

From: Gilbert, Rebecca

Sent: 5/27/2015 10:16:00 AM

To: TTAB EFiling

CC:

Subject: U.S. TRADEMARK APPLICATION NO. 85666386 - NOMI - N/A - Request for Reconsideration
Denied - Return to TTAB - Message 1 of 4

Attachment Information:

Count: 25

Files: jc-1.jpg, jc-2.jpg, jc2-01.jpg, jc2-02.jpg, jc2-03.jpg, jc2-04.jpg, jc2-05.jpg, jc2-06.jpg, jc2-07.jpg, jc2-08.jpg, jc2-09.jpg, jc2-10.jpg, jc2-11.jpg, jc2-12.jpg, jc2-13.jpg, jc2-14.jpg, jc2-15.jpg, jc2-16.jpg, jc2-17.jpg, jc2-18.jpg, jc2-19.jpg, jc2-20.jpg, jc2-21.jpg, ben-1.jpg, 85666386.doc

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 85666386

MARK: NOMI



CORRESPONDENT ADDRESS:

DONNA A TOBIN

BAKER & HOSTETLER LLP

45 ROCKEFELLER PLAZA

255 W 36TH ST

NEW YORK, NY 10111

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/trademarks/index.jsp>

[VIEW YOUR APPLICATION FILE](#)

APPLICANT: Nomi Network, Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO:

N/A

CORRESPONDENT E-MAIL ADDRESS:

dtobin@bakerlaw.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 5/27/2015

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. See 37 C.F.R. §2.63(b)(3); TMEP §§715.03(a)(ii)(B), 715.04(a). The following requirement(s) and/or refusal(s) made final in the Office action dated November 18, 2014 are maintained and continue to be final: refusal under Trademark Act Section 2(d).

See TMEP §§715.03(a)(ii)(B), 715.04(a). Note that applicant's amended recitation of services is acceptable, however, it does not obviate the likelihood of confusion refusal.

In the present case, applicant's request has not resolved all the outstanding issue(s), nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issue(s) in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues. Accordingly, the request is denied.

The examining attorney notes that applicant has amended to exclude "footwear" and to limit its channels of trade to those "specifically identified as made by survivors of sex slavery and human trafficking and sold to consumers who wish to support victims of sex slavery and human trafficking."

Unfortunately, as to the exclusion of "footwear", while applicant has excluded footwear from its retail clothing store identification, that fact would not be known by the general consumer who would believe that a store selling many types of clothing (applicant's clothing encompasses all other types of clothing) would also sell clothing in the nature of footwear. Registrant's goods are a type of clothing (footwear) and they are known by consumers to be sold in clothing stores. Many clothing stores sell a variety of types of clothing: shirts, pants, footwear etc. A consumer encountering footwear with NOMI and a store selling clothing called NOMI would believe that they come from a common source. They would not first search through the store website to see if the store does in fact sell all types of clothing (including footwear). (Note again that as detailed in the final office action "Footwear" is: "clothing worn on a person's feet" See the dictionary definition attached thereto).

As to applicant's channels of trade limitation, as previously noted, no matter how narrow the applicant lists its channels of trade, the issue is that the registrant's identification of goods is not limited. It is broad, and encompasses all footwear, available to all potential users. Thus, registrant's footwear encompasses footwear specifically identified as made by survivors of sex slavery and human trafficking and sold to consumers who wish to support victims of sex slavery and human trafficking. Unfortunately, applicant cannot seek to limit registrant's broad listing of "footwear" during ex parte prosecution. The footwear must be considered to encompass all types of footwear goods available to all types of consumers, including applicant's consumers. Applicant cannot, during ex parte prosecution, limit the footwear to those not made by these victims and/or to those sold only 'for profit'.

Applicant states that the final office action cites only four third parties, out of the vast array of companies, that sell clothing and footwear under the same mark. This is not true. The examining

attorney attached many third party registrations showing such common usage. The examining attorney also attached to the first and final office actions six representative websites showing stores selling various types of clothing including footwear under the same mark, and has attached more representative websites hereto. Applicant is undoubtedly aware that footwear is sold in clothing stores under the same mark.

