

ESTTA Tracking number: **ESTTA451606**

Filing date: **01/17/2012**

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	Color Image Apparel, Inc.		
Entity	Corporation	Citizenship	California
Address	6670 Flotilla Street Commerce, CA 90040 UNITED STATES		

Attorney information	Lindsay J. Hulley Tressler LLP 18100 Von Karman Avenue Suite 800 Irvine, CA 92612 UNITED STATES octmdocket@tresslerllp.com Phone:949-336-1200		
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Applicant Information

Application No	85401402	Publication date	01/17/2012
Opposition Filing Date	01/17/2012	Opposition Period Ends	02/16/2012
Applicant	Stretch-O-Rama, Inc. 20 West 33rd Street New York, NY 10001 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Clothing, namely, pants, jeans, jackets, coats, shirts, sweaters, dresses, shorts, suits, shoes, slippers, underwear, hosiery, and swimwear
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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.	2668441	Application Date	09/04/2001
Registration Date	12/31/2002	Foreign Priority Date	NONE
Word Mark	BELLA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 Garments, namely cotton T-shirts and Tops

U.S. Registration No.	2895709	Application Date	09/28/2003
Registration Date	10/19/2004	Foreign Priority Date	NONE
Word Mark	BELLA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 [MEN'S,] WOMEN'S AND CHILDREN'S CLOTHING, namely, [JEANS,] DRESSES, SKIRTS, [MINISKIRTS,] SHORTS, PANTS, [SLACKS, TROUSERS, SUITS, PANTSUITS,] JACKETS, SWEATERS, [CARDIGANS, PULLOVERS, COATS, SPORT COATS, BLOUSES, VESTS, BLAZERS, OVERALLS,] SWEATSHIRTS, SWEATPANTS, [SWEATSHORTS,] SWEATSUITS, SHIRTS, [POLO SHIRTS,] KNIT SHIRTS, SPORT SHIRTS, TEE-SHIRTS, COTTON SHIRTS, TOPS, TANK-TOPS, [HALTER TOPS,] KNIT TOPS, [WOVEN TOPS, BODYSUITS,] CAMISOLES [PAJAMAS, JUMPSUITS, SWIM SUITS, SWIMWEAR, SOCKS, GLOVES; CLOTHING ACCESSORIES, namely, BELTS, SCARVES, HATS, CAPS AND VISORS; FOOTWEAR, namely, LOAFERS, ESPADRILLES, SANDALS, THONGS, MULES, PUMPS, ATHLETIC SHOES, SLIPPERS, BOOTS, BEACH FOOTWEAR]		

U.S. Registration No.	3158111	Application Date	11/14/2005
Registration Date	10/17/2006	Foreign Priority Date	NONE
Word Mark	BELLA GIRL		

Design Mark	<h1>BELLA GIRL</h1>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2002/08/07 First Use In Commerce: 2002/08/07 girls clothing, namely knit tops and bottoms, fleece tops and bottoms, basic tops and bottoms, tank tops, short sleeve tops and shirts, long sleeve tops and shirts, spaghetti strap tank tops		

U.S. Registration No.	3250727	Application Date	11/14/2005
Registration Date	06/12/2007	Foreign Priority Date	NONE

Word Mark	BELLA BABY
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Design Mark	<h1>BELLA BABY</h1>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2005/09/00 First Use In Commerce: 2005/09/00 clothing for newborns and infants, namely knit tops and bottoms, fleece tops and bottoms, basic tops and bottoms, one-piece garments with feet, hats, cloth bibs, tank tops, short-sleeve shirts and tops, long-sleeve shirts and tops, and spaghetti strap tank tops		

U.S. Registration No.	3293659	Application Date	11/29/2005
Registration Date	09/18/2007	Foreign Priority Date	NONE

Word Mark	BELLA BABY
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2005/09/00 First Use In Commerce: 2005/09/00 clothing for newborns and infants, namely knit tops and bottoms, fleece tops and bottoms, basic tops and bottoms, one-piece garments with feet, hats, cloth bibs, tank tops, short-sleeve shirts and tops, long-sleeve shirts and tops, and spaghetti strap tank tops

