom of a shoe, which sits directly beneath the foot. Many shoes have removable and replaceable insoles, and extra insoles are often added for comfort or health reasons (to control the shape, moisture, or smell of the shoe).



Gluings a new outsole to an athletic shoe.

Outsole

The outsole is the layer in direct contact with the ground. The material of the outsole depends on the function, dressiness, and quality of the shoe, but is generally very durable material, since it experiences the most stress. Dress shoes have leather outsoles; casual or work-oriented shoes have outsoles made of natural rubber or a synthetic imitation. The outsole may comprise a single piece, or may comprise separate pieces of different materials. Often the heel of the sole is rubber for durability and traction, while the front is leather for style. Specialized shoes will often have modifications on this design: athletic cleats have spikes embedded in the outsole to grip the ground; many kinds of dancing shoes have much softer or harder soles. These soles can be as hard as concrete, and very sturdy.

Heel

The bottom rear part of a shoe is the heel. These come in a variety of sizes and are usually made to support the large stresses applied to the heel of the foot. They are often made of the same material as the sole of the shoe. This part can be high to make the person look taller, or flat.

Vamp, or upper

Any shoe has an upper part that helps hold the shoe onto the foot. In the simplest cases, such as sandals or flip flops, this may be nothing more than a few straps for holding the sole in place. Closed footwear, such as boots, sneakers and most men's shoes, will usually have a more complex upper. This part is normally decorated or is made in a certain style to look fashionable and attractive for the buyer.

Accessories to shoes

- Shoe horn - can be used to insert a foot into a shoe by keeping the shoe open and providing a smooth surface for the foot to slide upon
- Shoe tree - placed inside the shoe when user is not wearing it, to help maintain the shoe's shape
- Shoe polishing equipment:
 - Shoe polish - a waxy material spread on shoes to improve appearance, glossiness, and provide protection

- Shoe brush and polishing cloth - used to apply polish to shoes
- Overshoes or galoshes - a rubber covering placed over shoes for rain and snow protection
- (Orthopedic) shoe insert - insert of various materials for cushioning, improved fit, or reduced abrasion. These include padding and inner linings. Inserts may also be used to correct foot problems
- Shoe bag - a bag that protects shoes against damage when they are not being worn
- Shoe stretcher - a tool for making a shoe longer or wider or for reducing discomfort in areas of a shoe
- Snow shoe - a wooden or leather piece which increases the area of ground covered by the shoe

Types of shoes

Dress and casual shoes

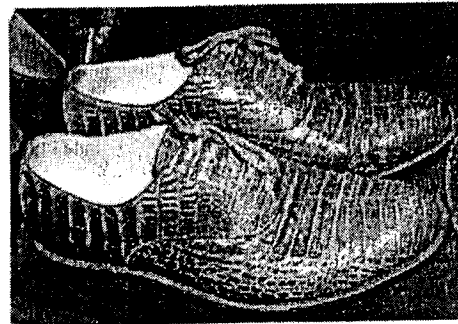
Dress shoes are categorized by smooth and supple leather uppers, leather soles, and narrow sleek shape. Casual shoes are characterized by sturdy leather uppers, non-leather outsoles, and wide profile.

Some designs of dress shoes can be worn by either gender. The majority of dress shoes have an upper covering, commonly made of leather, enclosing most of the lower foot, but not covering the ankles. This upper part of the shoe is often made without apertures or openings, but may also be made with openings or even itself consist of a series of straps, e.g. an open toe featured in women's shoes. Shoes with uppers made high to cover the ankles are also available; a shoe with the upper rising above the ankle is usually considered a boot but certain styles may be referred to as high-topped shoes or high-tops. Usually, a high-topped shoe is secured by laces or zippers, although some styles have elastic inserts to ease slipping the shoe on.

Men's shoes

Men's shoes can be categorized by how they are closed:

- Balmorals - the vamp has a V-shaped slit to which the laces are attached; also known as "closed lacing." In England, the balmoral is known as the Oxford. The word "Oxford" is used by American clothing companies to market shoes that are not Oxfords, such as rubber-sole bluchers.
- Blüchers - the laces are tied to two pieces of leather independently attached to the vamp; also known as "open lacing." In England, the Blucher is known as the Derby shoe.
- Monk-straps - a buckle and strap instead of lacing



Shoes made from real crocodile skin, in a conservation exhibit at Bristol Zoo, England

Various other closings exist but are less popular such as side-elastic closings.

