

ESTTA Tracking number: **ESTTA1266801**

Filing date: **02/17/2023**

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	Douglas Bender
Granted to date of previous extension	03/04/2023
Address	171 SAXONBURG ROAD BUTLER, PA 16002 UNITED STATES

Attorney information	ANDREW GERBER KUSHNIRSKY GERBER PLLC 27 UNION SQUARE WEST SUITE 301 NEW YORK, NY 10003 UNITED STATES Primary email: andrew@kgfirm.com Secondary email(s): trademark@kgfirm.com 2128821320
Docket no.	

Applicant information

Application no.	97175307	Publication date	01/03/2023
Opposition filing date	02/17/2023	Opposition period ends	03/04/2023
International registration no.	NONE	International registration date	NONE
Applicant	19-69 Group AB MODEMGATAN 10 VELLINGE, 23539 SWEDEN		

Goods/services affected by opposition

Class 003. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Perfumes
Class 004. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Perfumed candles

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.	4168251	Application date	04/08/2009
Register	Principal		
Registration date	07/03/2012	Foreign priority date	NONE
Word mark	CHRISTOPHER STREET		
Design mark			
Description of mark	NONE		
Goods/services	Class 003. First use: First Use: Apr 17, 2012 First Use In Commerce: Apr 17, 2012 Eau de perfume; Fragrances; Fragrances for personal use		

Attachments	77710121#TMSN.png(bytes) CHRISTOPHER Notice of Opposition.pdf(210247 bytes)
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Signature	/AG/
Name	ANDREW GERBER
Date	02/17/2023

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

In re Serial No. 97/175,307 – CHRISTOPHER
Filed: December 16, 2021
Published: January 3, 2023

DOUGLAS BENDER	:	
	:	
<i>Opposer,</i>	:	
	:	Opposition No. _____
v.	:	
	:	
19-69 GROUP AB,	:	
	:	
<i>Applicant.</i>	:	
	:	
	:	

NOTICE OF OPPOSITION

Douglas Bender (“Opposer”), an individual residing at 171 Saxonburg Road, Butler, PA 16002, believe he will be damaged by the registration of the mark shown in application Serial No. 97/175,307 – CHRISTOPHER (the “Application”) for “Perfumes” and “Perfumed candles” (together, “Applicant’s Goods”) filed on a 44D foreign filing basis on December 16, 2021 by 19-69 Group AB, a Swedish aktiebolag (ab), having a business address at Modemgatan 10, Vellinge, Sweden 23539 (“Applicant”); and hereby opposes the same pursuant to §13 of the Trademark Act of 1946 (15 U.S.C. §1063).

As grounds for opposition, it is alleged that:

1. Opposer is an individual business owner who is an expert in queer olfaction.
2. Opposer is the owner of the following valid and subsisting incontestable registration:
Registration No. 4,168,251 - CHRISTOPHER STREET in Class 3 for “Eau de

perfume; Fragrances; Fragrances for personal use”; filed on April 8, 2009 and registration was issued on July 3, 2012.

A true and correct copy of the registration certificate is attached hereto as Exhibit A.

3. Opposer has consistently used his CHRISTOPHER STREET mark in connection with fragrances and scented products since at least April 2012.

4. During this time, Opposer has spent considerable amounts of money to advertise, use, promote, and develop public awareness for and goodwill in his CHRISTOPHER STREET mark. As a result of such expenditures and efforts, Opposer has developed a valuable reputation and critical goodwill in his CHRISTOPHER STREET. As an expert in queer olfaction, Opposer carefully chose and cultivated the CHRISTOPHER STREET mark for his fragrance products.

5. In early 2021, Opposer became aware that Applicant was intending to start selling fragrance products in the United States using several existing, registered fragrance trademarks, including Opposer’s CHRISTOPHER STREEET mark.

6. Concerned about Applicant’s apparent disregard for U.S. trademark law, Opposer sent Applicant several cease and desist letters. On June 17, 2021, Johan Bergelin, Applicant’s owner, responded via email and unequivocally confirmed that “19-69 will NOT sell the product, Christopher Street in the US.”

7. On August 2, 2021, Mr. Bergelin again confirmed via email that “19-69 is not selling the product in the US, the only market where your client have [sic] trademarked the name.”

