

ESTTA Tracking number: **ESTTA150554**

Filing date: **07/11/2007**

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	Spy Optic, Inc.
Granted to Date of previous extension	07/11/2007
Address	2070 Las Palmas Drive Carlsbad, CA 92009 UNITED STATES

Attorney information	Kit M. Stetina Stetina Brunda Garred & Brucker 75 Enterprise Ste 250 Aliso Viejo, CA 92656 UNITED STATES opposition@stetinalaw.com Phone:(949) 855-1246
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Applicant Information

Application No	77021054	Publication date	03/13/2007
Opposition Filing Date	07/11/2007	Opposition Period Ends	07/11/2007
Applicant	The House On F Street, LLC Suite 800 1660 West Second Street Cleveland, OH 44113 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. All goods and services in the class are opposed, namely: Museum services, namely conducting curatorial artifact displays and archival displays in the field of intrigue and espionage; conducting museum exhibitions and display services in the field of intrigue and espionage; organizing and conducting exhibitions in the field of intrigue and espionage; entertainment services, namely providing amusement complexes featuring interactive video machines, games and displays, all of the foregoing with an intrigue and espionage motif; and entertainment services, namely, providing educational programs in the field of general entertainment, espionage and intrigue for the broadcasting industry; production of film studies, namely, conducting film screenings for special film programs and periodic film programs in the field of espionage and intrigue; and educational services, namely, providing workshops featuring informational video productions and audio productions in the field of espionage and intrigue; and conducting classes, seminars, workshops, lectures, and conferences in the field of intrigue and espionage

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1989431	Application Date	04/07/1994
Registration Date	07/30/1996	Foreign Priority Date	NONE
Word Mark	EYESPY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1985/01/00 First Use In Commerce: 1985/01/00 eyeglasses, sunglasses, eyeglass cords and eyeglass cases		

U.S. Registration No.	1981513	Application Date	04/07/1994
Registration Date	06/18/1996	Foreign Priority Date	NONE
Word Mark	SPY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1994/09/00 First Use In Commerce: 1995/01/00 glasses and sunglasses		

U.S. Registration No.	3218701	Application Date	02/02/2005
Registration Date	03/13/2007	Foreign Priority Date	NONE
Word Mark	SPYOPTIC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2004/07/00 First Use In Commerce: 2004/07/00 WEARING APPAREL NAMELY T-SHIRTS, SHIRTS, SWEATSHIRTS, PANTS, SHORTS, JACKETS, HATS, VISORS, CAPS, BELTS AND SHOES		

Attachments	78558706#TMSN.jpeg (1 page)(bytes) NoticeOfOpposition.pdf (16 pages)(175305 bytes)
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Signature	/Kit M. Stetina/
Name	Kit M. Stetina
Date	07/11/2007

1. Opposer is and has been for many years engaged in the extensive development, advertising, and marketing of sunglasses, sunglass products, wearing apparel and sporting goods. In connection therewith, Opposer has used, or filed federal applications with an intent to use, in interstate commerce, the marks EYESPY, SPY and SPYOPTIC (hereinafter the “SPY TRADEMARKS”) for the aforementioned goods since long prior to Applicant’s filing date of Application Serial No. 77/021,054 for the mark OPERATION SPY, for museum services, namely conducting curatorial artifact displays and archival displays in the field of intrigue and espionage; conducting museum exhibitions and display services in the field of intrigue and espionage; organizing and conducting exhibitions in the field of intrigue and espionage; entertainment services, namely providing amusement complexes featuring interactive video machines, games and displays, all of the foregoing with an intrigue and espionage motif; and entertainment services, namely, providing educational programs in the field of general entertainment, espionage and intrigue for the broadcasting industry; production of film studies, namely, conducting film screenings for special film programs and periodic film programs in the field of espionage and intrigue; and educational services, namely, providing workshops featuring informational video productions and audio productions in the field of espionage and intrigue; and conducting classes, seminars, workshops, lectures, and conferences in the field of intrigue and espionage in International Class 041.

2. Since at least as early as January 1985, Opposer has made use of its SPY TRADEMARKS throughout the United States in interstate commerce. Since adoption of its SPY TRADEMARKS, Opposer has continuously used such marks in connection with the manufacture and sale of sunglasses, sunglass products and wearing apparel throughout the United States in interstate commerce.

3. Opposer has expended considerable sums in exerting every effort to maintain the highest standard of quality for its products, and has created valuable goodwill among the purchasing public under its SPY TRADEMARKS.

