

**NORWEGIAN TRADE MARKS ACT 2010**

**IN THE MATTER OF**

**Norwegian Trademark Registration Nos. 152846 and 227723 "SANTA CRUZ"**

**In the name of NHS, Inc.**

**- And -**

**Cancellations OP2018/00187 and OP2018/00186 thereto by Sports Group Denmark A/S**

---

**WITNESS STATEMENT ROBERT A. DENIKE**

---

1. I, Robert A. Denike, the president and Chief Executive Officer of NHS, Inc. having its offices at 104 Bronson Street, #9, Santa Cruz, California, 95062, United States of America.
2. The facts in this statement come from my personal knowledge and records of my company and I am duly authorised to speak on my company's behalf in the above matters.
3. The purpose of this Witness Statement is to show, via information provided herein and the attached exhibits, the genuine use as per stipulated requirements that for the mark SANTA CRUZ in Norway as at the Relevant Date.
4. NHS, Inc. ("NHS") was founded in 1972, and continues to be a large manufacturer, wholesaler and retailer of sporting goods (skateboards), clothing, and sports safety gear and other related goods.
5. Since 1973, NHS began to brand its goods under the trademark SANTA CRUZ. NHS owns the following Santa Cruz trademarks, collectively referred to hereinafter as the "Santa Cruz Marks":

a. SANTA CRUZ

b. 

c. 

d. 



6. NHS has distributors and licensees in Europe that have been selling the SANTA CRUZ brand since 1974.
7. NHS has 112 active trademarks for our SANTA CRUZ brand in 63 countries, including Norway.
8. NHS obtained its Norwegian national trademark registrations for its SANTA CRUZ figurative marks on October 22, 1992 and August 16, 2005.
9. SANTA CRUZ was first used in Norway in 1990 for skateboard and accessories and in 1990 for apparel.
10. **Exhibit 1** is a collection of numerous invoices dated from 2005 to 2018 for both, hard goods and soft goods sold directly to Norwegian distributors. It can be seen from the Exhibit 1 that NHS's main distributors in Norway are:
  - Balance Distribution A/S (former)
  - Bernhard Sports A/S (former)
  - The Future A/S (Daggers) (current)
  - Shiner Ltd (current)

These distributors would then sell NHS goods to various retailers in Norway. Additional invoices that were issued directly by NHS's distributors and licensees to the retailers in Norway are provided together with other Witness Statements from these distributors.

11. **Exhibit 2** is a table of summarized data that shows the amount of pre-orders of SANTA CRUZ soft goods in different countries.

<b>SANTA CRUZ</b>					
<b>AREA</b>	<b>Pre SS17</b>	<b>Pre FW17</b>	<b>pre SS18</b>	<b>Pre FW18</b>	<b>HOL18</b>
AUSTRIA	€ 6.731	€ 62.159	€ 33.800	€ 142.000	€ 6.319
BELGIUM	€ 1.920	€ 7.343	€ 12.840	€ 9.750	€ 1.500
SWITZERLAND	€ 2.793	€ 9.796	€ 3.425	€ 7.025	
CHANNEL ISLES	€ 1.913	€ 1.114	€ 0	€ 65	
CZECH REPUBLIC	€ 39.296	€ 26.412	€ 28.189	€ 42.000	€ 7.560
GERMANY	€ 38.170	€ 36.967	€ 51.865	€ 81.478	€ 16.000
GREECE	€ 3.280	€ 2.024	€ 2.011	€ 1.800	
SPAIN	€ 138.645	€ 113.139	€ 123.014	€ 145.000	€ 1.700
FRANCE	€ 87.534	€ 140.054	€ 244.564	€ 313.500	€ 28.000
GREAT BRITAIN	€ 126.900	€ 205.848	€ 330.412	€ 403.500	€ 150.000
CROATIA	€ 2.019	€ 2.024	€ 2.523		
HUNGARY	€ 3.516	€ 3.076	€ 2.953	€ 2.900	
ITALY	€ 97.371	€ 109.367	€ 197.914	€ 243.000	€ 17.194
MACEDONIA	€ 3.562	€ 1.700	€ 4.046	€ 7.000	
NETHERLANDS	€ 6.463	€ 8.545	€ 12.247	€ 13.000	
PORTUGAL	€ 10.025	€ 7.858	€ 19.865	€ 56.000	
DENMARK	€ 6.415	€ 5.466	€ 8.224	€ 9.000	€ 500
FINLAND	€ 2.257	€ 21.140	€ 42.585	€ 28.000	€ 1.500
<b>NORWAY</b>	<b>€ 5.102</b>	<b>€ 126.482</b>	<b>€ 204.989</b>	<b>€ 186.000</b>	<b>€ 27.000</b>
SWEDEN	€ 22.118	€ 63.272	€ 109.503	€ 81.000	€ 5.500
Luxembourg		€ 3.128	€ 2.940	€ 3.400	
<b>GRAND TOTAL</b>	<b>629216,1</b>	<b>998306,4</b>	<b>1437909</b>	<b>1775418</b>	<b>262773</b>

The amounts of pre-orders in Norway reached € 549.573

12. **Exhibit 3** consists of copies of excel spreadsheets demonstrating the estimate amount (presented in USD) of sales to each distributor from 2000 to 2018 for all SANTA CRUZ brand products sold in Norway. The total amount of annual sales in Norway through that period reaches approximately € 397 544.



