

ESTTA Tracking number: **ESTTA197996**

Filing date: **03/12/2008**

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 parties oppose registration of the indicated application.

**Opposers Information**

Name	Crocs, Inc.
Granted to Date of previous extension	03/12/2008
Address	6328 Monarch Park Place Niwot, CO 80503 UNITED STATES

Name	Ocean Minded, Inc.		
Entity	Corporation	Citizenship	Colorado
Address	6328 Monarch Park Place Niwot, CO 80503 UNITED STATES		

Attorney information	Jennifer Daniel Collins Faegre & Benson LLP 1700 Lincoln Street 3200 Wells Fargo Center Denver, CO 80203-4532 UNITED STATES trademarkdnvr@faegre.com, jcollins@faegre.com, nhanlon-leh@faegre.com, jsmith@faegre.com Phone:(303) 607-3500
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**Applicant Information**

Application No	77188406	Publication date	11/13/2007
Opposition Filing Date	03/12/2008	Opposition Period Ends	03/12/2008
Applicant	Ocean Moody Creations, LLC 1012 Pyatt Street Georgetown, SC 29440 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. All goods and services in the class are opposed, namely: Shoes; Sandals; Belts; Pants; Tops; Hats; Ties; Bathing suits; Wraps; Jackets; Camp shirts; Dress shirts; Golf shirts; Knit shirts; Shirts; Short-sleeved shirts; Sport shirts
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**Grounds for Opposition**

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

U.S. Registration No.	2282012	Application Date	07/11/1997
Registration Date	09/28/1999	Foreign Priority Date	NONE
Word Mark	OCEAN MINDED		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1997/01/01 First Use In Commerce: 1997/01/01 footwear and clothing, namely, sandals, T-shirts, sweatshirts, shorts and hats		

U.S. Application No.	78499677	Application Date	10/14/2004
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OCEAN MINDED		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: PRINTED MATTER, NAMELY, NEWSLETTERS IN THE FIELD OF OCEAN AWARENESS Class 035. First use: RETAIL STORE SERVICES OF WEARING APPAREL		

Attachments	75322835#TMSN.gif ( 1 page )( bytes ) 78499677#TMSN.jpeg ( 1 page )( bytes ) OCEAN MOODY Notice of Opposition.pdf ( 10 pages )(1524710 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jennifer Daniel Collins/
Name	Jennifer Daniel Collins
Date	03/12/2008

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

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CROCS, INC. and OCEAN MINDED, INC.

Joint Opposers,

v.

OCEAN MOODY CREATIONS, LLC

Applicant.

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Opposition No. \_\_\_\_\_

Mark: **OCEAN MOODY**

Serial No.: 77/188,406

Filing Date: May 23, 2007

Publication Date: November 13, 2007

**NOTICE OF OPPOSITION**

Crocs, Inc. ("Crocs"), a corporation organized under the laws of the State of Delaware, having its principal place of business at 6328 Monarch Park Place, Niwot, Colorado 80503, and Ocean Minded, Inc. ("Ocean Minded"), a corporation organized under the laws of the State of Colorado, having its principal place of business at 6328 Monarch Park Place, Niwot, Colorado 80503, believe that they will be damaged by the registration of the mark **OCEAN MOODY**, as depicted in Application Serial No. 77/188,406 ("Applicant's Mark"), and hereby oppose the registration of said application under the provisions of 15 U.S.C. § 1063. Opposer Ocean Minded is a wholly-owned subsidiary of Opposer Crocs.

As grounds for their opposition to the registration of Applicant's Mark, Opposers allege:

1. Applicant Ocean Moody Creations, LLC ("Applicant") applied for Applicant's Mark on May 23, 2007, and said application was assigned serial number 77/188,406.
2. Application serial number 77/188,406 seeks the registration of Applicant's Mark, depicted as follows:

## OCEAN MOODY

3. Application serial number 77/188,406 seeks the registration of Applicant's Mark in connection with the following goods:

"Shoes; Sandals; Belts; Pants; Tops; Hats; Ties; Bathing suits; Wraps; Jackets; Camp shirts; Dress shirts; Golf shirts; Knit shirts; Shirts; Short-sleeved shirts; Sport shirts" in International Class 25.

4. Applicant's Mark was published for Opposition in the *Official Gazette* on November 13, 2007. Opposer Crocs filed an extension of time to oppose on December 12, 2007. The Trademark Trial and Appeal Board granted Opposer Crocs' request to extend time to oppose until March 12, 2008.