4. As a result of the continuous and extensive use of the SPY TRADEMARKS by Opposer, such marks have become and continue to function as a valuable business and marketing asset of Opposer, and serves to indicate to the trade and consuming public the products originating from Opposer and its authorized representatives.

5. Opposer has obtained United States Trademark Registration No. 1,989,431, registered July 30, 1996, for the mark EYESPY for the goods set forth in that registration. A copy of that registration is attached hereto as **Exhibit 1**.

6. Opposer has obtained United States Trademark Registration No. 1,981,513, registered June 18, 1996, for the mark SPY for the goods set forth in that registration. A copy of that registration is attached hereto as **Exhibit 2**.

7. Opposer has obtained United States Trademark Registration No. 3,218,701, registered March 13, 2007, for the mark SPYOPTIC for the goods set forth in that registration. A copy of that registration is attached hereto as **Exhibit 3**.

8. Notwithstanding Opposer's rights in and to said SPY TRADEMARKS, Applicant, on information and belief, filed an application for registration of OPERATION SPY in International Class 041 on October 13, 2006. Said application was published for opposition in the Official Gazette of March 13, 2007 at TM 875.

9. Pursuant to Trademark Rules of Practice 2.102, Opposer filed a Request to Extend Time for Filing this Notice of Opposition on March 26, 2007. A copy of said Request to Extend Time is attached hereto as **Exhibit 4**.

10. Pursuant to Trademark Rules of Practice 2.102, Opposer filed a Second Request to Extend Time for Filing this Notice of Opposition on April 16, 2007. A copy of said Request to Extend Time is attached hereto as **Exhibit 5**.

11. Applicant's OPERATION mark is confusingly similar to Opposer's SPY TRADEMARKS and its registration and use by Applicant on the goods claimed in the subject application is likely to cause confusion, deception and mistake.

12. Applicant's use of the mark OPERATION SPY interferes with Opposer's use of its SPY TRADEMARKS and dilutes the strength of Opposer's SPY TRADEMARKS, and use of, or registration of, the mark OPERATION SPY will seriously damage Opposer.

WHEREFORE, Opposer believes that it will be damaged by said registration and prays that the registration of the mark OPERATION SPY to Applicant be denied.

Opposer's representative authorizes the charging of any additional fees to its Deposit Account No. 19-4330.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Dated: July 11, 2007

By: 

Kit M. Stetina, Reg. No. 29,445

75 Enterprise, Suite 250

Aliso Viejo, CA 92656

(949) 855-1246

Counsel for Opposer

Spy Optic, Inc.

Exhibit 1

Int. Cl.: 9

Prior U.S. Cls.: 2 and 26

United States Patent and Trademark Office **Reg. No. 1,989,431**
Registered July 30, 1996

**TRADEMARK
PRINCIPAL REGISTER**

EYESPY

SPY OPTICS, INC. (CALIFORNIA CORPORATION)
2251 FARADAY AVENUE
CARLSBAD, CA 92008 , ASSIGNEE OF MIZ-
RAHI, ELLIOT (UNITED STATES CITIZEN)
WEST LONG BRANCH, NJ 07764

FOR: EYEGASSES, SUNGLASSES, EYE-
GLASS CORDS AND EYEGLOSS CASES, IN
CLASS 9 (U.S. CLS. 2 AND 26).

FIRST USE 1-0-1985; IN COMMERCE
1-0-1985.

SER. NO. 74-512,106, FILED 4-7-1994.

IRENE D. WILLIAMS, EXAMINING ATTOR-
NEY

Exhibit 2

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

United States Patent and Trademark Office **Reg. No. 1,981,513**
Registered June 18, 1996

**TRADEMARK
PRINCIPAL REGISTER**

SPY

NO FEAR, INC. (CALIFORNIA CORPORATION)
2251 FARADAY AVE.
CARLSBAD, CA 92008

FIRST USE 9-0-1994; IN COMMERCE
1-0-1995.

SN 74-515,876, FILED 4-7-1994.

FOR: GLASSES AND SUNGLASSES, IN
CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

IRENE D. WILLIAMS, EXAMINING ATTORNEY

Exhibit 3

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 3,218,701

United States Patent and Trademark Office

Registered Mar. 13, 2007

**TRADEMARK
PRINCIPAL REGISTER**

SPYOPTIC

SPY OPTIC, INC. (CALIFORNIA CORPORATION)
2070 LAS PALMAS DRIVE
CARLSBAD, CA 92009

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

FOR: WEARING APPAREL NAMELY T-SHIRTS,
SHIRTS, SWEATSHIRTS, PANTS, SHORTS, JACK-
ETS, HATS, VISORS, CAPS, BELTS AND SHOES, IN
CLASS 25 (U.S. CLS. 22 AND 39).

SN 78-558,706, FILED 2-2-2005.

FIRST USE 7-0-2004; IN COMMERCE 7-0-2004.

JULIE WATSON, EXAMINING ATTORNEY

Exhibit 4

ESTTA Tracking number: **ESTTA131984**

Filing date: **03/26/2007**

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

Applicant: **The House On F Street, LLC**
Application Serial Number: **77021054**
Application Filing Date: **10/13/2006**
Mark: **OPERATION SPY**
Date of Publication **03/13/2007**

First 30 Day Request for Extension of Time to Oppose

Pursuant to 37 C.F.R. Section 2.102, Spy Optic, Inc., 2070 Las Palmas Drive, Carlsbad, CA 92009, UNITED STATES, a corporation organized under the laws of California, respectfully requests that it be granted a 30-day extension of time to file a notice of opposition against the above-identified mark.

The time within which to file a notice of opposition is set to expire on 04/12/2007. Spy Optic, Inc. respectfully requests that the time period within which to file an opposition be extended until 05/12/2007.

Respectfully submitted,

/kms/

03/26/2007

Kit M. Stetina

Stetina Brunda Garred & Brucker

75 Enterprise Ste 250

Aliso Viejo, CA 92656

UNITED STATES

opposition@stetinalaw.com

949-855-1246

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Kit M. Stetina
Stetina Brunda Garred & Brucker
75 Enterprise Ste 250
Aliso Viejo, CA 92656

Mailed: March 26, 2007

Serial No.: 77021054
ESTTA TRACKING NO: ESTTA131984

The request to extend time to oppose is granted until
5/12/2007 on behalf of potential opposer **Spy Optic, Inc.**

Please do not hesitate to contact the Trademark Trial and
Appeal Board at (571)272-8500 if you have any questions
relating to this extension.

New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to
oppose, notices of opposition, petition for cancellation, notice
of ex parte appeal, and inter partes filings are now available
at <http://estta.uspto.gov>. Images of TTAB proceeding files can
be viewed using TTABVue at <http://ttabvue.uspto.gov>.

Parties should also be aware of changes in the rules affecting
trademark matters, including rules of practice before the TTAB.
See Rules of Practice for Trademark-Related Filings Under the
Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September
26, 2003) (effective November 2, 2003) Reorganization of
Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August
13, 2003) (effective September 12, 2003). Notices concerning the
rules changes are available at www.uspto.gov.

Exhibit 5

ESTTA Tracking number: **ESTTA135660**

Filing date: **04/16/2007**

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

Applicant: **The House On F Street, LLC**
Application Serial Number: **77021054**
Application Filing Date: **10/13/2006**
Mark: **OPERATION SPY**
Date of Publication: **03/13/2007**

60 Day Request for Extension of Time to Oppose for Good Cause

Pursuant to 37 C.F.R. Section 2.102, Spy Optic, Inc., 2070 Las Palmas Drive, Carlsbad, CA 92009, UNITED STATES respectfully requests that he/she/it be granted an additional 60-day extension of time to file a notice of opposition against the above-identified mark for cause shown .

Potential opposer believes that good cause is established for this request by:

- The potential opposer is engaged in settlement discussions with applicant

The time within which to file a notice of opposition is set to expire on 05/12/2007. Spy Optic, Inc. respectfully requests that the time period within which to file an opposition be extended until 07/11/2007.

Respectfully submitted,
/Kit M. Stetina/
04/16/2007

Kit M. Stetina

Stetina Brunda Garred & Brucker

75 Enterprise Ste 250

Aliso Viejo, CA 92656

UNITED STATES

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UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Kit M. Stetina
Stetina Brunda Garred & Brucker
75 Enterprise Ste 250
Aliso Viejo, CA 92656

Mailed: April 16, 2007

Serial No.: 77021054
ESTTA TRACKING NO: ESTTA135660

The request to extend time to oppose is granted until
7/11/2007 on behalf of potential opposer **Spy Optic, Inc.**

Please do not hesitate to contact the Trademark Trial and
Appeal Board at (571)272-8500 if you have any questions
relating to this extension.

New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to
oppose, notices of opposition, petition for cancellation, notice
of ex parte appeal, and inter partes filings are now available
at <http://estta.uspto.gov>. Images of TTAB proceeding files can
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rules changes are available at www.uspto.gov.