

ESTTA Tracking number: **ESTTA573551**

Filing date: **11/27/2013**

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	NicholasD.Kristof
Granted to Date of previous extension	11/27/2013
Address	18 Circle Road Scarsdale, NY 10583 UNITED STATES

Correspondence information	Naomi Straus Mitchell Silberberg & Knupp LLP 1818 N Street NW Suite 800 Washington, DC 20036 UNITED STATES nxs@msk.com, ctl@msk.com, kpn@msk.com, jfg@msk.com
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Applicant Information

Application No	85694691	Publication date	07/30/2013
Opposition Filing Date	11/27/2013	Opposition Period Ends	11/27/2013
Applicant	Half the Sky Foundation 715 Hearst Avenue, Ste. 200 Berkeley, CA 94710 CANADA		

Goods/Services Affected by Opposition

Class 036. First Use: 2011/07/00 First Use In Commerce: 2012/02/06 All goods and services in the class are opposed, namely: Charitable fundraising services; charitable fundraising, namely, organizing and conducting fundraising events for the benefit of orphan children
Class 041. First Use: 2011/07/00 First Use In Commerce: 2012/02/06 All goods and services in the class are opposed, namely: Providing information via a website on the education of orphan children; publication of educational books and texts
Class 043. First Use: 2011/07/00 First Use In Commerce: 2012/02/06 All goods and services in the class are opposed, namely: Providing a website on the subject of day care for orphan children
Class 045. First Use: 2011/07/00 First Use In Commerce: 2012/02/06 All goods and services in the class are opposed, namely: Providing a web site on the subject of foster care of orphan children

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
The mark is deceptively misdescriptive	Trademark Act section 2(e)(1)

Other	The term for which registration is sought has not been used as a trademark or service mark. Trademark Act sections 1,2,45.
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Attachments	Design Kristof (5701496).PDF(1085330 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	/Naomi Straus/
Name	Naomi Straus
Date	11/27/2013

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

In the matter of Application Serial No. 85/694691
Published for Opposition in the OFFICIAL GAZETTE
on July 30, 2013

NICHOLAS D. KRISTOF

Opposer,

v.

HALF THE SKY FOUNDATION.

Opposition No.
App. Serial No. 85/694691

Mark:



Applicant.

NOTICE OF OPPOSITION

Nicholas D. Kristof (“Kristof” or “Opposer”), an individual, believes that he will be damaged by the registration of the mark that is the subject of Application Serial No. 85/694691 filed by Half the Sky Foundation (“Foundation” or “Applicant”) and hereby opposes same:

As grounds for this opposition it is alleged:

1. “Half the sky” is a commonly used phrase that arises out of the Chinese proverb, “women hold up half the sky.” Chairman Mao Zedong used the phrase fifty years before the Plaintiff claims to have adopted it, and ever since then, “half the sky” has been used as shorthand for women’s empowerment by various organizations and in

expressive works. In fact, Kristof wrote about this proverb in the 1994 book *China Wakes*, which he co-wrote with Sheryl WuDunn.

2. Kristof and WuDunn are Pulitzer-Prize winning writers, and the authors of “Half the Sky: Turning Oppression into Opportunity for Women Worldwide,” (the “Book”), published in 2009. The Book catapulted pivotal social issues regarding women’s empowerment to recognition in the public eye, and was later turned into a documentary series by the same name (the “Series”). The title “Half the Sky” has become associated with a communal global movement among those seeking to do good works to help oppressed women throughout the world, and the name “Half the Sky” has become firmly associated in the mind of the public with the Book, the Series, and a transmedia project that arose out of it, known as “Half the Sky Movement” (the “Movement”).