If applicant has already filed a timely notice of appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. *See* TMEP §715.04(a).

If no appeal has been filed and time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to (1) comply with and/or overcome any outstanding final requirement(s) and/or refusal(s), and/or (2) file a notice of appeal to the Board. TMEP §715.03(a)(ii)(B); *see* 37 C.F.R. §2.63(b)(1)-(3). The filing of a request for reconsideration does not stay or extend the time for filing an appeal. 37 C.F.R. §2.63(b)(3); *see* TMEP §§715.03, 715.03(a)(ii)(B), (c).

/Rebecca Gilbert/

Rebecca Gilbert

Examining Attorney

Law Office 103

571-272-9431

rebecca.gilbert@uspto.gov

In stores & online: extra 30% off sale styles with code
SALENEWS.* [DETAILS](#)

\$5 flat-rate shipping & free shipping on orders of \$150+.
Shipping is always free on all crewcuts & J.Crew baby orders.†

MY ACCOUNT Register | SIGN IN | 

WISHLIST | SHOPPING BAG

J.CREW

WOMEN MEN GIRLS BOYS BABY SHOES SWIM JEWELRY WEDDING PETITE **SALE** FACTORY BLOG

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FEATURES

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LIMITED-TIME SALE EVENT

SEE WHAT'S NEW: 25% OFF
SUMMER-READY STYLES

SHOP BY CATEGORY

DRESSES
JUMPSUITS & ROMPERS
SHIRTS & TOPS
KNITS & TEES
SWEATERS
BLAZERS
OUTERWEAR
DENIM
PANTS
SUITING
SKIRTS
SHORTS
WEDDINGS & PARTIES
SWIM
BEACH COVER-UPS
SLEEPWEAR
MATERNITY

SHOES

sandals
espadrilles
pumps & heels
flats



full size

PRODUCT DETAILS

You wouldn't expect such a simple summer sandal to make such a strong statement—but trust us, it does. We made this pair from Italian leather with a shimmery gold finish.

- *Man-made upper.*
- *Import.*

SIZE & FIT DETAILS

ISLA METALLIC SLIDES

item c3887

★★★★★

[Be the first to write a review.](#)

\$78.00

25% off with code SALENEWS

COLOR: metallic gold



SIZE:

size charts

5 medium	6 medium	7 medium	8 medium
9 medium	10 medium	11 medium	12 medium

QUANTITY:

ADD TO BAG

ADD TO WISHLIST

SHARE THIS ITEM

ballet flats
loafers & oxfords
wedges
sneakers
j.crew collection
evening
flip-flops
JEWELRY
FINE JEWELRY
BAGS
ACCESSORIES
EYEWEAR
HOME & GIFTS
BEAUTY
INTIMATES
J.CREW IN GOOD COMPANY
COLLECTION

SPECIAL SIZES

PETITE
TALL
XXS
XXL
SIZES 16 — 20
SIZES 5 AND 12 SHOES
SPECIAL SWIM SIZES

OUR SHOPS

WEAR-TO-WORK SHOP
GARMENTS FOR GOOD
MONOGRAM SHOP
ONLINE ONLY

[size charts](#)

- 3/16" heel.

CUSTOMERS ALSO LOVE



Isla slides
\$78.00



Isla crosshatch slides
\$88.00



Woven straw d'Orsay
flats with ankle tie
\$228.00



Valencia suede espadrille
slides
\$78.00

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REQUEST ONE
BROWSE ONE

ABOUT J.CREW

OUR STORY
CAREERS
SOCIAL RESPONSIBILITY
INVESTOR RELATIONS
J.CREW ON FILM

OUR STORES

STORE LOCATOR

OUR CARDS

THE J.CREW CREDIT CARD
THE J.CREW GIFT CARD

OUR BRANDS

J.CREW FACTORY
MADEWELL

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BEFORE EVERYBODY ELSE.

