

ESTTA Tracking number: **ESTTA54483**

Filing date: **11/22/2005**

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	NAUTICA APPAREL, INC.
Granted to Date of previous extension	12/10/2005
Address	40 West 57th Street New York, NY 10019 UNITED STATES

Attorney information	Stephen L. Baker Baker and Rannells PA 626 North Thompson street Raritan, NJ 08869 UNITED STATES s.baker@br-tmlaw.com,a.korar@br-tmlaw.com,b.gaynor@br-tmlaw.com,n.friedman@br-tmlaw.com Phone:908-722-5640
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Applicant Information

Application No	78432204	Publication date	10/11/2005
Opposition Filing Date	11/22/2005	Opposition Period Ends	12/10/2005
Applicant	St. Maarten 12 Metre Enterprises N.V. J.Yrausquin Blvd, #26		

Phillipsburg St. Maarten, NETHERLANDS ANTILLES

Goods/Services Affected by Opposition

Class 018. First Use: 20021001 First Use In Commerce: 20021001 All goods and services in the class are opposed, namely: Tote Bags

Class 025. First Use: 20021001 First Use In Commerce: 20021001 All goods and services in the class are opposed, namely: jackets, vests, shirts, hats and belts

Attachments	stmaarten.pdf (5 pages)
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Signature	/stephen baker/
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Name	Stephen L. Baker
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Date	11/22/2005
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

NAUTICA APPAREL, INC.,

Opposer,

v.

ST. MAARTEN 12 METRE
ENTERPRISES N.V.,

Applicant.

Mark: TWO SAIL DESIGN

Serial No. 78432204

Filed: June 9, 2004

**NOTICE OF OPPOSITION
PURSUANT TO 15 U.S.C. § 1063**

Opposer, Nautica Apparel, Inc., (“Nautica”) by its attorneys Baker and Rannels, PA, alleges on knowledge as to its own acts and otherwise on information and belief and as grounds for opposition as follows:

1. Nautica believes that allowing Application Serial No. 78432204 to proceed to registration will cause Nautica damage.

2. Nautica is a corporation organized and existing under the laws of the State of Delaware, doing business at 40 West 57th Street, New York, New York 10019.

3. Applicant, St. Maarten 12 Metre Enterprises N.V. (“Applicant”), is corporation of Netherland Antilles, having a business address of J.Yrausquin Blvd, #26 Phillipsburg, St. Maarten, Netherland Antilles.

4. On June 9, 2004, Applicant filed Application Serial No. 78432204 for a TWO SAIL DESIGN (“Applicant’s Mark”) as a trademark for “jackets, vests, shirts, hats

and belts” in International Class 25 and “tote bags” in class 18 (“Applicant’s Goods”). Such application was published for opposition in the Official Gazette on October 11, 2005.

5. Applicant’s Mark is as follows:



6. Applicant’s Mark consists of consists of two sails (from sailboats) in a cross tack position, the most forward and most prominent of which is identical to the marks used, owned by and registered to Nautica.

7. Nautica is the owner of numerous trademarks in a variety and constantly expanding number of classes including several Nautica sail design marks, marks that contain various sail designs, and variations thereof (“Nautica's Marks”) as trademarks, trade names, and as service marks.

8. Nautica’s mark consists of a sail (from a sailboat) as follows:



9. Examples of Nautica’s Marks are as follows:

Trademark	Serial No.	Application Date	Registration No.	Registration Date	Class
SAILING SYMBOL	76109220	11-Aug-2000	2767263	23-Sep-2003	9
SAILING SYMBOL	76109221	11-Aug-2000	2769603	30-Sep-2003	14
SAILING SYMBOL	76108245	11-Aug-2000	2769601	30-Sep-2003	18
SAILING SYMBOL	76107781	11-Aug-2000	2769600	30-Sep-2003	25
SAILING SYMBOL	76109219	11-Aug-2000	2832351	13-Apr-2004	3
SAILING SYMBOL	76112487	18-Aug-2000	2769609	30-Sep-2003	24
SAILING SYMBOL	76112485	18-Aug-2000	2769608	30-Sep-2003	27
SAILING SYMBOL	76112491	18-Aug-2000	2830338	6-Apr-2004	6

