

ESTTA Tracking number: **ESTTA372170**

Filing date: **10/07/2010**

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	Nirve Sports, Ltd.		
Entity	Corporation	Citizenship	California
Address	15401 Assembly Lane Huntington Beach, CA 92649 UNITED STATES		

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

Application No	85022668	Publication date	09/28/2010
Opposition Filing Date	10/07/2010	Opposition Period Ends	10/28/2010
Applicant	S-SUN ENTERPRISE CO., LTD. Situn District No.1-6, Guangsing Lane, Guangfu Village, Taichung City, 407 TAIWAN		

Goods/Services Affected by Opposition


Class 012. First Use: 2009/08/03 First Use In Commerce: 2009/09/24
All goods and services in the class are opposed, namely: Bicycles, Directional signals for vehicles, Bicycle stands, Handlebars; Bicycle parts, namely, brake shoes; Bicycle parts, namely, cranks; Bicycle pedals, Bicycle Saddles, Pannier bags for bicycles, Bicycle pumps

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.	3178107	Application Date	12/17/2004
Registration Date	11/28/2006	Foreign Priority Date	NONE
Word Mark	SKULLS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 012. First use: First Use: 2004/08/00 First Use In Commerce: 2004/08/00 bicycles and bicycle structural parts

Attachments	78534882#TMSN.jpeg (1 page)(bytes) NoticeOfOpposition.pdf (8 pages)(113953 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	/Kit M. Stetina/
Name	Kit M. Stetina
Date	10/07/2010

Case: NIRVE-028M
Trademark Application

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

IN RE SERIAL NO. 85/022,668

Nirve Sports, Ltd.)	Opposition No.:
)	
Opposer,)	
)	
vs.)	
)	
S-Sun Enterprise Co., Ltd.)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

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

Dear Sir or Madam:

In the matter of the application of S-Sun Enterprise Co., Ltd. of Taichung City, Taiwan (hereinafter "Applicant") for registration of the trademark SKULLY Application Serial No. 85/022,668, published in the Official Gazette of September 28, 2010, at TM 578, Nirve Sports, Ltd., a California corporation, with offices at 15401 Assembly Lane, Huntington Beach, CA 92649 (hereinafter "Opposer"), believes that it will be damaged by registration of the mark shown in Serial No. 85/022,668, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is and has been for many years engaged in the extensive development, advertising, and marketing of bicycles and bicycle structural parts. In connection therewith, Opposer has used and has filed a federal trademark application for use in interstate commerce, the mark SKULLS for the aforementioned goods since long prior to Applicant's filing date of the application of Serial No. 85/022,668.

2. Since prior to Applicant's filing date of the application of Serial No. 85/022,668, Opposer has made use of its SKULLS mark throughout the United States in interstate commerce. Since adoption of its SKULLS mark, Opposer has continuously used said mark 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 SKULLS mark.

4. As a result of the continuous and extensive use of the SKULLS mark by Opposer, that mark has become and continues to function as a valuable business and marketing asset of Opposer, and serve 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. 3,178,107, registered November 28, 2006, for the mark SKULLS for the goods set forth in that registration. A copy of that registration is attached hereto as **Exhibit 1**.

6. Notwithstanding Opposer's rights in and to said SKULLS mark, Applicant, on information and belief, filed an application for registration of SKULLY in International Class 012 for Bicycles, Directional signals for vehicles, Bicycle stands,

Handlebars; Bicycle parts, namely, brake shoes; Bicycle parts, namely, cranks; Bicycle pedals, Bicycle Saddles, Pannier bags for bicycles and Bicycle pumps on April 26, 2010.

7. Pursuant to Trademark Rules of Practice 2.102, Opposer filed a Request to Extend Time for Filing this Notice of Opposition on September 29, 2010. A copy of said Request to Extend Time is attached hereto as **Exhibit 2**.

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

9. Applicant's use of the mark SKULLY interferes with Opposer's use of its SKULLS mark and dilutes the strength of Opposer's trademark and use of, or registration of Applicant's SKULLY mark by Applicant will seriously damage Opposer.

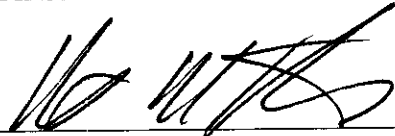
WHEREFORE, Opposer believes that it will be damaged by said registration and prays that registration of the mark SKULLY to Applicant be denied.

Opposer's representative authorizes the charging of the filing fee for this Opposition in the amount of \$300 (one international class) to Deposit Account No. 502304.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Dated: 10/7/10

By:  _____

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

75 Enterprise, Suite 250

Aliso Viejo, CA 92656

(949) 855-1246

Counsel for Opposer

EXHIBIT 1

Int. Cl.: 12

Prior U.S. Cls.: 19, 21, 23, 31, 35, and 44

Reg. No. 3,178,107

United States Patent and Trademark Office

Registered Nov. 28, 2006

**TRADEMARK
PRINCIPAL REGISTER**

SKULLS

NIRVE SPORTS, LTD. (CALIFORNIA CORPORATION)
18401 BANDILIER CIRCLE
FOUNTAIN VALLEY, CA 92708

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

FOR: BICYCLES AND BICYCLE STRUCTURAL PARTS, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

SN 78-534,882, FILED 12-17-2004.

FIRST USE 8-0-2004; IN COMMERCE 8-0-2004.

PATRICIA EVANKO, EXAMINING ATTORNEY

EXHIBIT 2

ESTTA Tracking number: **ESTTA370934**

Filing date: **09/29/2010**

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

Applicant: **S-SUN ENTERPRISE CO., LTD.**
Application Serial Number: **85022668**
Application Filing Date: **04/26/2010**
Mark: **SKULLY**
Date of Publication **09/28/2010**

First 90 Day Request for Extension of Time to Oppose for Good Cause

Pursuant to 37 C.F.R. Section 2.102, Nirve Sports, Ltd., 15401 Assembly Lane, Huntington Beach, CA 92649, UNITED STATES, a corporation organized under the laws of California, respectfully requests that it be granted a 90-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 needs additional time to investigate the claim

The time within which to file a notice of opposition is set to expire on 10/28/2010. Nirve Sports, Ltd. respectfully requests that the time period within which to file an opposition be extended until 01/26/2011.

Respectfully submitted,

/kms/

09/29/2010

Kit M. Stetina

Stetina Brunda Garred & Brucker

75

Aliso Viejo, CA 92656

UNITED STATES

opposition@stetinalaw.com

949-855-1246

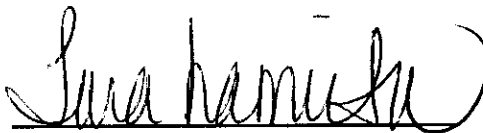
PROOF OF SERVICE

State of California)
) ss.
County of Orange)

I am over the age of 18 and not a party to the within action; my business address is 75 Enterprise, Suite 250, Aliso Viejo, California 92656. On **October 7, 2010**, the attached **NOTICE OF OPPOSITION** was served on all interested parties in this action by U.S. Mail, postage prepaid, at the address as follows:

CHIEN-HUI SU
P.O. BOX 70-121
TAICHUNG CITY 40899
TAIWAN

Executed on **October 7, 2010** at Aliso Viejo, California. I declare under penalty of perjury that the above is true and correct. I declare that I am employed in the office of STETINA BRUNDA GARRED & BRUCKER at whose direction service was made.


Tara Hamilton