

ESTTA Tracking number: **ESTTA39483**

Filing date: **07/21/2005**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Leica Microsystems IR GmbH		
Entity	Company	Citizenship	Germany
Address	Ernst-Leitz-Strasse 17-37D-35578 Wetzlar, GERMANY		

Attorney information	Joseph D. Evans, Esq. Crowell & Moring LLP P.O. Box 14300 Washington, DC 20044-4300 UNITED STATES wsauers@crowell.com, jdevans@crowell.com Phone:202.624.2500
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Registration Subject to Cancellation

Registration No	2956335	Registration date	05/24/2005
Registrant	Krauter, Sherry 118 Purgatory Road Campbell Hall, NY 10916 UNITED STATES		
Goods/Services Subject to Cancellation	Class 025. First Use: 20011030, First Use In Commerce: 20011030 Goods/Services: Clothing, namely hats, visors, t-shirts and jackets		

Attachments	Leitz Cancellation - Krauter.pdf (81 pages)
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Signature	/Joseph D. Evans/
Name	Joseph D. Evans, Esq.
Date	07/21/2005

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

LEICA MICROSYSTEMS IR GMBH,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. _____
)	Registration No. 2,956,335
)	Registered: May 24, 2005
SHERRY KRAUTER,)	Mark: LEITZ (stylized)
)	
Registrant.)	
)	

BOX – TTAB

FEE

Assistant Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451



PETITION FOR CANCELLATION

LEICA MICROSYSTEMS IR GMBH (“Petitioner”), a German company,
located and doing business at Ernst-Leitz-Strasse 17-37, D-35578 Wetzlar,
Germany, believing that it has been, is currently, and will continue to be damaged
by registration, hereby petitions to cancel Registration No. 2,956,335 registered
May 24, 2005 under the Trademark Act of 1946, in the name of SHERRY
KRAUTER (“Registrant”).

The grounds for cancellation are as follows:

1. For the last 75 years, Petitioner, its related companies and predecessors in interest, have been continuously engaged in the business of selling photographic equipment and related products, and is known worldwide as a leading manufacturer of high-quality optics, including cameras.

2. Petitioner is the owner of the following trademark registrations, among others, for the mark Leica (“the Leica mark”):

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Class</u>
	557,751	4/15/52	“Cameras and camera lenses,” in International Class 9.
	1,544,208	6/20/89	“Optical, photograph, and electronic apparatus, namely cameras, enlargers, projectors, binoculars, and parts thereof, namely controllers, data input apparatus, electronic flashes, objective lenses, view finders, diaphragms, filters, motorized winders, motor drives, tripods, magazines, slide magazine trays, and carrying cases for the above,” in International Class 9.

(“the Leica Registrations”). Copies of printouts from the United States Patent and Trademark Office (“PTO”) database for the Leica Registrations are attached hereto as Exhibit A.

3. Petitioner has used, since at least as early as 1925, and is currently using, its Leica mark in connection with, among others, the goods shown in the

Leica Registrations. During the past 74 years, Petitioner has built up extensive and valuable goodwill in connection with Petitioner's Leica mark.

4. Petitioner is also the worldwide owner of the famous mark LEITZ. Petitioner's LEITZ mark is currently used in the U.S. in connection with repair of existing LEITZ cameras and by a licensee of Petitioner in connection with coordinate measuring machines.

5. Petitioner has used the LEITZ mark since long before the date of first use claimed in Registration No. 2,892,058.

6. On July 12, 2004, Registrant filed Application Serial No. 78/449,304 for registration of the mark

The Leitz logo is written in a stylized, cursive script. The letters are connected, with a prominent 'L' and 'i' at the beginning, and a 'z' at the end. The overall style is elegant and classic.

("the Leitz mark") in connection with "Clothing, namely hats, visors, t-shirts, patches and jackets" ("the Leitz Application"). A copy of the Leitz Application is attached hereto as Exhibit B.

7. The Leitz Application as filed was based upon alleged use of the Leitz mark in commerce, and claimed a date of first use and a date of first use in commerce of October 30, 2001.

8. On February 17, 2005, the PTO issued an Office Action in connection with the Leitz Application, refusing registration of the Leitz mark as confusingly similar to Registration No. 2,892,058, as primarily merely a surname, and as

ornamental as applied to the goods. A copy of the PTO Office Action of February 17, 2005 is attached hereto as Exhibit C.

9. On March 14, 2005 Registrant submitted a response to the February 17, 2005 Office Action, submitted a consent agreement between Registrant and the owner of cited Registration No. 2,892,058, and amending the Leitz Application to seek allowance on the Supplemental Register. A copy of Registrant's April 27, 2004 response to Office Action is attached hereto as Exhibit D.

10. On March 11, 2005, the PTO issued an Examiner's Amendment deleting the wording "patches" from the identification of goods of the Leitz Application. A copy of the Examiner's Amendment is attached hereto as Exhibit E.

11. On May 24, 2005, the PTO registered the Leitz mark as shown in the Leitz Application on the Supplemental Register ("the Leitz Registration"). A copy of the registration details of the Certificate of Registration for the Leitz mark is attached hereto as Exhibit F.

12. According to the records of the PTO, the Leitz Registration is owned by Sherry Krauter, an individual and U.S. citizen, having a domicile at 118 Purgatory Road, Campbell Hall, NY 10916.

13. Registrant's use and registration of the Leitz mark is without the consent or permission of Petitioner.

14. Since Petitioner first used its Leica Marks in commerce at least as early as 1925, has used the Leitz mark since long before the date of first use in commerce claimed in the Leitz Registration, and has continuously used the marks

in commerce since that date, whereas Registrant purportedly did not begin use of the Leitz mark in commerce until October 30, 2001, Petitioner has priority of use of approximately 76 years.

15. On information and belief, the goods in the Leitz Registration are similar or closely related to the goods sold and offered by Petitioner under its Leica mark, as set out in the Leica Registrations, and as offered under Petitioner's LEITZ mark.

16. On information and belief, the goods contained in the Leitz Registration are offered to the same or similar customers as the goods sold and offered by Petitioner under its Leica mark, as set out in the Leica Registrations, and as offered under Petitioner's LEITZ mark.

17. On information and belief, the goods contained in the Leitz Registration are offered through the same or similar channels of trade as the goods sold and offered by Petitioner under its Leica mark, as set out in the Leica Registrations, and as offered under Petitioner's LEITZ mark.

18. The Leitz mark as depicted in the Leitz Registration is substantially similar to Petitioner's LEICA mark.

19. The Leitz mark as depicted in the Leitz Registration is substantially similar to Petitioner's LEITZ mark.

20. On information and belief, the Leitz mark as depicted in the Leitz Registration so resembles Petitioner's LEICA and LEITZ marks as to be likely,

when used in connection with the goods listed in the Leitz Registration, to cause confusion, mistake, or to deceive, in derogation of 15 U.S.C. § 1052(d).

21. Registrant's registration of the Leitz mark as depicted in the Leitz Registration provides Registrant with a *prima facie* exclusive right to use the Leitz mark in the United States despite the likelihood of confusion, mistake, or deception with the Petitioner's LEICA and LEITZ marks; such registration thereby impairs and diminishes Petitioner's goodwill and rights in the LEICA mark, the LEICA Registrations, and the LEITZ mark, to the irreparable damage and injury of Petitioner.

22. As a result of the foregoing, Petitioner has been, is currently, and will continue to be damaged by Registrant's registration of the Leitz mark on the Supplemental Register, and by Registrant's continuous and unlawful use of the registered Leitz mark.

PRAYER FOR RELIEF

WHEREFORE, for the foregoing reasons and other reasons the Board may deem sufficient, Petitioner respectfully requests that Federal Registration No. 2,956,335 be cancelled and this Petition for Cancellation be sustained in favor of Petitioner.

Petitioner has appointed JOSEPH D. EVANS, a member of the law firm of **CROWELL & MORING LLP**, and a member of the Bar of the District of Columbia, to prosecute this Petition and to transact all business in and before the

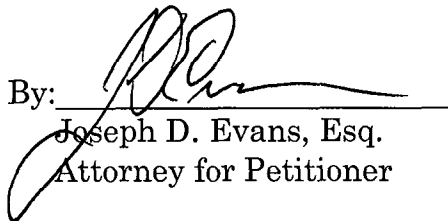
United States Patent and Trademark Office in connection herewith. Please address all correspondence to:

Joseph D. Evans
Crowell & Moring LLP
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844

This Petition is submitted in duplicate, i.e., an original and one copy. A check in the amount of \$300.00 is enclosed as payment of the required fee. Please credit any overpayments or charge any additional fees to the Deposit Account of Crowell & Moring LLP, Account Number 05-1323 (Docket #037192.03301US).

Respectfully submitted,
LEICA MICROSYSTEMS IR GMBH

July 21, 2005

By: 
Joseph D. Evans, Esq.
Attorney for Petitioner

CROWELL & MORING, LLP
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844
JDE:wjs/382318

EXHIBIT A

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2005-07-21 11:34:09 ET

Serial Number: 71619887 Assignment Information

Registration Number: 557751 Assignment Information

Mark

The Leica logo is a stylized, handwritten-style script of the word "Leica" in a bold, black font.

(words only): LEICA

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2002-06-06

Filing Date: 1951-10-11

Transformed into a National Application: No

Registration Date: 1952-04-15

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2002-06-07

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. LEICA MICROSYSTEMS IR GMBH

Address:

LEICA MICROSYSTEMS IR GMBH
ERNST-LEITZ-STRASSE 17-37

D-35578 WETZLAR
Fed Rep Germany
Legal Entity Type: Corporation
State or Country of Incorporation: Fed Rep Germany

GOODS AND/OR SERVICES

U.S. Class: 026 (International Class 009)
CAMERAS AND CAMERA LENSES
First Use Date: 1925-06-01
First Use in Commerce Date: 1925-06-01

Basis: 1(a)

ADDITIONAL INFORMATION

Prior Registration Number(s):
275993
424796

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2002-06-06 - Third renewal 10 year
2002-06-06 - Section 8 (10-year) accepted/ Section 9 granted
2002-04-04 - Combined Section 8 (10-year)/Section 9 filed
2002-04-04 - Combined Section 8 (10-year)/Section 9 filed
1992-06-25 - Second renewal 10 year
1992-04-15 - Section 9 filed/check record for Section 8
1972-04-15 - First renewal

CORRESPONDENCE INFORMATION

Correspondent
J. D. EVANS (Attorney of record)

J. D. EVANS
CROWELL & MORING LLP

P.O. BOX 14300
WASHINGTON, DC 20004-4300

Domestic Representative
J. D. EVANS

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2005-07-21 11:34:31 ET

Serial Number: 73701138 Assignment Information

Registration Number: 1544208 Assignment Information

Mark



(words only): LEICA

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 1996-02-08

Filing Date: 1987-12-15

Transformed into a National Application: No

Registration Date: 1989-06-20

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 1996-02-28

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. LEICA INDUSTRIEVERWALTUNG GMBH

Address:

LEICA INDUSTRIEVERWALTUNG GMBH
POSTFACH 2020

WETZLAR 1
Fed Rep Germany
Legal Entity Type: Ltd Liab Co
State or Country Where Organized: Fed Rep Germany

GOODS AND/OR SERVICES

International Class: 009
OPTICAL, PHOTOGRAPH, AND ELECTRONIC APPARATUS, NAMELY CAMERAS, ENLARGERS, PROJECTORS, BINOCULARS, AND PARTS THEREOF, NAMELY CONTROLLERS, DATA INPUT APPARATUS, ELECTRONIC FLASHES, OBJECTIVE LENSES, VIEW FINDERS, DIAPHRAGMS, FILTERS, MOTORIZED WINDERS, MOTOR DRIVES, TRIPODS, MAGAZINES, SLIDE MAGAZINE TRAYS, AND CARRYING CASES FOR THE ABOVE
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

Basis: 44(e)

ADDITIONAL INFORMATION

Prior Registration Number(s):
557751

Foreign Application Number: L30382/9WZ
Foreign Registration Number: 1113836
Foreign Registration Date: 1987-11-04
Country: Fed Rep Germany
Foreign Filing Date: 1987-10-01
Foreign Expiration Date: 1997-10-01

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

1996-02-08 - Section 8 (6-year) accepted & Section 15 acknowledged
1995-06-08 - Section 8 (6-year) and Section 15 Filed
1989-06-20 - Registered - Principal Register
1989-03-14 - Published for opposition
1989-02-10 - Notice of publication
1988-12-30 - Approved for Pub - Principal Register (Initial exam)

1988-12-28 - Examiner's amendment mailed
1988-12-28 - Allowance/count withdrawn
1988-11-14 - Letter of suspension mailed
1988-10-25 - Examiner's amendment mailed
1988-10-24 - Case file assigned to examining attorney
1988-09-20 - Communication received from applicant
1988-03-23 - Non-final action mailed
1988-03-23 - Allowance/count withdrawn
1987-12-29 - Communication received from applicant

CORRESPONDENCE INFORMATION

Correspondent

J. D. EVANS (Attorney of record)

J. D. EVANS
EVENSON, MCKEOWN, EDWARDS & LENAHAH
1200 G STREET, N.W., SUITE 700
WASHINGTON, DC 20005

Domestic Representative

EVENSON, MCKEOWN, EDWARDS & LENAHAH

EXHIBIT B

Trademark/Service Mark Application, Principal Register

Serial Number: 78449304

Filing Date: 07/12/2004

The table below presents the data as entered.

