

ESTTA Tracking number: **ESTTA8194**

Filing date: **04/28/2004**

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	Sola International Inc.		
Entity	Corporation	Citizenship	Delaware
Address	2420 Sand Hill Road Suite 200 Menlo Park, CA 94025 UNITED STATES		

Attorney information	Richard W. Young Gardner Carton & Douglas LLP 191 North Wacker Drive Suite 3700 Chicago, IL 60606-1698 UNITED STATES IPDOCKET@GCD.COM Phone:312/569-1460
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Applicant Information

Application No	78210274	Publication date	03/30/2004
Opposition Filing Date	04/28/2004	Opposition Period Ends	04/29/2004
Applicant	Miller, Michael		

Goods/Services Affected by Opposition

Class 009. First Use: First Use In Commerce:

All goods and services in the class are opposed, namely: Sunglasses

Attachments -SOLA Notice of opposition against SODA.pdf (2 pages)

Signature	/Richard W. Young/
Name	Richard W. Young
Date	04/28/2004

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

In the matter of Application Serial No. 78/210,274
Trademark: SODA SUNGLASSES
Published: Trademark Official Gazette
Page TM 135, March 30, 2004

SOLA INTERNATIONAL INC.)	
)	
Opposer,)	
v.)	Opposition No. _____
)	
MICHAEL B. MILLER,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer, SOLA INTERNATIONAL INC., a corporation existing under the laws of the Delaware and doing business at 2420 Sand Hill Road, Suite 200, Menlo Park, CA 94025 (“SOLA”), believes that it is or will be damaged by the registration of Application Serial No. 78/210,274 for the trademark SODA SUNGLASSES and hereby opposes registration of the mark to Michael B. Miller, an individual doing business at 1265 Windsor Rd., Cardiff, CA 92007 (“Applicant”).

As grounds for opposition, it is alleged that:

1. SOLA owns United States Trademark Reg. No. 1,168,980 for SOLA, for use in connection with finished optical lenses, and semi-finished blanks for making optical lenses. This trademark registration is incontestable pursuant to 15 U.S.C. §1065. SOLA also owns United States Trademark Reg. No. 2,056,764, for S SOLA and design, for use in connection with optical goods and apparatus, namely spectacles, sunglasses, contact lens and other ophthalmic eyeglass lenses with anti-reflection and scratch resistant coating; eyeglass lens blanks; parts and

accessories therefore, namely, contact lens and eyeglass cases. This trademark registration is also incontestable pursuant to 15 U.S.C. §1065.

2. Applicant seeks to register the trademark SODA SUNGLASSES for use in connection with sunglasses, as evidenced by publication of that mark in the electronic Official Gazette, Page TM 135, dated March 30, 2004.

3. Applicant applied for registration of its mark on February 3, 2003. SOLA's rights in its SOLA registrations are superior to any rights Applicant may have in the trademark SODA SUNGLASSES.

4. Applicant's trademark is likely to cause confusion, mistake, or to deceive the purchasing public, as it is nearly identical to SOLA's own SOLA trademark in sound, appearance and commercial impression.

WHEREFORE, SOLA submits that, in accordance with 15 U.S.C. §1052(d), Applicant's SODA SUNGLASSES trademark is not entitled to registration, and SOLA prays that registration of Applicant's SODA SUNGLASSES mark be denied and this Opposition sustained.

Please direct all correspondence in this matter to the undersigned.

SOLA INTERNATIONAL INC.

By: /Richard W. Young/
/Darren S. Cahr/
Richard W. Young
Darren S. Cahr
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Attorneys for Opposer

Dated: April 28, 2004

Case No.: SOLOPPUSA