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Shipping is always free on all crewcuts & J.Crew baby orders.†

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J.CREW

WOMEN MEN GIRLS BOYS BABY SHOES SWIM JEWELRY WEDDING PETITE SALE FACTORY BLOG

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[THE J.CREW SUMMER HOTLIST](#) ▶

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SUMMER-READY STYLES

SHOP BY CATEGORY

DRESSES
JUMPSUITS & ROMPERS
SHIRTS & TOPS
KNITS & TEES

classic tees
short-sleeve tees
tanks & camis
gallery tees
long-sleeve tees
sweatshirts
leggings & sweatpants
active
sale picks
SWEATERS
BLAZERS
OUTERWEAR
DENIM
PANTS

KNITS & TEES

PREV 1 of 3 NEXT VIEW ALL



SHOP THIS LOOK

Swingy lace-up sailor tee
\$68.00



PANTS
SUITING
SKIRTS
SHORTS
WEDDINGS & PARTIES
SWIM
BEACH COVER-UPS
SLEEPWEAR
MATERNITY
SHOES
JEWELRY
FINE JEWELRY
BAGS
ACCESSORIES
EYEWEAR
HOME & GIFTS
BEAUTY
INTIMATES
J.CREW IN GOOD COMPANY
COLLECTION

SPECIAL SIZES

PETITE
TALL
XXS
XXL
SIZES 16 — 20
SIZES 6 AND 12 SHOES
SPECIAL SWIM SIZES

OUR SHOPS

WEAR-TO-WORK SHOP
GARMENTS FOR GOOD
MONOGRAM SHOP
ONLINE ONLY



SHOP THIS LOOK

Striped linen tank top
\$35.00



SHOP THIS LOOK

Sundry™ floral tank top
\$75.00

↑
BACK
TO TOP



SHOP THIS LOOK



SHOP THIS LOOK

Metallic linen scoopneck tee
\$45.00

Linen V-neck pocket tee
\$36.50






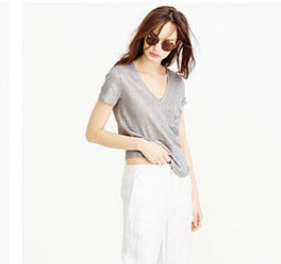

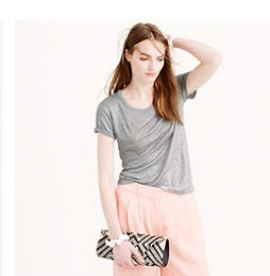



SHOP THIS LOOK

Short-sleeve hoodie
\$59.50

CLASSIC TEES



 QUICK SHOP Striped linen tank top \$35.00 25% off with code SALENEWS see more colors	 QUICK SHOP Metallic linen tank top \$35.00 see more colors	 QUICK SHOP Linen tank top \$29.50 see more colors
 QUICK SHOP Metallic linen scoopneck tee \$45.00 see more colors	 QUICK SHOP Linen scoopneck tee \$36.50 25% off with code SALENEWS see more colors	 QUICK SHOP Linen V-neck pocket tee in metallic \$45.00 see more colors
 QUICK SHOP	 QUICK SHOP	 QUICK SHOP

Linen V-neck pocket tee
\$36.50
[see more colors](#)



QUICK SHOP

Linen boatneck tee in metallic
\$49.50

Linen tee in metallic
\$45.00
[see more colors](#)



QUICK SHOP

Linen boatneck tee
\$39.50
[see more colors](#)

Linen tee
\$36.50
[see more colors](#)



QUICK SHOP

Linen boyfriend tee in metallic
\$45.00



QUICK SHOP

Linen boyfriend tee
\$39.50
[see more colors](#)



QUICK SHOP

Linen V-neck cropped tee
\$35.00
[25% off with code SALENEWS](#)