Input Field	Entered
MARK SECTION	
MARK FILE NAME	\\tirs\EXPORT10\IMAGEOUT 10\784\493\78449304\xml1\ APP0002.JPG
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	Leitz
COLOR MARK	NO
DESCRIPTION OF THE MARK	The mark consists of The word "Leitz" in stylized form..
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	350 x 350
OWNER SECTION	
NAME	Krauter, Sherry
STREET	118 Purgatory Road
CITY	Campbell Hall
STATE	NY
ZIP/POSTAL CODE	10916
COUNTRY	United States
PHONE	845-496-8834
FAX	845-496-3656
EMAIL	krauter@warwick.net
AUTHORIZED EMAIL COMMUNICATION	Yes
LEGAL ENTITY SECTION	
TYPE	INDIVIDUAL
COUNTRY OF CITIZENSHIP	United States
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	025

DESCRIPTION	Clothing, namely hats, visors, t-shirts, patches and jackets.
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	10/30/2001
FIRST USE IN COMMERCE DATE	10/30/2001
SPECIMEN FILE NAME(S)	\\tirs\EXPORT10\IMAGEOUT 10\784\493\78449304\xml1\ APP0003.JPG
	\\tirs\EXPORT10\IMAGEOUT 10\784\493\78449304\xml1\ APP0004.JPG
	\\tirs\EXPORT10\IMAGEOUT 10\784\493\78449304\xml1\ APP0005.JPG
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	\\tirs\EXPORT10\IMAGEOUT 10\784\493\78449304\xml1\ APP0012.JPG
SPECIMEN DESCRIPTION	Digitally photographed logos upon various articles of clothing.
SIGNATURE SECTION	
SIGNATURE	/sherry krauter/
SIGNATORY NAME	Sherry L. Krauter
SIGNATORY DATE	07/12/2004
SIGNATORY POSITION	Owner
PAYMENT SECTION	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	335
TOTAL AMOUNT	335
ATTORNEY	
NAME	Arthur G. Levy
FIRM NAME	The Levy Firm
INTERNAL ADDRESS	22nd Floor
STREET	415 Madison Avenue
CITY	New York
STATE	NY

ZIP/POSTAL CODE	10017
COUNTRY	United States
PHONE	212.688.6400
FAX	212.644.6460
EMAIL	agl@levyfirm.com
AUTHORIZED EMAIL COMMUNICATION	Yes
CORRESPONDENCE SECTION	
NAME	Arthur G. Levy
FIRM NAME	The Levy Firm
INTERNAL ADDRESS	22nd Floor
STREET	415 Madison Avenue
CITY	New York
STATE	NY
ZIP/POSTAL CODE	10017
COUNTRY	United States
PHONE	212.688.6400
FAX	212.644.6460
EMAIL	agl@levyfirm.com
AUTHORIZED EMAIL COMMUNICATION	Yes
FILING INFORMATION	
SUBMIT DATE	Mon Jul 12 16:12:15 EDT 2004
TEAS STAMP	USPTO/BAS-68160199116-200 40712161215343319-7844930 4-200bf277cd27ddcd4ffc81 b34f5042819c-CC-202-20040 629145221586421

Trademark/Service Mark Application, Principal Register

Serial Number: 78449304

Filing Date: 07/12/2004

To the Commissioner for Trademarks:

MARK: Leitz (stylized and/or with design, see mark)

The literal element of the mark consists of Leitz.

The mark consists of The word "Leitz" in stylized form..

The applicant, Sherry Krauter, a citizen of United States, residing at 118 Purgatory Road, Campbell Hall, NY, United States, 10916, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

The applicant, or the applicant's related company or licensee, is using the mark in commerce, and lists below the dates of use by the applicant, or the applicant's related company, licensee, or predecessor in interest, of the mark on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

International Class 025: Clothing, namely hats, visors, t-shirts, patches and jackets.

In International Class 025, the mark was first used at least as early as 10/30/2001, and first used in commerce at least as early as 10/30/2001, and is now in use in such commerce. The applicant is submitting or will submit one specimen for *each class* showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) Digitally photographed logos upon various articles of clothing..

Specimen - 1

Specimen - 2

Specimen - 3

Specimen - 4

Specimen - 5

Specimen - 6

Specimen - 7

Specimen - 8

Specimen - 9

Specimen - 10

The applicant hereby appoints Arthur G. Levy of The Levy Firm, 22nd Floor, 415 Madison Avenue, New York, NY, United States, 10017 to submit this application on behalf of the applicant.

The USPTO is authorized to communicate with the applicant or its representative at the following email address: agl@levyfirm.com.

A fee payment in the amount of \$335 will be submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /sherry krauter/ Date: 07/12/2004

Signatory's Name: Sherry L. Krauter

Signatory's Position: Owner

Mailing Address:

Arthur G. Levy

22nd Floor

415 Madison Avenue

New York, NY 10017

RAM Sale Number: 202

RAM Accounting Date: 07/13/2004

Serial Number: 78449304

Internet Transmission Date: Mon Jul 12 16:12:15 EDT 2004

TEAS Stamp: USPTO/BAS-68160199116-200407121612153433

19-78449304-200bf277cd27ddcd4ffc81b34f5

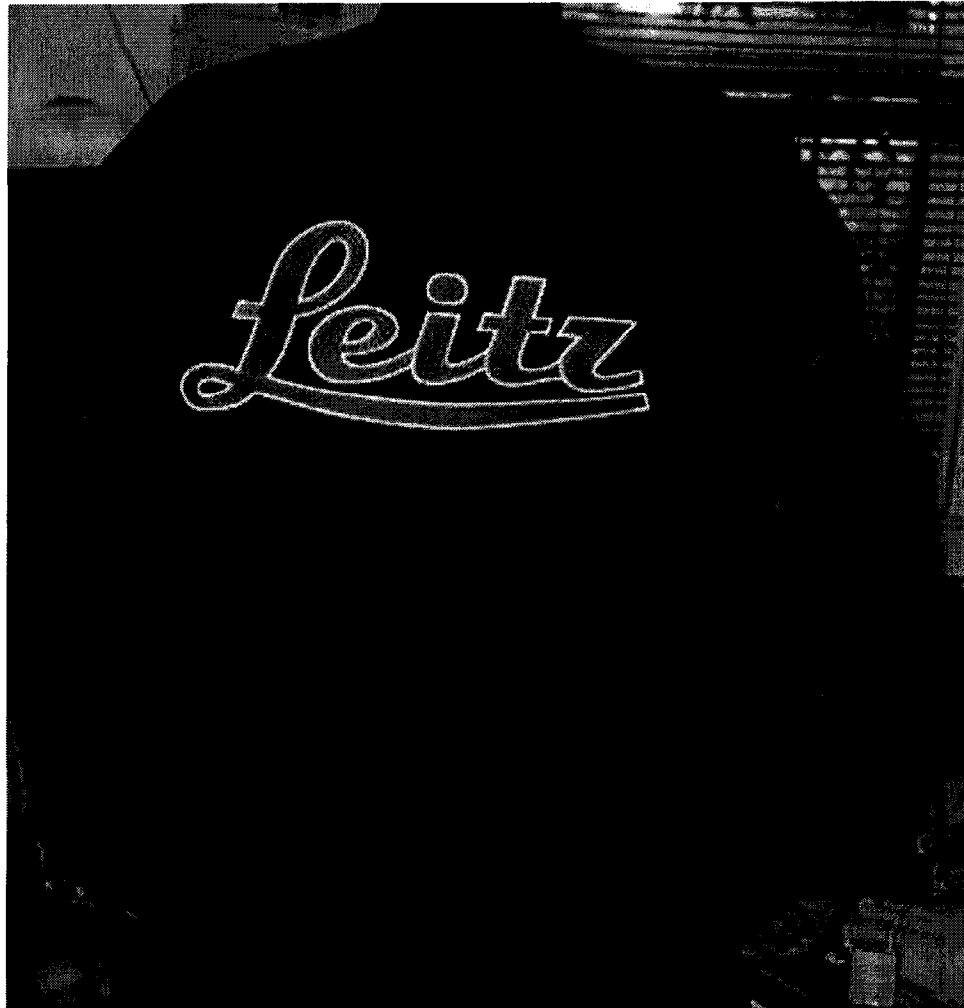
042819c-CC-202-20040629145221586421

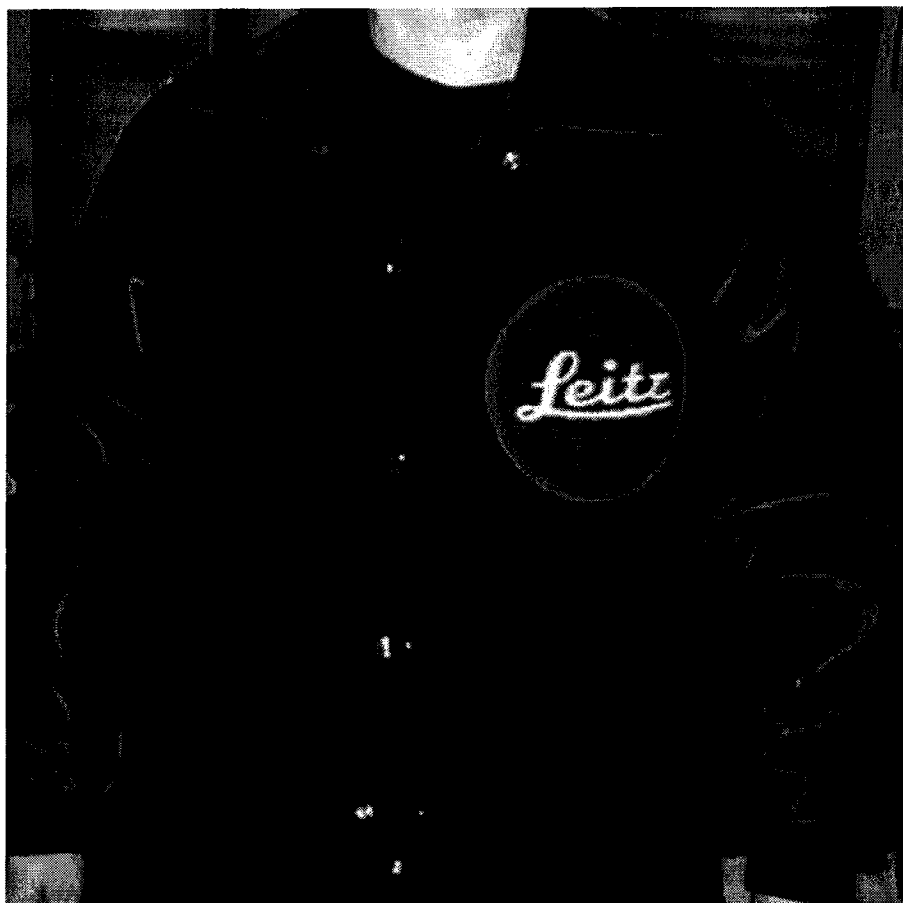
Leitz



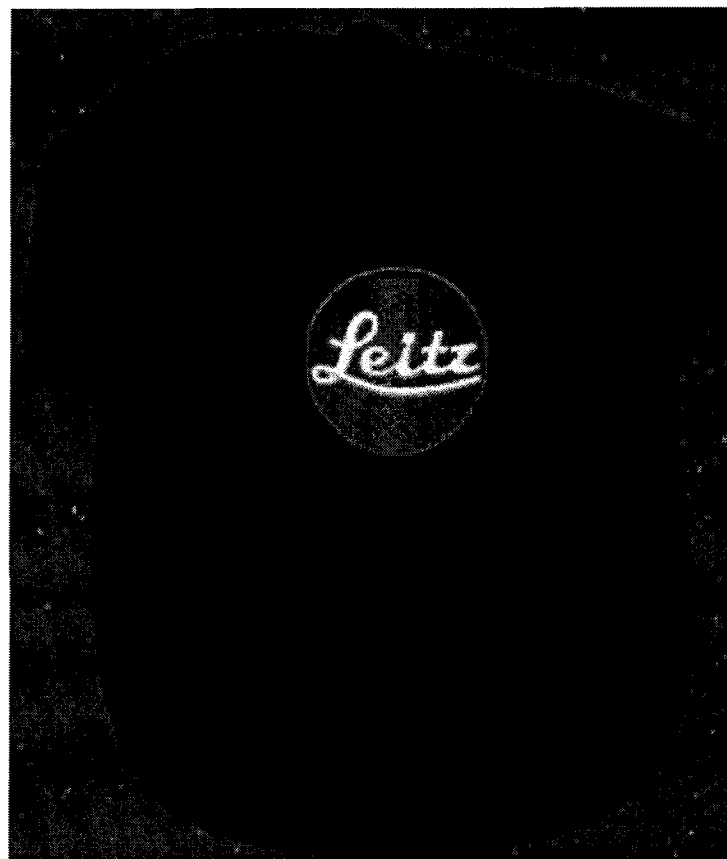




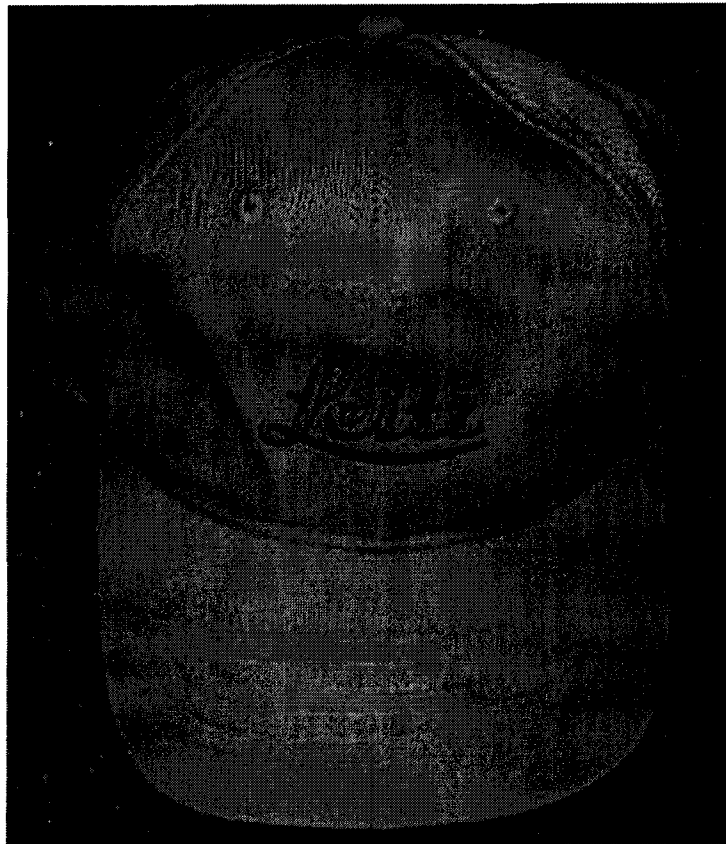












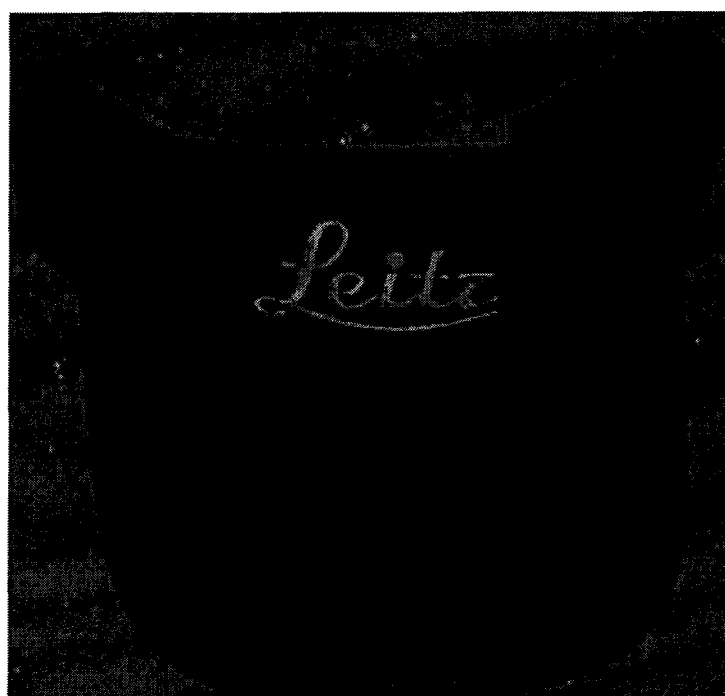


EXHIBIT C

To: Krauter, Sherry (agl@levyfirm.com)
Subject: TRADEMARK APPLICATION NO. 78449304 - LEITZ - N/A
Sent: 2/17/2005 9:47:54 AM
Sent As: ECOM114@USPTO.GOV
Attachments: Attachment - 1
Attachment - 2
Attachment - 3
Attachment - 4
Attachment - 5
Attachment - 6
Attachment - 7
Attachment - 8
Attachment - 9
Attachment - 10
Attachment - 11
Attachment - 12
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Attachment - 22
Attachment - 23
Attachment - 24
Attachment - 25
Attachment - 26
Attachment - 27
Attachment - 28

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/449304

APPLICANT: Krauter, Sherry

CORRESPONDENT ADDRESS:
ARTHUR G. LEVY
THE LEVY FIRM

78449304

RETURN ADDRESS:
Commissioner for Trademarks
P.O. Box 1451

415 MADISON AVE FL 22
NEW YORK NY 10017-7941

Alexandria, VA 22313-1451

MARK: LEITZ

CORRESPONDENT'S REFERENCE/DOCKET NO: N/A

CORRESPONDENT EMAIL ADDRESS:
agl@levyfirm.com

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

OFFICE ACTION

TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.

Serial Number 78/449304

The assigned examining attorney has reviewed the referenced application and determined the following.

The examining attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d), because the applicant's mark, when used on or in connection with the identified goods/services, so resembles the mark in U.S. Registration No. 2,892,058 as to be likely to cause confusion, to cause mistake, or to deceive. TMEP §§1207.01 *et seq.* See the enclosed registration.

The Court in *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), listed the principal factors to be considered in determining whether there is a likelihood of confusion under Section 2(d). Any one of the factors listed may be dominant in any given case, depending upon the evidence of record. In this case, the following factors are the most relevant: similarity of the marks, similarity of the goods/services, and similarity of trade channels of the goods/services. TMEP §§1207.01 *et seq.* The marks are identical, and the respective goods are related, complementary items commonly sold under the same marks by a common source. See attached excerpts from the trademark register indicating the prevalence of this practice. Accordingly, the respective goods must be presumed to move in the same channels of trade.

In addition, registration is refused because the proposed mark is primarily merely a surname. Trademark Act Section 2(e)(4), 15 U.S.C. §1052(e)(4); TMEP §§1211 *et seq.* The primary significance of the mark to the purchasing public determines whether a term is primarily merely a surname. *In re Etablissements Darty et Fils*, 759 F.2d 15, 225 USPQ 652, 653 (Fed. Cir. 1985); *In re Kahan & Weisz Jewelry Mfg. Corp.*, 508 F.2d 831, 184 USPQ 421 (C.C.P.A. 1975).

Please see the attached evidence from a computerized phone directory database, establishing the surname significance of the surname “LEITZ”. Adding a non-distinctive design element or letter stylization to a term that is primarily merely a surname does not change the surname significance of the term. The primary significance of such a mark would still be that of a surname. *See In re Pickett Hotel Co.*, 229 USPQ 760, 763 (TTAB 1986) (PICKETT still a surname, despite use of stylized lettering); *Cf. In re Benthin Management GmbH*, 37 USPQ2d 1332 (TTAB 1995).

Finally, Registration is refused on the Principal Register because the proposed mark, as used on the specimen of record, is a decorative or ornamental feature of the goods and would not be perceived as a mark by the purchasing public. Trademark Act Sections 1, 2 and 45, 15 U.S.C. §§1051, 1052 and 1127; *See In re Owens#Corning Fiberglass Corp.*, 774 F.2d 1116, 227 USPQ 417 (Fed. Cir. 1985); *In re David Crystal, Inc.*, 296 F.2d 771, 132 USPQ 1 (C.C.P.A. 1961); *In re Villeroy & Boch S.A.R.L.*, 5 USPQ2d 1451 (TTAB 1987); TMEP §§1202.03 *et seq.*

The specimen consists of photos of clothing items, and the proposed mark is ornamental as used on the specimen because it is prominently displayed on the surface of the goods in large lettering. In connection with wording that is ornamental, “the size, location, dominance, and significance of the alleged mark as applied to the goods” are all relevant factors to consider in determining whether the proposed mark is inherently distinctive. *In re Astro Gods Inc.*, 223 USPQ 621, 623 (TTAB 1984); *See In re Pro-Line Corp.*, 28 USPQ2d 1141 (TTAB 1993).

As to the size of the proposed mark appearing on the specimens, the larger the display relative to the size of the goods, the more likely that consumers will *not* view the ornamental matter as a mark. *See, e.g., In re Dimitri’s Inc.*, 9 USPQ2d 1666, 1667 (TTAB 1988) (SUMO merely ornamental in part because the wording “appears in large lettering across the top-center portion of the T-shirts and caps”); *International Order of Job’s Daughters v. Lindberg and Co.*, 633 F.2d 912, 208 USPQ 718 (9th Cir. 1980), *cert denied* 452 U.S. 941 (1982) (prominent display on jewelry was evidence that the proposed mark was being used in a non-trademark fashion).

Applicant may overcome the stated ornamental refusal by doing one of the following, as appropriate:

- (1) submitting evidence that the proposed mark has ***acquired distinctiveness*** of the applicant’s goods in commerce under Trademark Act Section 2(f), 15 U.S.C. §1052(f). Evidence may consist of examples of advertising and promotional materials that specifically promote the subject matter for which registration is sought *as a mark*, dollar figures for advertising devoted to such promotion, dealer and consumer statements of recognition of the subject matter as a mark and any other evidence that establishes recognition of the matter as a mark for the goods. *See* TMEP §1202.03(d); or
- (2) submitting evidence that the proposed mark is an ***indicator of secondary source*** or sponsorship for the identified goods. *University Book Store v. University of Wisconsin Board of Regents*, 33 USPQ2d 1385, 1405 (TTAB 1994); *In re Olin Corp.*, 181 USPQ 182 (TTAB 1982). That is, applicant may submit evidence showing that the proposed mark would be recognized as a trademark or service mark through applicant’s use of the proposed mark with goods or services *other* than those identified here. *In re Original Red Plate Co.*, 223 USPQ 836, 837 (TTAB 1984). Applicant must establish that, as a result of this use on other goods or services, the public would recognize applicant as the secondary source of, or sponsor for, the identified goods. *See* TMEP §1202.03(c); or

- (3) submitting a ***substitute specimen*** that shows proper non-ornamental trademark use, along with a statement that "the substitute specimen was in use in commerce at least as early as the application filing date", verified with a notarized affidavit or a signed declaration under 37 C.F.R. §2.20. 37 C.F.R. §<2.59(a)/2.59(b)(1)/2.59(b)(2)>; or
- (4) amending the application to seek registration on the ***Supplemental Register***. Trademark Act Section 23, 15 U.S.C. §1091; 37 C.F.R. §§2.47 and 2.75(a); TMEP §§801.02(b), 815 and 816 *et seq.*

NOTE: Amendment to seek registration pursuant to Section 2(f), or on the Supplemental Register, is an appropriate response only to the surname and ornamental refusals set forth above; such an amendment has no relevance to the refusal of registration pursuant to Section 2(d) based on likelihood of confusion.

Further action awaits response to the above.

NOTICE: FEE CHANGE

Effective January 31, 2005 and pursuant to the Consolidated Appropriations Act, 2005, Pub. L. 108-447, the following are the fees that will be charged for filing a trademark application:

(1) \$325 per international class if filed electronically using the Trademark Electronic Application System (TEAS);
or

(2) \$375 per international class if filed on paper

These fees will be charged not only when a new application is filed, but also when payments are made to add classes to an existing application. If such payments are submitted with a TEAS response, the fee will be \$325 per class, and if such payments are made with a paper response, the fee will be \$375 per class.

The new fee requirements will apply to any fees filed on or after January 31, 2005.

NOTICE: TRADEMARK OPERATION RELOCATION

The Trademark Operation has relocated to Alexandria, Virginia. Effective October 4, 2004, all Trademark-related paper mail (except documents sent to the Assignment Services Division for recordation, certain documents filed under the Madrid Protocol, and requests for copies of trademark documents) must be sent to:

**Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451**

Applicants, attorneys and other Trademark customers are strongly encouraged to correspond with the USPTO online via the Trademark Electronic Application System (TEAS), at <http://www.uspto.gov/teas/index.html>.

/David H. Stine/

Trademark Attorney

Law Office 114

(571)272-9229

HOW TO RESPOND TO THIS OFFICE ACTION:

- **ONLINE RESPONSE:** You may respond formally using the Office's Trademark Electronic Application System (TEAS) Response to Office Action form (visit <http://www.uspto.gov/teas/index.html> and follow the instructions, but if the Office Action issued via email you must wait 72 hours after receipt of the Office Action to respond via TEAS).
- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above and include the serial number, law office number and examining attorney's name in your response.

STATUS OF APPLICATION: To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

VIEW APPLICATION DOCUMENTS ONLINE: Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

GENERAL TRADEMARK INFORMATION: For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.

MAIL-IT REQUESTED: FEBRUARY 16, 2005

10083K CLIENT:

LIBRARY: FINDER

FILE: USFIND

YOUR SEARCH REQUEST AT THE TIME THIS MAIL-IT WAS REQUESTED:

LAST-NAME (**LEITZ**)

NUMBER OF DOCUMENTS FOUND WITH YOUR REQUEST THROUGH: **545**

PRINTED THE SELECTED DOCUMENT NUMBERS: 1-100

DISPLAY FORMAT: CITE

1. LEITZ, 323 ROSEDOWN WAY, MANDEVILLE, LA 70471-8224, PERSON LOCATOR - USFIND
2. LEITZ, A, 22 COZY HOLLOW RD, DANBURY, CT 06811-5026, PERSON LOCATOR - USFIND
3. LEITZ, A M, 165 MCINTYRE RD, SCHUYLER, NY 13340-4048, PERSON LOCATOR - USFIND
4. LEITZ, A, 912 STRAWBERRY LN APT 3, MURRAY ISLE, NY 13624-1411, PERSON LOCATOR - USFIND
5. LEITZ, A, 16281 WASHOUGAL RIVER RD, WASHOUGAL, WA 98671-7119, PERSON LOCATOR - USFIND
6. LEITZ, AARON, 22620 TULANE AVE, FARMINGTON HILLS, MI 48336-3657, PERSON LOCATOR - USFIND
7. LEITZ, AARON, 1819 S 17TH ST, YAKIMA, WA 98903-3938, PERSON LOCATOR - USFIND
8. LEITZ, ADOLPH H, 3799 STATE STREET RD, BAY CITY, MI 48706-2168, PERSON LOCATOR - USFIND
9. LEITZ, ALLANA J, 6897 PIPESTONE RD, EAU CLAIRE, MI 49111-9745, PERSON LOCATOR - USFIND
10. LEITZ, ALVERTA, 2815 BYBERRY RD, EDDINGTON, PA 19020-2905, PERSON LOCATOR - USFIND
11. LEITZ, ALBERTA, 850 NORRISTOWN RD, WARMINSTER, PA 18974-2628, PERSON LOCATOR - USFIND
12. LEITZ, ALLSION, 4393 MONACO ST, SAN DIEGO, CA 92107-4246, PERSON LOCATOR - USFIND
13. LEITZ, ALLEN, 214 E WASHINGTON AVE, TOMAHAWK, WI 54487-1468, PERSON LOCATOR - USFIND
14. LEITZ, AL, 1731 PITKIN AVE APT 7, BROOKLYN, NY 11212-6607, PERSON LOCATOR - USFIND
15. LEITZ, ALFRED, 200 E FAIRMAN AVE, WATSEKA, IL 60970-1644, PERSON LOCATOR - USFIND
16. LEITZ, ANN M, 3915 PO BOX, DANBURY, CT 06813-3915, PERSON LOCATOR - USFIND
17. LEITZ, ANDREW J, 2312 SUMAC CT S, CHAMPAIGN, IL 61821-6330, PERSON LOCATOR - USFIND
18. LEITZ, ANDREA, 1995 LUTHER CT, KLOSSNER, MN 56073-3965, PERSON LOCATOR - USFIND
19. LEITZ, ANDREW, 41 FOREST PARK DR S, KETCHIKAN, AK 99901-9516, PERSON LOCATOR - USFIND
20. LEITZ, ANDREW, 41 FOREST PARK DR S, KETCHIKAN, AK 99901-9516, PERSON LOCATOR - USFIND
21. LEITZ, ANN M, 2357 RANCHITO DR, CONCORD, CA 94520-1411, PERSON LOCATOR - USFIND
22. LEITZ, ANGELA E, 832 FREDERICK ST, OSHKOSH, WI 54901-4411, PERSON LOCATOR - USFIND
23. LEITZ, ARNOLD, 37728 SE 86TH ST, SNOQUALMIE, WA 98065-9303, PERSON LOCATOR - USFIND
24. LEITZ, ARTHUR F, 216 MIDLAND RD, SPRINGFIELD, PA 19064-1928, PERSON LOCATOR - USFIND
25. LEITZ, ARLENE, 50 BRIARWOOD DR, LITTLE EGG HARBOR, NJ 08087-4004, PERSON LOCATOR - USFIND
26. LEITZ, B, 870 YELLOWSTONE ST, CAROL STREAM, IL 60188-1438, PERSON LOCATOR - USFIND
27. LEITZ, BARBARA, 4414 LONGSHORE AVE, PHILADELPHIA, PA 19135-2216, PERSON LOCATOR - USFIND
28. LEITZ, BARBARA, 2718 COLOMA RD, BENTON HARBOR, MI 49022-9520, PERSON LOCATOR - USFIND
29. LEITZ, BARBARA, 4414 LONGSHORE AVE, PHILADELPHIA, PA 19135-2216, PERSON LOCATOR - USFIND
30. LEITZ, BARBARA, 2718 COLOMA RD, BENTON HARBOR, MI 49022-9520, PERSON LOCATOR - USFIND
31. LEITZ, BARBARA G, 341 BILTEN ST, SLIDELL, LA 70458-3907, PERSON LOCATOR - USFIND
32. LEITZ, BERNARD, 141 N WEST ST, NORWALK, OH 44857-1272, PERSON LOCATOR - USFIND
33. LEITZ, BEATRICE, 2277 GREENBROOK DR, MEDFORD, OR 97504-8361, PERSON LOCATOR - USFIND
34. LEITZ, BETTY, 318 9TH ST S, LA CROSSE, WI 54601-4732, PERSON LOCATOR - USFIND

