

ESTTA Tracking number: **ESTTA1039638**

Filing date: **03/03/2020**

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	Kiss Catalog, Ltd.
Granted to Date of previous extension	03/25/2020
Address	18 HOOK MOUNTAIN ROAD, SUITE 203 Attn: Aaron Van Duyne PINE BROOK, NJ 07058 UNITED STATES
Attorney information	PETER J. VRANUM GORDON, HERLANDS & RANDOLPH LLP 355 LEXINGTON AVENUE NEW YORK, NY 10017 UNITED STATES pvranum@gordonherlands.com 212-986-1200

**Applicant Information**

Application No	85523686	Publication date	11/26/2019
Opposition Filing Date	03/03/2020	Opposition Period Ends	03/25/2020
International Registration No.	NONE	International Registration Date	NONE
Applicant	Kyoya Shuzo Yugen Kaisha 3-2, Aburatsu 2-chome Nichinan-shi, Miyazaki, 887-0001 JAPAN		

**Goods/Services Affected by Opposition**

Class 033. First Use: 0 First Use In Commerce: 0  
All goods and services in the class are opposed, namely: Japanese white liquor (shochu)

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Dilution by tarnishment	Trademark Act Sections 2 and 43(c)
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disreputable	Trademark Act Section 2(a)

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### Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	1155932	Application Date	10/24/1979
Registration Date	05/26/1981	Foreign Priority Date	NONE
Word Mark	KISS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1974/02/08 First Use In Commerce: 1974/02/08 Musical Entertainment Services Renderedby a Group		

U.S. Registration No.	1055765	Application Date	06/17/1974
Registration Date	01/04/1977	Foreign Priority Date	NONE
Word Mark	KISS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1974/02/08 First Use In Commerce: 1974/02/08 MUSICAL ENTERTAINMENT SERVICES RENDEREDBY A GROUP		


U.S. Registration No.	4009074	Application Date	12/23/2010
Registration Date	08/09/2011	Foreign Priority Date	NONE
Word Mark	KISS		

Design Mark	<h1>KISS</h1>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1974/02/18 First Use In Commerce: 1974/02/18 sound recordings featuring music; soundand video recordings featuring music and musical performances		

U.S. Registration No.	4005970	Application Date	01/04/2011
Registration Date	08/02/2011	Foreign Priority Date	NONE


Word Mark	KISS		
Design Mark			
Description of Mark	The mark consists of the word "KISS" ina stylized font.		
Goods/Services	Class 009. First use: First Use: 1974/02/18 First Use In Commerce: 1974/02/18 Sound recordings featuring music; soundand video recordings featuring music and musical performances		

U.S. Registration No.	5559355	Application Date	10/11/2017
Registration Date	09/11/2018	Foreign Priority Date	NONE
Word Mark	KISS		

Design Mark	
Description of Mark	The mark consists of the word "KISS" in a stylized font.
Goods/Services	Class 009. First use: First Use: 2017/06/01 First Use In Commerce: 2017/06/01 Cell phone cases; cell phone covers


U.S. Registration No.	5429581	Application Date	01/26/2017
Registration Date	03/20/2018	Foreign Priority Date	NONE


Word Mark	KISS
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Design Mark	
Description of Mark	The mark consists of the word "KISS" in a stylized font.
Goods/Services	Class 041. First use: First Use: 2014/05/28 First Use In Commerce: 2014/05/28 Entertainment services, namely, providing an on-line computer game; Providing a web-based system and on-line portal for customers to participate in on-line gaming; Game services provided on-line from a computer network; Providing an on-line computer game in the field of casino services; gaming services in the nature of casino gaming

U.S. Registration No.	5076247	Application Date	07/14/2015
Registration Date	11/08/2016	Foreign Priority Date	NONE

Word Mark	KISS
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Design Mark	
Description of Mark	The mark consists of the word "KISS" in a stylized font.
Goods/Services	Class 016. First use: First Use: 1976/05/31 First Use In Commerce: 1976/05/31 books concerning the musical group "KISS" or its members

U.S. Registration No.	4481984	Application Date	08/31/2012
Registration Date	02/11/2014	Foreign Priority Date	NONE
Word Mark	KISS		
Design Mark			
Description of Mark	The mark consists of the word "KISS" in a stylized font.		
Goods/Services	Class 039. First use: First Use: 2013/10/12 First Use In Commerce: 2013/10/12 Transportation services, namely, shuttle services by car, van and charter bus; airport transportation services, namely, providing shuttle services by car, van and charter bus; car service, namely, car transport; van service, namely, van transport; charter bus service		

U.S. Registration No.	3411939	Application Date	02/02/2005
Registration Date	04/15/2008	Foreign Priority Date	NONE
Word Mark	KISS		

Design Mark	<b>KISS</b>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2006/05/25 First Use In Commerce: 2006/05/25 CURRENCY AND CREDIT OPERATED SLOT MACHINES AND GAMING DEVICES, NAMELY, GAMING MACHINES FOR USE IN GAMING ESTABLISHMENTS		

U.S. Registration No.	2800903	Application Date	09/14/2001
Registration Date	12/30/2003	Foreign Priority Date	NONE


Word Mark	KISS
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Design Mark	<b>KISS</b>		
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Description of Mark	NONE		
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Goods/Services	Class 035. First use: First Use: 1997/07/00 First Use In Commerce: 1997/07/00 RETAIL STORE SERVICES FEATURING CLOTHING RELATED TO THE MUSICAL GROUP KISS, BOOKS, MUSIC AND GENERAL MERCHANDISE; ON-LINE RETAIL STORE SERVICES FEATURING CLOTHING RELATED TO THE MUSICAL GROUP KISS, BOOKS, MUSIC AND GENERAL MERCHANDISE; COMPUTERIZED ON-LINE ORDERING AND WHOLESALDISTRIBUTORSHIP SERVICES FEATURING CLOTHING RELATED TO THE MUSICAL GROUP KISS, BOOKS, MUSIC AND GENERAL MERCHANDISE; DISSEMINATION OF ADVERTISING FOR OTHERS VIA AN ON-LINE ELECTRONIC COMMUNICATIONS NETWORK		
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U.S. Registration No.	1894876	Application Date	11/18/1993
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Registration Date	05/23/1995	Foreign Priority Date	NONE
Word Mark	KISS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1985/03/00 First Use In Commerce: 1985/03/00 [series of prerecorded videotapes featuring musical performances] Class 025. First use: First Use: 1976/04/00 First Use In Commerce: 1976/04/00 men's, women's and children's shirts and caps		


