

ESTTA Tracking number: **ESTTA445899**

Filing date: **12/12/2011**

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	Act II Jewelry, LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	1235 N. Mittel Blvd. Wood Dale, IL 60191 UNITED STATES		

Attorney information	Milton Springut Kalow & Springut LLP 488 Madison Avenue 19 FL New York, NY 10022 UNITED STATES cboehm@creativity-law.com, ms@creativity-law.com, tbenschar@creativity-law.com Phone:(212) 813-1600
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Applicant Information

Application No	85229338	Publication date	11/15/2011
Opposition Filing Date	12/12/2011	Opposition Period Ends	12/15/2011
Applicant	Koelzer LLC 709 Fennec Fox Preserve Crestview, FL 32536 UNITED STATES		

Goods/Services Affected by Opposition

Class 014. All goods and services in the class are opposed, namely: Jewelry
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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. Registration No.	3193032	Application Date	02/09/2006
Registration Date	01/02/2007	Foreign Priority Date	NONE
Word Mark	LIA SOPHIA		

Design Mark	LIA SOPHIA
Description of Mark	NONE
Goods/Services	Class 014. First use: First Use: 2004/06/25 First Use In Commerce: 2004/06/25 Jewelry

U.S. Registration No.	2952808	Application Date	04/15/2004
Registration Date	05/17/2005	Foreign Priority Date	NONE
Word Mark	LIA SOPHIA SHARE THE LOVE OF JEWELRY		
Design Mark	LIA SOPHIA SHARE THE LOVE OF JEWELRY		
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 2004/06/25 First Use In Commerce: 2004/06/25 jewelry		

Attachments	78810742#TMSN.jpeg (1 page)(bytes) 76586915#TMSN.gif (1 page)(bytes) LIA MARIA Notice of Opposition.pdf (4 pages)(111360 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	/CGB/
Name	Caroline G. Boehm
Date	12/12/2011

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

ACT II JEWELRY, LLC d/b/a lia sophia,

Opposer,

Opposition No.

v.

Serial No.: 85/229338

KOELZER, LLC dba Lia Maria

Mark: LIA MARIA

Applicant.

NOTICE OF OPPOSITION

In the matter of Application Serial No. 85/229338 for registration of the mark LIA MARIA for “jewelry” in International Class 14, which Application was filed on January 28, 2011 by Koelzer, LLC dba Lia Maria (“Applicant”) and which was published in the Official Gazette on November 15, 2011.

Act II Jewelry, LLC doing business as lia sophia, a limited liability company organized under the laws of the State of Delaware, having its principal office and place of business at 1235 N. Mittel Blvd., Wood Dale, Illinois 60191 (“Opposer”) believes it will be damaged by registration of the mark, and hereby opposes same.

The grounds for Opposition are as follows:

1. Opposer, its predecessors in interest and affiliated companies have used the marks LIA SOPHIA and LIA SOPHIA SHARE THE LOVE OF JEWELRY in connection with jewelry items since at least as early as 2004.

2. Opposer is the owner of the following relevant U.S. Trademark Registrations on the Principal Register in the United States Trademark Office, which registrations are valid and subsisting:

MARK	REG. NO.	REG. DATE	GOODS
LIA SOPHIA	3,193,032	January 2, 2007	Jewelry
LIA SOPHIA SHARE THE LOVE OF JEWELRY	2,952,808	May 17, 2005	Jewelry

3. By reason of the Opposer’s continued and exclusive use, promotion and advertising of such marks in the United States and throughout the world, such marks have become identified and recognized as indicator of the source of the Opposer’s high quality jewelry products.

4. Applicant proposes to use the mark LIA MARIA in connection with “jewelry” products – the identical products for which Opposer uses its marks and owns registrations.

5. Applicant’s mark is very similar, indeed nearly identical, to Opposer’s marks in appearance, pronunciation and connotation.

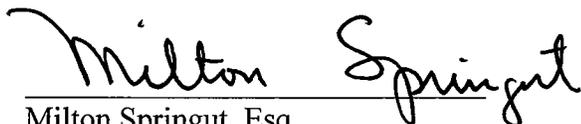
6. For these reasons, consumers are likely to believe that Applicant’s and Opposer’s goods originate from the same source or are somehow related.

7. Applicant’s proposed mark is confusingly similar in sound and commercial impression to Opposer’s marks such that there is a substantial likelihood that consumers will be confused by Applicant’s use of the mark LIA MARIA in connection with Applicant’s goods resulting in irreparable harm and damage to the Opposer.

8. In addition, it appears that the instant registration has been sought in bad faith in an attempt to capitalize on the goodwill of Opposer and to create consumer confusion. Applicant is a Florida limited liability company, whose principal (and apparently sole owner) is Rebecca Hoelzer. Ms. Hoelzer has been involved in the offering of sale and sale of counterfeit and infringing jewelry items on the internet which bear Opposer's LIA SOPHIA Mark and are promoted as genuine LIA SOPHIA jewelry products, when in fact they are counterfeits and/or infringing altered goods. The instant application to register LIA MARIA – a near copy of LIA SOPHIA – was done in bad faith and in furtherance of Ms. Hoelzer's efforts to unlawfully exploit Opposer's trademark and goodwill.

WHEREFORE, Opposer request that the registration sought by Applicant be refused and that this Opposition be sustained.

Respectfully Submitted,



Milton Springut, Esq.
Tal S. Benschar, Esq.
KALOW & SPRINGUT LLP
488 Madison Avenue
New York, New York 10022
(212) 813-1600

Dated: December 12, 2011

CERTIFICATE OF SERVICE

VANESSA HALVORSEN-ECKES declares that:

1. I am an assistant employed by KALOW & SPRINGUT LLP attorneys for the Opposer in the captioned proceeding, and that on the execution date which appears below, I caused to be served via U.S. Mail the annexed **NOTICE OF OPPOSITION** upon the following addressees:

Rebecca Hoelzer
Koelzer LLC DBA Lia Maria
709 Fennec Fox Preserve
Crestview FL 32536

Lola M. Swaby, Esq.
Swaby Law Firm, P.L.
8668 Navarre Parkway
No. 161
Navarre, FL 32566

2. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that all of the foregoing is true and correct.

Executed on December 12, 2011
New York, New York

By: 
Vanessa Halvorsen-Eckes