13. As regards to the missing data on sales between 2014-2016, this was a transition period of the NHS's distribution channels. Due to explosive popularity and demand for NHS's goods worldwide, NHS had to re-assess its previous distribution strategy and look for bigger alternative distribution channels in order to not miss an opportunity to reach even more customers worldwide. That is why Shiner Ltd, as one of Europe's leading action sports and apparel distributors in Europe, has become our main apparel license and distributor in Europe in 2016. The partnership with Shiner Ltd enabled us to support our loyal customers base with a guaranteed stock holding of essential lines, ensuring timely replenishment. Accordingly, since 2016 our sales for Santa Cruz apparel had increased more than three times.
14. **Exhibit 4** consist of copies of the SANTA CRUZ Spring/Summer 2017 and Autumn 2018 apparel catalogues. Please note that the last pages of each catalogue provide a list of NHS's European distributors, including Shiner Ltd and The Future A/S (Daggers). It is my understanding that these companies are providing their own Witness Statements.
15. **Exhibit 5** consist of copies of our former licensee's AXL Distribution Ltd. SANTA CRUZ brand products from 2014-2016 that are still available online through the following links:
- a. [https://issuu.com/axldistributioneurope/docs/santa\\_cruz\\_ss14\\_catalogue\\_on\\_line\\_v](https://issuu.com/axldistributioneurope/docs/santa_cruz_ss14_catalogue_on_line_v)
  - b. [https://issuu.com/axldistributioneurope/docs/santa\\_cruz\\_ss15\\_catalogue\\_web](https://issuu.com/axldistributioneurope/docs/santa_cruz_ss15_catalogue_web)
  - c. [https://issuu.com/axldistributioneurope/docs/santa\\_cruz\\_aw15\\_catalogue\\_web\\_versi\\_1c\\_eac1973cfc8f](https://issuu.com/axldistributioneurope/docs/santa_cruz_aw15_catalogue_web_versi_1c_eac1973cfc8f)
  - d. [https://issuu.com/axldistributioneurope/docs/santa\\_cruz\\_ss16\\_low\\_res\\_catalogue](https://issuu.com/axldistributioneurope/docs/santa_cruz_ss16_low_res_catalogue)

The aforementioned catalogue offer both hard goods, namely surfboards and apparel and apparel accessories. At the last pages of each catalogue there is a list of European distributors, including our former distributor Bernhard Sports A/S in Norway.

16. NHS has invested substantial resources in advertising its SANTA CRUZ brand goods throughout the world. Specifically, the estimated total amount spent for advertising the SANTA CRUZ brand in Norway between 2000 and 2018 is approximately **€19,798.25**, see:

Year	Product Total Euros	Estimated Marketing spend % at 5% in Euros
2000	€ 3,485.04	€ 174.08
2001	€ 7,153.64	€ 357.68
2002	€ 38,729.60	€ 1,936.74
2003		
2004		

2005	€ 5,835.89	€ 291.80
2006	€ 13,633.40	€ 681.67
2007	€ 98,744.90	€ 4,937.24
2008	€ 68,744.60	€ 3,437.23
2009	€ 45,556.00	€ 2,277.81
2010	€ 52,185.50	€ 2,609.28
2011	€ 13,792.60	€ 689.63
2012	€ 16,911.50	€ 845.58
2013	€ 2,136.74	€ 106.83
2014	€ 5,369.93	€ 268.50
2015	€ 1,823.57	€ 91.18
2016	€ 2,050.18	€ 102.51
2017	€ 3,248.05	€ 162.40
2018	€ 16,561.80	€ 828.09
<b>Totals</b>	<b>€ 395,962.94</b>	<b>€ 19,798.25</b>

17. Additionally, I provide a list of Norwegian websites that are selling SANTA CRUZ brand apparel and apparel accessories:

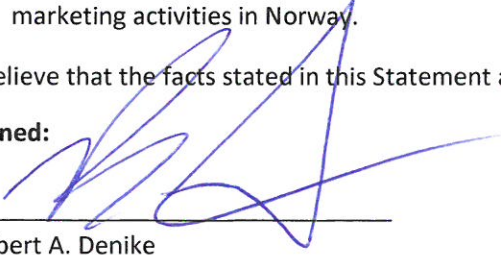
- a. <https://boardshop.no/>
- b. <https://www.junkyard.no/>
- c. <https://www.thedrop.no/>
- d. <http://www.freestylextreme.com/no/>
- e. <https://www.stylight.no>
- f. <http://carlings.com/no/>
- g. <https://www.skatepro.no/>
- h. <https://hatstore.no/>
- i. <https://www.fruugo.no/>
- j. <https://www.hollywood.no/>
- k. <https://www.srfsnosk8.no/>
- l. <https://kitenorge.no/>
- m. <https://www.whitewater.no/>

We have used a digital archive *Wayback Machine* in order to demonstrate that SANTA CRUZ brand apparel and apparel accessories are available on the abovementioned websites from at least July 2014, see **Exhibit 6**.

18. The above demonstrates that the SANTA CRUZ brand is the oldest and most well-known “skater brand” in the world, including in Norway, which is supported by the historical and recent sales and marketing activities in Norway.

I believe that the facts stated in this Statement are true.

**Signed:**



---

Robert A. Denike

September 7, 2018