U.S. Registration No.	1153088	Application Date	03/14/1978
Registration Date	05/05/1981	Foreign Priority Date	NONE
Word Mark	KISS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 1976/01/31 First Use In Commerce: 1976/01/31 NECKLACES Class 016. First use: First Use: 1976/05/31 First Use In Commerce: 1976/05/31 COMIC BOOKS, PHOTOGRAPHS, POSTERS, SOUVENIRS BOOKS, GREETING CARDS, DECALS, HEAT TRANSFERS, BUMPER STICKERS, AND FAN CLUB KITS COMPRISING ADVERTISING BROCHURES, CERTIFICATES AND SOUVENIRS		

	Class 026. First use: First Use: 1976/07/31 First Use In Commerce: 1976/07/31 CLOTH PATCHES, BUCKLES, ORNAMENTAL BADGES AND PINS Class 028. First use: First Use: 1976/02/29 First Use In Commerce: 1976/02/29 JIGSAW PUZZLES AND PAPER TOYS
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U.S. Registration No.	2699639	Application Date	09/14/2001
Registration Date	03/25/2003	Foreign Priority Date	NONE
Word Mark	KISSONLINE		
Design Mark	<b>KISSONLINE</b>		
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1998/09/22 First Use In Commerce: 1998/09/22 ON-LINE RETAIL STORE SERVICES FEATURING CLOTHING RELATED TO THE MUSICAL GROUP KISS, BOOKS, MUSIC AND GENERAL MERCHANDISE; COMPUTERIZED ON-LINE ORDERING AND WHOLESALE DISTRIBUTORSHIP SERVICES FEATURING CLOTHING RELATED TO THE MUSICAL GROUP KISS, BOOKS, MUSIC AND GENERAL MERCHANDISE; DISSEMINATION OF ADVERTISING FOR OTHERS VIA AN ON-LINE ELECTRONIC COMMUNICATIONS NETWORK</p> <p>Class 038. First use: First Use: 1998/09/22 First Use In Commerce: 1998/09/22 PROVIDING ON-LINE CHAT ROOMS FOR TRANSMISSION OF MESSAGES AMONG COMPUTER USERS CONCERNING CLOTHING, BOOKS, MUSIC AND ENTERTAINMENT</p>		

U.S. Registration No.	2163803	Application Date	04/24/1997
Registration Date	06/09/1998	Foreign Priority Date	NONE
Word Mark	KISS ARMY		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 1976/05/10 First Use In Commerce: 1976/05/10 clothing goods, namely, shirts, jackets, caps and T-shirts</p> <p>Class 041. First use: First Use: 1976/05/10 First Use In Commerce: 1976/05/10 entertainment services in the nature of live performances by a musical entertainment group</p>		

U.S. Registration No.	3661244	Application Date	12/20/2006
Registration Date	07/28/2009	Foreign Priority	NONE

		Date	
Word Mark	KISS WORLD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2009/03/15 First Use In Commerce: 2009/03/15 On-line retail store services featuring clothing, books, music and general merchandise		

Attachments	73024503#TMSN.png( bytes ) 85205034#TMSN.png( bytes ) 85209972#TMSN.png( bytes ) 87639937#TMSN.png( bytes ) 87314944#TMSN.png( bytes ) 86692384#TMSN.png( bytes ) 85717948#TMSN.png( bytes ) 76630294#TMSN.png( bytes ) 76312390#TMSN.png( bytes ) 74459861#TMSN.png( bytes ) 81153088#TMSN.png( bytes ) 76312389#TMSN.png( bytes ) 76978984#TMSN.png( bytes ) kiss.opposition.686.pdf(2083466 bytes )
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Signature	/peter j. vranum/
Name	PETER J. VRANUM
Date	03/03/2020



“KISS”), believes that it would be damaged by such registration and hereby opposes the same.

The grounds for opposition, on information and belief, are as follows:

1. Opposer, Kiss Catalog, Ltd. Is the owner of the intellectual property rights pertaining to the artists professionally known as KISS. KISS is a world famous, heavy metal rock group which is well known for its distinctive KISS trademark (the “KISS Mark”), facial paint designs, costumes and theatrical stage performances, as well as the many popular songs the group has released. KISS has sold over 40 million albums in the U.S., and is a member of the Rock and Roll Hall of Fame. Since its first concert appearances in 1972, KISS has toured nearly every year. For over 40 years, KISS has extensively used the KISS Mark and facial make up designs in commerce in connection with a wide variety of merchandise and services, including live performances by a musical group. Since at least 1999 KISS has maintained a website at “kissonline.com,” providing information concerning the band, including but not limited to news, tour information, fan letters, photos, video downloads, and an online store featuring the band’s many products for purchase.

2. In addition to its concert touring, Opposer is now and has been engaged in the promotion, distribution and sale of a wide variety of merchandise including sound and video recordings, clothing, apparel and accessories, slot machines, comic books, books, jewelry, toys and action figures, wine and other goods.

3 Opposer has used and presently uses the mark “KISS” in connection with the promotion, distribution and sale of the products identified in paragraphs 1 and 2.

4. Opposer is the owner of the following U.S. trademark registrations, which registrations are valid, subsisting and unrevoked: "KISS" (Registration No. 1155932 dated May 26, 1981 for musical entertainment services in Class 41); "KISS STYLIZED" (Registration No. 1055765 dated January 4, 1977 for musical entertainment services in Class 41); "KISS" (Registration No. 4009074 dated August 9, 2011 for sound and video recordings in Class 09); "KISS STYLIZED" (Registration No. 4005970 dated August 2, 2011 for sound and video recordings in Class 09); "KISS" (Reg. No. 5559355 dated September 11, 2018 for cell phone covers and cases in Class 09); "KISS" (Reg. No. 5429581 dated March 20, 2018 for online computer games in Class 41); "KISS" (Reg. No. 5076247 dated November 8, 2016 for books in Class 16); "KISS" (Reg. No. 4481984 dated February 11, 2014 for transportation services in Class 39); "KISS" (Reg. No. 3411939 dated April 15, 2008 for slot machines in Class 09); "KISS" (Reg. No. 2800903 dated December 30, 2003 for retail store services in Class 35); "KISS" (Reg. No. 1894876 dated May 23, 1995 for clothing Class 25); "KISS" (Reg. No. 1153088 dated May 5, 1981 for various goods in Classes 14, 16, 26 and 28); "KISSONLINE" (Reg. No. 2699639 dated March 25, 2003 for online services in Classes 35 and 38); "KISS ARMY" (Reg. No. 2163803 dated June 9, 1998 for clothing and entertainment services in Classes 25 and 41); and "KISS WORLD" (Reg. No. 3661244 dated July 28, 2009 for online store services in Class 36). Copies of printouts from the USPTO database (TARR) showing the current status and title of such registrations are attached hereto as Exhibit A. Declarations under Sections 8 & 15 have been filed and accepted for Reg. Nos.

