

ESTTA Tracking number: **ESTTA403596**

Filing date: **04/13/2011**

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	The Hollywood Chamber of Commerce		
Entity	Not for Profit Corporation	Citizenship	California
Address	7018 Hollywood Boulevard Hollywood, CA 90028 UNITED STATES		

Correspondence information	Theodore J. Minch Attorney for Opposer Sovich Minch, LLP 10099 Chesapeake Drive, Suite 100 McCordsville, IN 46055 UNITED STATES tjminch@sovichminch.com Phone:317-335-3601
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Applicant Information

Application No	85140374	Publication date	03/15/2011
Opposition Filing Date	04/13/2011	Opposition Period Ends	04/14/2011
Applicant	Anderson, Diana 10694 CR 133 Flint, TX 75762 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Hooded sweat shirts; Long-sleeved shirts; Sweat shirts; T-shirts

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3646762	Application Date	12/03/2008
Registration Date	06/30/2009	Foreign Priority Date	NONE

Word Mark	HOLLYWOOD
Design Mark	HOLLYWOOD
Description of Mark	The mark consists of the word "hollywood" in all capital block letters in a staggered format.
Goods/Services	Class 025. First use: First Use: 1987/10/07 First Use In Commerce: 1987/10/07 Clothing, namely, t-shirts

Related Proceedings	None
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Attachments	77625322#TMSN.jpeg (1 page)(bytes) Notice of Opposition 04-13-11.pdf (9 pages)(50241 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	/theodorejminch/
Name	Theodore J. Minch
Date	04/13/2011

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

THE HOLLYWOOD CHAMBER OF)	
COMMERCE, INC.,)	Opposition No.
)	
Opposer,)	Serial No. 85/140,374
)	
v.)	
)	Mark: HOLLYWOOD (Stylized)
DIANA ANDERSON, an Individual,)	and Design
)	
<u>Applicant.</u>)	

NOTICE OF OPPOSITION

THE HOLLYWOOD CHAMBER OF COMMERCE, a corporation duly organized and existing under the laws of the State of California, located at 7018 Hollywood Boulevard, Hollywood, California 90028 (hereinafter "HCC"), believes that it will be damaged by the registration of the HOLLYWOOD (Stylized) and Design Mark (the "Mark") shown in application Serial No. 85/140,374, filed on September 28, 2010 by Diana Anderson, an Individual, with a mailing address of 10694 CR 133, Flint, TEXAS 75762 (hereinafter "Applicant"), and hereby opposes registration of the Mark. The grounds for opposition are as follows:

1. By the application herein opposed, Applicant is seeking to obtain under the provisions of the Lanham Act 1946 as amended, registration on the Principal Register of the trademark HOLLYWOOD Change the Message Change the World (Stylized) and Design (i.e. – the Mark) for "Hooded sweat shirts; Long-sleeved shirts; Sweat shirts; T-shirts" (International Class 25).
2. The application is based on the applicant's bona fide yet alleged intent to use the Mark in commerce under section 1(b) of the Lanham Act. The Mark was published for opposition on March 15, 2011; this Notice of Opposition, as filed, is

therefore timely.

3. Among other international and domestic trademark registrations and applications, HCC is the owner of the following United States Trademark Registrations and pending Application(s):

HOLLYWOOD WALK OF FAME, U.S. Registration No. 3040573, used in connection with metal key chains in International Class 006. This registration was registered on the principal register on January 10, 2006 with a first use date of January 1, 1985, which is prior to the date of filing of Applicant's application.

HOLLYWOOD WALK OF FAME, U.S. Registration No. 3031701, used in connection with clothing, namely t-shirts, sweatshirts, sweatpants, shirts, pants, jeans, shorts, jackets, jerseys, sweaters, footwear, scarves, neckwear, headwear, caps, visors, swimwear, hosiery, bathrobes, sleepwear, lingerie, and tuxedos in International Class 025. This registration was registered on the principal register on December 20, 2005 with a first use date of January 1, 1985, which is prior to the date of filing of Applicant's application.

FRIEND OF THE WALK OF FAME, U.S. Registration No. 3580292, used in connection with charitable fund raising services in International Class 025. This registration was registered on the principal register on February 24, 2009 with a first use date of July 22, 2008.

HOLLYWOOD DESIGN MARK, U.S. Registration No. 1558058, used in connection with ceramic mugs in International Class 021. This registration was registered on the principal register on September 26, 1989 with a first use date of April 22, 1986, which is prior to the date of filing of Applicant's application.

HOLLYWOOD and Design, U.S. Registration No. 3031702, used in connection with jewelry, namely imitation jewelry, jewelry of precious metal and stones, cuff links, tie pins, brooches, jewelry chains, pendants, jewelry pins for use on hats and jackets and shirts in International Class 014. This registration was registered on the principal register on December 20, 2005 with a first use date of November 5, 1985, which is prior to the date of filing of Applicant's application.

