

ESTTA Tracking number: **ESTTA162073**

Filing date: **09/12/2007**

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	SAND CPH A/S		
Entity	Public limited liability company	Citizenship	Denmark
Address	Midtermolen 7 Kobenhavn, DK-2100 DENMARK		

Attorney information	Keith E. Danish Kirkpatrick & Lockhart Preston Gates Ellis LLP 599 Lexington Avenue New York, NY 10022-6030 UNITED STATES nytrademarks@klgates.com, keith.danish@klgates.com Phone:(212) 536-3900
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Applicant Information

Application No	77049359	Publication date	08/14/2007
Opposition Filing Date	09/12/2007	Opposition Period Ends	09/13/2007
Applicant	Christine Mikiko Whitney 45959 Corte Carmello Temecula, CA 92592 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Hats; Jackets; Sandals; Short-sleeved shirts; Shorts; Sweat pants; Sweat shirts; T-shirts; Tank tops

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3046413	Application Date	07/16/2004
Registration Date	01/17/2006	Foreign Priority Date	NONE
Word Mark	SAND		
Design Mark			
Description of Mark	NONE		

Goods/Services	<p>Class 009. First use: Spectacle frames, spectacles, eyeglasses, spectacles cases, sunglasses</p> <p>Class 018. First use: Goods made of leather and imitation of leather, namely bags, purses, wallets, key cases traveling sets comprised of bags, purses, and cases, leather shoulder belts and vanity cases sold empty</p> <p>Class 025. First use: Footwear and headwear; men's, women's and children's clothing, namely, bathing suits and trunks; swim wear; beachwear and coverups; bathrobes; clothing belts; blazers; blouses; bottoms; bustiers; capes; coats; culottes; peddle-pushers; dresses; gowns; dressing and night gowns; gloves; jackets; jeans; jerseys; jumpers; jumpsuits; jogging suits; leggings; lingerie; mittens; overalls; overcoats; pajamas; pants; pantsuits; pullovers; robes; scarves; shawls; suits; skirts; shorts; ski wear; slacks; sleepwear; trousers; smocks; sport coats; tuxedos; stockings; suit coats; suspenders; sweat suits, pants, shorts and shirts; sweaters; vests; shirts; t-shirts; tank tops; ties; tights; topcoats; tops; underclothes; undergarments; underwear; negligees; camisoles; corsets; undershirts, chemise; underpants; slips; brassieres; petticoats; hosiery; stoles; socks; neckties; neckerchiefs; bandanas; mufflers</p> <p>Class 035. First use: Retail store services, featuring spectacle frames, spectacles, eyeglasses, spectacle cases, sunglasses; goods made of leather and imitation leather, namely bags, purses, wallets, key cases, traveling sets comprised of traveling bags, purses and cases, leather shoulder belts and vanity cases; footwear and headwear; men's, women's and children's clothing, namely, bathing suits and trunks; swim wear; beachwear and cover-ups; bathrobes; clothing belts; blazers; blouses; bottoms; bustiers; capes; coats; culottes; peddle-pushers; dresses; gowns; dressing and night gowns; gloves; jackets; jeans; jerseys; jumpers; jumpsuits; jogging suits; leggings; lingerie; mittens; overalls; overcoats; pajamas; pants; pantsuits; pullovers; robes; scarves; shawls; suits; skirts; shorts; ski wear; slacks; sleepwear; trousers; smocks; sport coats; tuxedos; stockings; suit coats; suspenders; sweat suits, pants, shorts and shirts; sweaters; vests; shirts; t-shirts; tank tops; ties; tights; topcoats; tops; underclothes; undergarments; underwear; negligees; camisoles; corsets; undershirts, chemise; underpants; slips; brassieres; petticoats; hosiery; stoles; socks; neckties; neckerchiefs; bandanas; mufflers</p>
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Attachments	79006069#TMSN.jpeg (1 page)(bytes) NY-#554565-v1-SAND--Notice_of_Opposition.PDF (10 pages)(346250 bytes)
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Signature	/keith e. danish/
Name	Keith E. Danish
Date	09/12/2007

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

*In the Matter of Application Serial No. 77/049,359
Published in the Official Gazette of August 14, 2007*

Atty. Ref.: 0820214.

SAND CPH A/S,

Opposer,

-against-

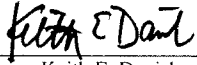
**Whitney, Christine Mikiko,
a U.S. citizen,**

Applicant.

