

ESTTA Tracking number: **ESTTA460643**

Filing date: **03/08/2012**

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	Affliction Holdings, LLC		
Entity	limited liability company	Citizenship	California
Address	1799 Apollo Court Seal Beach, CA 90740 UNITED STATES		

Attorney information	Michael Bassiri 1799 Apollo Court Seal Beach, CA 90740 UNITED STATES sharonmhotchkiss@yahoo.com, bassiri@afflictionclothing.com, lmix@afflictionclothing.com Phone:562-598-0299		
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### Applicant Information

Application No	85384840	Publication date	02/14/2012
Opposition Filing Date	03/08/2012	Opposition Period Ends	03/15/2012
Applicant	Heavenly Sins LLC 246 West 35th Street New York, NY 10001 UNITED STATES		

### Goods/Services Affected by Opposition

Class 035. All goods and services in the class are opposed, namely: advertising of products
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### Grounds for Opposition

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

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2639453	Application Date	01/31/2002
Registration Date	10/22/2002	Foreign Priority Date	NONE
Word Mark	SINFUL		

Design Mark	<h1>SINFUL</h1>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2002/01/25 First Use In Commerce: 2002/01/25 clothing, namely, shorts, swim wear, shirts, pants, athletic shoes, hats, jackets, tank tops, T-shirts, blouses, underwear, dresses, gloves, thongs, socks, dresses, headbands, wristbands, skirts, tube tops, halter tops and scarfs

U.S. Registration No.	3787184	Application Date	09/23/2009
Registration Date	05/11/2010	Foreign Priority Date	NONE

Word Mark	SINFUL
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Design Mark	
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Description of Mark	The mark consists of the word "SINFUL" in a banner above a bird with a cross necklace flying through three cherries and several stars.
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Goods/Services	Class 025. First use: First Use: 2008/09/15 First Use In Commerce: 2008/09/15 women's clothing, namely, swimwear, swimming suits, bikinis, bathing suits, tank tops, tops, t-shirts, dresses, sweat pants, pants, sweatshirts, long-sleeve shirts, short-sleeved shirts, and shorts
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U.S. Application No.	77945357	Application Date	02/25/2010
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	SINFUL
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Design Mark	<h1>SINFUL</h1>		
Description of Mark	NONE		
Goods/Services	Class 003. First use: fragrance		

U.S. Application No.	76696544	Application Date	03/27/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SINFUL		
Design Mark	<h1>SINFUL</h1>		
Description of Mark	NONE		
Goods/Services	Class 018. First use: Leather goods, namely, handbags, purses; bags, namely, handbags, purses; accessories, namely, handbags, purses and wallets		

Attachments	76365744#TMSN.gif ( 1 page )( bytes ) 77832887#TMSN.jpeg ( 1 page )( bytes ) 77945357#TMSN.jpeg ( 1 page )( bytes ) 76696544#TMSN.gif ( 1 page )( bytes ) Opposition to SINFUL.pdf ( 5 pages )(88529 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	/Michael Bassiri/
Name	Michael Bassiri
Date	03/08/2012



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

AFFLICTION HOLDINGS, LLC	}	
	}	
Opposer,	}	<b>Opposition No.:</b> _____
	}	
v.	}	Application No.: 85/384840
	}	Mark: SINFUL
HEAVENLY SINS LLC	}	
	}	
Applicant	}	
	}	
_____	}	

**NOTICE OF OPPOSITION**

Pursuant to 15 U.S.C. § 1063 and 37 C.F.R. § 2.101, Affliction Holdings, LLC (“Opposer”), a California limited liability company with its address at 1799 Apollo Court, Seal Beach, California 90740, hereby opposes the application of Applicant Heavenly Sins LLC, (“Applicant”) to register the mark SINFUL (standard characters) for “advertising of products” in International Class 035 (Serial No. 85/384840), filed on July 29, 2011, and published for opposition in the *Official Gazette* on February 14, 2012.

