

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: January 25, 2007

Opposition No. 91172501

Opposition No. 91172594

FLAVOR GIRLS LINGERIE &
MODELING SERVICES, L.L.C.,
BLUNT WRAP U.S.A., INC.

v.

ROYAL BLUNTS, INC.

Cheryl Butler, Attorney, Trademark Trial and Appeal Board:

Opposer filed its notice of opposition electronically on August 23, 2006 in Opposition No. 91172501 and on August 30, 2006 in Opposition No. 91172594. The ESTTA system has now been set up to send the institution order by email where an applicant has previously informed the Office that it agrees to accept email notification. Such notification was sent electronically in each case on the same day that the notices of opposition were filed (that is, on August 23, 2006 and on August 30, 2006). An actual copy of the notice of opposition did not accompany the institution order in either case. However, in order to allow the ESTTA system to work automatically without necessitating the involvement of a person, an applicant notified electronically is now directed to an on-line link in order to obtain a copy of the pertinent notice of opposition.

Applicant received an electronic communication from ESTTA on August 23, 2006 in Opposition No. 91172501 and on August 30, 2006 in Opposition No. 91172594. It appears, however, that applicant did not receive both pages of the institution orders (the second page of each institution order includes the schedule). In addition, applicant experienced confusion because the street addresses for each party are displayed in a reverse position as compared to the captioning of the parties' names. The Board notes that the correspondence addresses for the parties are correct in the database (TTABVUE).

In the interest of time, a copy of each notice of opposition is attached herewith for applicant. Applicant is allowed until **forty days** from the mailing date of this order in which to file its answer in each case.

The Board has reviewed each of the above-identified proceedings. As noted in the resetting of the time to answer, above, answers have not yet been filed.

When cases involving common questions of law or fact are pending before the Board, consolidation of such cases may be appropriate. Such consolidation may be ordered on the Board's own initiative. See Fed. R. Civ. P. 42(a); and TBMP §511 (2d ed. rev. 2004). In addition, the Board, in its discretion, may order cases consolidated prior to joinder of issue (i.e., before an answer has been filed in each case). The Board finds it appropriate to consolidate the above-identified proceedings.

Accordingly, Opposition Nos. 91172501 and 91172594 are hereby consolidated and may be presented on the same records and briefs. The record will be maintained in Opposition No. **91172501** as the "parent" case, but all papers filed in these cases should include all proceeding numbers in ascending order (except that applicant is to file as separate answer in each proceeding).

Discovery and trial dates are reset as follows:

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| THE PERIOD FOR DISCOVERY TO CLOSE: | August 13, 2007 |
| 30-day testimony period for party in position of plaintiff to close | November 11, 2007 |
| 30-day testimony period for party in position of defendant to close: | January 10, 20078 |
| 15-day rebuttal testimony period to close: | February 24, 2008 |

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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NOTICE OF OPPOSITION FOR NO. 91172501:

ESTTA Tracking number: **ESTTA95881**

Filing date: **08/23/2006**

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 parties oppose registration of the indicated application.

Opposers Information

| | | | |
|---------|--|-------------|-----------|
| Name | BLUNT WRAP U.S.A., INC. | | |
| Entity | Corporation | Citizenship | Louisiana |
| Address | 2180 North Causeway Boulevard Mandeville, LA 70471 UNITED STATES | | |

| | | | |
|---------------------------------------|--|--|--|
| Name | FLAVOR GIRLS LINGERIE & MODELING SERVICES, L.L.C. | | |
| Granted to Date of previous extension | 08/23/2006 | | |
| Address | 2180 North Causeway Boulevard Mandeville, LA 70471 UNITED STATES | | |

| | | | |
|----------------------|--|--|--|
| Attorney information | Brett A. North Garvey, Smith, Nehrbass & North, L.L.C. 3 Lakeway Center, Suite 3290 3838 North Causeway Boulevard Metairie, LA 70002 UNITED STATES NorthBrett@gsmn.us Phone:(504)835-2000 | | |
|----------------------|--|--|--|

