

ESTTA Tracking number: **ESTTA381676**

Filing date: **12/02/2010**

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	Global Brand Holdings, LLC		
Entity	Corporation	Citizenship	New York
Address	1407 Broadway New York, NY 10018 UNITED STATES		

Attorney information	Marc P. Misthal Gottlieb, Rackman & Reisman, PC 270 Madison Avenue 8th Floor New York, NY 10016 UNITED STATES mmisthal@grr.com, apeikes@grr.com, efileing@grr.com Phone:212-684-3900		
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**Applicant Information**

Application No	85056826	Publication date	11/02/2010
Opposition Filing Date	12/02/2010	Opposition Period Ends	12/02/2010
Applicant	Bosso, Michael 4811 Island Pd Ct 802 Bonita Springs, FL 34134 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. All goods and services in the class are opposed, namely: Hats; Shirts; Shoe covers for use when wearing shoes
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**Grounds for Opposition**

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2436377	Application Date	06/15/1999
Registration Date	03/20/2001	Foreign Priority Date	NONE
Word Mark	XOXO		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1997/05/00 First Use In Commerce: 1997/05/00 WOMEN'S AND CHILDREN'S SHOES

U.S. Registration No.	3455799	Application Date	08/08/2006
Registration Date	06/24/2008	Foreign Priority Date	NONE

Word Mark	XOXO
Design Mark	

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2005/02/16 First Use In Commerce: 2005/02/16 clothing for humans in the nature of baby doll pajamas, bras, boxer shorts, camisoles, chemises, dresses, headbands, lingerie, loungewear, pajamas, panties, shorts and briefs being underwear, robes, skirts, sleepwear and tank tops; headbands Class 026. First use: First Use: 2006/11/05 First Use In Commerce: 2006/11/05 hair accessories, namely, barrettes, bobby pins, hair bands, hair slides, hair sticks, hair ornaments in the form of combs, hair pins, hair ornaments, hair wraps, ponytail holders, salon hair clips, and snap clips

U.S. Registration No.	2456625	Application Date	09/03/1998
Registration Date	06/05/2001	Foreign Priority Date	NONE

Word Mark	XOXO
Design Mark	

Description of Mark	NONE
Goods/Services	Class 014. First use: First Use: 1997/02/01 First Use In Commerce: 1997/02/01 JEWELRY, WATCHES AND OTHER HOROLOGICAL AND CHRONOMETRIC INSTRUMENTS, NAMELY CLOCKS

U.S. Registration No.	2269840	Application Date	01/08/1998
Registration Date	08/10/1999	Foreign Priority Date	NONE

Word Mark	XOXO
Design Mark	

Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1998/05/01 First Use In Commerce: 1998/05/01 EYEGLASSES AND SUNGLASSES

U.S. Registration No.	2102098	Application Date	01/18/1996
Registration Date	09/30/1997	Foreign Priority Date	NONE
Word Mark	XOXO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1996/12/01 First Use In Commerce: 1996/12/01 luggage, handbags, purses all made from leather, imitations of leather and other material		

U.S. Registration No.	2370004	Application Date	09/03/1998
Registration Date	07/25/2000	Foreign Priority Date	NONE
Word Mark	XOXO		
Design Mark	<b>XOXO</b>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1996/09/25 First Use In Commerce: 1996/11/01 RETAIL CLOTHING STORE SERVICES		

U.S. Registration No.	2960690	Application Date	11/28/2001
Registration Date	06/07/2005	Foreign Priority Date	NONE
Word Mark	XOXO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2004/12/01 First Use In Commerce: 2004/12/01 Perfume, toiletries and cosmetics, namely, lipstick, eyeliner, mascara and nail polish		

Attachments	78947585#TMSN.jpeg ( 1 page )( bytes ) 75547330#TMSN.gif ( 1 page )( bytes )
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	Global xoxo - Notice of Opposition with Attachments.pdf ( 27 pages )(583867 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	/Marc P. Misthal/
Name	Marc P. Misthal
Date	12/02/2010

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

In the Matter of Application Serial No. 85/056,826  
Published in the *Official Gazette* on November 2, 2010

-----X	:	
GLOBAL BRAND HOLDINGS, LLC	:	
<i>Opposer,</i>	:	
-against-	:	OPPOSITION NO.:
MICHAEL BOSSO	:	
<i>Applicant</i>	:	
-----X	:	

**NOTICE OF OPPOSITION**

Opposer, Global Branding Holdings, LLC (hereinafter "Global" or "Opposer"), located at 1407 Broadway, New York, New York, 10018, believes that it will be damaged by the registration of the mark OX (stylized), Serial Number 85/056,826 filed on June 7, 2010 by Michael Bosso, an individual located at 4811 Island Pd. Ct., 802, Bonita Springs, FL 34134 (hereinafter "Bosso" or "Applicant"), published for opposition in the *Official Gazette* on November 2, 2010, and requests that registration to Applicant be refused.