Men's shoes can also be decorated in various ways:

- Plain-toes - have a sleek appearance and no extra decorations on the vamp.
- Cap-toes - has an extra layer of leather that 'caps' the toe. This is possibly the most popular

decoration

- Wing-tips - The toe of the shoe is covered with a perforated panel, the wing-tip, which extends down either side of the shoe. Wing-tips can be found in both balmoral and blucher styles. In England this is called a brogue.

Women's shoes

There is a large variety of shoes available for women. Some broad categories are:

Pumps, known in the US as ballerinas or skimmers, are shoes with a very low heel and a relatively short vamp, exposing much of the instep. They are popular for warm-weather wear, and may be seen as more comfortable than shoes with a higher heel.



fashion shoes

High heels may be shoes with heels 2 inches (5 cm) or higher. They are often seen as having more sex appeal than low heels (see article for discussion) and are thus commonly worn by women for formal occasions or social outings.

- Sneaker boot and sneaker pump - a shoe that looks like an athletic shoe, but is equipped with a heel, making it a kind of novelty dress shoe

Either gender



Women's shoes on display in a shop window, July 2005.

- Clog
- Platform shoe - shoe with very thick soles and heels
- Moccasin - originated by American Indians, a soft shoe without a heel and usually made of leather.
- Sandals - open shoes consisting of a sole and various straps, leaving much of the foot exposed to air. They are thus popular for warm-weather wear, because they let the foot be cooler than a

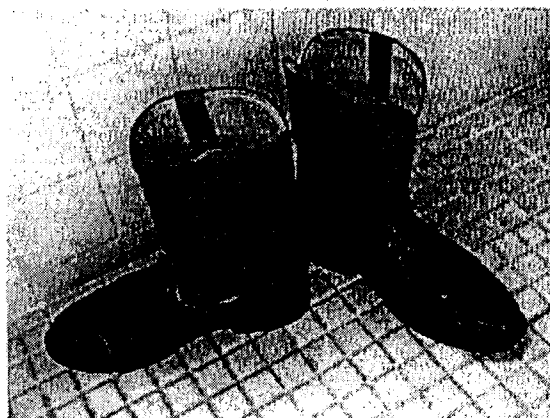
closed-toed shoe would.

- Saddle shoe - leather shoe with a contrasting saddle-shaped band over the instep, typically white uppers with black "saddle"
- Loafer - a dress or casual shoe without laces; often with tassels, buckles, or coin-holders (penny loafers)
- Boating shoes, also known as boat shoes and deck shoes - similar to a loafer, but more casual. Laces, if present, are usually simple leather (often two-tone) with no frills. Often made of canvas or featuring a white sole. They have soft soles/heels to avoid marring or scratching a boat deck.



Women's sandals.

- Boots - Long shoes (covering the ankle) frequently made of leather. Some are designed to be used in times of bad weather, or simply as an alternate style of casual or dress wear. Styles include rubber boots and snow boots, as well as work boots and hiking boots.
- Slippers - Usually for night use, commonly worn with pajamas



A pair of leather ropet boots

Athletic shoes

Men's and women's athletic shoes and special function shoes often have less difference between the sexes than in dress shoes. In many cases these shoes can be worn by either sex. Emphasis tends to be more on function than style.

- Sneakers/trainers (also called *gym shoes* or *tennis shoes*) - general purpose athletic shoes; made out of rubber, cloth, and/or plastic to be lightweight, flexible, and have good traction. Special varieties available for basketball or tennis.
- Running shoes - very similar to above, with additional emphasis on cushioning.
- Track shoes - lightweight; often with plastic or metal cleats
- Cleats - a type of shoe featuring molded or removable studs. Usually worn while playing sports such as rugby, football, American football, or baseball
- Golf shoes - with "spikes" for better grip in grass and wet ground. Originally the spikes or "cleats" were made of metal but replacable "soft spikes" made of synthetic plastic-like materials with prongs distributed radially around the edge of each spike are much more common today (and are required on many golf courses since they cause less damage to the greens)