Opposition No.:

I hereby certify that this paper or fee is being transmitted to the United States Patent and Trademark Office Trademark Trial and Appeal Board using the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below:

Signature


Keith E. Danish

Date:

September 12, 2007

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

SAND CPH A/S, a Danish public limited liability company, with a place of business located at Midtermolen 7, Kobenhavn 0, DK-2100 Denmark [hereinafter "Opposer"], believes that it will be damaged by registration of the proposed trademark "SAND GIRL" (stylized), as shown in Application Serial No. 77/049,359, filed November 22, 2006, and hereby opposes same.

As grounds for opposition, it is alleged that:

1. Christine Mikiko Whitney, a U.S. citizen (hereinafter "Applicant") has filed an application in the United States Patent and Trademark Office, Serial No. 77/049,359 filed November 22, 2006, for registration of the alleged trademark "SAND GIRL" (stylized) on the Principal Register in respect of "hats; jackets; sandals; short-sleeved shirts; shorts; sweat pants,

sweat shirts; T-shirts; tank tops" (Int'l. Cl. 25), with an allegation of an intention to use said mark in commerce.

2. Upon information and belief, applicant did not use its alleged trademark anywhere in the United States of America, or in commerce, prior to the filing date of the aforementioned application.

3. Opposer has registered the trademark "SAND" on the Principal Register of the United States Patent and Trademark Office, Reg. No. 3,046,413, dated January 17, 2006, in respect of many articles of clothing, i.e., "footwear and headwear; men's, women's and children's clothing, namely, bathing suits and trunks; swim wear; beachwear and coverups; bathrobes; clothing belts; blazers; blouses; bottoms; bustiers; capes; coats; culottes; peddle-pushers; dresses; gowns; dressing and night gowns; gloves; jackets; jeans; jerseys; jumpers; jumpsuits; jogging suits; leggings; lingerie; mittens; overalls; overcoats; pajamas; pants; pantsuits; pullovers; robes; scarves; shawls; suits; skirts; shorts; ski wear; slacks; sleepwear; trousers; smocks; sport coats; tuxedos; stockings; suit coats; suspenders; sweat suits, pants, shorts and shirts; sweaters; vests; shirts; t-shirts; tank tops; ties; tights; topcoats; tops; underclothes; undergarments; underwear; negligees; camisoles; corsets; undershirts, chemise; underpants; slips; brassieres; petticoats; hosiery; stoles; socks; neckties; neckerchiefs; bandanas; mufflers" (Int'l. Cl. 25). Opposer's aforementioned trademark has also been registered for "spectacle frames, spectacles, eyeglasses, spectacles cases, sunglasses" (Int'l. Class 9), for "goods made of leather and imitation of leather, namely bags, purses, wallets, key cases, traveling sets comprised of bags, purses, and cases, leather shoulder belts and vanity cases sold empty" (Int'l. Class 18), and for "retail store services, featuring spectacle frames, spectacles, eyeglasses, spectacle cases, sunglasses; goods made of leather and imitation leather, namely bags, purses, wallets, key cases, traveling sets

comprised of traveling bags, purses and cases, leather shoulder belts and vanity cases; footwear and headwear; men's, women's and children's clothing, namely, bathing suits and trunks; swim wear; beachwear and cover-ups; bathrobes; clothing belts; blazers; blouses; bottoms; bustiers; capes; coats; culottes; peddle-pushers; dresses; gowns; dressing and night gowns; gloves; jackets; jeans; jerseys; jumpers; jumpsuits; jogging suits; leggings; lingerie; mittens; overalls; overcoats; pajamas; pants; pantsuits; pullovers; robes; scarves; shawls; suits; skirts; shorts; ski wear; slacks; sleepwear; trousers; smocks; sport coats; tuxedos; stockings; suit coats; suspenders; sweat suits, pants, shorts and shirts; sweaters; vests; shirts; t-shirts; tank tops; ties; tights; topcoats; tops; underclothes; undergarments; underwear; negligees; camisoles; corsets; undershirts, chemise; underpants; slippers; brassieres; petticoats; hosiery; stoles; socks; neckties; neckerchiefs; bandanas; mufflers" (Int'l. Class 35). Registration No. 3,046,413 is valid and subsisting, and Opposer hereby gives notice, in accordance with Trademark Rule 2.122(d)(1), that it will rely on said registration as evidence on its behalf in this proceeding. Attached to this Notice of Opposition is a status copy of said registration from the "TARR" database of the United States Patent and Trademark Office, along with a copy of the assignment records showing that no assignment of the registration has been recorded.