1155932; 1055765; 4009074; 4005970; 4481984; 3411939; 2800903; 1894876;  
1153088; 2699639; 2163803; and 3661244.

5. Since prior to the filing date of Application Serial No. 85523686, prior to any claimed date of first use and prior to any priority date upon which Applicant may rely, Opposer and/or its predecessor did use and has continuously used in interstate commerce the mark KISS and variations thereof in connection with the various products and services described in paragraphs 1 and 2 herein extensively throughout the United States. By reason of such extensive use and promotion, Opposer has attained an enviable reputation for high standards of quality, and the mark KISS and variations thereof have become distinctive of and associated in the minds of the trade and purchasing public with the Opposer.

6. Applicant's mark contains as its first and only term the entirety of Opposer's KISS Mark. The respective marks, are identical and/or similar in sound and appearance and have an identical and/or similar commercial impression. The goods of the Applicant are related and/or identical to the various goods and/or products of Opposer, and are likely to move within the same channels of trade and be purchased by the same class of purchaser so that Applicant's mark is likely, when used in association with the goods of Applicant, to cause confusion or to deceive purchasers in the mistaken belief that the goods of Applicant emanate from, are offered for sale, or are sold by Opposer or under Opposer's approval, sponsorship or control, all to the great damage of Opposer.

7. Opposer believes that Applicant's selection of the mark KISS may take advantage of the nationwide reputation of Opposer and its mark KISS and

combination marks featuring the term KISS, and may take advantage of the goodwill of Opposer gained by extensive and persistent use, promotion and advertisement of its KISS Mark, and if continued in commerce, will be likely to confuse, mislead or deceive the trade and members of the public in suggesting to them that Applicant's mark identifies goods provided, sold, sponsored or approved by Opposer or to suggest falsely a trade connection between Opposer and Applicant.

8. Opposer's KISS Mark is famous and well-known throughout the United States, having been used, advertised and publicized throughout the country for more than 40 years. The KISS Mark is inherently distinctive, has become associated exclusively with Opposer, is the subject of several federal trademark registrations and is widely recognized by the general consuming public as a designation of source of Opposer's goods.

9. As a result of the extensive promotion by Opposer of its KISS Mark, Opposer has built up and now owns valuable goodwill that is symbolized by the mark and the purchasing public has come to associate the KISS mark with Opposer.

10. As a result of its long use, Opposer has acquired common law trademark rights in the KISS mark for its entertainment services and for a wide variety of goods as set forth herein, prior to any actual or constructive use of Applicant's mark by Applicant.

11. Based, *inter alia*, on the strength of the KISS Mark, the duration and extent of use of the KISS Mark in connection with goods and services, the duration and extent of advertising and publicity of the KISS Mark, the geographical extent or the trading area in which the KISS Mark has been used, the channels of trade for the

goods with which the KISS Mark is used, and the degree of public recognition of the KISS Mark, the KISS mark is “famous” as that term is used in Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c). Applicant’s filing date for the applied-for intent to use mark is long after Opposer’s trademark became famous.

12. The goods covered by the Application are the same or closely related to the goods for which the KISS Mark is used and registered.

13. Applicant’s mark so resembles the KISS Mark of Opposer as to be likely, when used in connection with the goods of Applicant, to cause dilution of the distinctive quality of the KISS Mark of Opposer within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c) and thereby lessen the capacity of the KISS Mark to identify and distinguish the goods of Opposer and cause dilution of the distinctive quality of the registered KISS Mark.

14. If specified goods of Applicant are inferior in quality, there will be irreparable injury to Opposer’s valuable goodwill and its registered marks. Furthermore, the use and registration of the Applicant’s mark will erode the association of the KISS Mark with Opposer, lessen the capacity of such trademark to identify Opposer as the source of Opposer’s services and goods to customers and potential customers who would expect the trademarks to identify genuine and authorized products of Opposer, blur the distinctive quality of said trademarks and otherwise cause dilution of the KISS Mark.

15. If Applicant is granted the registration herein opposed, Applicant would thereby obtain at least a prima facie exclusive right to the use of the Applicant’s mark

16. Opposer will be damaged by the registration of Applicant's mark on the Principal Register.

17. Since long prior to the January 24, 2012 filing date, and any other priority date of Applicant's application, the mark KISS has identified the Opposer and the provision of Opposer's services and goods.

18. Applicant's KISS mark is identical and/or a close approximation of the Opposer's KISS mark as it includes the entirety of the Opposer's mark as its first and only term and is intended to be used in connection with the same or closely related goods.

19. Applicant's mark KISS would be recognized as Opposer's name or identity by purchasers in that the mark points uniquely and unmistakably to Opposer.

20. Opposer is not connected with the goods that are sold or will be sold by Applicant under its mark.

21. Opposer's name or identity, KISS, is of sufficient fame or reputation that when Applicant's mark is used on goods, a connection with Opposer will be presumed.

22. Applicant's mark, KISS on the Principal Register of the United States Patent and Trademark Office will falsely suggest a connection with Opposer in violation of Section 2(a) of the Lanham Act, 15 U.S.C. §1052(a). By reason thereof Opposer is likely to be harmed by a registration of the instant application for KISS.

23. Petitioner owns Application Serial Nos. 86143615 for the mark KISS pertaining to beer and wine in International Classes 32 and 33, Application Serial No. 86846562 for them mark KISS pertaining to distilled spirits in International class 33,

and Application Serial No. 88576886 for the mark KISS ARMY AND DESIGN pertaining to wine and distilled spirits in International Class 33 (collectively, the "Opposer's Applications"). Copies of printouts from the USPTO database showing Opposer's Applications are attached as Exhibit B.

24. Applicant's KISS application which is the subject of this opposition proceeding was cited against each of Opposer's Applications.

WHEREFORE, Opposer, by and through its counsel, respectfully requests that the mark sought to be registered by Applicant be refused and that a Notice of Opposition be sustained.

Please recognize William B. Randolph and Peter J. Vranum of the firm of Gordon, Herlands & Randolph LLP, both members of the Bar of the State of New York, 355 Lexington Avenue, New York, New York 10017, as attorneys for Opposer.

