

ESTTA Tracking number: **ESTTA1106161**

Filing date: **01/06/2021**

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	S. Tous, S.L.
Granted to Date of previous extension	01/06/2021
Address	CARRETERA DE VIC, EL GUIX KM 3 MANRESA (BARCELONA), E-08243 SPAIN
Attorney information	DAVID B. SUNSHINE COZEN O'CONNOR 3 WTC, 175 GREENWICH STREET 55TH FLOOR NEW YORK, NY 10007 UNITED STATES Primary Email: <a href="mailto:tmddocketing@cozen.com">tmddocketing@cozen.com</a> Secondary Email(s): <a href="mailto:tmddocketing@cozen.com">tmddocketing@cozen.com</a> , <a href="mailto:dsunshine@cozen.com">dsunshine@cozen.com</a> 2128834911
Docket Number	

**Applicant Information**

Application No.	88831328	Publication date	09/08/2020
Opposition Filing Date	01/06/2021	Opposition Period Ends	01/06/2021
Applicant	Zhang, Feida 1108, BUILDING A, BODUN GROUP BUILDING, NANSHAN DISTRICT, SHENZHEN, GUANGDONG, 518000 CHINA		

**Goods/Services Affected by Opposition**

Class 009. First Use: 2020/02/29 First Use In Commerce: 2020/02/29  
All goods and services in the class are opposed, namely: 3D spectacles; Contact lenses; Eyeglassframes; Eyeglass cases; Eyeglasses; Pince-nez; Spectacle frames; Spectacle lenses; Sunglasses; Cases for contact lenses

**Grounds for Opposition**

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

U.S. Registration No.	2732648	Application Date	07/24/2000
Registration Date	07/01/2003	Foreign Priority Date	NONE
Word Mark	TOUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 1920/00/00 First Use In Commerce: 1997/11/00 perfumes, eau de cologne, [ lavender water, scented water ]</p> <p>Class 009. First use: First Use: 1920/00/00 First Use In Commerce: 1997/11/00 optical apparatus and instruments, namely, [ spectacles, ] eyeglass cases, sunglasses, [ spectacled frames ]</p> <p>Class 018. First use: First Use: 1999/00/00 First Use In Commerce: 1999/00/00 purses, handbags, pocket wallets</p> <p>Class 025. First use: First Use: 1999/00/00 First Use In Commerce: 1999/00/00 clothing, namely, neckerchiefs and belts</p>		

Attachments	STOU Notice of Opposition.pdf(28438 bytes ) TOUS Class 9 Reg.pdf(43875 bytes )
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Signature	/David B. Sunshine/
Name	DAVID B. SUNSHINE
Date	01/06/2021

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

In The Matter of Application Serial No. 88/831,328  
Filed: March 12, 2020  
For the Mark: STOU  
Published in the Official Gazette of: September 8, 2020

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S. TOUS, S.L. :  
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 Opposer, : Opposition No.:  
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 v. :  
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 ZHANG, FEIDA, :  
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 :  
 Applicant. :  
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**NOTICE OF OPPOSITION**

In the matter of trademark application Serial No. 88/831,328 (the “328 Application”), filed March 12, 2020 and published for opposition in the Official Gazette September 8, 2020.

Opposer, S. Tous, S.L., a corporation existing under the laws of Spain, having a business address at Carretera de Vic, El Guix, 3, Manresa (Barcelona) Spain, (hereinafter, “Opposer”) believes that it will be damaged by the registration of said trademark and hereby opposes the same.

As grounds for opposition, Opposer alleges as follows:

1. Applicant, Feida Zhang (hereinafter “Applicant” or “Zhang”), seeks to register the mark STOU (hereinafter, “Applicant’s Mark”) as a trademark for use in connection with “3D spectacles; Contact lenses; Eyeglass frames; Eyeglass cases; Eyeglasses; Pince-nez; Spectacle frames; Spectacle lenses; Sunglasses; Cases for contact lenses” (“Applicant’s Goods”) in International Class 9 in the United States.