8. With full knowledge of Opposer’s rights in the CHRISTOPHER STREET mark and despite confirming that they would not sell fragrance products bearing the CHRISTOPHER STREET mark in the United States, Applicant nonetheless proceed to file at least four separate trademark applications with the U.S. Patent and Trademark Office for either the CHRISTOPHER

or CHRISTOPHER STREET in connection with fragrance products, namely perfumes and perfumed candles.

9. The Application here at issue is one of those four applications. On December 16, 2021, Applicant filed the Application for the standard character word mark CHRISTOPHER for “Perfumes” and “Perfumed candles” with a 44D filing basis.

10. Applicant’s mark – CHRISTOPHER – is a willful and intentional copy of the main component of Opposer’s CHRISTOPHER STREET mark, which uniquely refers to Opposer’s products covered in Opposer’s CHRISTOPHER STREET registration.

11. Applicant’s CHRISTOPHER mark is therefore likely to cause confusion because it so closely resembles Opposer’s CHRISTOPHER STREET mark as to be likely to cause confusion, mistake, and deceive the trade and public when used in connection with Applicant’s Goods.

12. Such goods are identical and/or closely related to the goods offered in connection with Opposer’s CHRISTOPHER STREET mark such that the trade and public will falsely believe them to have their origin with Opposer and/or that such goods are approved, endorsed, or sponsored by Opposer or associated in some way with Opposer.

13. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant’s CHRISTOPHER mark. This is a clear attempt by Applicant to evade the trademark laws of this country and effectively steal Opposer’s mark from him.

14. Opposer would be further injured by the granting of a certificate of registration to Applicant because Applicant’s CHRISTOPHER mark would falsely suggest a connection between Applicant and Opposer when none exists.

15. Applicant’s bad faith intent to engage in such unlawful conduct and co-opt Opposer’s mark and rights therein is evidenced by the fact that, despite promising Opposer that it

would not interfere with Opposer's rights in the United States, Applicant nonetheless filed four separate applications, including the instant Application, in attempt to unlawfully usurp Opposer's rights in its CHRISTOPHER STREET mark in connection with fragrance products. Applicant knows its conduct will unlawfully interfere with Opposer's rights in the CHRISTOPHER STREET mark but Applicant has proceeded nonetheless.

WHEREFORE, Opposer believes that he will be damaged by registration of Applicant's CHRISTOPHER mark and requests that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Andrew Gerber and Ilya Kushnirsky (members of the bar of the State of New York) and the firm Kushnirsky Gerber PLLC, 27 Union Square West, Suite 301, New York, NY 10003. Please address all communications to Andrew Gerber at the address listed below.

Dated: New York, New York
February 17, 2023

Respectfully submitted,

KUSHNIRSKY GERBER PLLC




By: _____
Andrew Gerber
andrew@kgfirm.com
27 Union Square West, Suite 301
New York, NY 10003
(212) 882-1320
Attorneys for Opposer

CERTIFICATE OF SERVICE

I, Andrew Gerber, do hereby certify that a true and correct copy of the foregoing Notice of Opposition has been sent via First Class Mail to Applicant's Attorney of Record, R. Peter Spies, DTL Ltd, 160 North Wacker Drive, Suite 500, Chicago, Illinois 60606.

Dated: New York, New York
February 17, 2023

By: 

Andrew Gerber

EXHIBIT A

United States of America

United States Patent and Trademark Office

CHRISTOPHER STREET

Reg. No. 4,168,251

BENDER, DOUGLAS (UNITED STATES INDIVIDUAL)
306 COURT STREET, APT#3
BROOKLYN, NY 11231

Registered July 3, 2012

Int. Cl.: 3

FOR: EAU DE PERFUME; FRAGRANCES; FRAGRANCES FOR PERSONAL USE, IN CLASS
3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

TRADEMARK

FIRST USE 4-17-2012; IN COMMERCE 4-17-2012.

PRINCIPAL REGISTER

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE NAME(S), PORTRAIT(S), AND/OR SIGNATURE(S) SHOWN IN THE MARK DOES NOT IDENTIFY A PARTICULAR LIVING INDIVIDUAL.

SN 77-710,121, FILED 4-8-2009.

AMY ALFIERI, EXAMINING ATTORNEY



David J. Kyffers

Director of the United States Patent and Trademark Office