5. Accordingly, this Notice of Opposition is timely filed.

6. Opposer Ocean Minded is the owner of the following United States Trademark Registration: 2,282,012 for the mark OCEAN MINDED for "footwear and clothing, namely, sandals, t-shirts, sweat-shirts, shorts and hats" in International Class 25. A copy of the registration certificate is attached hereto as Exhibit A. In addition, Opposer Ocean Minded is the owner of the following valid and subsisting U.S. Trademark Application No.: 78/499,677 for the mark OCEAN MINDED for "printed matter, namely newsletters in the field of ocean awareness" in International Class 16 and "retail store service of wearing apparel" in International Class 35. A printout from the USPTO TARR database evidencing the status of this application is attached hereto as Exhibit B.

7. Since at least 1997, the mark OCEAN MINDED has been used in interstate commerce in conjunction with footwear, clothing and hats, which is prior to the May 23, 2007 filing date of Applicant's application.

8. Opposers have promoted the OCEAN MINDED Marks through a wide variety of channels. Products bearing the OCEAN MINDED Marks were sold in 1600 retail outlets in 2007. Opposers have also promoted the OCEAN MINDED Marks through electronic media, including Opposer Ocean Minded's website located at <http://www.oceanminded.com> and Opposer Crocs' website located at <http://www.crocs.com>. In 2007, approximately 215,400 pairs of shoes were sold under the OCEAN MINDED Marks, amounting to nearly \$3.25 million in sales worldwide. Last year, Opposers spent nearly \$90,000 advertising the OCEAN MINDED Marks. Through such promotion and use by Opposers, the OCEAN MINDED Marks are widely recognized as an indicator of source for Ocean Minded's products and represents valuable and substantial goodwill of Opposer Ocean Minded in its business.

9. Opposers are not connected in any way with Applicant's use of Applicant's Mark.

10. The OCEAN MINDED Marks are distinctive in connection with Opposer Ocean Minded's footwear, clothing and hat products.

11. Applicant's use of or intended use of Applicant's Mark is without Opposers' consent or permission.

12. Applicant's Mark is confusingly similar to the OCEAN MINDED Marks.

13. The goods identified in application serial number 77/188,406 are related to the footwear, clothing and hat goods offered by Opposer Ocean Minded under the OCEAN MINDED Marks. Such related goods are offered and will be offered in the same channels of trade.

14. Because of the similarity of Applicant's Mark to the OCEAN MINDED Marks, and the overlapping and related goods offered in connection with Applicant's Mark through similar channels of trade, persons familiar with Opposers and their goods are likely to be misled

into believing that Applicant's goods, if offered under Applicant's Mark, are sponsored by or otherwise affiliated with Opposers in some way, thereby damaging Opposers.

15. Applicant's use or intended use of Applicant's Mark in connection with Applicant's goods is likely to cause confusion, mistake, or deception as to the source, origin, or sponsorship or approval of Applicant's goods, in that consumers are likely to believe that Applicant's goods are Opposers' goods, or are in some way legitimately connected with, licensed, or approved by Opposers.

16. Opposers believe that the registration of Applicant's Mark on the Principal Register in connection with the opposed services would be inconsistent with Opposers' rights under the common law and the Trademark Act, and Opposers believes that such registration would be damaging to Opposers.

WHEREFORE, Opposers believe that they would be damaged by registration of Applicant's Mark in connection with the opposed services and respectfully pray that Application serial number 77/188,406 be rejected, that no registration be issued thereon, and that this opposition be sustained in favor of Opposers.

The required opposition fee of \$300.00 accompanies this Notice. If the filing fee is deficient or excessive in any way, the Commissioner is granted authority to credit or debit Deposit Account Number 06-0029.

Dated: March 12, 2008

Respectfully submitted,

By: /Jennifer Daniel Collins/  
Natalie Hanlon-Leh  
Jennifer Daniel Collins  
Faegre & Benson LLP  
3200 Wells Fargo Center  
1700 Lincoln Street  
Denver, Colorado 80203-4532

Attorneys for Opposers  
Crocs, Inc. and Ocean Minded, Inc.

Filed Electronically via ESSTA.

fb us.2694936.01

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 2,282,012

United States Patent and Trademark Office

Registered Sep. 28, 1999

**TRADEMARK  
PRINCIPAL REGISTER**

**OCEAN MINDED**

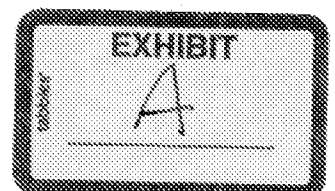
OCEAN MINDED SANDALS, INC. (CALIFORNIA CORPORATION)  
2011 S. EL CAMINO REAL, SUITE C  
SAN CLEMENTE, CA 92672

FIRST USE 1-1-1997; IN COMMERCE  
1-1-1997.