2. The '328 Application is based on Applicant's actual use of Applicant's Mark in commerce under Trademark Act Section 1(a) allegedly since February 29, 2020.

3. Opposer, either directly or through its predecessor and/or licensee, has advertised and sold products in International Class 9, including without limitation eyewear, eyeglass cases and related products in commerce in the United States under its well-known trademark TOUS since at least as early as 1997.

4. Opposer is the owner of a number of U.S. trademark registrations for TOUS, including at least the following in International Class 9:

MARK	REG. NO.	REG. DATE	GOODS
TOUS	2,732,648	July 2, 2002	Class 3: perfumes, eau de cologne <b>Class 9: optical apparatus and instruments, namely, eyeglass cases, sunglasses</b> Class 18: purses, handbags, pocket wallets Class 25: clothing, namely, neckerchiefs and belts.

A copy of the registration certificate for U.S. Registration No. 2,732,648 (the "648 Registration") is attached as Exhibit 1. The '648 Registration is incontestable pursuant to 15 U.S.C. § 1065.

5. Oppose also owns numerous other marks for the term TOUS including, without limitation, Registration Nos. 2,216,247, 2,939,296, and 3,658,162, all of which are incontestable under 15 U.S.C. § 1065.

6. By virtue of Opposer's extensive use in commerce of Opposer's Marks in the United States, the relevant trade and public have come to associate goods bearing Opposer's Marks with Opposer.

7. Opposer's first use in commerce and in interstate commerce of Opposer's Marks in connection with its goods in Class 9 predates the February 29, 2020 date of first use claimed by Applicant in the '328 Application as well as any constructive first use date upon which Applicant can rely.

8. Applicant's Goods are identical to and/or closely related to Opposer's goods sold under Opposer's Marks.

9. Applicant's Mark, as applied to Applicant's Goods, in all material respects so resembles Opposer's Marks that it is likely to cause confusion, mistake and/or deception.

10. In addition, Applicant's Mark closely resembles Opposer's corporate name, S. TOUS, for which Opposer owns common law rights.

11. If Applicant is permitted to register Applicant's Mark for Applicant's Goods, confusion of the trade and public is likely to result, such confusion resulting in damage and injury to Opposer.

12. Purchasers and potential purchasers, upon seeing Applicant's Mark used in connection with Applicant's Goods are likely to mistakenly believe that such goods are offered in association or affiliation with or under license from Opposer.

13. If Applicant is permitted to register Applicant's Mark for Applicant's Goods, confusion of the relevant trade and public resulting in damage and injury to Opposer would be likely to result. Any persons familiar with the goods of Opposer would be likely to assume that Applicant's Goods are sponsored by or otherwise affiliated with Opposer. Furthermore, any

objection to or fault found with Applicant's Goods provided under Applicant's Mark would necessarily reflect on and seriously injure the reputation that Opposer has established for its goods sold under Opposer's Marks.

14. If Applicant were granted a registration for Applicant's Mark for Applicant's Goods, it would obtain thereby at least a prima facie exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that registration of the mark of application Serial No. 88/831,328 be refused and that this opposition be sustained.

Dated: New York, New York  
January 6, 2021

Respectfully submitted,

**COZEN O'CONNOR**

By: /David B. Sunshine/  
David B. Sunshine  
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Attorneys for Opposer S. Tous, S.L.

Generated on: This page was generated by TSDR on 2021-01-06 13:18:15 EST

Mark: TOUS

TOUS

US Serial Number: 76095344

Application Filing Date: Jul. 24, 2000

US Registration Number: 2732648

Registration Date: Jul. 01, 2003

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: The registration has been renewed.

Status Date: Jul. 10, 2013

Publication Date: Jul. 02, 2002

Notice of Allowance Date: Sep. 24, 2002

## Mark Information

Mark Literal Elements: TOUS

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

## Goods and Services

### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*...\* identify additional (new) wording in the goods/services.