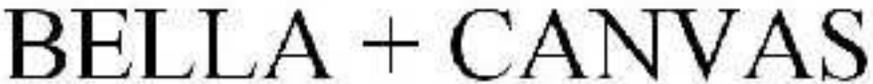
U.S. Registration No.	3519794	Application Date	03/17/2008
Registration Date	10/21/2008	Foreign Priority Date	NONE
Word Mark	BELLA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts, and jackets		

U.S. Registration No.	3967706	Application Date	04/21/2010
Registration Date	05/24/2011	Foreign Priority Date	NONE
Word Mark	BELLA LUXX		

Design Mark	BELLA LUXX		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2011/04/06 First Use In Commerce: 2011/04/06 Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, shirts, dresses		

U.S. Application No.	85156401	Application Date	10/19/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA		
Design Mark	BELLA		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2001/04/11 First Use In Commerce: 2001/04/24 Online retail and wholesale store services featuring clothing		

U.S. Application No.	85297573	Application Date	04/18/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA LUXX		
Design Mark	BELLA LUXX		
Description of Mark	NONE		
Goods/Services	Class 035. First use: Online retail and wholesale store services featuring clothing		

U.S. Application No.	85364783	Application Date	07/06/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA + CANVAS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: Clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, dresses, knit pants, skirts, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts, knit jackets, golf shirts		

U.S. Application No.	85487399	Application Date	12/05/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA MISSY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops		

U.S. Application No.	85487403	Application Date	12/05/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA GIRL		

Design Mark	
Description of Mark	The mark consists of The words "BELLA GIRL" in stylized form.
Goods/Services	Class 025. First use: Girls clothing, namely knit tops and bottoms, fleece tops and bottoms, basic tops and bottoms, tank tops, short sleeve tops and shirts, long sleeve tops and shirts, spaghetti strap tank tops

U.S. Application No.	85487405	Application Date	12/05/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA MISSY		
Design Mark			
Description of Mark	The mark consists of The words "BELLA MISSY" in stylized form.		
Goods/Services	Class 025. First use: Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops		

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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	/Lindsay J. Hulley/
Name	Lindsay J. Hulley
Date	01/17/2012

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

In the Matter of Trademark Application Serial No.: 85/401,402
For the Trademark: IZZY BELLA
Published in the Official Gazette on January 17, 2012

Color Image Apparel, Inc., a California
corporation,

Opposer,

v.

Stretch-O-Rama, Inc., a New York
corporation,

Applicant.

Opposition No.

NOTICE OF OPPOSITION

Opposer, Color Image Apparel, Inc, a California corporation having a place of business at 6670 Flotilla Street, Commerce, California 90040 (hereinafter "Opposer") believes that it will be damaged by registration of the mark IZZY BELLA shown in Application Serial No. 85/401,402, as published in the Official Gazette on January 17, 2012 and hereby opposes the same.

As grounds for the Opposition, it is alleged that:

1. Opposer is now and for many years past has been engaged in the manufacture, marketing and sale of apparel for men, women and children.

2. For more than eleven years and since at least as early as January 1, 2000, Opposer adopted and has used the trademark BELLA on and in connection with its goods.

3. For more than eleven years, Opposer has drawn upon the goodwill and public recognition of its BELLA mark by adopting and using this mark to signify its high quality goods.

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4. Opposer's BELLA mark has been conspicuously applied to Opposer's goods, and said goods so marked have been extensively distributed, advertised, promoted and sold in interstate commerce in the United States.

5. For more than eleven years, Opposer has widely and extensively advertised and promoted its goods such that the public and trade recognize that these products emanate from one source, i.e., Color Image Apparel, Inc.

6. By virtue of Opposer's extensive advertising, promotion, and sales of its goods under its BELLA mark, the public and trade have come to rely upon Opposer's BELLA mark to identify Opposer's superior products and distinguish them from the products of others. The BELLA mark has come to represent an extremely valuable goodwill belonging exclusively to Opposer.

