

ESTTA Tracking number: **ESTTA1151103**

Filing date: **08/04/2021**

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	Vamsi M. Nallapati		
Entity	Individual	Citizenship	UNITED STATES
Address	501 S. NEW HOPE RD. RALEIGH, NC 27610 UNITED STATES		
Attorney information	SUSAN FREYA OLIVE OLIVE & OLIVE, P.A. 500 MEMORIAL ST. DURHAM, NC 27701 UNITED STATES Primary Email: emailboxTTAB@oliveandolive.com Secondary Email(s): bcrews@oliveandolive.com No phone number provided.		
Docket Number	NAV9001-d		

Applicant Information

Application No.	88597466	Publication date	07/06/2021
Opposition Filing Date	08/04/2021	Opposition Period Ends	08/05/2021
Applicant	Justh Holdings, LLC 8610 S 212TH ST, SUITE 100 KENT, WA 98032 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Distributorship services featuring natural stone, porcelain, and glass materials not for use in flooring; distributorship services featuring granite, marble, quartzite, limestone, onyx, schist, soap stone, quartz, porcelain, and travertinenot for use in flooring; distributorship services featuring stone, porcelain, and glass slabs and tiles not for use in flooring; distributorship services featuring limestone, porcelain, and glass tiles and onyx, quartz, and porcelain slabsnot for use in flooring; import-export agencies in the field of stone, porcelain, and glass slabs and tiles not for use in flooring; import agencies in the field of stone, porcelain, and glass slabs and tiles not for use in flooring; import agency services featuring limestone, porcelain, and glass tiles and onyx, quartz, and porcelain slabs not for use in flooring; import agency services featuring natural stone, porcelain, and glass materials not for use in flooring; import agency services featuring granite, marble, quartzite, limestone, onyx, schist, soap stone, quartz, porcelain, and travertine not for use in flooring; retail store and wholesale store services featuring natural stone, porcelain, and glass materials, and natural stone, porcelain, and glass products, namely, slabs and tiles not for use in flooring</p>
<p>Class 039. First Use: 0 First Use In Commerce: 0</p>

All goods and services in the class are opposed, namely: Importation services, namely, import and export cargo handling services; distribution services, namely, delivery of stone, porcelain, and glass slabs and tiles not for use in flooring; distribution services, namely, delivery of limestone, porcelain, and glass tiles and onyx, quartz, and porcelain slabs not for use in flooring

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
No bona fide intent to use mark in commerce for identified goods or services	Trademark Act Section 1(b), 44(e) or 66(a)
Applicant not rightful owner of mark for identified goods or services	Trademark Act Section 1
Fraud on the USPTO	In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)
Other	Void ab initio for failure to comply with requirements of Section 1

Marks Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	COSMOS		
Goods/Services	Importation, distribution, and sale of granite and natural stone products and of related goods		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	COSMOS GRANITE & MARBLE		
Goods/Services	Importation, distribution, and sale of granite and natural stone products and of related goods		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		

Design Mark	 <p>The logo features a central blue diamond shape containing a white letter 'C'. This central diamond is flanked by two smaller blue diamonds, one on the left and one on the right. Below the diamond arrangement, the word 'COSMOS' is written in a large, bold, black serif font. Underneath 'COSMOS', the words 'GRANITE & MARBLE' are written in a smaller, blue, sans-serif font.</p>
Goods/Services	Importation, distribution, and sale of granite and natural stone products and of related goods

Related Proceedings	Federal lawsuit: Civil Action No. 5:20-cv-47 (copy of currently operative complaint attached as Exhibit 1); TTAB Opposition No. 91255855
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Attachments	cosmos logo.jpg 20210804 ATELIER BY COSMOS - NAVM9001-d NOO.pdf(291823 bytes) ATELIER BY COSMOS - NOO - Common Law Marks.pdf(47797 bytes)
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Signature	/bjc/
Name	Brian J. Crews
Date	08/04/2021

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Trademark Trial and Appeal Board

IN THE MATTER OF Trademark Application of **Justh Holdings, LLC**
For Registration of **ATELIER BY COSMOS**, Serial No. 88597466
Published for Opposition in the Official Gazette on **July 6, 2021**
Goods/Services Opposed: **All**

Vamsi M. Nallapati, Plaintiff-Opposer vs Justh Holdings, LLC, Defendant-Applicant	OPPOSITION TO REGISTRATION OF MARK
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Attorney Reference: NAVM9001-d

Opposer Vamsi M. Nallapati, an individual resident of the State of North Carolina, with a principal place of business in Raleigh, North Carolina and a business address at 501 S. New Hope Rd, Raleigh, NC 27610, believes that he will be damaged by the registration of the mark shown in the above-identified application (hereafter referred to as “Justh’s Application”), and hereby opposes same.

The grounds for opposition are priority and likelihood of confusion (Trademark Act Section 2(d), 15 U.S.C. § 1052(d), failure to comply with the requirements of the Trademark Act (15 U.S.C. § 1051(b)), and fraud. The grounds for opposition are more particularly set out as follows. Headings are interposed for convenience; all allegations are deemed incorporated into each ground for opposition, as though realleged for each.

GENERAL ALLEGATIONS

1. In 2005, Opposer adopted the name “Cosmos Granite & Marble,” and began using COSMOS, typically with the descriptive language “Granite & Marble,” as a mark in interstate commerce

to identify services in the nature of importation, distribution, and sale of granite and natural stone products to construction and design professionals and retailers, all provided through businesses controlled by Opposer. In that same year, Opposer purchased the domain *cosmosgranite.com* and soon thereafter established a website at that address to advertise these services.

2. From 2005 to the present and without cessation, Opposer has used and authorized use of COSMOS (alone and with other words) in commerce as a mark, business name, and domain name in connection with the importation, distribution, and sale of granite and natural stone products (collectively referred to hereafter as “Services”). These marks that include the term COSMOS, whether with or without design elements, are referred to hereafter as the “Opposer’s Marks.”
- 3.
4. In or around 2009, Opposer started using a design mark that incorporated his COSMOS mark, depicted as follows (referred to hereafter as the “Original Cosmos Design Mark”):



5. Because he was using the Original Cosmos Design Mark, Opposer secured a federal trademark registration for the words with the associated design: U.S. Registration 4,028,275 issued in September 2011, for “distributorship services in the field of granite, marble, travertine, onxy [sic], lime stone, slate; import agency services in the field of granite, marble, travertine, onxy [sic], lime stone, slate.”

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