QUICK SHOP

Short-sleeve painter tee
\$29.50
[see more colors](#)

see more colors ▾

25% OFF WITH CODE SALENEWS
see more colors ▾

see more colors ▾



QUICK SHOP

Short-sleeve painter tee in stripe
\$34.50
see more colors ▾



QUICK SHOP

Saint James® for J.Crew short-sleeve
slouchy tee
\$89.00
see more colors ▾



QUICK SHOP

Saint James® for J.Crew slouchy tee
\$90.00

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BACK
TO TOP



QUICK SHOP

Striped boatneck tee
\$39.50
see more colors ▾



QUICK SHOP

Linen baseball tee in mixed stripe
was \$59.50
now \$54.99
see more colors ▾



QUICK SHOP

Ribbed racerback tank top
\$29.50
see more colors ▾



QUICK SHOP

Ribbed cami in stripe
\$29.50
25% off with code SALENEWS
see more colors ▾



QUICK SHOP

Ribbed cami
\$25.00
25% off with code SALENEWS
see more colors ▾



QUICK SHOP

Drapery sleeveless tee
\$35.00
see more colors ▾

↑
BACK
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QUICK SHOP

Drapery sleeveless tee
\$35.00
see more colors ▾



QUICK SHOP

Rolled-sleeve pocket tee
\$36.50
25% off with code SALENEWS
see more colors ▾



QUICK SHOP

Side-slit scoopneck tee
was \$35.00
now \$29.99
see more colors ▾





QUICK SHOP

Vintage cotton tank top
\$24.50
also in: [Petite](#)
[see more colors](#) ▾



QUICK SHOP

Speckled cotton tank top
\$24.50
[see more colors](#) ▾



QUICK SHOP

Vintage cotton V-neck tee
\$29.50
also in: [Petite](#)
[see more colors](#) ▾

↑
[BACK
TO TOP](#)



QUICK SHOP

Speckled cotton V-neck tee
\$29.50
[see more colors](#) ▾



QUICK SHOP

Vintage cotton scoopneck tee
\$29.50
also in: [Petite](#)
[see more colors](#) ▾



QUICK SHOP

Speckled cotton scoopneck tee
\$29.50
[see more colors](#) ▾



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BACK
TO TOP



QUICK SHOP

Vintage cotton tee
\$29.50
also in: Petite
see more colors ▾



QUICK SHOP

Speckled cotton tee
\$29.50
see more colors ▾



QUICK SHOP

Vintage cotton long-sleeve V-neck tee
\$34.50
also in: Petite
see more colors ▾



QUICK SHOP

Speckled cotton long-sleeve V-neck tee
\$34.50
see more colors ▾



QUICK SHOP

Vintage cotton long-sleeve scoopneck
tee
\$34.50
also in: Petite
see more colors ▾



QUICK SHOP

Speckled cotton long-sleeve scoopneck
tee
\$34.50
see more colors ▾



↑
BACK
TO TOP



QUICK SHOP

Vintage cotton long-sleeve tee
\$34.50
also in: Petite
see more colors ▾



QUICK SHOP

Speckled cotton long-sleeve tee
\$34.50
see more colors ▾



QUICK SHOP

Perfect-fit tank top with built-in bra
\$24.50
see more colors ▾



QUICK SHOP

Perfect-fit tank top
\$22.50
25% off with code SALENEWS
see more colors ▾



QUICK SHOP

Perfect-fit tee
\$24.50
see more colors ▾



QUICK SHOP

Perfect-fit V-neck tee
\$24.50
25% off with code SALENEWS
see more colors ▾



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BACK
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QUICK SHOP

Perfect-fit long-sleeve tee
\$26.50
[see more colors](#)



QUICK SHOP

Perfect-fit long-sleeve V-neck tee
\$26.50
[see more colors](#)



QUICK SHOP

Perfect-fit mixed-tape cardigan sweater
\$49.50
[see more colors](#)



QUICK SHOP

Tissue V-neck tee
\$29.50
[see more colors](#)



QUICK SHOP

Tissue tee
\$29.50
[see more colors](#)



QUICK SHOP

Tissue long-sleeve tee
\$32.50
[see more colors](#)