35. LEITZ, BETTY, 214 E WASHINGTON AVE, TOMAHAWK, WI 54487-1468, PERSON LOCATOR - USFIND
36. LEITZ, BILLIE, 6234 NAOMI RD, EAU CLAIRE, MI 49111-9653, PERSON LOCATOR - USFIND
37. LEITZ, BLYTHE, 533 SHADELAND AVE, DREXEL HILL, PA 19026-1419, PERSON LOCATOR - USFIND
38. LEITZ, BONNIE, 331 INDEPENDENCE AVE, WATERLOO, IA 50703-4009, PERSON LOCATOR - USFIND
39. LEITZ, BOBBI, 1015 CROSSBROOK BLVD, GALLOWAY, OH 43119-8385, PERSON LOCATOR - USFIND
40. LEITZ, BRUCE, 1820 W 3RD ST, CEDAR FALLS, IA 50613-1911, PERSON LOCATOR - USFIND
41. LEITZ, BRIAN, 1704 14TH ST, BOONE, IA 50036-1609, PERSON LOCATOR - USFIND
42. LEITZ, BRETT, 15855 HARDIN LN, SAINT ROBERT, MO 65584-3134, PERSON LOCATOR - USFIND
43. LEITZ, BRETT, 15845 HARDIN LN, SAINT ROBERT, MO 65584-3134, PERSON LOCATOR - USFIND
44. LEITZ, BRENT, 212 SPRUCE AVE, CHARTER OAK, IA 51439-7471, PERSON LOCATOR - USFIND
45. LEITZ, BUTCH, 65 WOODMEN CT, COLORADO SPRINGS, CO 80919-2516, PERSON LOCATOR - USFIND
46. LEITZ, BUTCH, 65 WOODMEN CT, COLORADO SPRINGS, CO 80919-2516, PERSON LOCATOR - USFIND
47. LEITZ, C, 19625 HOYT ST, DETROIT, MI 48205-1805, PERSON LOCATOR - USFIND
48. LEITZ, C, 4687 PO BOX, GARDEN GROVE, CA 92842-4687, PERSON LOCATOR - USFIND
49. LEITZ, C, 1782 8TH ST, SAN LUIS OBISPO, CA 93402-2221, PERSON LOCATOR - USFIND
50. LEITZ, C, 6 HARRISON RD, PARSIPPANY, NJ 07054-3229, PERSON LOCATOR - USFIND
51. LEITZ, CARL, 145 PARK AVE APT 4B, EAST RUTHERFORD, NJ 07073-1824, PERSON LOCATOR - USFIND
52. LEITZ, CANDACE, 14608 118TH AVENUE CT E, SOUTH HILL, WA 98374-3507, PERSON LOCATOR - USFIND
53. LEITZ, CANDACE, 14608 118TH AVENUE CT E, SOUTH HILL, WA 98374-3507, PERSON LOCATOR - USFIND
54. LEITZ, CARL F, 1710 BROOKHAVEN CIR NE, ATLANTA, GA 30319-5413, PERSON LOCATOR - USFIND
55. LEITZ, CATHERINE, 19965 PINEWOOD RD, BEND, OR 97702-2019, PERSON LOCATOR - USFIND
56. LEITZ, CAROL I, 102 ELK DR, CACHE, OK 73527-9408, PERSON LOCATOR - USFIND
57. LEITZ, CARRIE L, 403 S WEBSTER ST, GREENVILLE, MI 48838-2377, PERSON LOCATOR - USFIND
58. LEITZ, CARL, 4572 VALLEY PKWY SE, SMYRNA, GA 30082-4966, PERSON LOCATOR - USFIND
59. LEITZ, CARL, 14 OXFORD RD, EVESHAM, NJ 08053-2246, PERSON LOCATOR - USFIND
60. LEITZ, CHRISTINE, 54 NIEHAUS AVE, LITTLE FERRY, NJ 07643-1731, PERSON LOCATOR - USFIND
61. LEITZ, CHRISTINE, 54 NIEHAUS AVE, LITTLE FERRY, NJ 07643-1731, PERSON LOCATOR - USFIND
62. LEITZ, CHRISTOPHE, 24 LOGAN CIR NW, WASHINGTON, DC 20005-3743, PERSON LOCATOR - USFIND
63. LEITZ, CHRIS, 1 PARKLINE CT, SAINT MARIES, ID 83861-9785, PERSON LOCATOR - USFIND
64. LEITZ, CHRISTINE, 1 DOLPHIN AVE, ORMOND BEACH, FL 32176-2107, PERSON LOCATOR - USFIND
65. LEITZ, CHRIS, 2207 ROCKFORD RD SW, CEDAR RAPIDS, IA 52404-2543, PERSON LOCATOR - USFIND
66. LEITZ, CHARLES F, 571 RIVERSIDE DR, RIVIERA BEACH, MD 21122-5063, PERSON LOCATOR - USFIND
67. LEITZ, CHARLES F, 571 RIVERSIDE DR, RIVIERA BEACH, MD 21122-5063, PERSON LOCATOR - USFIND
68. LEITZ, CHITRA, NE 29TH ST, SAMMAMISH, WA 98074-5467, PERSON LOCATOR - USFIND
69. LEITZ, CHRISTI, 3025 SE MAPLE ST APT 5, PORTLAND, OR 97267-1442, PERSON LOCATOR - USFIND
70. LEITZ, CHRISTI, 3025 SE MAPLE ST APT 5, PORTLAND, OR 97267-1442, PERSON LOCATOR - USFIND
71. LEITZ, CHRISTY, 1102 5TH ST, CARROLLTON, KY 41008-1214, PERSON LOCATOR - USFIND
72. LEITZ, CHRISTINE, 7500 SUNFISH DR NE, ROCKFORD, MI 49341-9051, PERSON LOCATOR - USFIND
73. LEITZ, CHRISTOPHER, 262 MAIN ST, MANCHESTER, NH 03102-4031, PERSON LOCATOR - USFIND
74. LEITZ, CHRISTOPHER, 16 CASS ST, MELROSE, MA 02176-3925, PERSON LOCATOR - USFIND
75. LEITZ, CHARLES, 1121 N 2600 EAST RD, MILFORD, IL 60953-6057, PERSON LOCATOR - USFIND
76. LEITZ, CHRISTOPHER R, 8137 FOXBERRY BAY, SAVAGE, MN 55378-2352, PERSON LOCATOR - USFIND
77. LEITZ, CHRISTOPHER R, 8137 FOXBERRY BAY, SAVAGE, MN 55378-2352, PERSON LOCATOR - USFIND
78. LEITZ, CLAYTON D, 171 PERKINS DR, NAPLES, FL 34119-2954, PERSON LOCATOR - USFIND
79. LEITZ, CLARA, 5140 RIVER RD, SODUS, MI 49126-9732, PERSON LOCATOR - USFIND
80. LEITZ, CLARENCE R, 516 W EASY ST, DESTREHAN, LA 70047-4126, PERSON LOCATOR - USFIND
81. LEITZ, CRAIG, 331 CEDAR LN, MANY, LA 71449-7122, PERSON LOCATOR - USFIND

82. LEITZ, CURT, 311 NE LONGWOOD PL, SEATTLE, WA 98115-4049, PERSON LOCATOR - USFIND
83. LEITZ, D E, 6731 OLD PIPESTONE RD, EAU CLAIRE, MI 49111-9701, PERSON LOCATOR - USFIND
84. LEITZ, D & S, 520 NOTTINGHAM DR, NAPLES, FL 34109-1616, PERSON LOCATOR - USFIND
85. LEITZ, D, 802 13TH AVE S, DENISON, IA 51442-2539, PERSON LOCATOR - USFIND
86. LEITZ, DAVID, 4161 RIVER RD, SODUS, MI 49126-9727, PERSON LOCATOR - USFIND
87. LEITZ, DAWN, 10127 AMY CT, WHITE LAKE, MI 48386-2640, PERSON LOCATOR - USFIND
88. LEITZ, DAVID, 23497 FRENCH RD, MATTAWAN, MI 49071-9331, PERSON LOCATOR - USFIND
89. LEITZ, DARIN, 3004 W 4TH ST, CEDAR FALLS, IA 50613-6654, PERSON LOCATOR - USFIND
90. LEITZ, DAVID, 714 WASHINGTON ST SE, OLYMPIA, WA 98501-1326, PERSON LOCATOR - USFIND
91. LEITZ, DAVID, 2714 N LAURA RD, SPOKANE VALLEY, WA 99212-2359, PERSON LOCATOR - USFIND
92. LEITZ, DARSHAN, 3255 KEMPTON AVE, PIEDMONT, CA 94611-5825, PERSON LOCATOR - USFIND
93. LEITZ, DAVID, 21668 80TH ST, CRESCO, IA 52136-8412, PERSON LOCATOR - USFIND
94. LEITZ, DAWN, 1579 8 1/2 ST SE, ROCHESTER, MN 55904-4912, PERSON LOCATOR - USFIND
95. LEITZ, DAVE D, 1763 HARRISON AVE, БЕЛОИТ, WI 53511-3509, PERSON LOCATOR - USFIND
96. LEITZ, DAVID, 305 E HIGH ST, EDGERTON, WI 53534-2113, PERSON LOCATOR - USFIND
97. LEITZ, DAWN, 2811 AVENUE E ST, MANAWA, IA 51501-2135, PERSON LOCATOR - USFIND
98. LEITZ, DALE, 9007 HAMPSHIRE AVE N, MINNEAPOLIS, MN 55445-3200, PERSON LOCATOR - USFIND
99. LEITZ, DAVID, 3310 LOVELAND BLVD UNIT 105, PUNTA GORDA, FL 33980-8743, PERSON LOCATOR - USFIND
100. LEITZ, DAVID, 714 DANIELS ST, BRUSH, CO 80723-1816, PERSON LOCATOR - USFIND

Print: Feb 16, 2005

76541192

DESIGN MARK

Serial Number

76541192

Status

REGISTERED

Word Mark

LEITZ

Standard Character Mark

No

Registration Number

2892058

Date Registered

2004/10/05

Type of Mark

TRADEMARK

Register

SUPPLEMENTAL

Mark Drawing Code

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Owner

Levine, Seth DBA M Classics INDIVIDUAL UNITED STATES 30 Kirkwood Road
Brighton MASSACHUSETTS 02135

Goods/Services

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:
Photographic products, namely, camera bags, camera straps, wrist
straps for cameras, neck straps for cameras. First Use: 2003/08/00.
First Use In Commerce: 2004/04/21.

Filing Date

2003/08/29

Amended Register Date

2004/05/05

Examining Attorney

MULLEN, MARK T.

Attorney of Record

Erik M. Pelton

Leitz

Print: Feb 16, 2005

78194325

Issue: 0000/00/00

TYPED DRAWING

Serial Number

78194325

Status

REQUEST FOR EXTENSION OF TIME TO FILE OPPOSITION

Word Mark

SWATCH

Standard Character Mark

No

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

Swatch AG (Swatch SA) (Swatch Ltd.) CORPORATION SWITZERLAND 94, rue
Jacob Stämpfli Bienne SWITZERLAND 2500

Goods/Services

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:
PERFUMES; COLOGNES; COSMETICS.

Goods/Services

Class Status -- ACTIVE. IC 008. US 023 028 044. G & S: RAZORS.

Goods/Services

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:
Sunglasses; case for spectacles; leather eyeglass cases; spectacle
retaining cords, and spectacle retaining chains; multifunction
telecommunication apparatus; namely, combination telephone and
answering machine, combination watch and computer; apparatus for
telecommunication, transmission, reception, recording, and
reproduction, namely, radios, telephones, televisions, audio, video,
tape and cassette players and recorders; phonograph records and
pre-recorded audio compact discs, tapes, and cassettes, all featuring
music; pre-recorded video discs, tapes, and cassettes of athletic
events, scientific and nautical apparatus, namely, satellite
navigational systems, beepers, surveying apparatus, namely, surveying
chains; photographic and cinematographic apparatus, namely,
photographic cameras, cinematographic film; optical apparatus, namely,
optical scanners, weighing apparatus, namely, scales and calibrating
equipment; measuring apparatus, namely, lasers and pocket calipers for

measuring purposes; signaling apparatus, namely, signal whistles, life saving apparatus, namely, life saving rafts; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, namely, electric converters, electric transformers, voltage regulators for electric power, electric switches; apparatus for recording, transmission or reproduction of sound or image, namely, juke boxes, audio tape recorders, video tape recorders, video monitors.

Goods/Services

Class Status -- ACTIVE. IC 011. US 013 021 023 031 034. G & S: APPARATUS FOR LIGHTING, NAMELY, ELECTRIC LIGHTING FIXTURE, WATER PUMPS FOR SPAS, BATHS, WATER FILTERING UNITS.

Goods/Services

Class Status -- ACTIVE. IC 014. US 002 027 028 050. G & S: WATCH PROTECTORS; WATCHCASES; NECK CHAINS.

Goods/Services

Class Status -- ACTIVE. IC 015. US 002 021 036. G & S: MUSICAL INSTRUMENTS.

Goods/Services

Class Status -- ACTIVE. IC 016. US 002 005 022 023 029 037 038 050. G & S: PAPER, NAMELY, BAGS, ENVELOPES, COVERS, FOLDERS, NOTE PAPER, ART PAPER, CARBON PAPER; PHOTOGRAPHS; ALBUMS, BALLS FOR BALL POINT PENS, BOOKLETS, BOOKS, BOXES OF CARDBOARD OR PAPER, CALENDARS, CARDBOARD ARTICLES AND TUBES, GREETING CARDS, PRINTED MATTER, NAMELY PRINTED PUBLICATIONS, CATALOGUES, MAGAZINES, MANUALS, PERIODICALS AND TIMETABLES; CLIPS FOR OFFICES, FOLDERS FOR PAPERS, POSTCARDS, NOTEBOOKS, PHOTOGRAPH STANDS, POSTERS, PRINTS, RUBBER ERASERS, TABLE CLOTHS, TABLE MATS, TABLE LINEN, TABLE NAPKINS OF PAPER, STATIONERY; ARTIST'S MATERIALS, NAMELY, PASTELS, PENCILS, PAINT BRUSHES, PAINTER'S BRUSHES; PAPER CLASPS, PAPER CLIPS, CRAYONS, PEN CASES, PENCIL AND PEN HOLDERS, PENS AND PENCILS, PENCIL SHARPENERS, WRAPPERS, WRAPPING PAPER, WRITING CASES, WRISTBANDS FOR RETENTION OF WRITING INSTRUMENTS.

Goods/Services

Class Status -- ACTIVE. IC 018. US 001 002 003 022 041. G & S: Suitcases, travel bags, briefcase-type portfolios, briefcases, wallets, handbags, umbrellas, parasols, canes, backpacks, shoulder bags, cases of leather, namely, leather attache cases, purses, rucksacks, shopping bags.

Goods/Services

Class Status -- ACTIVE. IC 020. US 002 013 022 025 032 050. G & S: FURNITURE; NON-METAL KEY HOLDERS; CHAIRS.