Applicant Information

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|------------------------|---|------------------------|------------|
| Application No | 78690025 | Publication date | 04/25/2006 |
| Opposition Filing Date | 08/23/2006 | Opposition Period Ends | 08/23/2006 |
| Applicant | ROYAL BLUNTS, INC. 1672 RAIL ROAD CORONA, CA 96882 UNITED STATES | | |

Goods/Services Affected by Opposition

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| Class 035. All goods and services in the class are opposed, namely: Advertising particularly services for the promotion of goods; Advertising via electronic media and specifically the internet; Advertising, marketing and promotion services; Arranging and conducting of fairs and exhibitions for business and advertising purposes; Direct mail advertising; Distribution and dissemination of advertising materials; Distribution of advertisements and commercial announcements; Modeling for advertising or sales promotion |
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|-------------|--|
| Attachments | 99168.1.OPP.FLAVOR.pdf (10 pages)(273280 bytes) |
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| | |
|-----------|----------------|
| Signature | /BAN/ |
| Name | Brett A. North |
| Date | 08/23/2006 |

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

In the matter of trademark application Serial No. 78/690,025
For the mark FLAVOR GIRLS
Filed: August 10, 2005
Published in the *Official Gazette* on April 25, 2006

FLAVOR GIRLS LINGERIE
& MODELING SERVICES, L.L.C.,
Opposer,

v.
ROYAL BLUNTS, INC.,
Applicant

OPPOSITION No. _____

STATEMENT OF GROUNDS

1. Opposer, Flavor Girls Lingerie & Modeling Services, L.L.C., is a Louisiana corporation. Opposer's principal place of business is 2180 North Causeway Boulevard, Mandeville, Louisiana 70471.
2. Since at least as early as September 2003, Opposer has used, and is currently using, the mark FLAVOR GIRLS in connection with the following services: advertising particularly services for the promotion of goods; advertising via electronic media and specifically the internet; advertising, marketing and promotion services; arranging and conducting of fairs and exhibitions for business and advertising purposes; direct mail advertising; distribution and dissemination of advertising materials; distribution of advertisements and commercial announcements; and, modeling for advertising or sales promotion.

3. Opposer has expended considerable resources to advertise and promote the sale of its services under the mark FLAVOR GIRLS and has used the mark FLAVOR GIRLS in advertisements and promotional materials such as flyers and magazines in connection with the services in ways customary to the trade.
4. Opposer's mark FLAVOR GIRLS has become known through use and advertising from at least as early as September 2003, so that its mark FLAVOR GIRLS has become associated by the public with Opposer's services.
5. As a result of such use, advertisement and promotion by Opposer, the purchasing public has come to know, rely upon, and recognize the services of Opposer by the FLAVOR GIRLS mark.
6. Opposer has created and established valuable goodwill in its FLAVOR GIRLS mark.
7. At no time since Opposer began using the mark FLAVOR GIRLS in connection with its services to the present time did Opposer abandon its mark, and the use by Opposer has been continuous, uninterrupted and extensive.
8. Applicant seeks to register the proposed mark FLAVOR GIRLS based on its intent to use that mark.

9. Applicant's proposed mark is identical in sound, appearance, and connotation to Opposer's FLAVOR GIRLS mark in terms of overall appearance, sound, meaning and commercial impression.
10. The services identified in Applicant's application are closely related to the services Opposer offers under its FLAVOR GIRLS mark, and are of a type which commonly emanate from a single source.
11. Applicant's proposed services could be marketed in the same channels of commerce and directed toward the same classes of purchasers as Opposer's services.
12. Applicant's proposed mark, FLAVOR GIRLS, is in the identical form of Opposer's mark, and as such, when used on or in connection with Applicant's intended services, is likely to cause confusion or to cause mistake or to deceive. Purchasers and prospective purchasers are likely to believe that Applicant's intended services offered under the FLAVOR GIRLS mark are sponsored, endorsed, or approved by Opposer, or are in some way affiliated, connected, or associated with Opposer or its services.
13. The services recited in Application Serial No. 78/690,025 and the services in connection with which Opposer uses and has used its FLAVOR GIRLS mark are so directly associated in use and sale, are of the same class (I.C. 35), and are sold through the same channels of commerce and to the same class of purchasers, that is it likely to cause

confusion or to cause mistake or to deceive consumers into believing that the services, for which Applicant intends to use its proposed mark, emanate from or are sponsored by Opposer.

