

ESTTA Tracking number: **ESTTA357753**

Filing date: **07/13/2010**

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	Strategic Partners, Inc.		
Entity	Corporation	Citizenship	California
Address	9800 De Soto Avenue Chatsworth, CA 91311 UNITED STATES		

Attorney information	George W Hoover Blakely Sokoloff Taylor & Zafman LLP 12400 Wilshire Boulevard, Seventh Floor Los Angeles, CA 90025 UNITED STATES george_hoover@bstz.com, suzanne_johnston@bstz.com Phone:310-207-3800		
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Applicant Information

Application No	77830717	Publication date	06/22/2010
Opposition Filing Date	07/13/2010	Opposition Period Ends	07/22/2010
Applicant	ROCKER RX, LLC 100 CUMMINGS CENTER, SUITE 421F BEVERLY, MA 01915 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Footwear

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.	1242899	Application Date	01/04/1979
Registration Date	06/21/1983	Foreign Priority Date	NONE
Word Mark	ROCKERS		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 025. First use: First Use: 1978/12/13 First Use In Commerce: 1978/12/13 Canvas and Non-Leather Shoes		
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U.S. Registration No.	1575088	Application Date	04/25/1988
Registration Date	01/02/1990	Foreign Priority Date	NONE
Word Mark	ROCKERS FOR WALKERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1985/08/26 First Use In Commerce: 1985/08/26 FOOTWEAR		

U.S. Registration No.	2278251	Application Date	01/02/1996
Registration Date	09/14/1999	Foreign Priority Date	NONE
Word Mark	ROCKERS		
Design Mark	ROCKERS		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1998/06/10 First Use In Commerce: 1998/06/10 [clothing, namely, men's, women's and children's tops and bottoms;] footwear		

Attachments	75039218#TMSN.gif (1 page)(bytes) 2312M004_Ntc_Opposition_071310.pdf (5 pages)(66763 bytes) 2312M004_Opp_Exhibits_071310.pdf (4 pages)(132112 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	/George W Hoover/
Name	George W Hoover
Date	07/13/2010

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

IN RE THE APPLICATION OF

: Serial No. 77/830,717
for **ROCKER RX**

STRATEGIC PARTNERS, INC.,

Opposer

v.

ROCKER RX, LLC

Applicant

Published in the Official Gazette on **June 22, 2010**

Opposition No.: Not yet assigned

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

NOTICE OF OPPOSITION

Opposer, Strategic Partners, Inc., a California corporation, having its principal place of business at 9800 De Soto Avenue, Chatsworth, California 91311 (“Opposer”), hereby opposes registration of the following application:

Application Serial No.:	77/830,717
Mark:	ROCKER RX
Applicant:	ROCKER RX, LLC
Filing Date:	September 21, 2009
Publication Date:	June 22, 2010
Class:	025

The ROCKER RX application was published in the *Official Gazette* on June 22, 2010, and the opposition period runs until July 22, 2010. This Notice of Opposition is timely filed.

As grounds in support of its opposition, Opposer asserts as follows:

1. Opposer is and has at all relevant times been actively engaged in the design, manufacture, development, marketing, and sale of footwear. Opposer has sold and distributed these goods under the mark, "ROCKERS".

2. Opposer's predecessors in interest have used the mark, ROCKERS, on footwear since at least as early as 1978 in commerce in the United States, long prior to Applicant's filing date in their application. Opposer continues to use the mark, ROCKERS, on footwear in commerce in the United States.

3. Opposer is the owner of U.S. Trademark Registration No. 1,242,899 (copy attached-Exhibit A) in connection with canvas and non-leather shoes. This registration is valid, subsisting, unrevoked, and incontestable.

4. Opposer is the owner of U.S. Trademark Registration No. 1,575,088 (copy attached-Exhibit B) in connection with footwear. This registration is valid, subsisting, unrevoked, and incontestable.

5. Opposer is the owner of U.S. Trademark Registration No. 2,278,251 (copy attached-Exhibit C) in connection with footwear. This registration is valid, subsisting, unrevoked, and incontestable.

6. Since long prior to September 21, 2009, the filing date of the ROCKER RX intent to use application, Opposer, for itself and through its predecessors in interest, adopted and commenced use of the trademark, ROCKERS, in connection with the marketing, promoting, offering for sale and selling of footwear.

7. As a result of extensive use and advertising by Opposer, the trademark, ROCKERS, has become nationally recognized, and Opposer has built up valuable and substantial goodwill in the mark such that the mark has come to identify Opposer's goods and distinguish Opposer's goods from the goods of others.

8. The ROCKERS mark is closely and uniquely associated with Opposer and the goods it offers and has become a “famous mark” as defined in 15 U.S.C. §1125(c).

9. On September 21, 2009, Applicant filed the application to register the mark ROCKER RX. The filing basis for the application is Section 1(b). The application covers footwear in International Class 025.

10. Upon information and belief, Applicant has made no use of the mark, ROCKER RX, in the United States prior to the filing date of September 21, 2009, which is long after the issue dates of the Opposer’s registrations referenced in Paragraphs 3-5 and long after use of the mark, ROCKERS, for footwear in commerce in the United States by Opposer and Opposer’s predecessors in interest.

11. The International Class 025 goods listed in the ROCKER RX application are identical to the goods sold and distributed by Opposer under the mark, ROCKERS, and those goods listed in the registrations referenced in Paragraphs 3-5.