Dated: March 3, 2020

Respectfully submitted,

GORDON, HERLANDS &  
RANDOLPH LLP



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Peter J. Vranum, Esq.  
Attorneys for Opposer  
355 Lexington Avenue  
New York, NY 10017  
(212) 986-1200

# **EXHIBIT A**



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## Typed Drawing

**Word Mark** KISS

**Goods and Services** IC 041. US 107. G & S: Musical Entertainment Services Rendered by a Group. FIRST USE: 19740208. FIRST USE IN COMMERCE: 19740208

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 73236538

**Filing Date** October 24, 1979

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** March 3, 1981

**Registration Number** 1155932

**Registration Date** May 26, 1981

**Owner** (REGISTRANT) Aucoin Management Inc. CORPORATION NEW YORK 645 Madison Ave. New York NEW YORK 10022  
  
(LAST LISTED OWNER) KISS CATALOG, LTD CORPORATION BY ASSIGNMENT, BY MERGER NEW YORK C/O JOSEPH YOUNG ASSOCIATES, LTD. 18 HOOK MOUNTAIN ROAD, SUITE 203 PINE BROOK NEW JERSEY 07058

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** WILLIAM H. COX

**Prior Registrations** 1055765

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20110124.

**Renewal** 2ND RENEWAL 20110124  
**Live/Dead Indicator** LIVE

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**Word Mark** KISS  
**Goods and Services** IC 041. US 107. G & S: MUSICAL ENTERTAINMENT SERVICES RENDERED BY A GROUP. FIRST USE: 19740208. FIRST USE IN COMMERCE: 19740208  
**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM  
**Serial Number** 73024503  
**Filing Date** June 17, 1974  
**Current Basis** 1A  
**Original Filing Basis** 1A  
**Registration Number** **1055765**  
**Registration Date** January 4, 1977  
**Owner** (REGISTRANT) ROCK STEADY, INC. CORPORATION NEW YORK 75 E. 55TH ST. NEW YORK NEW YORK 10019  
 (LAST LISTED OWNER) KISS CATALOG LTD. CORPORATION ASSIGNEE OF NEW YORK 18 Hook Mountain Road, Suite 203 Pine Brook NEW JERSEY 07058  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** William H. Cox  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20160406.  
**Renewal** 2ND RENEWAL 20160406

**Live/Dead  
Indicator**      LIVE

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# KISS

**Word Mark** KISS

**Goods and Services** IC 009. US 021 023 026 036 038. G & S: sound recordings featuring music; sound and video recordings featuring music and musical performances. FIRST USE: 19740218. FIRST USE IN COMMERCE: 19740218

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 85205034

**Filing Date** December 23, 2010

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** May 24, 2011

**Registration Number** 4009074

**Registration Date** August 9, 2011

**Owner** (REGISTRANT) Kiss Catalog, Ltd. CORPORATION NEW YORK c/o Joseph Young Associates, Ltd. 18 Hook Mountain Road, Suite 203 Pine Brook NEW JERSEY 07058

**Attorney of Record** Peter J. Vranum

**Prior Registrations** 1055765;1155932;1894876;AND OTHERS

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR).

**Live/Dead Indicator** LIVE

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**Word Mark** KISS

**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Sound recordings featuring music; sound and video recordings featuring music and musical performances. FIRST USE: 19740218. FIRST USE IN COMMERCE: 19740218

**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Serial Number** 85209972

**Filing Date** January 4, 2011

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** May 17, 2011

**Registration Number** 4005970

**Registration Date** August 2, 2011

**Owner** (REGISTRANT) Kiss Catalog, Ltd. CORPORATION NEW YORK c/o Joseph Young Associates, Ltd. 18 Hook Mountain Road, Suite 203 Pine Brook NEW JERSEY 07058

**Attorney of Record** Peter J. Vranum

**Prior Registrations** 1055765;1155932;1894876;AND OTHERS

**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of the word "KISS" in a stylized font.

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR).

**Live/Dead  
Indicator**      LIVE

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<b>Word Mark</b>	KISS
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: Cell phone cases; cell phone covers. FIRST USE: 20170601. FIRST USE IN COMMERCE: 20170601
<b>Mark Drawing Code</b>	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
<b>Serial Number</b>	87639937
<b>Filing Date</b>	October 11, 2017
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	June 26, 2018
<b>Registration Number</b>	5559355
<b>Registration Date</b>	September 11, 2018
<b>Owner</b>	(REGISTRANT) Kiss Catalog, Ltd. CORPORATION NEW YORK c/o Joseph Young Associates, Ltd. 18 Hook Mountain Road, Suite 203 Pine Brook NEW JERSEY 07058
<b>Attorney of Record</b>	Peter J. Vranum
<b>Description of Mark</b>	Color is not claimed as a feature of the mark. The mark consists of the word "KISS" in a stylized font.
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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**Word Mark** KISS

**Goods and Services** IC 041. US 100 101 107. G & S: Entertainment services, namely, providing an on-line computer game; Providing a web-based system and on-line portal for customers to participate in on-line gaming; Game services provided on-line from a computer network; Providing an on-line computer game in the field of casino services; gaming services in the nature of casino gaming. FIRST USE: 20140528. FIRST USE IN COMMERCE: 20140528

**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Serial Number** 87314944

**Filing Date** January 26, 2017

**Current Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** June 6, 2017

**Registration Number** 5429581

**Registration Date** March 20, 2018

**Owner** (REGISTRANT) Kiss Catalog, Ltd. CORPORATION NEW YORK c/o Joseph Young Associates, Ltd. 18 Hook Mountain Road, Suite 203 Pine Brook NEW JERSEY 07058

**Attorney of Record** Peter J. Vranum

**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of the word "KISS" in a stylized font.

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead  
Indicator**    LIVE

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**Word Mark** KISS  
**Goods and Services** IC 016. US 002 005 022 023 029 037 038 050. G & S: books concerning the musical group "KISS" or its members. FIRST USE: 19760531. FIRST USE IN COMMERCE: 19760531  
**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM  
**Serial Number** 86692384  
**Filing Date** July 14, 2015  
**Current Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** August 23, 2016  
**Registration Number** 5076247  
**Registration Date** November 8, 2016  
**Owner** (REGISTRANT) Kiss Catalog, Ltd. CORPORATION NEW YORK c/o Joseph Young Associates, Ltd. 18 Hook Mountain Road, Suite 203 Pine Brook NEW JERSEY 07058  
**Attorney of Record** William H. Cox  
**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of the word "KISS" in a stylized font.  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**Word Mark** KISS  
**Goods and Services** IC 039. US 100 105. G & S: Transportation services, namely, shuttle services by car, van and charter bus; airport transportation services, namely, providing shuttle services by car, van and charter bus; car service, namely, car transport; van service, namely, van transport; charter bus service. FIRST USE: 20131012. FIRST USE IN COMMERCE: 20131012  
**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM  
**Serial Number** 85717948  
**Filing Date** August 31, 2012  
**Current Basis** 1A  
**Original Filing Basis** 1B  
**Published for Opposition** March 12, 2013  
**Registration Number** 4481984  
**Registration Date** February 11, 2014  
**Owner** (REGISTRANT) Kiss Catalog, Ltd. CORPORATION NEW YORK c/o Joseph Young Associates, Ltd. 18 Hook Mountain Road, Suite 203 Pine Brook NEW JERSEY 07058  
**Attorney of Record** Peter J. Vranum  
**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of the word "KISS" in a stylized font.  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR).

