

ESTTA Tracking number: **ESTTA318133**

Filing date: **11/20/2009**

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	Felissimo Universal Corporation of America
Granted to Date of previous extension	11/21/2009
Address	10 West 56th St New York, NY 10019 UNITED STATES

Attorney information	Zeynel Karcioglu, Esq. 445 Park Avenue, 17th Floor New York, NY 10022 UNITED STATES zeynel@karcioglu-law.com Phone:212-505-6933
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Applicant Information

Application No	77734446	Publication date	09/22/2009
Opposition Filing Date	11/20/2009	Opposition Period Ends	11/21/2009
Applicant	Ballard, Francine Davis 5527 Atlanta Street New Orleans, LA 70115 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. All goods and services in the class are opposed, namely: Operating an on-line shopping site in the field of handbags, accessories and apparel

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.	77687814	Application Date	03/10/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SOCIAL DESIGNER		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: retail store services and online retail store services Class 041. First use: arranging of design contests; entertainment services, namely, arranging, conducting, hosting, organizing and judging design competitions

U.S. Application No.	77687843	Application Date	03/10/2009
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	SOCIAL DESIGNER
Design Mark	
Description of Mark	The mark consists of a stylized version of the words "social designer" .
Goods/Services	Class 025. First use: clothing, apparel, shoes, bags, totes Class 035. First use: retail store services and online retail store services Class 041. First use: Arranging of design contests; entertainment services, namely, arranging, conducting, organizing and judging design competitions

Attachments	77687814#TMSN.jpeg (1 page)(bytes) 77687843#TMSN.jpeg (1 page)(bytes) SKMBT_60009112019240.pdf (5 pages)(135641 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	/zk/
Name	Zeynel Karcioglu, Esq.
Date	11/20/2009

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

In the matter of Application Serial No. 77/734,446 in International Class 35
Mark: DESIGNERSOCIAL
Published for Opposition on September 22, 2009

Felissimo Universal Corporation of America,)	
)	Opposition No.
Opposer,)	
)	Serial No. 77/734,446
v.)	
)	
Francine Davis Ballard,)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Opposer, Felissimo Universal Corporation of America (hereinafter, "Opposer"), a corporation with offices at 10 West 56th Street, New York, New York 10019, through its undersigned counsel, hereby opposes the above-identified application for the service mark DESIGNERSOCIAL Serial No. 77/734,446 in Class 35 (hereinafter, "Applicant"), because Opposer believes that it is or would be damaged by the issuance of registration for the mark and asserts on its own knowledge, or otherwise on information and belief as follows:

1. Opposer applied for, and has used the marks SOCIAL DESIGNER and SOCIAL DESIGNER Stylized (collectively, the "Marks") continuously and extensively in connection with hosting of on-line design competitions and sales of apparel, bags and

accessories before the Applicant's filing date seeking to register its mark on an intent-to-use basis in connection with "on-line shopping in the field of handbags, accessories and apparel."

2. As a result of Opposer's continuous use of the Marks, Opposer is the owner of common law rights in the SOCIAL DESIGNER Marks for retail and on-line services in the field of clothing, apparel, shoes, bags and totes.

3. Moreover, Opposer owns two pending United States trademark applications, which are valid and subsisting, namely U.S. Application Serial No. ~~77/687,814 for SOCIAL DESIGNER for use in connection with "retail store services and~~ online retail store services" in Class 35 and "arranging of design contests; entertainment services, namely, arranging, conducting, hosting, organizing and judging design competitions" in Class 41, and U.S. Application Serial No. 77/687,843 for SOCIAL DESIGNER (Stylized) for use in connection with "clothing, apparel, shoes, bags, totes" in Class 25, "retail store services and online retail store services" in Class 35 and "[a]rranging of design contests; entertainment services, namely, arranging, conducting, organizing and judging design competitions" in Class 41. Both Marks were filed on an intent-to-use basis on March 10, 2009 – before Applicant's filing date.