12. Applicant’s mark, ROCKER RX, so closely resembles Opposer’s mark, ROCKERS, that consumers are likely to be confused as to an affiliation or association between Applicant’s mark, ROCKER RX, and Opposer’s well-known and famous mark ROCKERS.

13. Applicant’s mark, ROCKER RX, so resembles Opposer’s previously used and registered mark, ROCKERS, as to be likely to cause confusion, mistake, or deception as to the source of the goods, especially when applied to the goods set forth in the ROCKER RX application, namely, footwear.

14. Opposer’s mark, ROCKERS, is famous and distinctive. On information and belief Opposer states that Applicant’s use of the mark ROCKER RX will be likely to cause dilution of Opposer’s famous and distinctive mark, ROCKERS.

15. Opposer will be damaged by registration of Applicant's mark because it will lessen the capacity of Opposer's famous mark, ROCKERS, to distinguish Opposer's goods from those of others.

16. Based on the foregoing, registration of the mark ROCKER RX, subject of the Applicant's application, will cause injury and damage to Opposer.

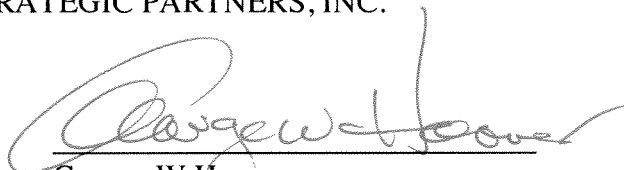
WHEREFORE, Opposer prays that the opposition be sustained, and that Applicant be refused registration and enjoined from use of any mark confusingly similar to Opposer's mark.

Respectfully submitted,

STRATEGIC PARTNERS, INC.

Dated: July 13, 2010

By:



George W Hoover
Attorney for Applicant

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025
(310) 207-3800

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NOTICE OF OPPOSITION was mailed by First Class mail, postage prepaid, deposited with the United States Postal Service at 12400 Wilshire Blvd., Los Angeles, California 90025 on July 13, 2010, addressed to:

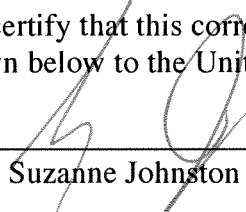
Aaron Silverstein
SAUNDERS & SILVERSTEIN LLP
14 Cedar Street, Suite 224
Amesbury, MA 01913-1831

Dated: July 13, 2010

By:  _____
Suzanne Johnston

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via ESTTA on the date shown below to the United States Patent and Trademark Office.

 _____
By: Suzanne Johnston

7/13/10
Date



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Typed Drawing

Word Mark ROCKERS
Goods and Services IC 025. US 039. G & S: Canvas and Non-Leather Shoes. FIRST USE: 19781213. FIRST USE IN COMMERCE: 19781213
Mark Drawing Code (1) TYPED DRAWING
Serial Number 73198982
Filing Date January 4, 1979
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition March 29, 1983
Registration Number 1242899
Registration Date June 21, 1983
Owner (REGISTRANT) Morse Shoe, Inc. CORPORATION DELAWARE 555 Tumpike St. Canton MASSACHUSETTS 02021

(LAST LISTED OWNER) STRATEGIC PATNERS, INC. CORPORATION CALIFORNIA 9545 WEBT WORTH STREET SUNLAND CALIFORNIA 91040
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record GEORGE W. HOOVER
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 8 (6-YR). SECTION 8(10-YR) 20040413.
Renewal 1ST RENEWAL 20040413
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Typed Drawing

Word Mark	ROCKERS FOR WALKERS
Goods and Services	IC 025. US 039. G & S: FOOTWEAR. FIRST USE: 19850826. FIRST USE IN COMMERCE: 19850826
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	73724531
Filing Date	April 25, 1988
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	April 25, 1989
Registration Number	1575088
Registration Date	January 2, 1990
Owner	(REGISTRANT) CHEROKEE GROUP, THE CORPORATION CALIFORNIA 12544 SATICOY STREET NORTH HOLLYWOOD CALIFORNIA 91605 (LAST LISTED OWNER) STRATEGIC PARTNERS, INC. CORPORATION BY ASSIGNMENT, BY MERGER, BY ASSIGNMENT CALIFORNIA 9800 DE SOTO AVE. CHATSWORTH CALIFORNIA 91331
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	George W Hoover
Prior Registrations	1242899

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "WALKERS" APART FROM THE MARK AS SHOWN
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20100615.
Renewal 2ND RENEWAL 20100615
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Typed Drawing

Word Mark	ROCKERS
Goods and Services	IC 025. US 022 039. G & S: [clothing, namely, men's, women's and children's tops and bottoms;] footwear. FIRST USE: 19980610. FIRST USE IN COMMERCE: 19980610
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75039218
Filing Date	January 2, 1996
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	August 27, 1996
Registration Number	2278251
Registration Date	September 14, 1999
Owner	(REGISTRANT) STRATEGIC PARTNERS, INC. CORPORATION CALIFORNIA 9800 De Soto Ave. Chatsworth CALIFORNIA 91311
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	GEORGE W. HOOVER
Prior Registrations	1242899;1575088
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090415.
Renewal	1ST RENEWAL 20090415
Live/Dead Indicator	LIVE