

ESTTA Tracking number: **ESTTA386382**Filing date: **01/03/2011**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	Orange 21 North America Inc.
Granted to Date of previous extension	01/02/2011
Address	2070 Las Palmas Drive Carlsbad, CA 92011 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

**Applicant Information**

Application No	77854894	Publication date	07/06/2010
Opposition Filing Date	01/03/2011	Opposition Period Ends	01/02/2011
Applicant	The House On F Street, LLC Suite 800 1660 West Second Street Cleveland, OH 44113 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 028. First Use: 2008/04/15 First Use In Commerce: 2008/04/15  
All goods and services in the class are opposed, namely: Toys, namely, toy binoculars, toy paper shredders, toy motion alarms, toy rearview sunglasses, and toy listening devices, namely, microphones and earphones

**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.	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		

Related Proceedings	91161590 91188665
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Attachments	78558706#TMSN.jpeg ( 1 page )( bytes ) [01 03 11] NoticeofOpposition.pdf ( 15 pages )(3029105 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/
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Name	Kit M. Stetina
Date	01/03/2011

Case: SPYNO-364M  
Trademark Application

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**  
**In the Matter of Trademark Application Serial No. 77/854,894**

Orange 21 North America Inc.,	)	Opposition No.:
	)	
Opposer	)	
	)	
vs.	)	
	)	
The House On F Street, LLC,	)	
	)	
Applicant	)	

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**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 The House On F Street, LLC of Cleveland, Ohio (hereinafter “Applicant”) for registration of the trademark OPERATION SPY, Application Serial No. 77/854,894, published in the Official Gazette of July 6, 2010, Orange 21 North America Inc., a California corporation, with offices at 2070 Las Palmas Drive, Carlsbad, California 92011 (hereinafter “Opposer”), believes that it will be damaged by registration of the mark shown in Serial No. 77/854,894, 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 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. 77/854,894 for the mark OPERATION SPY, for Toys, namely, toy binoculars, toy paper shredders, toy motion alarms, toy rearview sunglasses, and toy listening devices, namely, microphones and earphones in International Class 028.

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 028 on October 22, 2009. Said application was published for opposition in the Official Gazette of July 6, 2010.

9. Pursuant to Trademark Rules of Practice 2.102, Opposer filed a First 90 Day Request to Extend Time for Filing this Notice of Opposition to November 3, 2010. 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 60-Day Request to Extend Time for Filing this Notice of Opposition to January 2, 2011. A copy of said Request to Extend Time is attached hereto as **Exhibit 5**.

11. Applicant's OPERATION SPY mark is confusingly similar to Opposer's SPY TRADEMARKS and its registration and use by Applicant on the goods claimed in International Class 028 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 in International Class 028 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 in International Class 028 be denied.

Opposer authorizes the filing fee for this Opposition in the amount of \$300 (International Class 028) to be charged to Opposer's Deposit Account No. 19-4330.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Dated: January 3, 2011

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

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

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

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

IRENE D. WILLIAMS, EXAMINING ATTOR-  
NEY

# **EXHIBIT 2**

Int. Cl.: 9

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

Reg. No. 1,981,513

**United States Patent and Trademark Office** 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

United States Patent and Trademark Office

Reg. No. 3,218,701

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:

**ESTTA357019**

Filing date:

**07/08/2010**

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:

**77854894**

Application Filing Date:

**10/22/2009**

Mark:

**OPERATION SPY**

Date of Publication

**07/06/2010**

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

Pursuant to 37 C.F.R. Section 2.102, Orange 21 North America 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 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 08/05/2010. Orange 21 North America Inc. respectfully requests that the time period within which to file an opposition be extended until 11/03/2010.

Respectfully submitted,

/kms/

07/08/2010

**Kit M. Stetina**

**Stetina Brunda Garred & Brucker**

**75 Enterprise Ste 250**

**Aliso Viejo, CA 92656**

**UNITED STATES**

**opposition@stetinalaw.com**

**949-855-1246**

# **EXHIBIT 5**



ESTTA Tracking number: **ESTTA376203**

Filing date: **11/01/2010**

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

Applicant:	<b>The House On F Street, LLC</b>
Application Serial Number:	<b>77854894</b>
Application Filing Date:	<b>10/22/2009</b>
Mark:	<b>OPERATION SPY</b>
Date of Publication	<b>07/06/2010</b>

**60 Day Request for Extension of Time to Oppose Upon Consent**

Pursuant to 37 C.F.R. Section 2.102, Orange 21 North America 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 with applicant's consent.

The time within which to file a notice of opposition is set to expire on 11/03/2010. Orange 21 North America Inc. respectfully requests that the time period within which to file an opposition be extended until 01/02/2011.

Respectfully submitted,  
/Kit M. Stetina/  
11/01/2010

**Kit M. Stetina**

**Stetina Brunda Garred & Brucker**

**75 Enterprise Ste 250**

**Aliso Viejo, CA 92656**

**UNITED STATES**

**[opposition@stetinalaw.com](mailto:opposition@stetinalaw.com)**

**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 **January 3, 2011**, 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:

The House On F Street, LLC  
Suite 800 1660 West Second Street  
Cleveland, OH 44113

Warren A. Sklar  
Jason Worgull  
RENNER, OTTO, BOISSELLE & SKLAR  
1621 Euclid Ave., Fl. 19  
Cleveland, OH 44115-2114

Executed on **January 3, 2011** 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