As grounds for opposition, Opposer alleges as follows:

1. Opposer is the owner of the Mark SINFUL (standard characters), USPTO Registration No. 2639453 for clothing, namely, shorts, swim wear, shirts, pants, athletic shoes, hats, jackets, tank tops, t-shirts, blouses, underwear, dresses, gloves, thongs, socks,

dresses, headbands, wristbands, skirts, tube tops, halter tops and scarfs, in Class 025.

Opposer has been using the SINFUL Mark with these goods as early as January 25, 2002.

2. Opposer is the owner of the Mark SINFUL (and design), USPTO Registration No. 3787184, for women's clothing, namely, swimwear, swimming suits, bikinis, bathing suits, tank tops, tops, t-shirts, dresses, sweat pants, pants, sweatshirts, long-sleeve shirts, short-sleeved shirts, and shorts in Class 025. Opposer has been using the Mark SINFUL (and design) with these goods as early as September 15, 2008.

3. Opposer is the applicant for the Mark SINFUL (standard characters), Serial No. 76696544, for leather goods, namely, handbags, purses; bags, namely, handbags, purses; accessories, namely, handbags, purses and wallets, in Class 018. Opposer's application for this Mark was filed on March 27, 2009, prior to the Application being opposed herein.

4. Opposer is the applicant for the Mark SINFUL (standard characters), Serial No. 77945357 for fragrance, in Class 003. The Opposer's application for this Mark was filed on February 25, 2010, prior to the Application being opposed herein.

5. Due to the broad nature of the Applicant's identification of services in Class 035 (namely, "advertising of products"), Opposer believes that it will be damaged if the Applicant's Mark is allowed to proceed to registration in Class 035. Opposer believes that "products" may include clothing, leather goods, and/or fragrance, which are the goods included in Opposer's prior Registrations and Applications for the identical Mark SINFUL.

6. As set forth above, Opposer has been using the SINFUL Mark (standard characters) in connection with clothing since as early as January 25, 2002, as set forth in

its Registration No. 2639453. The services listed in Applicant's Application are very closely related to those in Opposer's Registration, and/or are in the Opposer's normal fields of expansion. In fact, Opposer has been promoting and advertising its own SINFUL "products" for years.

7. Applicant has filed its application for the SINFUL Mark based upon intent to use. Opposer is informed and believes and thereupon alleges that Applicant has not used the SINFUL Mark in connection with the services listed in its Application prior to July 29, 2011.

8. Applicant's use of the SINFUL Mark in connection with advertising products (especially if "products" includes clothing, leather goods and fragrance), at the same time that Opposer is utilizing its identical SINFUL Mark in connection with its products, namely clothing, leather goods and fragrance is likely to cause consumers to believe that Applicant's services or the products it advertises are those of Opposer or are otherwise endorsed, sponsored, licensed or approved by Opposer causing damage to Opposer. Accordingly, consumers are likely to be deceived into believing there is some affiliation or association between Opposer and Applicant, which there is not. Moreover, any fault, disappointments, complaints or other dissatisfaction a consumer might experience with the products advertised under the Applicant's SINFUL Mark would inure to the detriment of Opposer. As such, Applicant is not entitled to registration pursuant to 15 U.S.C. 1052(a) and (d).

**WHEREFORE,** Opposer prays that the Opposition be sustained and that the Board refuse Applicant's application to register the SINFUL (standard

characters) Mark, Application Serial No. 85/384840.

Respectfully submitted,

Dated: March 8, 2012

/Michael Bassiri/

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MICHAEL BASSIRI

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Seal Beach, California 90740  
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Fax: 562 598-3824  
Attorney for Opposer



### **Certificate of Service**

The undersigned hereby certifies that a copy of the foregoing NOTICE OF OPPOSITION has been served upon the attorney of record for Applicant on March 8, 2012, by depositing same in the United States Mail, first class postage prepaid, in an envelope addressed as follows:

MAX MOSKOWITZ  
OSTROLENK FABER LLP  
1180 AVENUE OF THE AMERICAS  
FL 7  
NEW YORK, NY 10036-8443

/Michael Bassiri/  
MICHAEL BASSIRI