The grounds for opposition are as follows:

1. Since at least as early as 1991, Global, through its predecessors in interest, has manufactured, distributed and sold in commerce in the U.S. clothing, namely men's, women's and children's hats, shirts, shorts, pants,

jackets, T-Shirts, sweatshirts, socks, sweaters and swimwear bearing the trademark XOXO.

2. Global is the owner of U.S. Trademark Registration No. 2,436,377 in International Class 25 for women's and children's shoes bearing the mark XOXO, and first began utilizing such mark in 1997. That registration is valid, incontestable, subsisting, unrevoked, and uncanceled. (A printout from the PTO's Trademark Electronic Search System ("TESS") regarding this registration is attached hereto as Exhibit A).

3. Global is also the owner of U.S. Trademark Reg. No. 3,455,799 in International Class 25 for clothing for boxer shorts, baby doll pajamas, bras, camisoles, chemises, dresses, headbands, lingerie, loungewear, pajamas, panties, shorts and briefs being underwear, robes, skirts, sleepwear and tank tops; headbands (first used in 2005); and International Class 26 for hair accessories, namely barrettes, bobby pins, hair bands, hair slides, hair sticks, hair ornaments in the form of combs, hair pins, hair ornaments, hair wraps, ponytail holders, salon hair clips, and snap clips (first used in 2006). Global first began using such mark in 2008. (A printout from the PTO's TESS database regarding this registration is attached as Exhibit B).

4. Additionally, Global is the owner of the following U.S. trademark registrations and applications for the trademark XOXO:

- a. U.S. Trademark Reg. No. 2,456,625 in International Class 14 for the mark XOXO for watches, jewelry, and other chronometric and horological instruments, namely clocks (date of first use:

- 1997). This registration is valid, incontestable, subsisting, unrevoked, and uncanceled. (See Exhibit C);
- b. Reg. No. 2,269,840 in International Class 9 for eyeglasses and sunglasses (date of first use: 1998). The registration is valid, incontestable, subsisting, unrevoked, and uncanceled. (See Exhibit D);
  - c. Reg. No. 2,102,098 in International Class 18 for luggage, handbags, purses all made from leather, imitations of leather and other material (date of first use: 1996). The registration is valid, incontestable, subsisting, unrevoked, and uncanceled. (See Exhibit E);
  - d. Reg. No. 2,370,004 in International Class 35 for retail clothing store services, for use of the trademark XOXO on stores (date of first use: 1996). This registration is also valid, incontestable, subsisting, unrevoked, and uncanceled. (See Exhibit F), and;
  - e. Reg. No. 2,960,690 in International Class 3 for perfume, toiletries and cosmetics, namely, lipstick, eyeliner, mascara and nail polish (date of first use: 2004). (See Exhibit G).

5. For over nineteen years, Global through its predecessors in interest has enjoyed substantial success selling its various products bearing the XOXO mark throughout the U.S. and around the world. During this period, Global and its predecessors have sold millions of dollars of products bearing the XOXO mark throughout the U.S.

6. Moreover, Global has expended millions of dollars in advertising and sales promotion for products bearing the XOXO mark throughout the U.S.

7. As a result of Global's extensive sales, advertising and promotion of such products bearing the XOXO mark, the XOXO mark has become famous and has come to signify high-quality products originating from Global and to symbolize goodwill of incalculable value.

8. On June 7, 2010, Applicant filed an application based upon Section 1(b) of the Lanham Act to register OX in stylized format, an X encircled by an O, but with the top and bottom edges of the O cut away - as pictured below - for use on "hats; shirts, and; shoe covers for use when wearing shoes."



9. That application was assigned Serial No. 85/056,826 and was published for opposition purposes in the *Official Gazette* on November, 2, 2010.

10. Applicant's OX mark so resembles Opposer's previously used and registered XOXO mark that when used on or in conjunction with the goods set forth in Applicant's application:

- a. It is likely to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act;
- b. It falsely suggests a connection with Global;
- c. It tends to damage Global's goodwill in the XOXO mark; and
- d. It is likely to dilute the distinctive qualities of the XOXO mark.