14. Applicant's proposed mark was published for opposition in the *Official Gazette* on April 25, 2006, and Opposer was granted an extension until August 23, 2006 to file its Notice of Opposition.
15. Registration of the mark FLAVOR GIRLS would be a source of damage to Opposer because purchasers are likely to attribute the source or sponsorship of Applicant's services under that mark to Opposer.
16. Registration of the mark FLAVOR GIRLS would be a source of damage to Opposer, as such registration would confer upon Applicant various statutory presumptions to which it is not entitled in view of Opposer's long-standing prior use of its FLAVOR GIRLS mark.

WHEREFORE, Opposer prays that its Opposition be granted, that Application Serial No. 78/690,025 be rejected, and that the mark therein sought for the goods specified in Application Serial No. 78/690,025 be denied and refused.

Respectfully submitted,



Brett A. North, Reg. No. 42,040
Jacqueline M. Daspit, Reg. No. 36,779
GARVEY, SMITH, NEHRBASS & NORTH, L.L.C.
Three Lakeway Center, Suite 3290
3838 North Causeway Boulevard
Metairie, Louisiana 70006
Tel: 504-835-2000
Fax: 504-835-2070
www.gsnn.us

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ESTTA Tracking number: **ESTTA96932**

Filing date: **08/30/2006**

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 parties oppose registration of the indicated application.

Opposers Information

| | |
|---------------------------------------|--|
| Name | FLAVOR GIRLS LINGERIE & MODELING SERVICES, L.L.C. |
| Granted to Date of previous extension | 08/30/2006 |
| Address | 2180 North Causeway Boulevard Mandeville, LA 70471 UNITED STATES |

| | |
|---------------------------------------|--|
| Name | BLUNT WRAP U.S.A., INC. |
| Granted to Date of previous extension | 08/30/2006 |
| Address | 2180 North Causeway Boulevard Mandeville, LA 70471 UNITED STATES |

| | |
|----------------------|---|
| Attorney information | Brett A. North, Patent Attorney GARVEY, SMITH, NEHRBASS & NORTH, L.L.C. 3838 N. Causeway Blvd., Suite 3290 Metairie, LA 70002-1767 UNITED STATES NorthBrett@gsnn.us Phone:504-835-2000 |
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Applicant Information

| | | | |
|------------------------|---|------------------------|------------|
| Application No | 78690077 | Publication date | 05/02/2006 |
| Opposition Filing Date | 08/30/2006 | Opposition Period Ends | 08/30/2006 |
| Applicant | ROYAL BLUNTS, INC. 1672 RAIL ROAD CORONA, CA 92882 UNITED STATES | | |

Goods/Services Affected by Opposition

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|---|
| Class 035. All goods and services in the class are opposed, namely: Advertising particularly services for the promotion of goods; Advertising via electronic media and specifically the internet; Advertising, marketing and promotion services; Arranging and conducting of fairs and exhibitions for business and advertising purposes; Direct mail advertising; Distribution and dissemination of advertising materials; Distribution of advertisements and commercial announcements; Modeling for advertising or sales promotion |
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|---------|---|
| Related | Opposition No. 91172501 for FLAVOR GIRLS (Serial No. 78/690025) |
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Opp

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|-------------|---|
| Proceedings | |
| Attachments | 99168.1.OPP.FLAVA.pdf (10 pages)(272086 bytes) |
| Signature | /ban/ |
| Name | Brett A. North, Patent Attorney |
| Date | 08/30/2006 |

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

In the matter of trademark application Serial No. 78/690,077
For the mark FLAVA GIRLS
Filed: August 10, 2005
Published in the *Official Gazette* on May 2, 2006

FLAVOR GIRLS LINGERIE
& MODELING SERVICES, L.L.C.,
Opposer,

v.
ROYAL BLUNTS, INC.,

Applicant

OPPOSITION No. _____

STATEMENT OF GROUNDS

1. Opposer, Flavor Girls Lingerie & Modeling Services, L.L.C., is a Louisiana corporation. Opposer's principal place of business is 2180 North Causeway Boulevard, Mandeville, Louisiana 70471.