HOLLYWOOD and Design, U.S. Registration No. 1565809, used in connection with clocks in International Class 014. This registration was registered on the principal register on November 14, 1989 with a first use date of November 1, 1985, which is prior to the date of filing of Applicant's application.

HOLLYWOOD and Design, U.S. Registration No. 3646762, used in connection with clothing, namely, t-shirts in International Class 025. This registration was registered on the principal register on June 30, 2009, 2005 with a first use date of October 7, 1987, which is prior to the date of filing of Applicant's application.

HOLLYWOOD WALK OF FAME (Design Mark), U.S. Application No. 77/700,802, used in connection with athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; balloon pants; Capri pants; cargo pants; children's and infant's apparel, namely, jumpers, overall sleepwear, pajamas, rompers and one-piece garments; clothing, namely, khakis; denims; dress shirts; golf pants, shirts and skirts; golf shirts; hooded sweat shirts; jerseys; knit shirts; leather pants; long-sleeved shirts; night shirts; pants; polo shirts; shirts; shirts for suits; short-sleeved or long-sleeved t-shirts; ski pants; sleep shirts; sport shirts; t-shirts; ties; waterproof jackets and pants; wearable garments and clothing, namely, shirts; wind pants; wind shirts in International Class 025. This application was filed on the principal register on March 27, 2009 with a first use date of October 7, 1987, which is prior to the date of filing of Applicant's application.

HOLLYWOOD WALK OF FAME (Design Mark), U.S. Application No. 77/700,842, used in connection advertising and advertisement services; advertising and directory services, namely, promoting the services of others by providing a web page featuring links to the websites of others; advertising and marketing; advertising and marketing services, namely, promoting the goods and services of others; advertising and publicity services; advertising particularly services for the promotion of goods; advertising services, for third parties, in connection with the commercialization and sale of perfumery and cosmetic articles, products for household purposes, optical products, clocks and timepieces, jewelry, furnishing articles; advertising services, namely, creating corporate and brand identity for others; advertising services, namely, promoting and marketing the goods and services of others in the field of upscale choices such as cultural events, restaurants, shopping, and travel via print and electronic media; advertising services, namely, promoting and marketing the goods and services of others through all public communication means; advertising services, namely, promoting the food and wine of others; advertising services, namely, promoting the gift cards of others; advertising services, namely, providing advertising space in a periodical; advertising services, public relations and marketing services, namely, promoting and marketing the goods and services of others

through all public communication means; advertising through all public communication means; advertising via electronic media and specifically the internet; advertising, marketing and promoting the goods and services of others using kiosks; advertising, marketing and promotion services; cinema advertising in International Class 035. This application was filed on the principal register on March 27, 2009 with a first use date of April 24, 1984, which is prior to the date of filing of Applicant's application.

4. Among other international and domestic trademark registrations, and, while no longer currently valid, HCC is the owner of the following United States

Trademark Registrations:

HOLLYWOOD WALK OF FAME (Design Mark), U.S. Application No. 73/548,155, used in connection with promoting business and tourism for the community of Hollywood, California in International Class 035. This application was filed on the principal register on August 12, 1986 with a first use date of June 6, 1961, which is prior to the date of filing of Applicant's application.

6. Since at least as early as June 6, 1961, HCC has used its own HOLLYWOOD (Stylized) and Design mark as depicted in the Application (as well as HCC's family of registered and applied for marks) in the United States and, in fact, throughout the world. Said use has been continuous since the date of first use and has not been abandoned.

7. HCC's HOLLYWOOD (Stylized) and Design Mark (the very Mark in question here as used, without authorization, by Applicant), together with HCC's family of registered and applied-for marks, specifically convey to consumers of the various goods as identified in the above-mentioned registrations and applications to readily identify the goods and services as associated with the Mark in question here as well as HCC's family of registered and applied-for marks as being associated with the glitz and glamour of the world famous Hollywood motion picture movie industry.

8. HCC is inextricably linked with the motion picture industry by virtue of its use, protection, and advertisement of the world famous and unmistakable HOLLYWOOD

(Stylized) and Design Mark which is identical to the Mark in question here, the Hollywood in the hills sign and the Walk of Fame; the Mark in question here is licensed, used, protected, and advertised by HCC around the globe on and in association with countless goods and / or services including but not limited to those goods listed in the recitation of goods in application at issue in this Case.

9. HCC has expended ten of hundreds of thousands (if not millions) of dollars in the promotion, advertisement, and protection of the HOLLYWOOD (Stylized) and Design Mark which mark is identical to the Mark in question here as well as HCC's family of registered and applied-for marks around the globe; these activities are undertaken by HCC in order to promote and enhance the goodwill as associated with the Hollywood movie industry and the businesses concerns that are owned, operated, and exist in the Hollywood, California area.

