



11-15-2002

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #73

In the United States Patent and Trademark Office
Before the Trademark Trial and Appeal Board

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WJC & COMPANY, LLC,           :
                               :      Opposition No.
                               :
                               :      Re: Ser. No. 76/358,761
                               :
                               :
v.                             :
                               :
BASSAM NUQUL and             :
JOHNNY NUQUL,               :
                               :
                               :      Applicants.
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NOTICE OF OPPOSITION

Box TTAB FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

12/02/2002 TSMITH 00000014 76358761

01 FC:6402

300.00 DP

Sir:

In the matter of the application of Bassam Nuqul and Johnny Nuqul, (hereinafter called "Applicants") for registration of the mark "FB FRANCO BELLINI", Serial No. 76/358,761, published in the Official Gazette of October 22, 2002, WJC & Company, LLC (hereinafter called "Opposer"), of 201 Front Street, #112, Key West, Florida 33040, believes that it is and will be damaged by registration of the mark shown in Serial No. 76/358,761, and hereby opposes the same.

The grounds for opposition are as follows:

1. The Opposer, WJC & Company, LLC, is a limited liability company organized under the laws of the State of

Colorado, having its principal place of business at 201 Front Street #112, Key West, Florida 33040.

2. Opposer's predecessor first began selling footwear under the BELLINI trademark in the 1950's. Since that time, Opposer's BELLINI trademark has become well-known to the general public in the United States and abroad.

3. Commencing long prior to January 15, 2002 (the filing date of Applicant's use based Application Serial No. 76/358,761), Opposer and its predecessors have engaged in the development, distribution, sale, advertising and promotion, in interstate commerce, of fashion footwear and accessories under the trademark "BELLINI". Annual sales of merchandise bearing the "BELLINI" marks in the United States have been significant.

4. Opposer owns the following United States trademark registrations:

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Class</u>	<u>Goods</u>
BELLINI	1,408,592	09/09/86	25	Women's footwear
BELLINI	1,543,536	06/13/89	18	Handbags

5. Opposer also is the owner of the following pending United States trademark applications:

<u>Trademark</u>	<u>Serial No.</u>	<u>App. Date</u>	<u>Class</u>	<u>Goods</u>
BELLINI KIDS	76/302,665	08/20/01	25	Children's footwear
BELLINI MENS	75/114,040	06/04/96	18, 25	Briefcases, key fobs, luggage, wallets and men's footwear
BELLINI	75/299,102	05/28/97	25	Socks
BELLINI	75/690,695	04/23/99	18	Wallets

6. The goods covered by Opposer's Registration No. 1,408,592 and 1,543,538 include footwear in International Class 25 and handbags.

7. The goods covered by Opposer's applications also include footwear, as well as socks in International Class 25 and leather goods including wallets.

8. Since the initial use of the "BELLINI" trademark, Opposer and its predecessors have made substantial investments in promoting goods under the BELLINI trademark. Opposer has used, promoted and offered for sale goods in association with its "BELLINI" trademark to the public through various channels of trade and commerce, with the result that Opposer's customers and the public in general have come to know and recognize Opposer's BELLINI trademark and associate the same with Opposer. Opposer has built up extensive good will in connection with the

sale of goods under the "BELLINI" trademark and the mark has achieved the status of a "famous" trademark.

9. Notwithstanding Opposer's prior rights in and to said trademarks, upon information and belief, on January 15, 2002, Applicant filed an application for registration of a trademark featuring the BELLINI name as a trademark for use on apparel in International Class 25, including:

Paints, shirts, jackets, ties.

Applicant's application for registration of the "FB FRANCO BELLINI" trademark was given Serial No. 76/38,761, and the mark was published for opposition in the Official Gazette of October 22, 2002.

10. Applicant's mark, FB FRANCO BELLINI, when used on the clothing identified in Applicant's application for registration, is likely to cause confusion, deception and mistake with Opposer's BELLINI trademark as applied to footwear, apparel and accessories.

11. The confusion that Applicant's use of "BELLINI" is likely to engender is heightened in this instance given that fashion designers often use a portion of their name to identify their goods and services. (See, e.g., "Versace" by Gianni Versace, "Chanel" by Coco Chanel, and "Valentino" by Valentino Garavani). Consequently, consumers are likely to refer to applicant's goods by using the Bellini surname.

12. Applicant's mark, FB FRANCO BELLINI, when used on the clothing identified in Applicant's application for registration, is likely to cause dilution of the distinctive quality of Opposer's famous BELLINI trademark.

13. Opposer has been damaged and will continue to be damaged if Applicant continues to use or obtains registration of the "FB FRANCO BELLINI" trademark for the reasons set forth above.

WHEREFORE, Opposer, WJC & Company, LLC believes and avers that it will be damaged by said registration and prays that this opposition be sustained and registration of the "FB FRANCO BELLINI" trademark, Serial No. 76/358,761 filed by Applicant be refused.

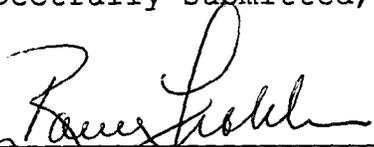
The filing fee for this Notice of Opposition in the amount of \$300.00 (\$300 per class) is enclosed. An original and two copies of this Notice of Opposition also are enclosed.

All correspondence should be addressed to Barry H. Fishkin, Esq., c/o Phillips Nizer LLP, 666 Fifth Avenue, New York, NY 10103-0084.

This Request if being submitted in triplicate as
required by 37 C.F.R. § 2.102(d).

Dated: New York, New York
November 15, 2002

Respectfully submitted,

By: 

Barry H. Fishkin

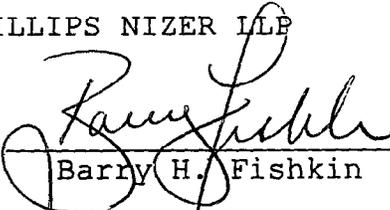
PHILLIPS NIZER LLP
666 Fifth Avenue
New York, NY 10103-0084
(212) 977-9700
Attorneys for
WJC & Company, LLC

Certification of Mailing

I hereby certify that the foregoing Notice of Opposition was sent by U.S. Mail, Express Mail Post Office to Addressee Service (Serial No. EU 673409092 US), to Box TTAB FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, this 15th day of November 2002.

PHILLIPS NIZER LLP

By:


Barry H. Fishkin

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11-15-2002

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November 15, 2002

VIA EXPRESS MAIL
(Serial No. EU 673409092 US)

Box TTAB FEE
Assistant Commissioner
For Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

02 DEC -4 AM 9:30
RECEIVED

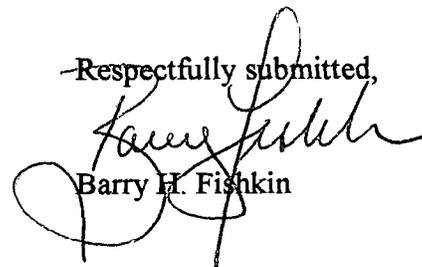
Re: In re Opposition to Serial No. 76/358,761

Dear Assistant Commissioner:

This firm represents Opposer, WJC & Company, LLC with respect to opposition of the above-referenced trademark application. On behalf of Opposer, enclosed please find a Notice of Opposition and two duplicate copies and a check in the amount of \$300 payable to Commissioner of Patents and Trademarks representing a filing fee for this Opposition. Please stamp and return the enclosed postcard at your earliest convenience.

Thank you for your attention to this matter. Please call me if you have any questions.

Respectfully submitted,


Barry H. Fishkin

Encl.

cc: WJC & Company, LLC

ad