4. There is no issue of priority since the filing date of Applicant's "SAND GIRL" (stylized) trademark application is subsequent to the filing date of Opposer's aforementioned trademark registration, which, as aforementioned, is valid and subsisting.

5. Opposer's pleaded trademark possesses a high degree of inherent distinctiveness and represents an extremely valuable asset and symbol of the goodwill of its business by identifying goods which have their source of origin exclusively with Opposer, and by distinguishing such goods from those of others.

6. Applicant's alleged trademark "SAND GIRL" (stylized) is confusingly similar to Opposer's pleaded trademark in sound, appearance and/or commercial impression.

7. Applicant has disclaimed the word "GIRL" in its aforementioned application.

8. The word "SAND" is the dominant element in the applicant's alleged trademark "SAND GIRL" (stylized).

9. The respective goods of the Opposer and the Applicant are identical, closely related and/or complementary, are likely to travel through the same channels of trade for sale to or use by the same general class of purchasers, and are likely to be sold by the same types of retail personnel.

10. Applicant's alleged trademark is calculated and/or likely to cause pre-purchase and/or post-purchase confusion, mistake or deception of purchasers or members of the public as to the respective marks of the Opposer and the Applicant, and also as to the source of origin or sponsorship of the goods for which such marks are used, or are intended to be used.

11. Applicant's alleged trademark is calculated or likely to cause irreparable loss, injury and/or damage to Opposer's business and to the goodwill thereto appertaining as symbolized and recognized by its aforementioned trademark.

12. Applicant's alleged trademark is a colorable imitation or misappropriation of Opposer's pleaded trademark, and will enable Applicant to reap where it has not sown by trading on the goodwill of Opposer's business as symbolized and recognized by its aforementioned trademark.

13. Applicant's alleged trademark consists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on

Atty. Ref.: 0820214.
Ser. No.: 77/049,359
Mark: "SAND GIRL" (stylized)

or in connection with the goods of the Applicant, to cause confusion, or to cause mistake, or to deceive.


IN CONCLUSION, Opposer, by its undersigned attorneys, prays that its opposition to Application Serial No. 77/049,359 be sustained and that the Trademark Trial and Appeal Board grant any and all further relief to Opposer that the Board finds to be necessary and just in the circumstances.

The Commissioner is authorized to charge Deposit Account No. 08-0570 for any fees required to be paid in connection with this proceeding, including the opposition filing fee of \$300.

Respectfully submitted,

SAND CPH A/S

Dated: September 12, 2007

By: 

Mark I. Peroff
Keith E. Danish
KIRKPATRICK & LOCKHART
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Attorneys for Opposer

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This page was generated by the TARR system on 2007-09-11 07:59:57 ET

Serial Number: 79006069 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3046413

Mark

SAND

(words only): SAND

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2006-01-17

Filing Date: 2004-07-16

Transformed into a National Application: No

Registration Date: 2006-01-17

Register: Principal

Law Office Assigned: LAW OFFICE 104

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-01-17

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Sand Cph A/S

Address:

Sand Cph A/S
Midtermolen 7 DK-2100 København Ø
Denmark

Legal Entity Type: public limited liability company

State or Country Where Organized: Denmark

GOODS AND/OR SERVICES

International Class: 009**Class Status:** Active

Spectacle frames, spectacles, eyeglasses, spectacles cases, sunglasses

Basis: 66(a)**First Use Date:** (DATE NOT AVAILABLE)**First Use in Commerce Date:** (DATE NOT AVAILABLE)**International Class:** 018**Class Status:** Active

Goods made of leather and imitation of leather, namely bags, purses, wallets, key cases traveling sets comprised of bags, purses, and cases, leather shoulder belts and vanity cases sold empty

Basis: 66(a)**First Use Date:** (DATE NOT AVAILABLE)**First Use in Commerce Date:** (DATE NOT AVAILABLE)**International Class:** 025**Class Status:** Active