Goods/Services

Class Status -- ACTIVE. IC 021. US 002 013 023 029 030 033 040 050. G & S: HOUSEHOLD OR KITCHEN UTENSILS NOT OF PRECIOUS METAL OR COATED

THEREWITH, NAMELY, POT AND PAN SCRAPERS, ROLLING PINS, SPATULAS, TURNERS, WHISKS, HOUSEHOLD OR KITCHEN CONTAINERS NOT OF PRECIOUS METAL OR COATED THEREWITH; HAIR COMBS; SPONGES FOR HOUSEHOLD PURPOSES; HAIR BRUSHES; BRUSH-MAKING MATERIALS; ARTICLES FOR CLEANING PURPOSES, NAMELY, CLEANING RAGS, IMPREGNATED CLEANING, DUSTING OR POLISHING CLOTHS, STEEL WOOL FOR CLEANING; BEVERAGE GLASSWARE; PORCELAIN FIGURINES, PORCELAIN MUGS; EARTHENWARE MUGS.

Goods/Services

Class Status -- ACTIVE. IC 022. US 001 002 007 019 022 042 050. G & S: Ropes, string, tents, awnings not made of metal; tarpaulins, sails, nets, namely, commercial nets, fabric and polyester mesh net used for storing toys and other household items, hammocks.

Goods/Services

Class Status -- ACTIVE. IC 024. US 042 050. G & S: Towels, handkerchiefs, bed blankets, shower curtains, table cloths not of paper, table mats not of paper.

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: DOWN VESTS; WIND RESISTANT JACKETS; SKI BOOTS.

Goods/Services

Class Status -- ACTIVE. IC 028. US 022 023 038 050. G & S: BOARD GAMES, GYMNASTIC AND SPORTS ARTICLES, NAMELY SKIS, SKI POLES, PORTABLE COVERS AND CASES FOR SKIS AND SKI BINDINGS, TENNIS RACKETS, TENNIS BALLS, TENNIS RACKET CASES AND COVERS, KITES, BALLS OF ALL KINDS, TOY FIGURES, SOFT-SCULPTURED DOLLS, AND STUFFED TOYS, TOY VEHICLES, SKATE BOARDS, ROLLER SKATES, BALLOONS, JIGSAW PUZZLES TOY WATCHES, TOY JEWELRY, CHRISTMAS TREE DECORATIONS, YOYOS, AND PLAYING CARDS.

Goods/Services

Class Status -- ACTIVE. IC 029. US 046. G & S: MEATS AND PROCESSED FOODS, NAMELY, MEAT, CHICKEN, PROCESSED FRUITS AND VEGETABLES, CLAM CHOWDER.

Goods/Services

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: BEVERAGES, NAMELY, FRUIT JUICE, VEGETABLE JUICE, CARBONATED SOFT DRINKS.

Goods/Services

Class Status -- ACTIVE. IC 034. US 002 008 009 017. G & S: CIGARETTE AND CIGAR LIGHTERS NOT OF PRECIOUS METAL.

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: MANAGEMENT OF BUSINESS; ADVERTISING AGENCIES; COMPUTER ASSISTED PROCESSING OF DATA DERIVED FROM THE TIMING OF SPORTING ACTIVITIES FOR USE IN EDUCATION, ENTERTAINMENT AND PUBLICITY.

Goods/Services Class Status -- ACTIVE. IC 038. US 100 101 104. G & S: Electronic transmission of data derived from sporting events; and radio and television broadcast of programs and shows.

Goods/Services Class Status -- ACTIVE. IC 041. US 100 101 107. G & S: Providing of entertainment, namely, sporting and cultural activities.

Prior Registration(s) 1671076;1980517;2217468;AND OTHERS

Filing Date 2002/12/13

Examining Attorney CLAYTON, CHERYL

Attorney of Record Jess M. Collen

Print: Feb 16, 2005

78334472

DESIGN MARK

Serial Number

78334472

Status

REGISTERED

Word Mark

IRIS VON ARNIM

Standard Character Mark

Yes

Registration Number

2905222

Date Registered

2004/11/23

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

VON ARNIM, IRIS INDIVIDUAL FED REP GERMANY FRAUENTHAL 4 20149 HAMBURG
FED REP GERMANY

Goods/Services

Class Status -- ACTIVE. IC 018. US 001 002 003 022 041. G & S:
Leather goods, namely, purses and wallets. First Use: 2003/11/26.
First Use In Commerce: 2003/11/26.

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: Clothing,
namely, leather belts, pullovers, sweaters, pants, skirts, dresses,
cardigans, jackets, hats, shoes, scarves, shawls, mufflers. First
Use: 2000/12/00. First Use In Commerce: 2000/12/00.

Name/Portrait Statement

The name(s), portrait(s), and/or signature(s) shown in the mark
identifies Iris von Arnim, whose consent(s) to register is submitted.

Filing Date

2003/12/01

Print: Feb 16, 2005

78334472

Examining Attorney
HOLTZ, ALLISON

Attorney of Record
Thilo C. Agthe

IRIS VON ARNIM

Print: Feb 16, 2005

78343197

DESIGN MARK

Serial Number

78343197

Status

FINAL REFUSAL - MAILED

Word Mark

WRANGLER JEANS CO.

Standard Character Mark

Yes

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Wrangler Apparel Corp. CORPORATION DELAWARE 3411 Silverside Road
Wilmington DELAWARE 19810

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: bandannas, belts, bib overalls, blazers, blouses, boots, caps, casual dresses, casual pants, coats, coveralls, dungarees, gloves, hats, hooded jackets, hooded shirts, hosiery, jackets, jeans, jumpers, knit/woven shirts, leg warmers, leotards, overalls, ponchos, pullovers, shirts, shoes, shorts, skirts, slacks, socks, suspenders, sweat shirts, sweaters, sweatpants, sweat shorts, trousers, t-shirts, vests, work pants, work shirts; denim clothing namely denim shorts, denim pants, denim skirts, denim shirts, denim vests, denim jackets, denim coats, denim overalls, denim coveralls, denim hats, denim caps, denim belts..

Goods/Services

Class Status -- ACTIVE. IC 018. US 001 002 003 022 041. G & S: backpacks, waist packs, duffel bags, tote bags, coin purses, handbags, shoulder bags, cosmetic bags sold empty, toiletry cases sold empty, travel cases sold empty, wallets, luggage, key fobs made of leather or imitation leather, umbrellas; carrying bags made of leather or imitation leather, purses made of leather or imitation leather, portfolios made of leather or imitation leather, agendas made of leather or imitation leather, card holders made of leather or imitation leather..

Goods/Services

Print: Feb 16, 2005

78343197

Class Status -- ACTIVE. IC 014. US 002 027 028 050. G & S:
watches, clocks, jewelry.

Goods/Services

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:
eyeglasses, sunglasses, eyeglass cases, eyeglass cords.

Prior Registration(s)

0441727;0771508;0778794;0795607;0809323;0849477;0902640;1075094;1093820-
;1108076;1258619;1259491;1269992;1294549;1338059;1354100;1370068;137027-
6;1384289;1427515;1430885;1439281;1440668;1699851;1807103;1807599;18424-
13;2039402;2093342;2108798;2115042;2127485;2179222;2189530;2229189;2233-
630;2302440;2319226;2340656;2342859;2359599;2380745;2399492;2428325;245-
7535;2528569;2542950;2575861;2575862

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "JEANS CO". in class
25 or "CO". in classes 9, 14, and 18 APART FROM THE MARK AS SHOWN.

Filing Date

2003/12/19

Examining Attorney

LEE, DOUGLAS

WRANGLER JEANS CO.

Print: Feb 16, 2005

78975659

DESIGN MARK

Serial Number

78975659

Status

REGISTERED

Word Mark

OSHKOSH EST. 1895

Standard Character Mark

No

Registration Number

2924475

Date Registered

2005/02/01

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

OshKosh B'Gosh, Inc. CORPORATION DELAWARE 112 Otter Avenue P.O.Box 300
Oshkosh WISCONSIN 549030300

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: clothing, namely bib overalls, bib shortalls, jumpers, dresses, skirts, skorts, jeans, pants, shorts, shirts, blouses, sweatshirts, tops, coveralls, jumpsuits, warmup suits, fleece pants, sweaters, underwear, t-shirts, sleepwear, pajamas, rompers, body suits, fabric diaper covers, pramsuits, creepers; outerwear, namely vests, snowsuits, jackets, coats; headwear, namely hats, caps, visors; footwear, namely shoes, boots, sandals; socks, tights, leggings, booties, slippers; gloves, mittens, scarves; swimwear, belts, suspenders, bandannas, headbands, and cloth baby bibs. First Use: 2004/04/30. First Use In Commerce: 2004/04/30.

Goods/Services

Class Status -- ACTIVE. IC 028. US 022 023 038 050. G & S: plush toys, dolls, soft stackable animal toys, accordion musical pull toys, shape sorters, toy building blocks, baby rattles, crib mobiles, baby multiple activity toys, jigsaw puzzles, and manipulative puzzles.

Print: Feb 16, 2005

78975659

First Use: 2004/04/30. First Use In Commerce: 2004/04/30.

Goods/Services

Class Status -- ACTIVE. IC 018. US 001 002 003 022 041. G & S: luggage, backpacks, fanny packs, handbags, tote bags, diaper bags, and travel bags. First Use: 2004/04/30. First Use In Commerce: 2004/04/30.

Goods/Services

Class Status -- ACTIVE. IC 012. US 019 021 023 031 035 044. G & S: strollers, car seats, and travel systems consisting of a combination of stroller and car seat, all for children. First Use: 2004/04/30. First Use In Commerce: 2004/04/30.

Goods/Services

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: eyeglasses, sunglasses, eyeglass frames, eyeglass cases, and eyeglass chains. First Use: 2004/04/30. First Use In Commerce: 2004/04/30.

Prior Registration(s)

0511479;0511480;1133127;1232852;1498723;1556949;1559976;1561067;1561086-
;1588981;2032487;2112584;2168143;2217577;2417633;2450826;2481785;250467-
6;2575818;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "EST. 1895" APART FROM THE MARK AS SHOWN.

Section 2f Statement

as to "OSHKOSH"

Filing Date

2003/02/20

Examining Attorney

CARTY, GEORGIA

Attorney of Record

Robert L. Titley

OSHKOSH
EST. 1895

Print: Feb 16, 2005

79000009

DESIGN MARK

Serial Number

79000009

Status

NON-FINAL ACTION - MAILED

Word Mark

ARMANI JUNIOR

Standard Character Mark

Yes

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

GA MODEFINE S.A. UNKNOWN Via Penate 4 CH-6850 Mendrisio SWITZERLAND

Goods/Services

Class Status -- ACTIVE. IC 018. US 001 002 003 022 041. G & S: LEATHER AND IMITATIONS OF LEATHER SOLD IN BULK; LEATHER GOODS, NAMELY, HANDBAGS, PURSES, WALLETS, BRIEF CASES, TOILETRY CASES SOLD EMPTY AND COSMETIC CASES SOLD EMPTY, ANIMAL SKINS, ANIMAL HIDES, TRUNKS AND TRAVELING BAGS; UMBRELLAS, PARASOLS AND WALKING STICKS, WHIPS AND SADDLERY.

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: CLOTHING, NAMELY, PULLOVERS, CARDIGANS, SWEATERS, TROUSERS, SKIRTS, JACKETS, BLOUSES, SHIRTS, JEANS, SWEAT PANTS, SHORTS, SWEATSHIRTS, SUITS, DRESSES, OVERCOATS, COATS, RAINCOATS, BELTS, JERSEYS, NECKWEAR, SOCKS AND STOCKINGS, TIGHTS, VESTS, WAISTCOATS, JUMPERS, TRACK SUITS, BLOUSONS, GYM SUITS, KNICKERS, T-SHIRTS, ANORAKS, SUSPENDERS, LOUNGE WEAR, UNDERWEAR, BEACHWEAR, SLEEP WEAR, HATS AND CAPS, GLOVES, SHOES, FOOTWEAR, HEADGEAR, NAMELY, HATS, CAPS.

