

ESTTA Tracking number: **ESTTA59005**

Filing date: **12/22/2005**

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	SIGH Enterprises
Granted to Date of previous extension	12/24/2005
Address	192 Orchard Street New York, NY 10002 UNITED STATES

Attorney information	Jenifer S. Tarasi Thorp Reed & Armstrong, LLP One Oxford Centre 301 Grant Street, 14th Floor Pittsburgh, PA 15219 UNITED STATES jtarasi@thorpreed.com, shorcick@thorpreed.com Phone:412-394-2360
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Applicant Information

Application No	76388279	Publication date	10/25/2005
Opposition Filing Date	12/22/2005	Opposition Period Ends	12/24/2005
Applicant	Essilor Laboratories of America, Inc. 1909 North Church Street Greensboro, NC 27405 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Ophthalmic lenses and frames

Attachments	00674060.pdf (2 pages)
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Signature	/jst/
Name	Jenifer S. Tarasi
Date	12/22/2005

SIGH Enterprises (“Opposer”), a New York corporation having its principal place of business at 192 Orchard Street, New York, New York 10002, believes that it will be damaged by the registration of the mark NAKED EYES, which is the subject of Serial No. 76/388,279, and hereby opposes the same.

This Notice of Opposition has been timely filed, Opposer having been granted a thirty-day extension of time in which to oppose, which expires on December 24, 2005.

As grounds for its opposition, Opposer alleges as follows:

1. Upon information and belief, Essilor Laboratories of America, Inc. (“Applicant”) is a North Carolina corporation having its principal place of business at 1909 North Church Street, Greensboro, North Carolina 27405.
2. Upon information and belief, on March 25, 2002, Applicant filed United States trademark application Serial No. 76/388,279, to register the term NAKED EYES as a trademark for “ophthalmic lenses and frames” in International Class 009.
3. Upon information and belief, Applicant’s application to register NAKED EYES was published for opposition on October 25, 2005.
4. Upon information and belief, Applicant’s application to register NAKED EYES was filed as an intent-to-use application.
5. Opposer is the owner of a pending United States trademark application, Serial No. 76/406,437, which was filed on May 13, 2002 to register the mark NAKEDEYE & Design as a trademark in connection with “retail services in the field of eyeglasses, eyeglass frames, sunglass frames and eyeglass cases” in International Class 035.
6. Opposer has been using the trademark NAKEDEYE & Design in connection with the services specified in Serial No. 76/406,437 continuously and exclusively since December, 2001.
7. Opposer’s first use of the mark NAKEDEYE & Design in connection with the services specified in Serial No. 76/406,437 predates the date of filing of Applicant’s intent-to-use application for the mark NAKED EYES.

8. As a result of Opposer's history of continuous and exclusive use of, and promotion of Opposer's services under its NAKEDEYE & Design trademark, Opposer has established substantial valuable goodwill in its NAKEDEYE & Design mark, and the mark is recognized by consumers as identifying services sold by Opposer.

9. In view of the similarity of the respective marks and the related nature of the goods and services of the respective parties, it is alleged that Applicant's mark so resembles Opposer's mark previously used in the United States and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive.

10. Any defect, objection or fault found with Applicant's products marketed under the NAKED EYES mark would necessarily reflect upon and seriously injure the reputation and goodwill which the Opposer has established for its services offered and sold under its NAKEDEYE & Design mark.

11. If Applicant is granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its mark. Such registration would be a source of damage and injury to Opposer.

12. If Applicant is granted the registration herein opposed, Opposer would be unable to secure a registration for its NAKEDEYE & Design mark, notwithstanding that it is the senior user, because Applicant's application has been cited as a reference by the Examining Attorney assigned to Opposer's application for NAKEDEYE & Design.

WHEREFORE, Opposer prays that said application Serial No. 76/388,279 be rejected, that no registration be issued thereon to applicant, and that this opposition be sustained in favor of Opposer.