10. The Lanham Act, the legal basis of this Notice of Opposition, is premised on the belief that the benefit or property right that one has invested time, effort, and money into developing should be protected from unauthorized commercial use; in essence, the Lanham Act prohibits one from "reaping what another has sown" without fair compensation. *R.H. Donnelly Co. v. Illinois Bell Telephone Co.*, 595 F.Supp. 1202 (N.D. Ill. 1984).

11. Hollywood, California is frequented by tens of millions of tourists and consumers (actual and potential) of HCC's goods and / or services per year; as such, consumers have come to unmistakably identify the Design Mark in question here as well as HCC's family of registered and applied-for marks as trademarks through HCC's use thereof, around the globe, on or in connection with countless goods and / or services outside those listed in the application in question in this Case (specifically, those existing

in International Class 025).

12. HCC's HOLLYWOOD (Stylized) and Design Mark which is identical to the Mark in question here as well as HCC's family of registered and applied-for marks have been widely promoted by HCC and, as such, the Hollywood (Stylized) and Design Mark in question here as well as HCC's family of registered and applied-for marks have developed and represent valuable goodwill inuring to the benefit of HCC. The HOLLYWOOD (Stylized) and Design Mark which is identical to the Mark in question here as well as HCC's family of registered and applied-for marks are arbitrary marks with trademark significance to consumers and potential consumers of HCC's licensed goods and / or services, including those specifically contained in the application at issue in this Case, in the United States.

13. HCC's HOLLYWOOD (Stylized) and Design Mark in question here as well as HCC's family of registered and applied-for marks are commonly used in connection with jackets, jeans, pants, pullovers, shirts, short-sleeved or long-sleeved t-shirts, and T-shirts.

14. The Mark is confusingly similar to HCC's HOLLYWOOD (Stylized) and Design Mark. The marks are confusingly similar in appearance and meaning. The goods of the Parties are identical in part, and also closely related, and both would be marketed, and sold to, and used by the same or closely related consumers.

15. Registration of the Mark on behalf of Applicant should be refused because the Mark consists of or comprises the fundamental elements of the HOLLYWOOD (Stylized) and Design Mark owned by HCC and, as such, said use and / or registration of the Mark by Applicant will falsely suggest a connection with HCC. Trademark Act Section 2 (e), 15 U.S.C. Section 1052(a), TMEP sections 1203.3, 1203.3(e), and

1203.03(f). See generally *University of Notre Dame du Lac v. J.C. Gourmet Food Imports Co.*, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983); *University of Alabama v. BAMA-Werke Curt Baumann*, 231 USPQ 408 (TTAB 1986); *In re Cotter & Co.*, 228 USPQ 202 (TTAB 1985); *Buffet v. Chi-Chi's, Inc.*, 226 USPQ 428 (TTAB 1985).

16. Due to the similarity between the Mark as applied for and HCC's previously used, registered, and / or applied for marks, and the closely related nature of the goods and services of the respective parties, consumers and potential consumers are likely to believe that Applicant's goods originate from HCC thereby resulting in a likelihood of confusion in the marketplace, and irreparable damage to HCC. Consumers and potential consumers are likely to believe that Applicant's products are produced, manufactured, marketed, advertised, promoted, endorsed, licensed and / or affiliated with HCC.

17. The use and registration by Applicant of the Mark which is identical to HCC's HOLLYWOOD (Stylized) and Design Mark for Applicant's goods is likely to cause confusion or to cause mistake or deception in the marketplace, and among consumers and potential consumers, with HCC's previously used and registered marks, again resulting in irreparable damage to HCC.

18. Because of the related nature of the goods at issue here, and the confusing similarity of the marks, use and registration of the Mark by Applicant is likely to cause confusion, mistake or deception that Applicant's goods are those of HCC, and / or are otherwise endorsed, sponsored, or approved by HCC.

19. Registration of the Mark shown in application Serial No. 85/140,374 will result in damage to HCC under the provisions of §2(a) and §2(d) of the U.S. Trademark Act, 15 U.S.C. § 1052, pursuant to the allegations stated above.

WHEREFORE, Opposer The Hollywood Chamber of Commerce, Inc. respectfully asks that its opposition to this application be sustained and that registration of the applied for mark in question here be refused.

Please direct all correspondence to the attention of:

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HCC hereby appoints Theodore J. Minch as its attorney of record in this Case with the full power to represent HCC in connection with this proceeding.

Respectfully submitted,
SOVICH MINCH LLP

/theodorejminch/

By: _____
Theodore J. Minch (IN# 18798-49)
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing NOTICE OF OPPOSITION was served on the following, via first class mail, postage pre-paid on this 11th day of April, 2011:

Diana Anderson
10694 County Road 133
Flint, Texas 75762

/theodorejminch/

Theodore J. Minch (IN # 18798-49)
SOVICH MINCH, LLP