

In the Opposition Proceeding, Applicant (Pierre Andre Senizergues) has filed application No. 76/463,163 (which has been passed by the PTO Trademark Examining Attorney) in International Classes 18 and 25. This mark is directed to the goods "t-shirts, shirts, pants, shorts, jackets, hats, sweatshirts, footwear, bandannas, socks dresses, skirts, ski pants, ski jackets, parkas, gloves scarves and boots" (Cl. 25) and "luggage, backpacks, duffel bags, wallets, athletic bags, all purpose athletic bags, all purpose sports bags, beach bags, and towel bags" (Cl. 18). It does not relate to services, per se.

The goods covered by the Application (Opposition) are generally not denim. (About 1% of the goods sold under the trademark E STREET INTERNATIONAL are denim related products.)

Likewise, the sales (services) covered by the Registration (Cancellation) include products of several brands and trademarks. (Only about 1% of these sales comprise denim products.)

Based upon discovery in the Opposition proceeding, the Petitioner's trademark/service mark may be E STREET DENIM although the use of even this mark by Petitioner is, at best, inconsistent and does not appear to be directed at any particular goods or services (other than the sale of denim clothes).

In addition, the applications for registration filed by Applicant/Registrant were both pending in the PTO when Petitioner filed the Notice of Opposition in application 76/463,163 but Petitioner did not file a concurrent Petition of Cancellation (or a timely Notice of Opposition) in underlying application Serial No. 76/463,162. Rather, Petitioner filed separate proceedings and has already initiated separate Discovery proceedings in each of these matters.

It is clear that many fact issues relating to the use of any mark by Petitioner are specific and need to be separately addressed as to services and/or goods. It is submitted that consolidating these matters would result in a blurring of the differences in the marks or types of marks involved (of Petitioner), if any and the respective goods and services covered thereby.

Thus, it is respectfully requested that Petitioner's Motion to Consolidate be denied.

(714) 637-8350

Respectfully submitted,
G. Donald Weber, Jr.
Attorney for Applicant


<CERTIFICATE OF MAILING>

~ I certify that the foregoing is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the Assistant Commissioner for Trademarks, Mail Stop: Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, VA 22202-3513, on September 17, 2004~

<Date of Deposit> September 17, 2004

~Signature~

~Name~


G. Donald Weber, Jr.

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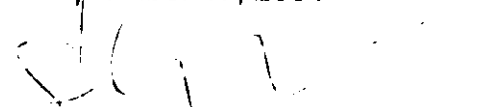
~ I certify that the foregoing is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to:

Mary L. Grieco, Esq.
Gursky & Partners, LLP
1350 Broadway, 11th Floor
New York NY 10018

<Date of Deposit> September 17, 2004

~Signature~

~Name~


G. Donald Weber, Jr.