SHORT-SLEEVE TEES



↑
BACK
TO TOP



QUICK SHOP

Metallic linen scoopneck tee
\$45.00
[see more colors](#)



QUICK SHOP

Linen scoopneck tee
\$36.50
25% off with code SALENEWS
[see more colors](#)



QUICK SHOP

Linen V-neck pocket tee in metallic
\$45.00
[see more colors](#)



QUICK SHOP

Linen V-neck pocket tee
\$36.50
[see more colors](#)



QUICK SHOP

Linen tee in metallic
\$45.00
[see more colors](#)



QUICK SHOP

Linen tee
\$36.50
[see more colors](#)



QUICK SHOP



QUICK SHOP



QUICK SHOP

↑
BACK
TO TOP

QUICK SHOP

Linen boyfriend tee in metallic
\$45.00



QUICK SHOP

Short-sleeve painter tee
\$29.50
see more colors ▾

QUICK SHOP

Linen boyfriend tee
\$39.50
see more colors ▾



QUICK SHOP

Short-sleeve painter tee in stripe
\$34.50
see more colors ▾

QUICK SHOP

Linen V-neck cropped tee
\$35.00
25% off with code SALENEWS
see more colors ▾



QUICK SHOP

Embroidered flutter-sleeve tee
\$78.00
also in: Petite
see more colors ▾



QUICK SHOP

Swingy lace-up sailor tee
\$68.00



QUICK SHOP

Beaded V-neck tee
\$65.00



QUICK SHOP

Embroidered herringbone tee
\$59.50

↑
BACK
TO TOP

25% off with code SALENEWS

25% off with code SALENEWS
see more colors ▾

25% off with code SALENEWS
see more colors ▾



QUICK SHOP

Donald Robertson™ for J.Crew kiss kiss
tee
\$45.00



QUICK SHOP

Sundry™ ikat sweatshirt
\$95.00



QUICK SHOP

Short-sleeve hoodie
\$59.50
see more colors ▾



QUICK SHOP

Side-slit scoopneck tee
was \$35.00
now \$29.99
see more colors ▾



QUICK SHOP

Rolled-sleeve pocket tee
\$36.50
25% off with code SALENEWS
see more colors ▾



QUICK SHOP

Eyelet tee
was \$69.50
now \$59.99
25% off with code SALENEWS
see more colors ..

↑
BACK
TO TOP

see more colors ▾



QUICK SHOP

Silky knit tee
was **\$55.00**
now **\$44.99**
see more colors ▾



QUICK SHOP

Linen bandana tee
was **\$45.00**
now **\$39.99**
see more colors ▾



QUICK SHOP

Embellished shadow dot tee
was **\$68.00**
now **\$59.99**
see more colors ▾



QUICK SHOP

Prima jersey pocket tee
\$39.50
see more colors ▾



QUICK SHOP

Saint James® for J.Crew short-sleeve
slouchy tee
\$89.00
see more colors ▾



QUICK SHOP

Lacoste® for J.Crew polo shirt
\$98.00
see more colors ▾

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QUICK SHOP

PLAY Comme des Garçons® black heart tee
\$118.00



QUICK SHOP

PLAY Comme des Garçons® red heart polo shirt
\$158.00



QUICK SHOP

PLAY Comme des Garçons® big heart tee
\$118.00



QUICK SHOP

Women's J.Crew for the Xerces Society
Save the Bees tee
\$45.00



QUICK SHOP

Women's J.Crew for David Sheldrick
Wildlife Trust elephant tee
\$39.50

↑
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TO TOP

TANKS & CAMIS





QUICK SHOP

Striped linen tank top
\$35.00
25% off with code SALENEWS
see more colors ▾



QUICK SHOP

Metallic linen tank top
\$35.00
see more colors ▾



QUICK SHOP

Linen tank top
\$29.50
see more colors ▾



QUICK SHOP

Mixed stone muscle tank top
\$68.00
25% off with code SAI FNFWS



QUICK SHOP

Mixed stone muscle tank top in stripe
\$68.00
25% off with code SAI FNFWS



QUICK SHOP

Stacked sequin shell
was \$59.50
now \$54.99
see more colors ▾

↑
BACK
TO TOP





QUICK SHOP

Flounce tank top in heather
was **\$49.50**
now \$34.99



QUICK SHOP

Flounce tank top
was **\$49.50**
now \$34.99
[see more colors](#)