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: ADVERTISING AGENCY SERVICES; BUSINESS MANAGEMENT SERVICES FOR OTHERS, NAMELY, RETAIL STORES IN THE FIELD OF CLOTHING; BUSINESS ADMINISTRATION IN THE FIELD OF RETAIL SALES AND MARKETING; CLERICAL SERVICES, BUSINESS ADMINISTRATION AND OFFICE WORK.

Print: Feb 16, 2005

79000009

Prior Registration(s)

2142395;2394793;2726789;2810974;AND OTHERS

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE JUNIOR APART FROM THE MARK AS SHOWN.

Name/Portrait Statement

"The name ARNANI in the mark identifies a particular living individual".

Filing Date

2003/11/05

Examining Attorney

WISEMAN, MICHELLE

Attorney of Record

HERBERT DUBNO

ARMANI JUNIOR

Print: Feb 16, 2005

79003878

Issue: Mar 15, 2005

DESIGN MARK

Serial Number

79003878

Status

PUBLICATION/ISSUE REVIEW COMPLETE

Word Mark

DIOR

Standard Character Mark

No

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

CHRISTIAN DIOR COUTURE Société anonyme FRANCE 30, avenue Montaigne
F-75008 Paris FRANCE

Goods/Services

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:
Optical apparatus and instruments, namely, spectacles, sunglasses,
anti-glare goggles for use in sports, sports eyewear, spectacle
glasses, spectacle cases, monocles, binoculars, monoculars, spectacle
frames, monocular frames, contact lenses, containers for contact
lenses; cases for telephones.

Goods/Services

Class Status -- ACTIVE. IC 014. US 002 027 028 050. G & S:
Precious metals and alloys thereof other than for dental use; jewelry;
jewelry chains; charms, medals; precious stones; timepieces,
chronometric instruments, cases for clock and watch-making, watch
straps; fancy key rings of precious metal; cigar and cigarette cases
of precious metal; match holders of precious metals; pins being
jewelry; hat ornaments of precious metal, shoe ornaments of precious
metal.

Goods/Services

Class Status -- ACTIVE. IC 018. US 001 002 003 022 041. G & S:
Leather and imitations thereof sold in bulk; school bags, handbags,
rucksacks, trunks and suitcases, leather satchels, travel bags and
luggage, business cases, unfitted vanity cases sold empty, attache
cases, leather traveling bag sets, leather briefcases, leather key

cases, unfitted toiletry and make-up bags sold empty, wallets, purses not of precious metal, briefcases, business card cases, umbrellas, parasols and walking sticks, whips and saddlery.

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: Clothing for use by men, women and children, namely-- anoraks; aprons; ascots; babushkas; bandanas; bathing suits; bathrobes; belts; blazers; blouses; blousons; bodysuits; boleros; boots; boxer shorts; brassieres; briefs; baby buntings; caftans; camisoles; capes; caps; cardigans; chemises; clogs; cloth diapers; fur coats; suit coats; top coats; corselets; culottes; dresses; earmuffs; galoshes; garter belts; girdles; gloves; nightgowns; halter tops; hats; headbands; hosiery; jackets; jeans; jogging suits; jumpers; jumpsuits; kerchiefs; kimonos; leggings; leotards; lounge wear; mittens; moccasins; mufflers; neckerchiefs; neckties; neckwear; negligees; nightshirts; overalls; overcoats; overshoes; pajamas; panties; pants; pantsuits; pantyhose; parkas; pedal pushers; peignoirs; pinafores; playsuits; pocket squares; ponchos; pullovers; raincoats; sandals; scarves; shawls; shirts; shorts; nightshirts; undershirts; shoes; gym shorts; sweat shorts; skirts; ski suits; slacks; snowsuits; socks; sport coats; sport shirts; stockings; stoles; suits; suspenders; sweat pants; sweat shirts; sweaters; t-shirts; trousers; tuxedos; underpants; vests; vested suits; and warm-up suits.

Goods/Services

Class Status -- ACTIVE. IC 026. US 037 039 040 042 050. G & S: Lace and embroidery, ribbons and braid; ornamental novelty badges; buttons for clothing, snap fasteners, haberdashery, namely, hooks and eyelets; bodkins, belt clasps; hat ornaments not of precious metal, shoe ornaments not of precious metal, safety pins and shoemakers' needles, sewing needles; artificial flowers.

Priority Date

2003/09/05

Prior Registration(s)

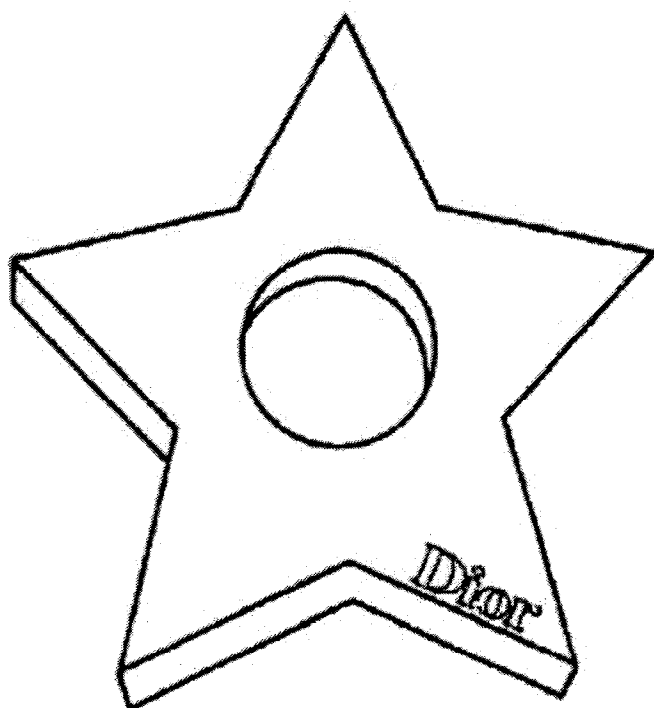
0519367; 2749176; AND OTHERS

Filing Date

2004/02/13

Examining Attorney

BALDWIN, SCOTT



Print: Feb 16, 2005

79004296

DESIGN MARK

Serial Number

79004296

Status

NON-FINAL ACTION - MAILED

Word Mark

ALFRED DUNHILL

Standard Character Mark

Yes

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

ALFRED DUNHILL LIMITED LIMITED COMPANY UNITED KINGDOM 30 Duke Street
St. James's; LONDON, SW1Y 6DL UNITED KINGDOM

Goods/Services

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:
Perfumes, eau de toilette, eau de parfum, colognes; bath and shower
preparations; toilet soaps; body deodorants; creams and gels for the
face, the body and the hands; non-medicated toilet preparations; hair
care preparations; shampoos; gels, sprays, mousses and balms for hair
styling and hair care; dentifrices; antiperspirants; shaving
preparations; after shave preparations.

Goods/Services

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:
Spectacles, sunglasses, cases and frames for spectacles and
sunglasses, magnifying glasses; parts and fittings for all the
aforesaid goods.

Goods/Services

Class Status -- ACTIVE. IC 014. US 002 027 028 050. G & S: Goods
in precious metals or coated therewith not included in other classes;
jewellery, cufflinks; tie bars; tie clips; tie pins; collar and shirt
studs; precious stones; horological and chronometric instruments;
parts and fittings for all the aforesaid goods.

Goods/Services

Class Status -- ACTIVE. IC 016. US 002 005 022 023 029 037 038 050.

G & S: Writing instruments, pouches for writing instruments, gift cases for writing instruments, inks and refills, stationery, desk sets, fountain pens, ball-point pens and pencils, pen and pencil holders; paperweights, diaries, inkwells and ink stands; tickets, labels, printed matter, wrapping materials, cartons, packets and boxes; parts and fittings for all the aforesaid goods.

Goods/Services

Class Status -- ACTIVE. IC 018. US 001 002 003 022 041. G & S: Leather and imitations of leather, and goods made of these materials; trunks and travelling bags; umbrellas, parasols and walking sticks; luggage, bags and cases, shopping bags, shooting sticks; parts and fittings for all the aforesaid goods.

Goods/Services

Class Status -- ACTIVE. IC 024. US 042 050. G & S: Textiles and textile goods, not included in other classes.

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: Clothing, footwear and headgear, scarves, belts, ties.

Goods/Services

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Alcoholic beverages.

Goods/Services

Class Status -- ACTIVE. IC 034. US 002 008 009 017. G & S: Smokers' articles and matches.

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: The bringing together, for the benefit of others, of a variety of goods, enabling customers to conveniently view and to purchase those goods from a department store; the bringing together, for the benefit of others, of a variety of goods, enabling customers to conveniently view and purchase those goods from a general merchandise catalogue by mail order or by means of telecommunications; the bringing together, for the benefit of others, of a variety of goods, enabling customers to conveniently view and purchase those goods from a general merchandise Internet website.

Goods/Services

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S: Organisation of sporting events and competitions; promotion of sporting events and competitions.

Goods/Services

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Packaging design; design of luggage, bags, cases, writing implements, jewellery, watches, clocks and smokers, articles.

Print: Feb 16, 2005

79004296

Filing Date
2004/01/23

Examining Attorney
DUBOIS, SUSAN LESLIE

ALFRED DUNHILL

Print: Feb 16, 2005

79005133

DESIGN MARK

Serial Number

79005133

Status

NON-FINAL ACTION - MAILED

Word Mark

AUDI SPORT

Standard Character Mark

No

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

AUDI AG UNKNOWN NOT PROVIDED D-85045 Ingolstadt FED REP GERMANY

Goods/Services

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission and reproduction of sound and images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus.

Goods/Services

Class Status -- ACTIVE. IC 012. US 019 021 023 031 035 044. G & S: Motor cars; apparatus for locomotion by land, air or water.

Goods/Services

Class Status -- ACTIVE. IC 014. US 002 027 028 050. G & S: Precious metals and their alloys and goods of precious metals or coated therewith (included in this class); jewellery, precious stones; horological and chronometric instruments.

Goods/Services

Class Status -- ACTIVE. IC 016. US 002 005 022 023 029 037 038 050. G & S: Paper, cardboard and goods made from these materials (included

Print: Feb 16, 2005

79005133

in this class); printed matter; bookbinding material, photographs; stationery; adhesives for stationery or household purposes; artists' materials, paint brushes; typewriters and office requisites (except furniture), instructional and teaching material (except apparatus); plastic materials for packaging (included in this class); printers' type; printing blocks.

Goods/Services

Class Status -- ACTIVE. IC 018. US 001 002 003 022 041. G & S: Leather and imitations of leather, and goods made of these materials (included in this class); animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: Clothing, footwear, headgear.

Goods/Services

Class Status -- ACTIVE. IC 028. US 022 023 038 050. G & S: Games and playthings; gymnastic and sporting articles (included in this class); decorations for Christmas trees.

Goods/Services

Class Status -- ACTIVE. IC 037. US 100 103 106. G & S: Repair and maintenance of motor vehicles.

Priority Date

2004/02/09

Colors Claimed

The color(s) red, silver, white is/are claimed as a feature of the mark.