A shoe for right foot

- Bowling shoes - intermediate style between ordinary dress shoes and athletic shoes. They have harder rubber soles/heels so as not to damage bowling alley floors. They are often rented or loaned at bowling alleys.
- Climbing shoes, also known as hiking shoes or boots - usually have a high somewhat stiff upper with many lace eyelets, to provide ankle support on uneven terrain, with extra large traction on the sole.
- Walking shoes - have a more flexible sole than the running shoe, lighter in weight than the hiking boot, may have air holes, may not be water proof.
- Skating shoes - typically called *skates*. They have various attachments for skating on the bottom of the shoe portion.
 - Ice skates
 - Roller skates
 - Inline skates
- Ski boot - a large, thick plastic boot specially designed for attachment to the ski.
- Skateboarding shoes have flat soles for a better grip on a skateboard. They are very wide and have extra layers of padding to protect the skateboarders feet. Many young people wear them for comfort.
- Cycling shoes are equipped with a metal cleat to interface with clipless pedals, as well as a stiff sole to maximize power transfer and support the foot.
- Snowshoes are special shoes for walking in thick snow. In temperate climates, snowshoes are used for mostly recreational purposes in winter.

Orthopedic shoes

Orthopedic or "comfort" shoes are made with pedorthic and anatomically-correct comfort qualities, such as padded removable footbeds, wide toe boxes and arch support are made especially for those with problematic feet.

Dance shoes

- Pointe shoes - shoes designed for ballet dancing, which have the toe box stiffened with glue and a hardened sole so the dancer can rise on the tips of her (or his) toes
- Ballet slipper - heel-less slippers made of canvas or leather, with usually a leather sole that may be continuous or in two parts (split-sole) - stiffer leather sole over the ball of the foot and over the heel, with the part of the shoe under the arch made of the softer material of the upper, so as the foot can be pointed to its utmost. Ballet slippers are usually secured by elastic straps. They are most commonly pink, white, black, or pale tan, although they may be made in specialty colours such as red or blue.
- Jazz shoe - similar in basic structure to a split-sole ballet slipper, jazz shoes usually have a longer vamp, securing the foot by laces or elastic inserts. Unlike ballet slippers, jazz shoes usually have a low (1" or under) heel.
- Tango/flamenco dance shoes
- Dance sneakers (or dansneakers)- a combination of a sneaker and a dance shoe, with a block toe like a ballet slipper
- Character shoes - shoes with a 1"-3" heel, which are usually made of leather, and often have one or more straps across the instep to secure the foot during dance. They may come in soft-soled (suede) or hard-soled varieties. They may be adapted into tap shoes by attaching taps.

Work shoes

Work shoes are designed to stand heavy wear, to protect the wearer, and provide high traction. They are generally made from sturdy leather uppers and non-leather outsoles. Sometimes they are used for uniforms or comfort by nurses, waitresses, police, military personnel, etc. They are commonly used for protection in industrial settings, construction, mining, and other workplaces. Protective features may include steel-tipped toes and soles or ankle guards.

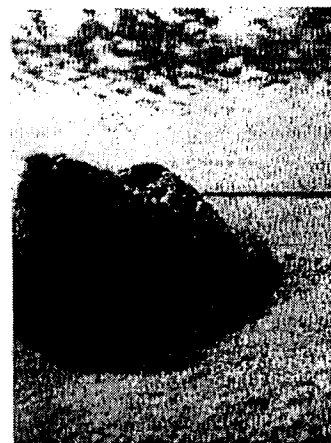
Historical shoes

Footwear has been worn for tens of thousands of years. Shoes of the past include:

- Espadrilles: these sandals, which are still worn today, are found as early as the 14th century.
- Patten: a European wooden overshoe used to keep a person's feet dry outdoors. First worn in the middle ages, they continued in use even into the early 20th century.
- Poulaine: a shoe with a long-pointed toe, popular in Europe in the 1400s.

Maintenance

- Breaking-in - Some shoes are made of hard but deformable material. After a person wears them multiple times, the material reforms to fit the wearer's feet. The person is said to have **broken in** the shoes.
- Polishing - for protection, water resistance (to some extent) and appearance, especially for leather shoes and boots.
- Heel replacement - heels periodically wear out. Not all shoes are designed to enable this.
- Sole replacement - soles also wear out. Not all shoes can have their soles replaced.
- Shoelace replacement.
- When unfit for use, shoes can be treated as trash or municipal solid waste and disposed of. The exception can be with most athletic sneakers which can be recycled and turned into other raw materials. See Nike Grind as an example.



