

ESTTA Tracking number: **ESTTA411953**Filing date: **05/31/2011**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	Sigma Kappa		
Entity	Corporation	Citizenship	Maine
Address	8733 Founders Road Indianapolis, IN 46268 UNITED STATES		

Attorney information	Jack A. Wheat STITES & HARBISON PLLC 400 West Market Street Suite 1800 Louisville, KY 40202 UNITED STATES jwheat@stites.com Phone:(502) 587-3400
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Applicant Information

Application No	85205302	Publication date	05/03/2011
Opposition Filing Date	05/31/2011	Opposition Period Ends	06/02/2011
Applicant	McCraw, Jarrett 808 Country Club Court Mobile, AL 36609 UNITED STATES		

Goods/Services Affected by Opposition


Class 025. First Use: 2003/10/01 First Use In Commerce: 2003/10/01
All goods and services in the class are opposed, namely: Bandanas; Beanies; Belts; Gloves; Hats; Headbands; Jerseys; Pants; Shoes; Short-sleeved or long-sleeved t-shirts; Socks; Sweat bands; Sweat shirts; Wristbands

Grounds for Opposition

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

U.S. Registration No.	2372119	Application Date	10/01/1998
Registration Date	08/01/2000	Foreign Priority Date	NONE
Word Mark	EK		

Design Mark	
Description of Mark	The mark consists of the Greek letters sigma kappa.
Goods/Services	<p>Class 016. First use: First Use: 1874/11/00 First Use In Commerce: 1874/11/00 Paper goods, namely, notebooks, stationary type portfolios, business cards, personal planners, [address books,] photo albums, notepads, stationary, memo pads in a cube shape, stickers, pens, pencils, highlighting pens, notecards, notepaper, postcards, self-stick removable stationary notes, bumper stickers, playing cards, [coloring sets, namely, coloring books and crayons sold as a unit,] bookmarks, and binders</p> <p>Class 025. First use: First Use: 1920/09/00 First Use In Commerce: 1920/09/00 clothing, namely, sweatshirts, t-shirts, jackets, hats, socks, sweaters, boxer shorts, pajamas, cloth bibs, and kerchiefs</p> <p>Class 200. First use: First Use: 1874/11/09 First Use In Commerce: 1874/11/09 indicating membership in a collegiate sorority</p>

Attachments	75562434#TMSN.gif (1 page)(bytes) SigmaKappaMcCrawOpposition.pdf (4 pages)(93584 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	/jackawheat/
Name	Jack A. Wheat
Date	05/31/2011

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

In the matter of Application Serial No. 85/205302
Filed: December 23, 2010
Mark:



Published in the *Official Gazette* on May 3, 2011.

SIGMA KAPPA,)	
)	
Opposer,)	
)	OPPOSITION NO.
v.)	
)	
JARRETT McCRAW,)	
)	
Applicant.)	


NOTICE OF OPPOSITION

Comes the Opposer, SIGMA KAPPA., (hereinafter “Sigma Kappa” or “Opposer”), and for its Opposition to the pending application Serial No. 85/205,302 to register a design mark prosecuted by Jarrett McCraw (hereinafter “McCraw” or “Applicant”), Opposer submits the following:

1. Opposer, Sigma Kappa, is a Maine Corporation, with its principal place of business at 8733 Founders Road, Indianapolis, Indiana 46268.
2. Continuously since at least 1920, Sigma Kappa has used the Greek Alphabet letters “Sigma” and “Kappa,” namely the symbol “ΣK” as a trademark for clothing products.

3. Sigma Kappa is the owner of a registration of the Greek Alphabet letters “Sigma” and “Kappa,” namely the symbol “ΣK” issued by the United States Patent & Trademark Office (the “PTO”) for, among other things, “Clothing, namely, sweatshirts, t-shirts, jackets, hats, socks, sweaters, boxer shorts, pajamas, cloth bibs, and kerchiefs,” namely registration number 2,372,119 issued on August 1, 2000 based upon a first use for clothing dating back at least as early as 1920.

4. The mark “ΣK” as used in commerce by and on behalf of Opposer is distinctive, either inherently or through acquired distinctiveness.

5. On December 23, 2010, McCraw filed an application to register the design mark  for “bandanas, beanies, belts, gloves, hats, headbands, jerseys, pants, shoes, short-sleeved or long-sleeved t-shirts, socks, sweat bands, sweatshirts [and] wristbands.”

6. The continued use by Sigma Kappa of the mark “ΣK”, as well as the filing priority date of the application which matured into its registration of the mark predate the filing date of the opposed application, thus, Opposer has priority of use.

7. Although *described* as a letter “E,” a backwards letter “K,” and another letter “K,” the mark sought to be registered *appears* like the Greek Alphabet letter “Σ” in combination with the Greek Alphabet letter “K,” namely “ΣK,” and thus appears so similar to Opposer’s “ΣK” mark as to create a likelihood of confusion, or to cause mistake, or to deceive, within the meaning of Section 2(d) of the Lanham Act (15 U.S.C. § 1052(d)), all to Opposer’s irreparable damage.

8. Accordingly, Opposer believes that it will be damaged by registration of the mark sought to be registered in that, if registration issues, (a) consumers are likely to purchase

Applicant's goods believing them to be the Opposer's goods, or to be sponsored by or associated with Opposer; (b) any defects in Applicant's goods may be attributed to the Opposer; and (c) registration of mark will give Applicant the presumptive right to use the mark with its goods. All of these effects will cause injury to Opposer.

WHEREFORE, Opposer prays that Application Serial No. 85/205,302 be refused and that the registration sought therein be denied.

/jackawheat/
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Attorneys for Opposer

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