Trademark	Serial No.	Application Date	Registration No.	Registration Date	Class
SAILING SYMBOL	76112490	18-Aug-2000	2872026	10-Aug-2004	16
SAILING SYMBOL	76371330	16-Feb-2002	2730498	24-Jun-2003	20
SAILING SYMBOL	76371331	16-Feb-2002	2730499	24-Jun-2003	24

Hereinafter the goods and services recited in Nautica's Marks are referred to as "Nautica's Goods and Services".

8. Nautica's Goods and Services have been widely advertised, offered for sale and sold throughout the United States under Nautica's Marks, and subsequently Nautica's Marks have become famous.

10. Nautica is now and has been for many years trading as and known by Nautica's Marks, identifying Nautica as the source of high quality apparel, including jackets, vests, shirts, hats and belts, tote bags, and other goods and services.

11. Applicant's Goods are identical to Nautica's Goods and Services and/or are within Nautica's ever expanding natural progression of goods and services and channels of trade.

12. Nautica is now and has been, for many years prior to any date which may be claimed by Applicant, engaged in the use of Nautica's Marks for Nautica's Goods and Services, including without limitation, high quality apparel, jackets, vests, shirts, hats and belts, tote bags, and related goods and services.

13. Nautica is now and has been, for many years prior to any date which may be claimed by Applicant, engaged in the sale of high quality apparel, jackets, vests, shirts, hats and belts, tote bags, and related goods and services.

14. Since long prior to any date which may be claimed by Applicant, Nautica on its own behalf has been, and is now engaged in the sale of high quality apparel,

jackets, vests, shirts, hats and belts, tote bags, and related goods and services under Nautica's Marks in interstate commerce.

15. The use by Nautica of Nautica's Marks for Nautica's Goods and Services alleged herein, is long prior to any date which may be lawfully claimed by Applicant, and Nautica has priority.

16. Applicant intends to distribute and/or to provide Applicant's Goods through the same channels of trade as Nautica or within Nautica's ever expanding natural progression of goods and services and channels of trade, and as a result Applicant is now, or will be, directing its respective goods and services to the same ultimate consumer as Nautica.

17. Nautica's Marks and Applicant's Mark are substantially identical and confusingly similar when applied to the goods of the parties.

18. The goods and services of Applicant and Nautica are identical or within Nautica's ever expanding natural progression of goods and services and channels of trade and Applicant's intended use of Applicant's Mark in connection with such goods and services is without the consent or permission of Nautica.

19. Since Nautica owns Nautica's Marks by virtue of prior use, confusion, mistake or deception as to the source of origin of the goods will arise and will injure and damage the Nautica and its goodwill.

20. The registration of Applicant's Mark to Applicant will cause the relevant purchasing public to erroneously assume and thus be confused, misled, or deceived, that Applicant's Goods and Services are made by, licensed by, controlled by, sponsored by, or

in some way connected, related or associated with Nautica, all to Nautica's irreparable damage.

21. As a result of Nautica's long use, extensive advertising and promotion, and successful sales for at least 20 years, Nautica's Marks have become distinctive and famous, long prior to any date which may be claimed by Applicant.

22. The registration of Applicant's Mark, will cause the dilution of the distinctive quality of Nautica's Marks, all to Nautica's irreparable damage.

23. Nautica believes that it is and will be damaged by registration of the mark applied for by Applicant.

WHEREFORE, Nautica prays that the application for registration of Applicant's Mark, Serial No. 78432204, filed on June 9, 2004, be denied and that this Opposition be sustained.

Dated: November 22, 2005

Respectfully submitted for Nautica
Nautica Apparel, Inc.

By: /Stephen L. Baker/
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