7. Opposer has long maintained registrations incorporating the word BELLA for clothing in the United States Patent and Trademark Office (the "USPTO") for its goods. Among said registrations owned by Opposer are:

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Class</u>
BELLA	2,668,441	December 31, 2002	25
BELLA	2,895,709	October 19, 2004	25
BELLA GIRL	3,158,111	October 17, 2006	25
BELLA BABY	3,250,727	June 12, 2007	25
BELLA BABY	3,293,659	September 18, 2007	25
BELLA	3,519,794	October 21, 2008	25
BELLA LUXX	3,967,706	May 24, 2011	25

8. In addition, Opposer has applied to register numerous other marks incorporating the word BELLA for clothing in the USPTO, so that Opposer is the owner of a well-established family of BELLA marks. Among such marks owned by Opposer are:

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<u>Mark</u>	<u>Appl. No.</u>	<u>Appl. Date</u>	<u>Class</u>
BELLA	85/156,401	October 19, 2010	35
BELLA LUXX	85/297,573	April 18, 2011	35
BELLA + CANVAS	85/364,783	July 6, 2011	25
BELLA MISSY	85/487,399	December 5, 2011	25
BELLA GIRL	85/487,403	December 5, 2011	25
BELLA MISSY	85/487,405	December 5, 2011	25

9. Said registrations and applications are valid and subsisting, and are owned by Opposer together with the business and goodwill connected therewith.

10. Opposer has also filed and obtained trademark registrations throughout various foreign countries that correspond to its U.S. trademark registrations identified above.

11. By the application herein opposed, Applicant Stretch-O-Rama, Inc. (“Applicant”) seeks to register the designation IZZY BELLA as a trademark in International Class 25 for: Clothing, namely, pants, jeans, jackets, coats, shirts, sweaters, dresses, shorts, suits, shoes, slippers, underwear, hosiery, and swimwear.

12. On information and belief, Applicant uses the designation IZZY BELLA on goods that are, or will be, marketed, advertised, promoted, and sold through identical or similar channels of trade, and ultimately to the same kinds of customers as Opposer’s goods are marketed, promoted, and sold under its family of BELLA marks.

13. Because of the fame of Opposer’s BELLA marks, consumers and the trade have come to associate the word “BELLA” with Opposer and Opposer’s goods such that Applicant’s use of the designation IZZY BELLA on substantially similar goods is likely to create the erroneous impression that Applicant’s goods originate with Opposer or are licensed, sponsored or approved by Opposer or are in some way endorsed by or connected with Opposer’s business of selling goods under its BELLA marks.

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14. Applicant's designation IZZY BELLA is confusingly similar to the marks owned by Opposer, therefore, denying to Opposer the benefits of its marks in excluding confusingly similar uses.

15. Thus, when applied to Applicant's goods, the designation IZZY BELLA is likely to cause confusion, to cause mistake, and to deceive consumers as to the origin, sponsorship and approval of Applicant's goods with consequent injury to Opposer, to the public and to the trade.

16. Opposer will be damaged by the registration sought herein by Applicant because such registration will support and assist Applicant in the confusing and misleading use of Applicant's designation sought to be registered, and will give color of exclusive statutory rights in Applicant in violation and derogation of the prior and superior rights of Opposer.

17. The Trademark Trial and Appeal Board has authority under 15 U.S.C. § 1068 to refuse to register the opposed mark in International Class 25.

WHEREFORE, Opposer believes and avers that it will be damaged by registration of Applicant's mark and prays that Application Serial No. 85/401,402 be denied registration.

Please recognize Lindsay J. Hulley and the law firm of Tressler LLP, as attorneys for Opposer in this proceeding and address all communications to Lindsay J. Hulley at the address below.

This Notice of Opposition is being submitted electronically through ESTTA. The required fee is authorized to be charged against the Deposit Account of the Attorney for Opposer.

Date: January 17, 2012

Respectfully submitted,

/Lindsay J. Hulley/

Lindsay J. Hulley

Tressler, LLP

18100 Von Karman, Suite 800

Irvine, CA 92612

(949) 336-1200

Attorneys for Opposer,

COLOR IMAGE APPAREL, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is the attorney for Opposer Color Image Apparel, Inc., in the above-captioned Opposition proceeding and that on the date which appears below, she caused a copy of the foregoing **NOTICE OF OPPOSITION** to be served on the following by first class mail service:

Applicant:

Stretch-O-Rama, Inc.
20 West 33rd Street
New York, New York 10001

Counsel for Applicant:

Steven M. Gebrer
666 5th Avenue, Floor 26
New York, New York 10103-0001

Dated: January 17, 2012
Irvine, California

/Lindsay J. Hulley/
Lindsay J. Hulley