**Live/Dead Indicator** LIVE

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# KISS

<b>Word Mark</b>	KISS
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: CURRENCY AND CREDIT OPERATED SLOT MACHINES AND GAMING DEVICES, NAMELY, GAMING MACHINES FOR USE IN GAMING ESTABLISHMENTS. FIRST USE: 20060525. FIRST USE IN COMMERCE: 20060525
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Trademark Search Facility Classification Code</b>	SHAPES-MISC Miscellaneous shaped designs
<b>Serial Number</b>	76630294
<b>Filing Date</b>	February 2, 2005
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	April 10, 2007
<b>Registration Number</b>	3411939
<b>Registration Date</b>	April 15, 2008
<b>Owner</b>	(REGISTRANT) KISS Catalog, Ltd. CORPORATION NEW YORK c/o Joseph Young Associates, Ltd. 18 Hook Mountain Road, Suite 203 Pine Brook NEW JERSEY 070589785
<b>Attorney of Record</b>	Peter J. Vranum
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20180416.

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**Live/Dead**  
**Indicator**

1ST RENEWAL 20180416  
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# KISS

**Word Mark** KISS

**Goods and Services** IC 035. US 100 101 102. G & S: RETAIL STORE SERVICES FEATURING CLOTHING RELATED TO THE MUSICAL GROUP KISS, BOOKS, MUSIC AND GENERAL MERCHANDISE; ON-LINE RETAIL STORE SERVICES FEATURING CLOTHING RELATED TO THE MUSICAL GROUP KISS, BOOKS, MUSIC AND GENERAL MERCHANDISE; COMPUTERIZED ON-LINE ORDERING AND WHOLESALE DISTRIBUTORSHIP SERVICES FEATURING CLOTHING RELATED TO THE MUSICAL GROUP KISS, BOOKS, MUSIC AND GENERAL MERCHANDISE; DISSEMINATION OF ADVERTISING FOR OTHERS VIA AN ON-LINE ELECTRONIC COMMUNICATIONS NETWORK. FIRST USE: 19970700. FIRST USE IN COMMERCE: 19970700

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 76312390

**Filing Date** September 14, 2001

**Current Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** December 31, 2002

**Registration Number** 2800903

**Registration Date** December 30, 2003

**Owner** (REGISTRANT) KISS Catalog, Ltd. CORPORATION NEW YORK c/o Joseph Young Associates, Ltd. 18 Hook Mountain Road, Suite 203 Pine Brook NEW JERSEY 070589785

**Attorney of Record** William H. Cox

**Prior Registrations** 1153088;1894876;1916210;2050016;2106028;2137991;2163803;2237588;AND OTHERS  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20130927.  
**Renewal** 1ST RENEWAL 20130927  
**Live/Dead Indicator** LIVE

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**Word Mark** KISS  
**Goods and Services** (CANCELLED) IC 009. US 021 023 026 036 038. G & S: [series of prerecorded videotapes featuring musical performances]. FIRST USE: 19850300. FIRST USE IN COMMERCE: 19850300  
 IC 025. US 039. G & S: men's, women's and children's shirts and caps. FIRST USE: 19760400. FIRST USE IN COMMERCE: 19760400  
**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM  
**Serial Number** 74459861  
**Filing Date** November 18, 1993  
**Current Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** February 28, 1995  
**Change In Registration** CHANGE IN REGISTRATION HAS OCCURRED  
**Registration Number** 1894876  
**Registration Date** May 23, 1995  
**Owner** (REGISTRANT) Kiss Catalog Ltd. CORPORATION NEW YORK 18 Hook Mountain Road, Suite 203 c/o Joseph Young Associates, Ltd. PINE BROOK NEW JERSEY 07058  
**Attorney of Record** William H. Cox  
**Prior Registrations** 1055765;1153088;1155932  
**Type of Mark** TRADEMARK

**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20050701. PARTIAL SECTION 8(10-YR) 20150613.  
**Renewal** 2ND RENEWAL 20150613  
**Live/Dead Indicator** LIVE

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**Word Mark** KISS

**Goods and Services** IC 014. US 027. G & S: NECKLACES. FIRST USE: 19760131. FIRST USE IN COMMERCE: 19760131

IC 016. US 037 038. G & S: COMIC BOOKS, PHOTOGRAPHS, POSTERS, SOUVENIRS BOOKS, GREETING CARDS, DECALS, HEAT TRANSFERS, BUMPER STICKERS, AND FAN CLUB KITS COMPRISING ADVERTISING BROCHURES, CERTIFICATES AND SOUVENIRS. FIRST USE: 19760531. FIRST USE IN COMMERCE: 19760531

IC 026. US 040. G & S: CLOTH PATCHES, BUCKLES, ORNAMENTAL BADGES AND PINS. FIRST USE: 19760731. FIRST USE IN COMMERCE: 19760731

IC 028. US 042. G & S: JIGSAW PUZZLES AND PAPER TOYS. FIRST USE: 19760229. FIRST USE IN COMMERCE: 19760229

**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Serial Number** 81153088

**Filing Date** March 14, 1978

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** February 10, 1981

**Registration Number** 1153088

**Registration Date** May 5, 1981

**Owner** (REGISTRANT) AUCOIN MANAGEMENT, INC. CORPORATION NEW YORK 645 MADISON AVE. NEW YORK  
NEW YORK 10022

(LAST LISTED OWNER) KISS CATALOG LTD. CORPORATION BY ASSIGNMENT NEW YORK 7 IRMA  
AVENUE PROT WASHIGTON NEW YORK 11050

**Assignment  
Recorded** ASSIGNMENT RECORDED

**Attorney of  
Record** Gregory D. DeGrazia

**Prior  
Registrations** 1055765

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20110505.