For: perfumes, eau de cologne, [ lavender water, scented water ]

International Class(es): 003 - Primary Class

U.S Class(es): 001, 004, 006, 050, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: 1920

Use in Commerce: Nov. 1997

For: optical apparatus and instruments, namely, [ spectacles, ] eyeglass cases, sunglasses, [ spectacled frames ]

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026, 036, 038

Class Status: ACTIVE

Basis: 1(a)

First Use: 1920

Use in Commerce: Nov. 1997

For: purses, handbags, pocket wallets

International Class(es): 018 - Primary Class

U.S Class(es): 001, 002, 003, 022, 041

Class Status: ACTIVE

Basis: 1(a)

First Use: 1999

Use in Commerce: 1999

**For:** clothing, namely, neckerchiefs and belts

**International Class(es):** 025 - Primary Class

**U.S Class(es):** 022, 039

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** 1999

**Use in Commerce:** 1999

## Basis Information (Case Level)

**Filed Use:** Yes

**Currently Use:** Yes

**Filed ITU:** Yes

**Currently ITU:** No

**Filed 44D:** No

**Currently 44E:** No

**Filed 44E:** No

**Currently 66A:** No

**Filed 66A:** No

**Currently No Basis:** No

**Filed No Basis:** No

## Current Owner(s) Information

**Owner Name:** S. TOUS, S.L.

**Owner Address:** Carretera de Vic  
El Guix, Km 3  
Manresa (Barcelona) SPAIN 08243

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** SPAIN

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** David B. Sunshine

**Docket Number:** 2732648

**Attorney Primary Email Address:** [ipdocketing@cozen.com](mailto:ipdocketing@cozen.com)

**Attorney Email Authorized:** Yes

### Correspondent

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**Correspondent e-mail Authorized:** Yes

### Domestic Representative

**Domestic Representative Name:** John M. Murphy

**Phone:** 011.52.55.5095.2031

**Fax:** 011.52.55.5095.2728

**Domestic Representative e-mail:** [jmurphy@aml.com.mx](mailto:jmurphy@aml.com.mx)

**Domestic Representative e-mail Authorized:** Yes

## Prosecution History

Date	Description	Proceeding Number
Jul. 10, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Jul. 10, 2013	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	75461
Jul. 10, 2013	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	75461
Jul. 10, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	75461
Jul. 01, 2013	TEAS SECTION 8 & 9 RECEIVED	
Jun. 28, 2013	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	



Jun. 28, 2013	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Jul. 17, 2012	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Jul. 17, 2012	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Oct. 05, 2010	CASE FILE IN TICRS	59554
Jan. 04, 2010	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	67603
Dec. 29, 2009	TEAS SECTION 8 & 15 RECEIVED	
Dec. 29, 2009	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Dec. 29, 2009	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Feb. 09, 2007	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Feb. 09, 2007	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Nov. 29, 2006	CORRECTION UNDER SECTION 7 A- PROCESSED	
May 27, 2006	ASSIGNED TO PARALEGAL	67603
Jan. 13, 2006	SEC 7 REQUEST FILED	
Jan. 13, 2006	PAPER RECEIVED	
Sep. 10, 2004	REPRINTING REGISTRATION CERTIFICATE	
Nov. 02, 2003	SEC 7 REQUEST FILED	
Jul. 01, 2003	REGISTERED-PRINCIPAL REGISTER	
May 02, 2003	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Apr. 25, 2003	STATEMENT OF USE PROCESSING COMPLETE	
Mar. 18, 2003	USE AMENDMENT FILED	
Mar. 18, 2003	PAPER RECEIVED	
Sep. 24, 2002	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Jul. 02, 2002	PUBLISHED FOR OPPOSITION	
Jun. 12, 2002	NOTICE OF PUBLICATION	
Feb. 06, 2002	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 08, 2001	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Feb. 09, 2001	NON-FINAL ACTION MAILED	
Jan. 24, 2001	ASSIGNED TO EXAMINER	76151
Nov. 08, 2000	APPLICANT AMENDMENT PRIOR TO EXAMINATION - ENTERED	