QUICK SHOP

Metallic side-stripe V-neck tank top
was **\$39.50**
now \$24.99
[see more colors](#)



QUICK SHOP

Metallic side-stripe tank top
was **\$39.50**
now \$29.99
[see more colors](#)



QUICK SHOP

Lace appliqué tank top
was **\$59.50**
now \$44.99
[see more colors](#)



QUICK SHOP

Cinched tank top
was **\$55.00**
now \$39.99
[see more colors](#)

↑
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[QUICK SHOP](#)

Graphic dot tank top
was **\$39.50**
now **\$34.99**
[see more colors](#) ▾



[QUICK SHOP](#)

Drapery sleeveless tee
\$35.00
[see more colors](#) ▾



[QUICK SHOP](#)

Drapery sleeveless tee
\$35.00
[see more colors](#) ▾



[QUICK SHOP](#)

Ribbed cami in stripe
\$29.50
25% off with code SALENEWS
[see more colors](#) ▾



[QUICK SHOP](#)

Ribbed cami
\$25.00
25% off with code SALENEWS
[see more colors](#) ▾



[QUICK SHOP](#)

Ribbed racerback tank top
\$29.50
[see more colors](#) ▾

[↑
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QUICK SHOP

Outdoor Voices™ racerback tank
\$55.00
[see more colors](#) ▾



QUICK SHOP

Vintage cotton tank
\$24.50
also in: [Petite](#)
[see more colors](#) ▾



QUICK SHOP

Vintage cotton tank top
\$24.50
also in: [Petite](#)
[see more colors](#) ▾



QUICK SHOP

Speckled cotton tank top
\$24.50
[see more colors](#) ▾



QUICK SHOP

Vintage cotton tank top in metallic
\$20.50



QUICK SHOP

Perfect-fit tank top
\$22.50
25% off with code SALENEWS
[see more colors](#) ▾

↑
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QUICK SHOP

Perfect-fit tank
\$22.50
[see more colors](#)

QUICK SHOP

Perfect-fit tank top with built-in bra
\$24.50
[see more colors](#)

QUICK SHOP

Favorite tank
\$18.00
[see more colors](#)



QUICK SHOP

Stretch suiting tank top
\$49.50
[see more colors](#)

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OUR CARDS

THE J.CREW CREDIT CARD
THE J.CREW GIFT CARD

OUR BRANDS

J.CREW FACTORY
MADEWELL

LIKE BEING FIRST?

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BEFORE EVERYBODY ELSE.

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UNITED COLORS OF BENETTON.

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Enter your e-mail address GET DEALS

WOMAN MAN KIDS GIFT IDEAS **PROMO** STORE LOCATOR MAGAZINE

MY BAG (0 Item)

Home >
Woman >
Shoes >
Flat thong sandals

WOMAN

SHOP BY CATEGORY

COATS & JACKETS
SWEATSHIRTS
KNITWEAR
T-SHIRTS AND TOPS
SHIRTS
DRESSES
TROUSERS
JEANS
SKIRTS
SHOES
SNEAKERS
FLATS
SANDALS
PUMPS
LOAFERS
ACCESSORIES
BAGS
JEWELLERY
BEST SELLERS
NEW ARRIVALS



FLAT THONG SANDALS

Product code: 8G9MD3216

Flat thong sandals with front rhinestone applique on the strap.

\$69.50

(VAT, shipping expenses and customs duties not included.)

Please note our new shipping and return policies.
Click here for more details .

SIZE (ITALIAN) - SIZE CHART

35	36	37	38	39	40
41					

ADD TO MY BAG

ADD TO WISHLIST

DETAILS SHIPPING RETURN