

ESTTA Tracking number: **ESTTA189885**

Filing date: **01/30/2008**

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	ARITZIA LP
Granted to Date of previous extension	01/30/2008
Address	No. 327 - 611 Alexander Street Vancouver, BC V6A 1E1 CANADA

Attorney information	Nancy V. Stephens Foster Pepper PLLC 1111 3rd Avenue Suite 3400 Seattle, WA 98101 UNITED STATES stepn@foster.com Phone:206-447-8925
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Applicant Information

Application No	77149277	Publication date	10/02/2007
Opposition Filing Date	01/30/2008	Opposition Period Ends	01/30/2008
Applicants	Volume One Apparel, Inc. 4160 Bandini Blvd. Los Angeles, CA 90012 UNITED STATES Cocomo Apparel, Inc. 4162 Bandini Blvd. Los Angeles, CA 90012 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 1999/01/01 First Use In Commerce: 1999/01/01 All goods and services in the class are opposed, namely: Tops; Knit shirts; Shirts; Pants; Blouses; Sweaters; Sport shirts; T-shirts
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Grounds for Opposition

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

U.S. Application No.	77111955	Application Date	02/20/2007
Registration Date	NONE	Foreign Priority	NONE

		Date	
Word Mark	TALULA BABATON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: Belts; Blazers; Blouses; Boots; Coats; Dresses; Footwear; Hats; Jackets; Overalls; Pants; Sandals; Scarves; Shirts; Shoes; Shorts; Skirts; Sleepwear; Slippers; Socks; Sweaters; Swim wear; Ties; Tights; Tops; Underwear; Vests		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	TALULA BABATON		
Goods/Services	Belts; Blazers; Blouses; Dresses; Jackets; Pants; Shirts; Tops		

Attachments	77111955#TMSN.jpeg (1 page)(bytes) ARITZIA_V_COCOMO.pdf (3 pages)(12275 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	/Nancy V. Stephens/
Name	Nancy V. Stephens
Date	01/30/2008

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

In the matter of Application Serial No. 77149277

Aritzia LP

Opposer

v.

Cocomo Apparel, Inc.,

and

Volume One Apparel, Inc.,

Applicants

Opposition No. _____

NOTICE OF OPPOSITION

Aritzia LP, a Canadian Limited Partnership, (the "Opposer"), whose principal place of business is No. 327 611 Alexander Street, Vancouver, Canada V6A 1E1 believes that it would be damaged by registration of the mark BRONTE & TALLULAH which is the subject of application Serial No. 77149277 and hereby opposes the same.

As grounds of opposition, it is alleged that:

1. Cocomo Apparel, Inc. and Volume One Apparel, Inc., corporations formed under the laws of the State of California ("Applicants"), jointly seek to register the mark BRONTE & TALLULAH, in standard characters, as a trademark in *International Class 25* covering, "tops, knit shirts, shirts, pants, blouses, sweaters, sports shirts and t-shirts" ("Opposed Application").

2. The Opposed Application was filed on April 5, 2007.
3. Opposer is the owner of US Trademark Application Serial No. 77111955 for TALULA BABATON, in standard characters, covering, “belts, blazers, blouses, boots, coats, dresses, footwear, hats, jackets, overalls, pants, sandals, scarves, shirts, shoes, shorts, skirts, sleepwear, slippers, socks, sweaters; swim wear, ties, tights, tops, underwear and vests,” in *International Class 25*.
4. Opposer has used the mark TALULA BABATON in Canada in connection with apparel since at least 1994, developed considerable and valuable goodwill and reputation with respect to the trademark TALULA BABATON in Canada and established common law rights in the US based on migration of TALULA BABATON branded apparel across the border.
5. Opposer filed its US application on February 20, 2007.
6. The Opposed Application is substantially similar to Opposer’s mark.
7. The goods covered by the Opposed Application are considered identical to those covered by Opposer’s mark.
8. Given both marks cover apparel items, it is highly possible the marks will be used in same channels of trade and likely reach the same consumers.
9. Opposer’s Mark has a filing date that precedes the Applicants' filing date.
10. Based on the priority of filing Opposer's rights in its trademark are superior to the Applicants' rights in and to the mark BRONTE & TALLULAH.
11. Based on its rights in the TALULA BABATON mark, Opposer has expended energy and resources to develop marketing and promotional activities surrounding the TALULA BABATON trademark.

12. The mark shown in the Opposed Application, if registered, will blur the distinctiveness of Opposer's trademark TALULA BABATON for apparel and dilute the value of the mark as a source identifier.

13. If Applicants are permitted to register the mark BRONTE & TALLULAH for apparel, damage and injury to Opposer will be caused and will result by reason of a likelihood of confusion between BRONTE & TALLULAH and Opposer's mark TALULA BABATON.

14. Opposer will be damaged by registration of the Opposed Application as registration will give Applicants prima facie evidence of the exclusive right to use a mark likely to cause confusion with Opposer's proprietary mark.

15. If Applicants are granted a registration for mark BRONTE & TALLULAH in *International Class 25* covering clothing, it will not only likely create confusion in the marketplace but it will be inconsistent with Opposer's superior rights in and to the mark TALULA BABATON.

WHEREFORE, the Opposer prays that the Application, Serial No. 77149277 be denied and refused.

Dated: January 30, 2008

/Nancy V. Stephens/
Nancy V. Stephens, WSBA No. 31510
J. Christopher Lynch, USPTO No. 34216
WSBA No. 17462
Foster Pepper PLLC
Attorneys for Opposer Aritzia LP