An abandoned shoe, Kåre Sand, Wadden Sea, Denmark

Someone who makes or repairs shoes in a shop is called a *cobbler*.

Shoe etiquette

In most parts of the world (Asia, Eastern Europe, parts of the Middle East and Africa, much of Northern Europe and Canada, as well as Alaska) it is customary to remove shoes when entering a house. In some areas of the United States, especially the Midwest, it is expected that visitors remove their shoes unless a host specifically invites them to leave their shoes on. People do this to avoid bringing dirt, mud or snow into the house. For some societies, including those in Asia, indoor footwear may be provided for guests.

In the Middle East, parts of Africa, Korea and Thailand, it is considered rude to show the soles of the feet to others (even accidentally, such as by crossing the legs). In addition, in Thailand, it is an extreme insult for the foot, socks, or shoes to touch someone's head or be placed over it. Although foot touching heads is an extremely rare occurrence in any society, some Muay Thai boxers insult each other by

"kicking" the opponent's head with their foot (most Muay Thai kicks are executed with the shin).

See also dress code.

Shoes in literature

Shoes play an important role on the fairy tales *Cinderella* and *The Red Shoes*. In literature and film, an empty shoe or a pair of shoes signifies death.

Sizes

- Units for shoe sizes vary widely around the world. European sizes are measured in **Paris Points**, which are worth two-thirds of a centimetre. The UK and American units are approximately one-quarter of an inch, starting at 8¼ inches. Men's and women's shoe sizes often have different scales. Shoes size is often measured using a Brannock Device, which can determine both the width and length of the foot.

Shoe companies

See the category shoe companies for a list of shoe companies.

Further reading

- *History of footwear in Norway, Sweden and Finland : prehistory to 1950*, ISBN 91-7402-323-3
- *Patrick Cox: Wit, Irony, and Footwear*, Tamasin Doe (1998) ISBN 0-8230-1148-8
- *Shoes : A Celebration of Pumps, Sandals, Slippers & More*, ISBN 0-7611-0114-4
- *A Century of Shoes: Icons of Style in the 20th Century*, Angela Pattison ISBN 0-7858-0835-3
- *Shoes*, Elizabeth Cotton (1999) ISBN 1-55670-894-7
- *Shoes : A Lexicon of Style*, Valerie Steel ISBN 0-8478-2166-8
- *Mad About Shoes*, Emma Bowd ISBN 1-84172-353-3
- *Bootism : A Shoe Religion*, Penina Goodman, Michael Duranko (2003) ISBN 0-7407-3832-1
- *The Perfect Fit: What Your Shoes Say about You*, Meghan Cleary, Sydney Van Dyke ISBN 0-8118-4501-X

External links

- Footwear History (<http://www.footwearhistory.com/>)
- International Shoe Size Conversion Charts (<http://www.i18nguy.com/110n/shoes.html>), from i18nguy's website, offers more information.
- Shoe Care (<http://www.schuh-lexikon.de/en/shoe-care.html>)
- The History of Footwear (<http://podiatry.curtin.edu.au/shoo.html>), includes diagrams of parts
- The Political History of Shoes (<http://users.resist.ca/~kirstena/pageshoehistory.html>)
- ShoeGuide.Org (<http://www.shoeguide.org/>), A footwear encyclopedia
- Reviews of Golf Shoes (<http://www.custom-golf-clubs.com/golfShoes.htm>)
- The Shoes You Wear (<http://www.b-visible.co.uk/article/shoes.html>)
- Women's Shoes (<http://www.insidethesports.com/>)

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EXHIBIT E

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Law Office: 116

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NOTICE OF APPEAL

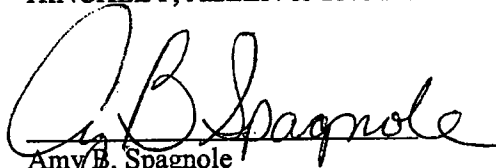
Appeal is taken herewith from the final refusal to register in the above entitled application. A check is enclosed herewith to cover the appeal fee. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 50-0485.

A Request for Reconsideration is being submitted concurrently herewith, and it is believed will moot the need for an Appeal. The Appeal, however, is being filed to preserve Applicant's rights in the event the Request for Reconsideration is denied.

Respectfully submitted,

HINCKLEY, ALLEN & SNYDER LLP

Date: October 1, 2007



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