Filing Date

2004/06/16

Examining Attorney

SMIGA, HOWARD

 **Audi Sport**

EXHIBIT D

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78449304
MARK SECTION (no change)	
ARGUMENT(S)	
<p>The examining attorney refused registration for three reasons:</p> <ol style="list-style-type: none">1 Applicant's mark so resembles the mark in U.S. Registration No. 2,892,058 as to be likely to cause confusion, to cause mistake, or to deceive.2 The proposed mark is merely a surname.3 The proposed mark is a decorative or ornamental feature of the goods and would not be perceived as a mark by the purchasing public. <p>The applicant's response to the above reasons, in order, is as follows:</p> <ol style="list-style-type: none">1 Applicant entered into a Consent Agreement, dated October 27, 2004, with Seth Levine, owner of the mark in U.S. Registration No. 2,892,058. In the Consent Agreement, the parties agreed that confusion is not likely to arise from their use and registration of their respective marks, and Mr. Levine consented to applicant's use and registration of applicant's mark. The Applicant agreed to limit her use of the mark to those goods specifically enumerated in the Consent Agreement. Each party agreed to continue to take reasonable action to prevent any confusion due to the coexistence and registration of their respective marks and to notify the other party of any instances of confusion. Even though the marks may be similar, the marketplace facts and the experience of the parties with respect to likely confusion should be accorded substantial weight by the Patent and Trademark Office.2 The applicant hereby amends the application to seek registration on the Supplemental Register.3 The applicant hereby amends the application to seek registration on the Supplemental Register.	
EVIDENCE SECTION	
EVIDENCE FILE NAME	\\TICRS\EXPORT11\IMAGEOUT 11\784\493\78449304\xml3\ROA0002.JPG
DESCRIPTION OF EVIDENCE FILE	Page 1 of Consent Agreement, dated October 27, 2004, between Sherry Krauter and Seth Levine.

EVIDENCE FILE NAME	\\TICRS\EXPORT11\IMAGEOUT 11\784\493\78449304\xml3\ROA0003.JPG
DESCRIPTION OF EVIDENCE FILE	Page 2 of Consent Agreement, dated October 27, 2004, between Sherry Krauter and Seth Levine.
EVIDENCE FILE NAME	\\TICRS\EXPORT11\IMAGEOUT 11\784\493\78449304\xml3\ROA0004.JPG
DESCRIPTION OF EVIDENCE FILE	Page 3 of Consent Agreement, dated October 27, 2004, between Sherry Krauter and Seth Levine.
GOODS AND/OR SERVICES SECTION (no change)	
SIGNATURE SECTION	
SIGNATURE	/Sherry Krauter/
SIGNATORY NAME	Sherry Krauter
SIGNATORY POSITION	Applicant
SIGNATORY DATE	03/11/2005
SIGNATURE	/Sherry Krauter/
SIGNATORY NAME	Sherry Krauter
SIGNATORY POSITION	Applicant
SIGNATORY DATE	03/14/2005
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Mar 14 12:34:17 EST 2005
TEAS STAMP	USPTO/OA-6816173136-20050 314123417740113-78449304- 2001873cc3f86eb2b16bb9355 4ab6259e85-N-N-2005031116 3601674284

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. 78449304 is amended as follows:

Argument(s)

In response to the substantive refusal(s), please note the following:

The examining attorney refused registration for three reasons:

- 1 Applicant's mark so resembles the mark in U.S. Registration No. 2,892,058 as to be likely to cause confusion, to cause mistake, or to deceive.
- 2 The proposed mark is merely a surname.
- 3 The proposed mark is a decorative or ornamental feature of the goods and would not be perceived as a mark by the purchasing public.

The applicant's response to the above reasons, in order, is as follows:

- 1 Applicant entered into a Consent Agreement, dated October 27, 2004, with Seth Levine, owner of the mark in U.S. Registration No. 2,892,058. In the Consent Agreement, the parties agreed that confusion is not likely to arise from their use and registration of their respective marks, and Mr. Levine consented to applicant's use and registration of applicant's mark. The Applicant agreed to limit her use of the mark to those goods specifically enumerated in the Consent Agreement. Each party agreed to continue to take reasonable action to prevent any confusion due to the coexistence and registration of their respective marks and to notify the other party of any instances of confusion. Even though the marks may be similar, the marketplace facts and the experience of the parties with respect to likely confusion should be accorded substantial weight by the Patent and Trademark Office.
- 2 The applicant hereby amends the application to seek registration on the Supplemental Register.
- 3 The applicant hereby amends the application to seek registration on the Supplemental Register.

Evidence

Evidence in the nature of Page 1 of Consent Agreement, dated October 27, 2004, between Sherry Krauter and Seth Levine. has been attached.

Evidence-1

Evidence in the nature of Page 2 of Consent Agreement, dated October 27, 2004, between Sherry Krauter and Seth Levine. has been attached.

Evidence-2

Evidence in the nature of Page 3 of Consent Agreement, dated October 27, 2004, between Sherry Krauter and Seth Levine. has been attached.

Evidence-3

Declaration Signature

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true;

and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /Sherry Krauter/ Date: 03/11/2005

Signatory's Name: Sherry Krauter

Signatory's Position: Applicant

Response Signature

Signature: /Sherry Krauter/ Date: 03/14/2005

Signatory's Name: Sherry Krauter

Signatory's Position: Applicant

Serial Number: 78449304

Internet Transmission Date: Mon Mar 14 12:34:17 EST 2005

TEAS Stamp: USPTO/OA-6816173136-20050314123417740113

-78449304-2001873cc3f86eb2b16bb93554ab62

59e85-N-N-20050311163601674284

CONSENT AGREEMENT

THIS AGREEMENT, executed as of the date of signing set forth below, is entered into by and between Sherry Krauter ("Applicant"), an individual having an address at 118 Purgatory Road, Campbell Hall, New York 10916 and Seth Levine, d/b/a M Classics ("Registrant"), an individual having an address at 30 Kirkwood Road, Brighton, Massachusetts 02135.

WHEREAS, Applicant has used the mark LEITZ (a word mark in stylized form) in commerce since at least as early as October 30, 2001, for the following goods and services: clothing, namely hats, visors, t-shirts, patches and jackets, and has applied to register its mark on the Principal Register of the United States Patent and Trademark Office, Serial No. 78449304; and

WHEREAS, Registrant has used the mark LEITZ (a word mark in stylized form) in commerce since at least as early as April 1, 2004, for the following goods and services: photographic products, namely, camera bags, camera straps, wrist straps for cameras, neck straps for cameras, and has registered its mark on the Supplemental Register of the United States Patent and Trademark Office, Registration No. 2892058; and

WHEREAS, the United States Patent and Trademark Office may cite Registrant's registration against registration of Applicant's mark on the grounds that the marks are confusingly similar; and

WHEREAS, the parties hereto have concluded that confusion is not likely to arise from their use and registration of their respective marks in connection with their respective goods and services set forth above for the following reasons: While the marks are similar in appearance, the goods sold by the Applicant (clothing) are fundamentally different from those sold by the Registrant (photographic products), and neither the Applicant nor the Registrant have any intention of selling the goods for which the other party registers;

NOW, THEREFORE, in consideration of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Applicant agrees to limit the use of the mark in connection with the goods and services listed on Schedule A hereto.
2. Registrant hereby consents to, and agrees that it will not take any action to interfere with or prevent the use or registration of the mark LEITZ by Applicant in connection with the aforesaid goods and services.
3. Applicant hereby consents to, and agrees that it will not take any action to interfere with or prevent the use or registration of the mark LEITZ by Registrant in

Sherry Krauter
10/27/04
10/27/04

connection with any goods or services other than those listed on Schedule A, provided that the Patent and Trademark Office accepts Applicant's application, Serial No. 73449304, to register its mark on the Principal or Supplemental Register of the United States Patent and Trademark Office.

4. The parties agree to execute and file with the Patent and Trademark Office any and all documents which may be necessary or proper to effectuate the terms of this agreement, including the registration of the parties' respective marks.

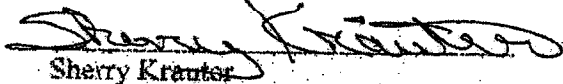
5. The parties agree to continue to take reasonable action to prevent any confusion due to the coexistence and registration of their respective marks, and to notify each other of any instances of confusion.

6. This agreement contains the entire agreement between the parties and may only be amended or supplemented in a writing signed by both parties.

7. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document.

8. The parties agree that if any of the signatures below are made by facsimile or photocopy, such facsimile or photocopy signatures shall be as binding and enforceable against the signing party as original signatures.

IN WITNESS WHEREOF, the parties hereto enter into this agreement on the last date set forth below.



Sherry Krauter

Date: Oct 27, 2004



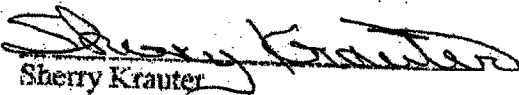
Seth Levine

Date: Oct. 27, 2004

SCHEDULE A

Applicant agrees to limit the use of the mark in connection with the following goods and services:

Clothing, namely hats, visors, t-shirts, patches, jackets, vests, shirts, scarves, handkerchiefs, socks, and underwear, Linens, umbrellas, pens, wallets, mugs, watches, earrings, pins, and books.



Sherry Krauter

Date: Oct 27, 2004



Seth Levine

Date: OCT 27, 2004

EXHIBIT E

To: Krauter, Sherry (agl@levyfirm.com)
Subject: TRADEMARK APPLICATION NO. 78449304 - LEITZ - N/A
Sent: 4/11/2005 10:21:07 AM
Sent As: ECOM114@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/449304

APPLICANT: Krauter, Sherry

78449304

CORRESPONDENT ADDRESS:

ARTHUR G. LEVY
THE LEVY FIRM
415 MADISON AVE FL 22
NEW YORK NY 10017-7941

RETURN ADDRESS:

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

If no fees are enclosed, the address should include the words
"Box Responses - No Fee."

MARK: LEITZ

CORRESPONDENT'S REFERENCE/DOCKET NO: N/A

CORRESPONDENT EMAIL ADDRESS:

agl@levyfirm.com

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and email address.

Serial Number 78/449304

EXAMINER'S AMENDMENT

In accordance with the authorization granted by Arthur Levy on 4/11/05, the application has been AMENDED as indicated below. Please note that if the identification of goods or services has been amended below, any future amendments must be in accordance with 37 C.F.R. 2.71(a); TMEP section 1402.07(e). No response is necessary unless there is an objection to the amendment. If there is an objection to the amendment, the applicant should notify the examining attorney immediately.

Amend ID by deleting the item "Patches".

NOTICE: FEE CHANGE

Effective January 31, 2005 and pursuant to the Consolidated Appropriations Act, 2005, Pub. L. 108-447, the following are the fees that will be charged for filing a trademark application:

(1) \$325 per international class if filed electronically using the Trademark Electronic Application System (TEAS); or

(2) \$375 per international class if filed on paper.

These fees will be charged not only when a new application is filed, but also when payments are made to add classes to an existing application. If such payments are submitted with a TEAS response, the fee will be \$325 per class, and if such payments are made with a paper response, the fee will be \$375 per class.

The new fee requirements will apply to any fees filed on or after January 31, 2005.

NOTICE: TRADEMARK OPERATION RELOCATION

The Trademark Operation has relocated to Alexandria, Virginia. Effective October 4, 2004, all Trademark-related paper mail (except documents sent to the Assignment Services Division for recordation, certain documents filed under the Madrid Protocol, and requests for copies of trademark documents) must be sent to:

**Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451**

Applicants, attorneys and other Trademark customers are strongly encouraged to correspond with the USPTO online via the Trademark Electronic Application System (TEAS), at <http://www.uspto.gov/teas/index.html>.

/David H. Stine/

Trademark Attorney

Law Office 114

(571)272-9229

EXHIBIT F

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 2,956,335

Registered May 24, 2005

**TRADEMARK
SUPPLEMENTAL REGISTER**



KRAUTER, SHERRY (UNITED STATES INDIVIDUAL)
118 PURGATORY ROAD
CAMPBELL HALL, NY 10916

THE MARK CONSISTS OF THE WORD "LEITZ" IN STYLIZED FORM.

FOR: CLOTHING, NAMELY HATS, VISORS, T-SHIRTS AND JACKETS, IN CLASS 25 (U.S. CLS. 22 AND 39).

SER. NO. 78-449,304, FILED P.R. 7-12-2004; AM. S.R. 3-14-2005.

FIRST USE 10-30-2001; IN COMMERCE 10-30-2001.

DAVID H. STINE, EXAMINING ATTORNEY