

ESTTA Tracking number: **ESTTA640440**

Filing date: **11/21/2014**

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

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|---------------------------------------|--|
| Name | Strategic Partners, Inc. |
| Granted to Date of previous extension | 11/22/2014 |
| Address | 9800 De Soto Ave. Chatsworth, CA 91311 UNITED STATES |

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| Attorney information | George W Hoover Blakely Sokoloff Taylor & Zafman, LLP 12400 Wilshire Blvd. Seventh Floor Los Angeles, CA 90025 UNITED STATES bstz_mail@bstz.com, george_hoover@bstz.com, suzanne_johnston@bstz.com Phone: 310-207-3800 |
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Applicant Information

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|------------------------|---|------------------------|------------|
| Application No | 86264473 | Publication date | 09/23/2014 |
| Opposition Filing Date | 11/21/2014 | Opposition Period Ends | 11/22/2014 |
| Applicant | Koi Design LLC 1757 Stanford Street Santa Monica, CA 90404 UNITED STATES | | |

Goods/Services Affected by Opposition

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| Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Footwear; Jackets; Pants; Shirts; Shoes; Tops; Uniforms |
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Grounds for Opposition

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| Priority and likelihood of confusion | Trademark Act section 2(d) |
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Mark Cited by Opposer as Basis for Opposition

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|----------------------|-----------------|-----------------------|------------|
| U.S. Application No. | 85899622 | Application Date | 04/09/2013 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | SAPPHIRE SCRUBS | | |

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|---------------------|---|
| Design Mark | <h1>Sapphire Scrubs</h1> |
| Description of Mark | NONE |
| Goods/Services | Class 025. First use: First Use: 0 First Use In Commerce: 0 Blouses; Bottoms; Coats; Dresses; Footwear; Headwear; Jackets; Pants; Scrubs not for medical purposes; Shirts; Skirts; Socks; Sweaters; T-shirts; Tops; Tunics;Underwear; Uniforms |

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|---------------------|--|
| Related Proceedings | Notice of Opposition filed concurrently by Opposer against 86264474. |
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|-------------|--|
| Attachments | 85899622#TMSN.png(bytes) 2312M008_Ntc of Opposition.pdf(88181 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 | /George W Hoover/ |
| Name | George W Hoover |
| Date | 11/21/2014 |

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

STRATEGIC PARTNERS, INC.,

Opposer

v.

KOI DESIGN, LLC

Applicant

Opposition No.: _____

Commissioner for Trademarks
ATTN: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Opposer, Strategic Partners, Inc., a California corporation, having its principal place of business at 9800 De Soto Avenue, Chatsworth, California 91311 ("Opposer"), hereby opposes registration of the following application:

| | |
|-------------------------|--------------------|
| Application Serial No.: | 86264473 |
| Mark: | KOI SAPPHIRE |
| Applicant: | KOI DESIGN, LLC |
| Filing Date: | April 28, 2014 |
| Publication Date: | September 23, 2014 |
| Class: | 025 |

The subject application was published in the *Official Gazette* on September 23, 2014. A request to extend the opposition period was timely filed on October 15, 2014 and the request was granted until November 22, 2014. This Notice of Opposition is timely filed.

As grounds in support of its opposition, Opposer asserts as follows:

1. Opposer is and has for many years been actively engaged in the design, manufacture, development, marketing, and sale of wearing apparel.
2. On April 9, 2013, Opposer filed intent-to-use application serial no. 85899622 for U.S. registration of the mark SAPPHIRE SCRUBS for use in connection with blouses, bottoms, coats, dresses, footwear, headwear, jackets, pants, scrubs not for medical purposes, shirts, skirts, socks, sweaters, T-shirts, tops, tunics, underwear and uniforms. This application was published in the *Official Gazette* on September 24, 2013 and a Notice of Allowance was issued on November 19, 2013.
3. Opposer has a continuing bona fide intent to use the trademark SAPPHIRE SCRUBS in commerce in connection with the goods identified in the application.
4. On April 28, 2014, Applicant filed the subject intent-to-use application to register the mark KOI SAPPHIRE for use in connection with footwear, jackets, pants, shirts, shoes, tops and uniforms.
5. Upon information and belief, Applicant has made no use of the mark KOI SAPPHIRE in the United States prior to the filing date of April 28, 2014, which is more than one year after the filing date of Opposer's application.
6. Upon information and belief, Applicant has not amended the subject application to allege use of its proposed mark.
7. All of the goods listed in Applicant's application are identical to goods identified in Opposer's application or, in the case of "shoes," are a subcategory of goods identified in Opposer's application.
8. Applicant's proposed mark, KOI SAPPHIRE, is confusingly similar to Opposer's proposed mark, SAPPHIRE SCRUBS.

9. Applicant's proposed mark, KOI SAPPHIRE, so closely resembles Opposer's proposed mark, SAPPHIRE SCRUBS, that, upon commencement of use of Opposer's mark, Applicant's mark is likely to cause confusion, mistake or deception as to the source, origin, affiliation, association, connection or sponsorship of the respective parties' goods.

10. Opposer will be damaged by registration of Applicant's mark because it will give Applicant a *prima facie* exclusive right to use KOI SAPPHIRE, despite the likelihood of confusion, mistake or deception with respect to Opposer and Opposer's proposed mark, or as to the origin, sponsorship or approval by Opposer of Applicant's goods or commercial activities, thereby diminishing the value of Opposer's proposed mark.

WHEREFORE, Opposer prays that this Opposition be sustained, and that the subject application be rejected. In the event that this matter is deemed not ripe for adjudication, Opposer prays that further action on Applicant's application be suspended pending final disposition of Opposer's application.

Respectfully submitted,

STRATEGIC PARTNERS, INC.

Dated: November 21, 2014

By: /George W Hoover/
George W Hoover
Attorney for Opposer

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025
(310) 207-3800

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NOTICE OF OPPOSITION was mailed by First Class mail, postage prepaid, deposited with the United States Postal Service at 12400 Wilshire Blvd., Los Angeles, California 90025 on November 21, 2014, addressed to:

DON THORNBURGH
DON THORNBURGH LAW CORPORATION
466 FOOTHILL BLVD # 220
LA CANADA FLINTRIDGE, CALIFORNIA 91011-3518

Dated: November 21, 2014

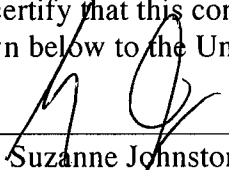
By: _____

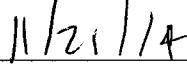

Suzanne Johnston

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via ESTTA on the date shown below to the United States Patent and Trademark Office.

By: _____


Suzanne Johnston


Date