2. Since at least as early as September 2003, Opposer has used, and is currently using, the mark FLAVOR GIRLS in connection with the following services: advertising particularly services for the promotion of goods; advertising via electronic media and specifically the internet; advertising, marketing and promotion services; arranging and conducting of fairs and exhibitions for business and advertising purposes; direct mail advertising; distribution and dissemination of advertising materials; distribution of advertisements and commercial announcements; and, modeling for advertising or sales promotion.

3. Opposer has expended considerable resources to advertise and promote the sale of its services under the FLAVOR GIRLS mark and has used the mark FLAVOR GIRLS in advertisements and promotional materials such as flyers and magazines in connection with the services in ways customary to the trade.
4. Opposer's mark FLAVOR GIRLS has become known through use and advertising from at least as early as September 2003, so that its mark FLAVOR GIRLS has become associated by the public with Opposer's services.
5. As a result of such use, advertisement and promotion by Opposer, the purchasing public has come to know, rely upon, and recognize the services of Opposer by the FLAVOR GIRLS mark.
6. Opposer has created and established valuable goodwill in its FLAVOR GIRLS mark.
7. At no time since Opposer began using the mark FLAVOR GIRLS in connection with its services to the present time did Opposer abandon its mark, and the use by Opposer has been continuous, uninterrupted and extensive.
8. Applicant seeks to register the proposed mark FLAVA GIRLS based on its intent to use that mark.

9. Applicant's proposed mark is in such near resemblance in sound, appearance, and connotation to Opposer's FLAVOR GIRLS mark in terms of overall appearance, sound, meaning and commercial impression.
10. The services identified in Applicant's application are closely related to the services Opposer offers under its FLAVOR GIRLS mark, and are of a type which commonly emanate from a single source.
11. Applicant's proposed services could be marketed in the same channels of commerce and directed toward the same classes of purchasers as Opposer's services.
12. Applicant's proposed mark, FLAVA GIRLS, is in such near resemblance to Opposer's mark, and as such, when used on or in connection with Applicant's intended services, is likely to cause confusion or to cause mistake or to deceive. Purchasers and prospective purchasers are likely to believe that Applicant's intended services offered under the FLAVA GIRLS mark are sponsored, endorsed, or approved by Opposer, or are in some way affiliated, connected, or associated with Opposer or its services.
13. The services recited in Application Serial No. 78/690,077 and the services in connection with which Opposer uses and has used its FLAVOR GIRLS mark are so directly associated in use and sale, are of the same class (I.C. 35), and are sold through the same channels of commerce and to the same class of purchasers, that is it likely to cause

confusion or to cause mistake or to deceive consumers into believing that the services, for which Applicant intends to use its proposed mark, emanate from or are sponsored by Opposer.

14. Applicant's proposed mark was published for opposition in the *Official Gazette* on May 2, 2006, and Opposer was granted an extension until August 30, 2006 to file its Notice of Opposition.
15. Registration of the mark FLAVA GIRLS would be a source of damage to Opposer because purchasers are likely to attribute the source or sponsorship of Applicant's services under that mark to Opposer.
16. Registration of the mark FLAVA GIRLS would be a source of damage to Opposer, as such registration would confer upon Applicant various statutory presumptions to which it is not entitled in view of Opposer's long-standing prior use of its FLAVOR GIRLS mark.

WHEREFORE, Opposer prays that its Opposition be granted, that Application Serial No. 78/690,077 be rejected, and that the mark therein sought for the goods specified in Application Serial No. 78/690,077 be denied and refused.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brett A. North', with a long horizontal flourish extending to the right.

Brett A. North, Reg. No. 42,040
Jacqueline M. Daspit, Reg. No. 36,779
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