**Renewal** 2ND RENEWAL 20110505

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Indicator** LIVE

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# KISSONLINE

**Word Mark** KISSONLINE

**Goods and Services** IC 035. US 100 101 102. G & S: ON-LINE RETAIL STORE SERVICES FEATURING CLOTHING RELATED TO THE MUSICAL GROUP KISS, BOOKS, MUSIC AND GENERAL MERCHANDISE; COMPUTERIZED ON-LINE ORDERING AND WHOLESALE DISTRIBUTORSHIP SERVICES FEATURING CLOTHING RELATED TO THE MUSICAL GROUP KISS, BOOKS, MUSIC AND GENERAL MERCHANDISE; DISSEMINATION OF ADVERTISING FOR OTHERS VIA AN ON-LINE ELECTRONIC COMMUNICATIONS NETWORK. FIRST USE: 19980922. FIRST USE IN COMMERCE: 19980922

IC 038. US 100 101 104. G & S: PROVIDING ON-LINE CHAT ROOMS FOR TRANSMISSION OF MESSAGES AMONG COMPUTER USERS CONCERNING CLOTHING, BOOKS, MUSIC AND ENTERTAINMENT. FIRST USE: 19980922. FIRST USE IN COMMERCE: 19980922

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 76312389

**Filing Date** September 14, 2001

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** December 31, 2002

**Registration Number** 2699639

**Registration Date** March 25, 2003

**Owner** (REGISTRANT) KISS Catalog, Ltd. CORPORATION NEW YORK c/o Joseph Young Associates, Ltd. 18 Hook Mountain Road, Suite 203 Pine Brook NEW JERSEY 070589785

**Attorney of Record** William H. Cox  
**Prior Registrations** 1153088;1894876;1916210;2050016;2106028;2137991;2163803;2237588;2268884; AND OTHERS  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20130222.  
**Renewal** 1ST RENEWAL 20130222  
**Live/Dead Indicator** LIVE

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# Typed Drawing

**Word Mark** KISS ARMY

**Goods and Services** IC 025. US 022 039. G & S: clothing goods, namely, shirts, jackets, caps and T-shirts. FIRST USE: 19760510. FIRST USE IN COMMERCE: 19760510

IC 041. US 100 101 107. G & S: entertainment services in the nature of live performances by a musical entertainment group. FIRST USE: 19760510. FIRST USE IN COMMERCE: 19760510

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 75280238

**Filing Date** April 24, 1997

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** March 17, 1998

**Registration Number** **2163803**

**Registration Date** June 9, 1998

**Owner** (REGISTRANT) KISS Catalog, Ltd. CORPORATION NEW YORK c/o Joseph Young Associates, Ltd. 18 Hook Mountain Road, Suite 203 Pine Brook NEW JERSEY 07058

**Attorney of Record** Peter J. Vranum

**Prior Registrations** 1055763;1155932;1894876;1989361;AND OTHERS

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20171028.

**Renewal** 2ND RENEWAL 20171028

**Live/Dead Indicator** LIVE

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# KISS WORLD

<b>Word Mark</b>	KISS WORLD
<b>Goods and Services</b>	IC 035. US 100 101 102. G & S: On-line retail store services featuring clothing, books, music and general merchandise. FIRST USE: 20090315. FIRST USE IN COMMERCE: 20090315
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	76978984
<b>Filing Date</b>	December 20, 2006
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	May 22, 2007
<b>Registration Number</b>	3661244
<b>Registration Date</b>	July 28, 2009
<b>Owner</b>	(REGISTRANT) Kiss Catalog, Ltd. CORPORATION NEW YORK 18 Hook Mountain Road, Suite 203 c/o Joseph Young Associates, Ltd. Pine Brook NEW JERSEY 070589785
<b>Attorney of Record</b>	Peter J. Vranum
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20190412.
<b>Renewal</b>	1ST RENEWAL 20190412
<b>Live/Dead Indicator</b>	LIVE

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# **EXHIBIT B**



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**Word Mark** KISS  
**Goods and Services** IC 032. US 045 046 048. G & S: Beer  
 IC 033. US 047 049. G & S: Wine  
**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM  
**Serial Number** 86143615  
**Filing Date** December 13, 2013  
**Current Basis** 1B  
**Original Filing Basis** 1B  
**Owner** (APPLICANT) Kiss Catalog, Ltd. CORPORATION NEW YORK c/o Joseph Young Associates, Ltd 18 Hook Mountain Road, Suite 203 Pine Brook NEW JERSEY 07058  
**Attorney of Record** William H. Cox  
**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of the word "KISS" in a stylized font.  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**To:** Kiss Catalog, Ltd. ([wcox@gordonherlands.com](mailto:wcox@gordonherlands.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 86143615 - KISS - N/A  
**Sent:** 8/2/2014 9:35:35 PM  
**Sent As:** ECOM102@USPTO.GOV  
**Attachments:** [Attachment - 1](#)  
[Attachment - 2](#)

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 86143615	
MARK: KISS	<b>*86143615*</b>
CORRESPONDENT ADDRESS: WILLIAM H. COX GORDON, HERLANDS, RANDOLPH & COX LLP 355 LEXINGTON AVE NEW YORK, NY 10017-6603	GENERAL TRADEMARK INFORMATION: <a href="http://www.uspto.gov/trademarks/index.jsp">http://www.uspto.gov/trademarks/index.jsp</a>  <a href="#">VIEW YOUR APPLICATION FILE</a>
APPLICANT: Kiss Catalog, Ltd.	
CORRESPONDENT'S REFERENCE/DOCKET NO : N/A CORRESPONDENT E-MAIL ADDRESS: <a href="mailto:wcox@gordonherlands.com">wcox@gordonherlands.com</a>	

**SUSPENSION NOTICE: NO RESPONSE NEEDED**

**ISSUE/MAILING DATE: 8/2/2014**

The trademark examining attorney is suspending action on the application for the reason(s) stated below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

The effective filing date of the pending application(s) identified below precedes the filing date of applicant's application. If the mark in the referenced application(s) registers, applicant's mark may be refused registration under Section 2(d) because of a likelihood of confusion with that registered mark(s). *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, action on this application is suspended until the earlier-filed referenced application(s) is either registered or abandoned. 37 C.F.R. §2.83(c). A copy of information relevant to this referenced application(s) is attached.

- Application Serial No(s). 85523686 and **77798467**

**REFUSAL(S)/REQUIREMENT(S) CONTINUED AND MAINTAINED:** The following refusal is continued and maintained: Section 2(d) Refusal as to Registration No. 3506350.

Action on this application is SUSPENDED pending the disposition of the previously referenced potentially-conflicting pending application(s). 37 C.F.R. §2.83(c); TMEP §§716.02(c), 1208.02(c).