4. Upon information and belief, Opposer's extensive and continuous use of the Marks and the advertising, promotion, and commercial success of goods and services provided under the Marks have caused the Marks to achieve widespread recognition as identifying goods and services originating exclusively from Opposer; the Marks have achieved sufficient commercial success to become strong trademarks entitled to robust protection within their operative market.

5. Applicant Francine Davis Ballard, an individual, located at 5527 Atlanta Street New Orleans, Louisiana 70115, filed the subject application, Serial No. 77/734,446, for the mark DESIGNERSOCIAL, on an intent-to-use basis on May 11, 2009, for use in connection with “[o]perating an on-line shopping site in the field of handbags, accessories and apparel” in Class 35; that application was published for opposition on September 22, 2009.

6. Opposer adopted and commenced use of the Marks well before Applicant’s May 11, 2009 filing date.

7. The filing date of Applicant’s application and Applicant’s first use of the DESIGNERSOCIAL, to the extent it has made such use, clearly are subsequent to Opposer’s priority dates, *i.e.*, its March 10, 2009 filing date for both Marks, and also are after Opposer commenced use of the Marks. Thus, Applicant has been on notice of Opposer’s prior rights in and to the SOCIAL DESIGNER Marks.

8. Applicant’s proposed mark DESIGNERSOCIAL closely resembles the Marks, in that Applicant has simply placed the discrete elements of Opposer’s composite mark in reverse order, the mark incorporates Opposer’s Marks in their entirety, and the marks are confusingly similar in appearance, meaning and sound.

9. Due to the similarity of Applicant’s mark and the Marks, the similarity of the services and goods sold under the respective trademarks, the strong consumer recognition and goodwill associated with the Marks, registration and continued use of Applicant’s mark DESIGNERSOCIAL would likely result in consumer confusion with Opposer with respect to the source, sponsorship, approval or affiliation within the meaning of 15 U.S.C. §§ 1114 and 1125(a), and, as such, Opposer will be damaged by

the registration of Applicant's mark because of such confusion and further, Opposer will be unable to complete registration of its own Marks.

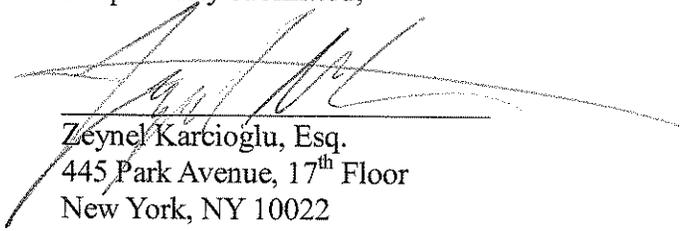
10. Applicant's mark is unregistrable pursuant to 15 U.S.C. § 1052 (d), as it so resembles Marks previously used in the United States - and also applied for registration - by another and not abandoned as to be likely to cause confusion, mistake or to deceive.

11. A duplicate copy of this Notice of Opposition and the required fee of \$300.00 are enclosed. If any further fees are required in connection with this Opposition proceeding, they will be paid upon presentation by the undersigned.

WHEREFORE, Opposer requests that the Board refuse registration of the subject application, and the underlying mark, and that this Opposition be sustained in favor of Opposer.

Dated: New York, New York
November 20, 2009

Respectfully submitted,



Zeynel Karcioglu, Esq.
445 Park Avenue, 17th Floor
New York, NY 10022
(212) 207-8787

Attorney for Opposer

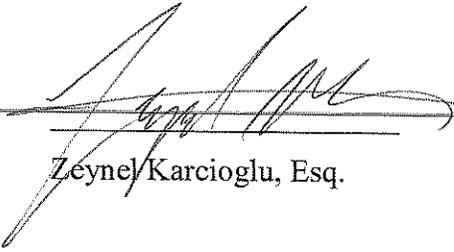
CERTIFICATE OF SERVICE

I hereby certify that this 20th day of November 2009, a copy of the foregoing was served by First Class mail and overnight courier upon Applicant, to the attention of :

Francine Davis Ballard
5527 Atlanta Street
New Orleans, LA 70115

Dated: New York, NY

November 20, 2009



Zeynel Karcioğlu, Esq.