

ESTTA Tracking number: **ESTTA396627**

Filing date: **03/07/2011**

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	Stussy, Inc.		
Entity	Corporation	Citizenship	California
Address	17426 Daimler Street Irvine, CA 92614 UNITED STATES		

Attorney information	John R. Sommer John R. Sommer, Attorney-at-Law 17426 Daimler Street Irvine, CA 92614 UNITED STATES sommer@stussy.com Phone:949 752 5344		
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**Applicant Information**

Application No	77959539	Publication date	02/08/2011
Opposition Filing Date	03/07/2011	Opposition Period Ends	03/10/2011
Applicant	Blue Niagra 1413 Kensington Ct. Southlake, TX 76092 UNITED STATES		

**Goods/Services Affected by Opposition**


Class 025. All goods and services in the class are opposed, namely: Shoes
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**Grounds for Opposition**

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)


**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2225736	Application Date	01/06/1998
Registration Date	02/23/1999	Foreign Priority Date	NONE
Word Mark	SS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1992/01/00 First Use In Commerce: 1992/01/00 clothing, namely, coats, dresses, jackets, jerseys, pants, shirts, shorts, skirts, sweatshirts, sweatpants, swimsuits, t-shirts, tank tops, caps and hats


U.S. Registration No.	3301183	Application Date	12/22/2006
Registration Date	10/02/2007	Foreign Priority Date	NONE

Word Mark	SS
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 1992/12/31 First Use In Commerce: 1992/12/31 Retail store services featuring bags, belts, cigarette lighters, clothing, decals, flashlights, footwear, headwear, jewelry, key chains, luggage, money clips, backpacks, posters, prerecorded compact discs, purses, signs, stickers, sunglasses, sunglasses cases, towels, umbrellas, wallets, watches; retail store services featuring general merchandise

U.S. Registration No.	3618692	Application Date	08/06/2008
Registration Date	05/12/2009	Foreign Priority Date	NONE

Word Mark	SS
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Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 2008/02/28 First Use In Commerce: 2008/02/28  Cell phone cases; compact disk storage wallets; computer bags; computer carrying cases; directional compasses; magnets; personal data assistant cases; portable music player cases; sunglasses; cases for sunglasses and eyeglasses; prerecorded video discs featuring fashion, music, athletic performances and travel; cell phone pouches; personal data assistant (PDAs) pouches; personal music player pouches</p> <p>Class 018. First use: First Use: 2006/02/28 First Use In Commerce: 2006/02/28  All purpose shopping bags made of textile; attachÃ© cases; backpacks; beach bags; book bags; briefcases; briefcase type portfolios; business card cases; business cases; carrying cases; credit card cases; clutch bags; draw string pouches; duffel bags; fanny packs; garment bags for travel; hand bags; leather and imitation leather bags; leather key cases; leather key chains; leather key holders; luggage; messenger bags; purses; rucksacks; shoulder bags; sports bags; suit cases; tote bags; traveling bags; vanity cases sold empty; waist packs; wallets; umbrellas</p> <p>Class 025. First use: First Use: 1998/12/31 First Use In Commerce: 1998/12/31  Clothing, namely, bathing suits; beach cover ups; belts; board shorts; coats; dresses; jackets; jerseys; pajamas; pants; polo shirts; rainwear; scarves; shirts; shorts; skirts; socks; suits; sweat pants; sweat shirts; sweaters; sweatbands; swim suits; t-shirts; tank tops; vests; underwear; wind-resistant jackets; wristbands; footwear; headgear, namely, berets, caps, hats, scarves</p>

Attachments	75414165#TMSN.gif ( 1 page )( bytes ) 77070061#TMSN.jpeg ( 1 page )( bytes ) 77539979#TMSN.jpeg ( 1 page )( bytes ) Stussy-v-BlueNiagra.Opposition.pdf ( 5 pages )(192282 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/John R. Sommer/
Name	John R. Sommer
Date	03/07/2011

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

In the matter of Application Serial No. 77/959539  
Published for Opposition in the OFFICIAL GAZETTE of February 8, 2011

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STUSSY, INC.,	:	
	:	
Opposer,	:	Opposition No.:
	:	
v.	:	
	:	
BLUE NIAGRA,	:	
	:	
Applicant.	:	

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**NOTICE OF OPPOSITION**

Stussy, Inc. (“Opposer”), a California corporation having its principal place of business at 17426 Daimler Street, Irvine, California 92614, believes it will be damaged by registration of the device mark SS shown in Serial No. 77/959539 in International Class 25, filed by Blue Niagra (“Applicant”), and hereby opposes the same.

As grounds for this Opposition, it is alleged:

1. On or about March 15, 2010, Applicant filed an intent to use application with the United States Patent and Trademark Office to register the SS SCANDALOUS device mark (consisting of two back-to-back interlocking letters “S”s and the word SCANDALOUS below that)(hereinafter “Applicant’s Mark”) for “Shoes” in International Class 25. The application for Applicant’s Mark was published in the Official Gazette on February 8, 2011. Opposer requested, and was granted a thirty day extension of time to oppose Applicant’s Mark. However, this opposition is timely even without such extension.

2. Since at least as early as 1992, Opposer has been using the SS Link Mark (consisting of two back-to-back interlocking letter “S”s) (hereinafter “SS Link Mark”) on a variety of goods and services as listed on the registrations listed below, among others goods and services:

SS in Circle

<u>Class</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Goods (partial list)</u>
25	2,225,736	02/23/99	Clothing, caps, hats
35	3,301,183	10/02/07	Retail store services featuring clothing, footwear, headwear

SS without Circle

<u>Class</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Goods (partial list)</u>
09,18,25	3,618,692	05/12/09	Clothing, footwear, headgear

3. Specifically, Opposer is the owner of U.S. Registrations listed above. The ‘736 Registration is incontestable within the meaning of Section 15.

4. There is no issue as to priority. Applicant’s priority date for his intent-to-use application is the filing date, March 15, 2010. Opposer’s priority dates for the registrations are:

Class 25: first use at least as early as January 1, 1992;

Class 35: first use at least as early as December 31, 1992;

SS without Circle in Class 25, first use at least as early as December 31, 1998.

5. Since long prior to Applicant’s filing of the application for Applicant’s Mark (no use of Applicant’s Mark having been alleged by Applicant so Applicant’s priority date is the filing date), Opposer has made substantial and continuous use of the SS Link Mark in interstate,

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