Applicant was previously provided information regarding pending U.S. Application Serial No(s). 85523686, which may present a bar to registration of applicant's mark based on a likelihood of confusion under Trademark Act Section 2(d). *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* **U.S. Application Serial No. 77798467 has also been added in this suspension notice.** In response to the prior office action, applicant argued that the mark in the pending application is not likely to cause confusion with applicant's mark. Specifically, applicant argued their mark is distinctive, famous, and that the applicant owns numerous registrations for various goods and services.

Applicant argues that the applied-for mark is part of a family of marks and that the purchasing public's familiarity with these marks obviates any likelihood of confusion. However, the Trademark Trial and Appeal Board has found that a family-of-marks argument is "not available to an applicant seeking to overcome a likelihood-of-confusion refusal." *In re Cynosure, Inc.*, 90 USPQ2d 1644, 1645-46 (TTAB 2009). Specifically, an applicant's ownership of other similar marks has little relevance in this context because the focus of a likelihood-of-confusion analysis in an ex parte case is on the mark applicant seeks to register, rather than other marks applicant has used or registered. *In re Cynosure, Inc.*, 90 USPQ2d at 1645-46; *In re Ald, Inc.*, 148 USPQ 520, 521 (TTAB 1965); TMEP §1207.01(d)(xi).

The trademark examining attorney has found applicant's arguments unpersuasive and still believes there may be a likelihood of confusion between applicant's mark and the mark(s) in the cited prior-pending application(s), should they register. Thus, this application is suspended.

The USPTO will periodically conduct a status check of the application to determine whether suspension remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. See TMEP §716.04.

No response to this notice is necessary; however, if applicant wants to respond, applicant should use the "Response to Suspension Inquiry or Letter of Suspension" form online at <http://teasroa.uspto.gov/rsi/rsi>.

/R.M. Herrera/  
Roselle M. Herrera  
Trademark Examining Attorney  
571-272-1909  
[Roselle.Herrera@uspto.gov](mailto:Roselle.Herrera@uspto.gov)

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.



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**Word Mark** KISS

**Goods and Services** IC 033. US 047 049. G & S: Distilled Spirits

**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Serial Number** 86846562

**Filing Date** December 11, 2015

**Current Basis** 1B

**Original Filing Basis** 1B

**Owner** (APPLICANT) Kiss Catalog, Ltd. CORPORATION NEW YORK c/o Joseph Young Associates, Ltd. 18 Hook Mountain Road, Suite 203 Pine Brook NEW JERSEY 07058

**Attorney of Record** William H. Cox

**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of the word KISS in a stylized font.

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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**To:** Kiss Catalog, Ltd. ([wcox@gordonherlands.com](mailto:wcox@gordonherlands.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 86846562 - KISS - N/A  
**Sent:** 4/20/2016 11:55:21 AM  
**Sent As:** ECOM114@USPTO.GOV  
**Attachments:**

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 86846562

MARK: KISS

**\*86846562\***

**CORRESPONDENT ADDRESS:**

WILLIAM H. COX  
GORDON, HERLANDS, RANDOLPH & COX LLP  
355 LEXINGTON AVENUE  
NEW YORK, NY 10017

**GENERAL TRADEMARK INFORMATION:**

<http://www.uspto.gov/trademarks/index.jsp>

[VIEW YOUR APPLICATION FILE](#)

**APPLICANT:** Kiss Catalog, Ltd.

**CORRESPONDENT'S REFERENCE/DOCKET NO :**

N/A

**CORRESPONDENT E-MAIL ADDRESS:**

[wcox@gordonherlands.com](mailto:wcox@gordonherlands.com)

**SUSPENSION NOTICE: NO RESPONSE NEEDED**

**ISSUE/MAILING DATE: 4/20/2016**

The previously enumerated Entity Clarification Requirement has been withdrawn. However, the trademark examining attorney is suspending action on the application for the reasons stated below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

The effective filing date of the pending application(s) identified below precedes the filing date of applicant's application. If the mark in the referenced application(s) registers, applicant's mark may be refused registration under Section 2(d) because of a likelihood of confusion with that registered mark(s). *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, action on this application is suspended until the earlier-filed referenced application(s) is either registered or abandoned. 37 C.F.R. §2.83(c). A copy of information relevant to this referenced application(s) was sent previously.

- Application Serial No(s). 85523686

**PENDING CIVIL PROCEEDING(S):** The pending civil proceeding(s) below pertains to (1) a registered mark that conflicts with applicant's mark under Trademark Act Section 2(d), (2) a mark in a pending application(s) that could conflict with applicant's mark under Section 2(d) if it registers, and/or (3) the registrability of applicant's mark. *See* 15 U.S.C. §1052; 37 C.F.R. §2.83; TMEP §§716.02(a), (c)-(d), 1208 *et seq.* Because the civil proceeding(s) pertains to an issue that could directly affect whether applicant's mark can be registered, action on this application is suspended pending termination of the civil proceeding(s). *See* 37 C.F.R. §2.67; TMEP §§716.02(a), (c)-(d).

- Cancellation No(s). 91227311, 91223605 and 91216533

The USPTO will periodically conduct a status check of the application to determine whether suspension remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. *See* TMEP §716.04.

No response to this notice is necessary; however, if applicant wants to respond, applicant should use the "Response to Suspension Inquiry or Letter of Suspension" form online at <http://teasroa.uspto.gov/rsi/rsi>.

/Brittney L. Cogan/  
Examining Attorney  
Law Office 114  
571-272-7973  
brittney.cogan@uspto.gov

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.



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**Word Mark** KISS ARMY

**Goods and Services** IC 033. US 047 049. G & S: Distilled spirits; Wine

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search Code** 24.01.02 - Shields or crests with figurative elements contained therein or superimposed thereon  
 24.01.03 - Shields or crests with letters, punctuation or inscriptions contained therein or superimposed thereon  
 26.05.12 - Triangles with bars, bands and lines  
 26.11.21 - Rectangles that are completely or partially shaded  
 26.17.01 - Bands, straight ; Bars, straight ; Lines, straight ; Straight line(s), band(s) or bar(s)  
 26.17.05 - Bands, horizontal ; Bars, horizontal ; Horizontal line(s), band(s) or bar(s) ; Lines, horizontal

**Serial Number** 88576886

**Filing Date** August 13, 2019

**Current Basis** 1B

**Original Filing Basis** 1B

**Owner** (APPLICANT) Kiss Catalog, Ltd. CORPORATION NEW YORK c/o Joseph Young Associates, Ltd. 18 Hook Mountain Road, Suite 203 Pine Brook NEW JERSEY 07058

**Attorney of Record** Peter J. Vranum

**Prior Registrations** 2163803

**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of the term "KISS" within a rectangle in stylized font, above the term "ARMY" within a triangle in a different stylized font, separated by two horizontal lines, all within a stylized design of a shield.