3. Kristof has spent considerable time writing and promoting the Book, which in turn inspired the Movement and the Series. The Movement has grown into a worldwide multi-platform transmedia project, which includes, among other things: the Series, which reached more than five million unique viewers upon its initial broadcast on PBS and will reach even more viewers with the efforts of its domestic home video distributor, New Video Group, and its international home video distributor, FremantleMedia; two websites, www.halftheskymovement.org and <http://www.pbs.org/independentlens/half-the-sky/>, which have received over two million page views; a social media campaign with six social media accounts and earned and paid media generating over one billion impressions in just three days at the time of the initial broadcast; mobile games; educational video modules; and a “Half the Sky Movement: The Game” Facebook game and mobile game developed by Games for Change, Inc. with over one million players worldwide. Collectively, there have been over two billion media impressions relating to the Movement and its component parts, including features on Morning Joe, Oprah, the Daily Show with Jon Stewart, Piers Morgan Tonight, CNN

News, and Anderson Live; and positive mentions of the PBS broadcast of the Series in national and international print publications such as People Magazine, the New York Times, Redbook, O Magazine, and Glamour, and online publications such as Daily Beast, Huffington Post, Mashable and Indie Wire.

4. Applicant is a non-profit organization founded by Jenny and Richard Bowen. By its own admission, Applicant's organizational name, Half the Sky Foundation, was inspired by Mao Zedong's saying, "women hold up half the sky". See <http://halfthesky.org/en/our-story>. According to Foundation's website, the mission statement of the Foundation is "to enrich the lives of orphaned children in China [by providing] model programs and caregiver training designed to offer loving, family-like care to children of all ages and abilities. It is our goal to ensure that every orphaned child has a caring adult in her life and a chance at a bright future."

<http://halfthesky.org/en/our-story/our-approach>.

5. On or about August 3, 2012, Applicant filed an application (the "Application") with the United States Patent and Trademark Office ("USPTO") to register the following mark for the following services in International Class 36: "Charitable fundraising services; charitable fundraising, namely, organizing and conducting fundraising events for the benefit of orphan children"; in International Class 41: "Providing information via a website on the education of orphan children; publication of educational books and texts"; in International Class 43 " Providing a website on the subject of day care for orphan children"; and in International Class 45: "Providing a web site on the subject of foster care of orphan children":



(the “Opposed Mark”).¹

6. The Opposed Mark was filed and published for opposition on July 30, 2013.²

7. By attempting to register the Opposed Mark, knowing of the Book, the Series, and the Movement, Foundation seeks to take for itself a phrase that has been used by many individuals and organizations to signify issues of women’s empowerment, and which is now synonymous with Opposer’s Book and the related Series and Movement. Foundation has no right to the registration it seeks. If such registration is issued, it not only will damage Kristof, who used “half the sky” in a descriptive manner as the title of the Book, but also the many individuals who have been inspired by the Book and the Series to help oppressed women as part of the “Half the Sky Movement.”

8. As set forth above, “Half the Sky” is a phrase commonly used to describe women’s empowerment issues. Thus, Applicant’s proposed use of “Half the Sky” to support its services to benefit children is merely descriptive and does not constitute trademark use. It therefore should not be registered, pursuant to U.S.C. §§ 1051, 1052, and 1127. Alternatively, it is deceptively descriptive and therefore precluded from registration by 15 U.S.C. § 1052(e)(1).

9. If Applicant is granted registration of the Opposed Mark, it would obtain a prima facie exclusive right to use of that term that would cause damage and injury to Kristof.

WHEREFORE, registration by Applicant of the aforesaid trademark for the aforesaid services will be damaging to Kristof, and Kristof, therefore, requests that the Opposition be sustained and application Serial No. 85/694691 be denied registration.

¹ Foundation also applied for registration of the word mark HALF THE SKY, Serial No. 85/694696, which application Kristof separately opposes.

² The parties are presently involved in a trademark infringement action pending in the United States District Court for the Southern District of New York, which Applicant brought against Kristof and six other parties in or about July 16, 2013.

Kristof submits herewith the requisite filing fee; please charge any additional fees or credit overpayment to Deposit Account No. 13-3735.

Date: November 27, 2013

NICHOLAS D. KRISTOF

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CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being transmitted electronically through ESTTA pursuant to 37 C.F.R. § 2.195(a) on November 27, 2013.


Pamela S. Burchette

CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2013, a true and correct copy of the foregoing **NOTICE OF OPPOSITION** was served upon Applicant by U.S. Mail to the following address:

Scott J. Major
Millen White Zelano & Branigan, PC
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Pamela S. Burchette