Footwear and headwear; men's, women's and children's clothing, namely, bathing suits and trunks; swim wear; beachwear and coverups; bathrobes; clothing belts; blazers; blouses; bottoms; bustiers; capes; coats; culottes; peddle-pushers; dresses; gowns; dressing and night gowns; gloves; jackets; jeans; jerseys; jumpers; jumpsuits; jogging suits; leggings; lingerie; mittens; overalls; overcoats; pajamas; pants; pantsuits; pullovers; robes; scarves; shawls; suits; skirts; shorts; ski wear; slacks; sleepwear; trousers; smocks; sport coats; tuxedos; stockings; suit coats; suspenders; sweat suits, pants, shorts and shirts; sweaters; vests; shirts; t-shirts; tank tops; ties; tights; topcoats; tops; underclothes; undergarments; underwear; negligees; camisoles; corsets; undershirts, chemise; underpants; slips; brassieres; petticoats; hosiery; stoles; socks; neckties; neckerchiefs; bandanas; mufflers

Basis: 66(a)**First Use Date:** (DATE NOT AVAILABLE)**First Use in Commerce Date:** (DATE NOT AVAILABLE)**International Class:** 035**Class Status:** Active

Retail store services, featuring spectacle frames, spectacles, eyeglasses, spectacle cases, sunglasses; goods made of leather and imitation leather, namely bags, purses, wallets, key cases, traveling sets comprised of traveling bags, purses and cases, leather shoulder belts and vanity cases; footwear and headwear; men's, women's and children's clothing, namely, bathing suits and trunks; swim wear; beachwear and cover-ups; bathrobes; clothing belts; blazers; blouses; bottoms; bustiers; capes; coats; culottes; peddle-pushers; dresses; gowns; dressing and night gowns; gloves; jackets; jeans; jerseys; jumpers; jumpsuits; jogging suits; leggings; lingerie; mittens; overalls; overcoats; pajamas; pants; pantsuits; pullovers; robes; scarves; shawls; suits; skirts; shorts; ski wear; slacks; sleepwear; trousers; smocks; sport coats; tuxedos; stockings; suit coats; suspenders; sweat suits, pants, shorts and shirts; sweaters; vests; shirts; t-shirts; tank tops; ties; tights; topcoats; tops; underclothes; undergarments; underwear; negligees; camisoles; corsets; undershirts, chemise; underpants; slips; brassieres; petticoats; hosiery; stoles; socks; neckties; neckerchiefs; bandanas; mufflers

Basis: 66(a)**First Use Date:** (DATE NOT AVAILABLE)**First Use in Commerce Date:** (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Prior Registration Number(s):<http://tarr.uspto.gov/servlet/tarr?regser=registration&entry=3046413>

09/11/2007

2731030

MADRID PROTOCOL INFORMATION

International Registration Number: 0810725
International Registration Date: 2003-06-11
Priority Claimed: No
Date of Section 67 Priority Claim: (DATE NOT AVAILABLE)
International Registration Status: Request For Extension Of Protection Processed
Date of International Registration Status: 2004-11-18
International Registration Renewal Date: 2013-06-11
Notification of Designation Date: 2004-11-18
Date of Automatic Protection: 2006-05-18
Date International Registration Cancelled: (DATE NOT AVAILABLE)
First Refusal: Yes

PROSECUTION HISTORY

2006-09-07 - Final Disposition Notice Sent To IB
2006-09-07 - Final Disposition Processed
2006-09-05 - Final Disposition Notice Created, To Be Sent To IB
2006-01-17 - Registered - Principal Register
2005-10-25 - Published for opposition
2005-10-05 - Notice of publication
2005-07-19 - Law Office Publication Review Completed
2005-07-15 - Assigned To LIE
2005-07-08 - Approved for Pub - Principal Register (Initial exam)
2005-07-08 - Amendment From Applicant Entered
2005-06-30 - Communication received from applicant
2005-06-30 - PAPER RECEIVED
2005-04-14 - Refusal Processed By IB
2005-02-23 - Non-final action mailed
2005-02-19 - Non-Final Action Written
2005-02-18 - Assigned To Examiner
2004-11-22 - New Application Entered In Tram

2004-11-18 - Sn Assigned For Sect 66a Subseq Desig From IB

ATTORNEY/CORRESPONDENT INFORMATION

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No assignment has been recorded at the USPTO

For Serial Number: 79006069

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.0.1
Web interface last modified: April 20, 2007 v.2.0.1

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