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead** LIVE

**Indicator**

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**To:** Kiss Catalog, Ltd. ([pvranum@gordonherlands.com](mailto:pvranum@gordonherlands.com))  
**Subject:** U.S. Trademark Application Serial No. 88576886 - KISS ARMY - N/A  
**Sent:** November 20, 2019 12:27:43 PM  
**Sent As:** [ecom121@uspto.gov](mailto:ecom121@uspto.gov)  
**Attachments:** [Attachment - 1](#)  
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**United States Patent and Trademark Office (USPTO)**  
**Office Action (Official Letter) About Applicant's Trademark Application**

**U.S. Application Serial No.**  
88576886

**Mark:** KISS ARMY

**Correspondence Address:**  
PETER J. VRANUM  
GORDON, HERLANDS &  
RANDOLPH LLP  
355 LEXINGTON AVENUE  
NEW YORK, NY 10017

**Applicant:** Kiss Catalog,  
Ltd.

**Reference/Docket No.** N/A

**Correspondence Email  
Address:**

[pvranum@gordonherlands.com](mailto:pvranum@gordonherlands.com)

**NONFINAL OFFICE ACTION**

**The USPTO must receive applicant's response to this letter within six months of the issue date below or the application will be abandoned.** Respond using the Trademark Electronic Application System (TEAS). A link to the appropriate TEAS response form appears at the end of this Office action.

**Issue date: November 20, 2019**

## INTRODUCTION & SEARCH RESULTS

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

### **SEARCH OF OFFICE'S DATABASE OF MARKS**

The trademark examining attorney has searched the USPTO's database of registered and pending marks and has found no similar registered marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d). However, a mark in a prior-filed pending application may present a bar to registration of applicant's mark.

## DETAILS OF ISSUES

### **SUMMARY OF ISSUES:**

- Prior-Filed Application – Potentially Conflicting Mark
- Domicile Clarification – Required
- Information About Applicant – Required
- Mark Description – Amendment Required

### **PRIOR-FILED APPLICATION – POTENTIALLY CONFLICTING MARK**

The filing date of pending U.S. Application Serial No. 85523686 KISS in standard character form, for “Japanese white liquor” precedes applicant's filing date. See attached referenced application. If the mark in the referenced application registers, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

*If applicant responds to this issue, applicant must also address the issue(s) discussed below.*

### **DOMICILE CLARIFICATION – REQUIRED**

**Applicant must provide applicant's domicile address.** All applications must include the applicant's domicile address, and domicile dictates whether an applicant is required to have an attorney who is an active member in good standing of the bar of the highest court of a U.S. state or territory represent the applicant at the USPTO. *See* 37 C.F.R. §§2.2(o)-(p), 2.11(a), 2.189; *Requirement of U.S.-Licensed Attorney for Foreign-Domiciled Trademark Applicants & Registrants*, Examination Guide 4-19, at I.A. (Rev. Sept. 2019).

An individual applicant's domicile is the place a person resides and intends to be the person's principal home. 37 C.F.R. §2.2(o); Examination Guide 4-19, at I.A. A juristic entity's domicile is the principal place of business, i.e. headquarters, where a juristic entity applicant's senior executives or officers ordinarily direct and control the entity's activities. 37 C.F.R. §2.2(o); Examination Guide 4-19, at I.A. An applicant whose domicile is located outside of the United States or its territories is foreign-domiciled and must be represented at the USPTO by a U.S.-licensed attorney qualified to practice before the USPTO under 37 C.F.R. §11.14. 37 C.F.R. §2.11(a).

The application record lists applicant as a juristic entity and specifies applicant's domicile as “c/o” or in “care of” another party's address. In most cases, an address that is listed as “c/o” or in “care of” another party's address is not acceptable as a domicile address because it does not identify the location of applicant's headquarters where the entity's senior executives or officers ordinarily direct and control the entity's activities. *See* 37 C.F.R. §§2.2(o)-(p), 2.189; Examination Guide 4-19, at I.A.3. Thus, applicant must provide its domicile street address. *See* 37 C.F.R. §2.189. Alternatively, an applicant may demonstrate that the listed address is, in fact, the applicant's domicile. Examination Guide 4-19, at I.A.3.

*If applicant responds to this issue, applicant must also address the issue(s) discussed below.*

## INFORMATION ABOUT APPLICANT – REQUIRED

Due to the renown of the institution or person named in the mark, namely, the musical group KISS, and the fact that there is no information in the application record regarding a connection with applicant, applicant must specify whether the person or institution named in the mark has any connection with applicant's goods and/or services, and if so, must describe the nature and extent of that connection. See 37 C.F.R. §2.61(b); TMEP §1203.03(c)(i); See also attached evidence of musical group KISS at: <https://www.kissonline.com/welcome>.

*If applicant responds to this issue, applicant must also address the issue(s) discussed below.*

## MARK DESCRIPTION – AMENDMENT REQUIRED

Applicant must submit an amended description of the mark because the current one is incomplete and does not describe all the significant aspects of the mark. 37 C.F.R. §2.37; see TMEP §§808.01, 808.02. Descriptions must be accurate and identify all the literal and design elements in the mark. See 37 C.F.R. §2.37; TMEP §§808 *et seq.*

The following description is suggested, if accurate:

The mark consists of the term "KISS" in stylized font and positioned within a shaded rectangle. The shaded rectangle and term "KISS" appears positioned above two horizontal lines, which are positioned above the term "ARMY", which is positioned within a carrier triangle, all positioned within a stylized shield.

## RESPONSE GUIDELINES

Please call or email the assigned trademark examining attorney with questions about this Office action. Although the trademark examining attorney cannot provide legal advice or statements about applicant's rights, the trademark examining attorney can provide applicant with additional explanation about the refusal(s) and/or requirement(s) in this Office action. See TMEP §§705.02, 709.06. Although the USPTO does not accept emails as responses to Office actions, emails can be used for informal communications and will be included in the application record. See 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

**TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE:** Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. See 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of \$125 per class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(c), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner's amendment by telephone or e-mail without incurring this additional fee.

**How to respond. [Click to file a response to this nonfinal Office action](#)**

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## RESPONSE GUIDANCE

- **Missing the response deadline to this letter will cause the application to abandon.** A response or notice of appeal must be received by the USPTO before midnight **Eastern Time** of the last day of the response period. TEAS and ESTTA maintenance or unforeseen circumstances could affect an applicant's ability to timely respond.