WHEREFORE, Opposer prays the opposition be sustained and that registration to Applicant be refused.

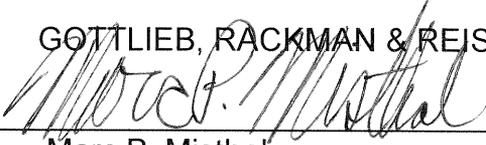
The Opposition fee of \$300 has been paid with the submission of this Notice of Opposition. If any additional fees are required, please charge the undersigned attorneys' Deposit Account No. 07-1730.

Please recognize Marc P. Misthal and Ariel S. Peikes, who are members of the Bar of the State of New York and are attorneys at the firm of Gottlieb, Rackman & Reisman, located at 270 Madison Avenue, New York, New York 10016, as attorneys for Opposer.

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN

Date: New York, New York  
December 2, 2010

By: 

Marc P. Misthal  
Ariel S. Peikes  
270 Madison Avenue  
8<sup>th</sup> Floor  
New York, NY 10016  
Telephone: (212) 684-3900  
Facsimile: (212) 684-3999  
[mmisthal@grr.com](mailto:mmisthal@grr.com)  
[apeikes@grr.com](mailto:apeikes@grr.com)

ATTORNEYS FOR OPPOSER  
Global Brand Holdings, LLC

## EXHIBIT A



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**Word Mark** XOXO

**Goods and Services** IC 025. US 022 039. G & S: WOMEN'S AND CHILDREN'S SHOES. FIRST USE: 19970500.  
FIRST USE IN COMMERCE: 19970500

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 75729629

**Filing Date** June 15, 1999

**Current Filing Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** July 25, 2000

**Registration Number** **2436377**

**Registration Date** March 20, 2001

**Owner** (REGISTRANT) Lola, Inc. CORPORATION CALIFORNIA 6000 Sheila Street Commerce CALIFORNIA 90040

(LAST LISTED OWNER) Global Brand Holdings, LLC LIMITED LIABILITY COMPANY NEW YORK 1407 Broadway New York NEW YORK 10017

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** Marc P. Misthal

**Prior Registrations** 2009243;2043508

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20100520.

**Renewal** 1ST RENEWAL 20100520

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# XOXO

<b>Word Mark</b>	XOXO
<b>Goods and Services</b>	IC 025. US 022 039. G & S: clothing for humans in the nature of baby doll pajamas, bras, boxer shorts, camisoles, chemises, dresses, headbands, lingerie, loungewear, pajamas, panties, shorts and briefs being underwear, robes, skirts, sleepwear and tank tops; headbands. FIRST USE: 20050216. FIRST USE IN COMMERCE: 20050216
	IC 026. US 037 039 040 042 050. G & S: hair accessories, namely, barrettes, bobby pins, hair bands, hair slides, hair sticks, hair ornaments in the form of combs, hair pins, hair ornaments, hair wraps, ponytail holders, salon hair clips, and snap clips. FIRST USE: 20061105. FIRST USE IN COMMERCE: 20061105
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	78947585
<b>Filing Date</b>	August 8, 2006
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	August 7, 2007
<b>Registration Number</b>	<b>3455799</b>
<b>Registration Date</b>	June 24, 2008

**Owner** (REGISTRANT) Global Brand Holdings, LLC LIMITED LIABILITY CORPORATION NEW YORK  
1407 Broadway New York NEW YORK 10018

**Attorney of Record** Marc P. Misthal

**Prior Registrations** 2009243;2436377;2960690

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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#### Typed Drawing

<b>Word Mark</b>	XOXO
<b>Goods and Services</b>	IC 014. US 002 027 028 050. G & S: JEWELRY, WATCHES AND OTHER HOROLOGICAL AND CHRONOMETRIC INSTRUMENTS, NAMELY CLOCKS. FIRST USE: 19970201. FIRST USE IN COMMERCE: 19970201
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75547331
<b>Filing Date</b>	September 3, 1998
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	March 13, 2001
<b>Registration Number</b>	<b>2456625</b>
<b>Registration Date</b>	June 5, 2001
<b>Owner</b>	(REGISTRANT) XOXO CLOTHING CO., INC. CORPORATION DELAWARE 1411 BROADWAY NEW YORK NEW YORK 10018  (LAST LISTED OWNER) Global Brand Holdings, LLC LIMITED LIABILITY COMPANY NEW YORK 1400 BROADWAY 15th Floor NEW YORK NEW YORK 10018
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Marc P. Misthal
<b>Prior Registrations</b>	2009243;2043508;2102098
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20100616.

**Renewal** 1ST RENEWAL 20100616  
**Live/Dead Indicator** LIVE

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#### Typed Drawing

<b>Word Mark</b>	XOXO
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: EYEGLASSES AND SUNGLASSES. FIRST USE: 19980501. FIRST USE IN COMMERCE: 19980501
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75415297
<b>Filing Date</b>	January 8, 1998
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	August 25, 1998
<b>Registration Number</b>	<b>2269840</b>
<b>Registration Date</b>	August 10, 1999
<b>Owner</b>	(REGISTRANT) Lola, Inc. CORPORATION CALIFORNIA 6000 Sheila Street Commerce CALIFORNIA 90040  (LAST LISTED OWNER) GLOBAL BRAND HOLDINGS, LLC LIMITED LIABILITY COMPANY NEW YORK 1407 BROADWAY NEW YORK NEW YORK 10018
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Marc P. Misthal
<b>Prior Registrations</b>	2102098
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20080830.
<b>Renewal</b>	1ST RENEWAL 20080830
<b>Live/Dead Indicator</b>	LIVE

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#### Typed Drawing

<b>Word Mark</b>	XOXO
<b>Goods and Services</b>	IC 018. US 001 002 003 022 041. G & S: luggage, handbags, purses all made from leather, imitations of leather and other material. FIRST USE: 19961201. FIRST USE IN COMMERCE: 19961201
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75045299
<b>Filing Date</b>	January 18, 1996
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	September 3, 1996
<b>Registration Number</b>	<b>2102098</b>
<b>Registration Date</b>	September 30, 1997
<b>Owner</b>	(REGISTRANT) Lola, Inc. CORPORATION CALIFORNIA 4519 Everett Avenue Vernon CALIFORNIA 90058  (LAST LISTED OWNER) Global Brand Holdings, LLC LIMITED LIABILITY COMPANY NEW YORK 1407 Broadway NEW YORK NEW YORK 10018
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Marc P. Misthal
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20080205.
<b>Renewal</b>	1ST RENEWAL 20080205
<b>Live/Dead</b>	LIVE

Indicator

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#### Typed Drawing

<b>Word Mark</b>	XOXO
<b>Goods and Services</b>	IC 035. US 100 101 102. G & S: RETAIL CLOTHING STORE SERVICES. FIRST USE: 19960925. FIRST USE IN COMMERCE: 19961101
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75547330
<b>Filing Date</b>	September 3, 1998
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	May 2, 2000
<b>Registration Number</b>	<b>2370004</b>
<b>Registration Date</b>	July 25, 2000
<b>Owner</b>	(REGISTRANT) LOLA, INC. CORPORATION CALIFORNIA 6000 Sheila Street Commerce CALIFORNIA 90040  (LAST LISTED OWNER) GLOBAL BRAND HOLDINGS, LLC LIMITED LIABILITY COMPANY NEW YORK 1407 BROADWAY NEW YORK NEW YORK 10018
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Marc P. Misthal
<b>Prior Registrations</b>	2009243;2043508;2102098
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20100610.
<b>Renewal</b>	1ST RENEWAL 20100610
<b>Live/Dead Indicator</b>	LIVE

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<b>Word Mark</b>	XOXO
<b>Goods and Services</b>	IC 003. US 001 004 006 050 051 052. G & S: Perfume, toiletries and cosmetics, namely, lipstick, eyeliner, mascara and nail polish. FIRST USE: 20041201. FIRST USE IN COMMERCE: 20041201
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	78095458
<b>Filing Date</b>	November 28, 2001
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	December 3, 2002
<b>Registration Number</b>	<b>2960690</b>
<b>Registration Date</b>	June 7, 2005
<b>Owner</b>	(REGISTRANT) Global Brand Holdings, LLC LIMITED LIABILITY COMPANY NEW YORK 15th Floor 1400 Broadway New York NEW YORK 10018
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Marc P. Misthal
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR).
<b>Live/Dead Indicator</b>	LIVE

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**CERTIFICATE OF TRANSMITTAL**

I hereby certify that a copy of the foregoing NOTICE OF OPPOSITION was electronically transmitted to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on December 2, 2010.

Dated: New York, New York  
December 2, 2010

/Ariel S. Peikes/

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing NOTICE OF OPPOSITION was deposited with the United States Postal Service as First Class mail in an envelope addressed to: Michael Bosso, 4811 Island Pd. Ct., 802, Bonita Springs, FL 34134, on December 2, 2010

Dated: New York, New York  
December 2, 2010

/Ariel S. Peikes/