SN 75-322,835, FILED 7-11-1997.

FOR: FOOTWEAR AND CLOTHING,  
NAMELY, SANDALS, T-SHIRTS, SWEAT-  
SHIRTS, SHORTS AND HATS, IN CLASS 25  
(U.S. CLS. 22 AND 39).

KATHERINE STOIDES, EXAMINING ATTORNEY





Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-03-12 20:57:08 ET

Serial Number: 78499677 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark

OCEAN MINDED

(words only): OCEAN MINDED

Standard Character claim: Yes

Current Status: A request for the third extension of time to file a statement of use has been granted.

Date of Status: 2008-02-05

Filing Date: 2004-10-14

The Notice of Allowance Date is: 2006-06-06

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 115

Attorney Assigned:  
KIM YONG OH

Current Location: 700 -Intent To Use Section

Date In Location: 2008-02-01

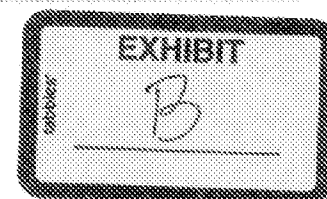
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LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. OCEAN MINDED, INC.

Address:



OCEAN MINDED, INC.  
6328 MONARCH PARK PLACE  
NIWOT, CO 80503  
United States  
**Legal Entity Type:** Corporation  
**State or Country of Incorporation:** Colorado

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**GOODS AND/OR SERVICES**

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**International Class:** 016  
**Class Status:** Active  
PRINTED MATTER, NAMELY, NEWSLETTERS IN THE FIELD OF OCEAN AWARENESS  
**Basis:** 1(b)  
**First Use Date:** (DATE NOT AVAILABLE)  
**First Use in Commerce Date:** (DATE NOT AVAILABLE)

**International Class:** 035  
**Class Status:** Active  
RETAIL STORE SERVICES OF WEARING APPAREL  
**Basis:** 1(b)  
**First Use Date:** (DATE NOT AVAILABLE)  
**First Use in Commerce Date:** (DATE NOT AVAILABLE)

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**ADDITIONAL INFORMATION**

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(NOT AVAILABLE)

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE:** To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-02-05 - Extension 3 granted

2007-12-06 - Extension 3 filed

2008-01-31 - Extension Received With TEAS Petition

2008-01-31 - Petition To Revive-Granted

2008-01-31 - TEAS Petition To Revive Received

2008-01-30 - Abandonment Notice Mailed - No Use Statement Filed

2008-01-30 - Abandonment - No use statement filed

2007-12-06 - Extension 2 granted

2007-06-06 - Extension 2 filed

2007-06-06 - FAX RECEIVED

2007-04-26 - Attorney Revoked And/Or Appointed

2007-04-26 - TEAS Revoke/Appoint Attorney Received

2007-04-26 - Attorney Revoked And/Or Appointed

2007-04-26 - TEAS Revoke/Appoint Attorney Received

2007-04-13 - Notice Of Reinstatement Mailed

2007-04-06 - Extension 1 granted

2006-11-13 - Extension 1 filed

2006-11-13 - Reinstated

2007-04-04 - Abandonment Notice Mailed - No Use Statement Filed

2007-04-04 - Abandonment - No use statement filed

2007-02-28 - Automatic Update Of Assignment Of Ownership

2006-11-13 - PAPER RECEIVED

2006-06-06 - Notice of allowance - mailed

2006-03-17 - Changes/Corrections After Pub Approval Entered

2006-03-14 - Published for opposition

2006-03-10 - TEAS Change Of Owner Address Received

2006-02-22 - Notice of publication

2006-01-31 - Law Office Publication Review Completed

2006-01-27 - Assigned To LIE

2006-01-21 - Approved for Pub - Principal Register (Initial exam)

2005-11-04 - Amendment From Applicant Entered

2005-10-27 - Communication received from applicant

2005-10-27 - PAPER RECEIVED

2005-05-25 - Non-final action mailed

2005-05-25 - Non-Final Action Written

2005-05-18 - Assigned To Examiner

2004-10-21 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

Jennifer Daniel Collins

**Correspondent**

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