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

**Current Location:** GENERIC WEB UPDATE

**Date in Location:** Jul. 10, 2013

## Proceedings

### Summary

**Number of Proceedings:** 1

### Type of Proceeding: Opposition

**Proceeding Number:** [91233095](#)

**Filing Date:** Feb 21, 2017

**Status:** Terminated

**Status Date:** Jun 17, 2017

**Interlocutory Attorney:** ELIZABETH A DUNN

#### Defendant

**Name:** Quanzhou Zaitu E-commerce Co.,Ltd.

**Correspondent Address:** YANG GUOHUA

WEIDONGLONG TECHNOLOGY BUILDING 1331-1332, LONGHUA NEW DISTRICT  
SHENZHEN GUANGDONG CHINA , 518109

**Correspondent e-mail:** [2850712070@qq.com](mailto:2850712070@qq.com) , [2853277606@qq.com](mailto:2853277606@qq.com)

### Associated marks

Mark	Application Status	Serial Number	Registration Number
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ZATOUS

Abandoned - After Inter-Partes Decision

[86973502](#)

**Plaintiff(s)**

**Name:** S. Tous, S.L.

**Correspondent Address:** DAVID B SUNSHINE  
COZEN O'CONNOR  
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**Correspondent e-mail:** [tmcketing@cozen.com](mailto:tmcketing@cozen.com) , [dsunshine@cozen.com](mailto:dsunshine@cozen.com)

**Associated marks**

Mark	Application Status	Serial Number	Registration Number
TOUS	REGISTERED AND RENEWED	<a href="#">76095344</a>	<a href="#">2732648</a>
TOUS	REGISTERED AND RENEWED	<a href="#">76556915</a>	<a href="#">2939296</a>

**Prosecution History**

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Feb 21, 2017	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Feb 27, 2017	Apr 08, 2017
3	PENDING, INSTITUTED	Feb 27, 2017	
4	NOTICE OF DEFAULT	Apr 18, 2017	
5	BD DECISION: SUSTAINED	Jun 17, 2017	
6	TERMINATED	Jun 17, 2017	

Int. Cls.: 3, 9, 18 and 25

Prior U.S. Cls.: 1, 2, 3, 4, 6, 21, 22, 23, 26, 36,  
38, 39, 41, 50, 51 and 52

Reg. No. 2,732,648

United States Patent and Trademark Office

Registered July 1, 2003

Corrected

OG Date Jan. 2, 2007

**TRADEMARK  
PRINCIPAL REGISTER**

**TOUS**

S. TOUS, S.L. (SPAIN CORPORATION)  
CARRETERA DE VIC, 175  
08240 MANRESA, SPAIN

FOR: PERFUMES, EAU DE CO-  
LOGNE, LAVENDER WATER, SCENTED  
WATER, IN CLASS 3 (U.S. CLS. 1, 4, 6,  
50, 51 AND 52).

FIRST USE 0-0-1920; IN COMMERCE  
11-0-1997.

FOR: OPTICAL APPARATUS AND IN-  
STRUMENTS, NAMELY SPECTACLES,  
EYEGASS CASES, SUNGLASSES, SPEC-  
TACLED FRAMES, IN CLASS 9 (U.S.  
CLS. 21, 23, 26, 36 AND 38).

FIRST USE 0-0-1920; IN COMMERCE  
11-0-1997.

FOR: PURSES, HANDBAGS, POCKET  
WALLETS, IN CLASS 18 (U.S. CLS. 1, 2, 3,  
22 AND 41).

FIRST USE 0-0-1999; IN COMMERCE  
0-0-1999.

FOR: CLOTHING, NAMELY, NECK-  
ERCHIEFS AND BELTS, IN CLASS 25  
(U.S. CLS. 22 AND 39).

FIRST USE 0-0-1999; IN COMMERCE  
0-0-1999.

SER. NO. 76-095,344, FILED 7-24-2000.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Jan. 2, 2007.*

**DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE**