

ESTTA Tracking number: **ESTTA485105**

Filing date: **07/24/2012**

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	Shamballa Jewels ApS		
Entity	Corporation	Citizenship	Denmark
Address	Gronnegade 36, Ground Floor Copenhagen, DK-1107 DENMARK		

Attorney information	Kristen M. Walsh Nixon Peabody LLP 1300 Clinton Square Rochester, NY 14604 UNITED STATES nytm@nixonpeabody.com,kwalsh@nixonpeabody.com,jkravitz@nixonpeabody.com Phone:585-263-1000
----------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Applicant Information

Application No	85533394	Publication date	06/26/2012
Opposition Filing Date	07/24/2012	Opposition Period Ends	07/26/2012
Applicant	Spirit of Shamballa, Inc. Suite # 560 10 Bank Street White Plains, NY 10606 UNITED STATES		

Goods/Services Affected by Opposition

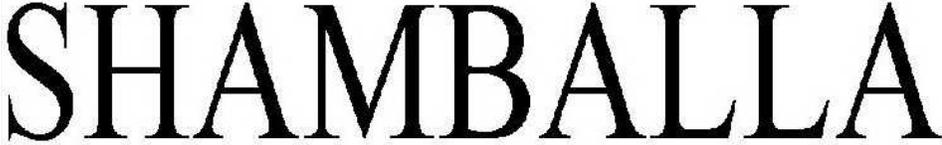
Class 014. First Use: 2012/01/15 First Use In Commerce: 2012/02/01 All goods and services in the class are opposed, namely: Beads for making jewelry; Bracelets; Brooches; Bronze jewelry; Brooches; Cameos; Charms for collar jewelry and bracelet; Costume jewelry; Jewelry brooches; Jewelry, namely, anklets; Jewelry, namely, arm cuffs; Jewelry, namely, crosses; Jewelry, namely, magnetic necklaces; Jewelry, namely, magnetic pendants; Jewelry, namely, stone pendants; Pins being jewelry; Plastic bracelets in the nature of jewelry; Precious and semi-precious crystal stones and beads for use in jewelry; Rings; Rings being jewelry; Stainless steel jewelry bracelets; Women's jewelry

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	79102992	Application Date	08/02/2011
Registration Date	NONE	Foreign Priority Date	04/05/2011

Word Mark	SHAMBALLA
Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: Spectacles and sunglasses, parts for these goods in the form of spectacle frames, spectacle cases</p> <p>Class 014. First use: Jewellery, personal ornaments in the nature of jewelry, costume jewellery, cufflinks, key rings of precious metals, tie pins, jewellery cases, watches and their parts in the form of watch bands, cases for watches</p> <p>Class 018. First use: Leather bags for packaging; boxes of leather or of leather board</p> <p>Class 020. First use: Display stands, including display stands for jewellery, cases and boxes of wood</p>

Attachments	79102992#TMSN.jpeg (1 page)(bytes) Notice_of_Opposition.pdf (4 pages)(60356 bytes)
-------------	----------------------------------------------------------------------------------------------

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	/kristenmwalsh/
Name	Kristen M. Walsh
Date	07/24/2012

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

Shamballa Jewels ApS,

Opposer,

Opposition No. _____

- vs -

Serial No. 85/533394

Spirit of Shamballa, Inc.,

Applicant.

NOTICE OF OPPOSITION

Opposer Shamballa Jewels ApS, (“Shamballa”), a corporation organized under the laws of Denmark having an address at Grønnegade 36 Ground Floor, DK 1107 Copenhagen, Denmark, hereby opposes registration of the mark SPIRIT OF SHAMBALLA (and Design), subject of United States Trademark Application Serial No. 85/533394, published on June 26, 2012 (the “Application”), and requests that registration to Applicant be refused. Shamballa believes it will be damaged by registration of the mark shown in Serial No. 85/533394, and opposes the same on grounds stated below.

As grounds in support of its opposition, Shamballa asserts as follows:

1. This Notice of Opposition is based on Shamballa’s prior rights in the trademark SHAMBALLA. Shamballa has actively, continuously, and consistently promoted and sold its distinctive jewelry under the mark SHAMBALLA (the “SHAMBALLA Mark”) in the United States since at least 1996, long prior to Applicant’s asserted date of first use of its mark in commerce of February 1, 2012, or any other date of first use upon which Applicant can rely.

2. As a result of Shamballa's extensive use and promotion of its jewelry under the SHAMBALLA Mark, Shamballa has developed an extraordinarily valuable brand and reputation and has generated substantial goodwill that is symbolized by the SHAMBALLA Mark. The public has come to recognize and associate the SHAMBALLA Mark exclusively with Shamballa and its reputation for distinctive and fashionable designs and high quality products.

3. Shamballa owns U.S. Trademark Application Serial No. 79/102992 for the SHAMBALLA Mark.

4. Shamballa is the exclusive owner of all right, title, and interest in and to the SHAMBALLA Mark.

5. On February 3, 2012, Spirit of Shamballa, Inc. ("Applicant") filed the Application for the mark SPIRIT OF SHAMBALLA (and Design) ("Applicant's Mark") under Section 1(a), 15 U.S.C. § 1051(a). The Application covers the following goods:

Class 14: Beads for making jewelry; Bracelets; Broaches; Bronze jewelry; Brooches; Cameos; Charms for collar jewelry and bracelet; Costume jewelry; Jewelry brooches; Jewelry, namely, anklets; Jewelry, namely, arm cuffs; Jewelry, namely, crosses; Jewelry, namely, magnetic necklaces; Jewelry, namely, magnetic pendants; Jewelry, namely, stone pendants; Pins being jewelry; Plastic bracelets in the nature of jewelry; Precious and semi-precious crystal stones and beads for use in jewelry; Rings; Rings being jewelry; Stainless steel jewelry bracelets; Women's jewelry

In the Application, Applicant asserted that it has used Applicant's Mark in commerce since February 1, 2012.

6. Applicant's Mark is confusingly similar to the SHAMBALLA Mark.

7. The goods listed in the Application are either the same or closely related to goods provided by Shamballa under the SHAMBALLA Mark.

8. Applicant's Mark so resembles the SHAMBALLA Mark as to be likely, when

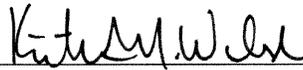
applied to the jewelry and related goods set forth in the Application, to cause confusion, mistake, or deception as to the source of the goods within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

9. Based on the foregoing, the registration of Applicant's Mark will cause injury and damage to Shamballa.

WHEREFORE, Opposer Shamballa Jewels ApS prays that the opposition be sustained and that registration to Applicant of Application No. 85/533394 be refused.

Respectfully submitted,
NIXON PEABODY LLP

Date: July 24, 2012



Jason C. Kravitz
Kristen M. Walsh
1300 Clinton Square
Rochester, New York 14604
Telephone: (585) 263-1000
Facsimile: (585) 263-1600

Attorney for Opposer
Shamballa Jewels ApS

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Notice of Opposition upon the Applicant by causing true and correct copies thereof to be sent on July 24, 2012 by First Class Mail, postage prepaid, to:

Spirit of Shamballa, Inc.
10 Bank St., Ste 50
White Plains, NY 10606-1952

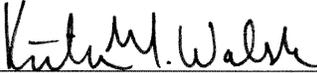
(Correspondence address of record for the Application)

and

Paul F. Millus
Snitow Kanfer Holtzer & Millus, LLP
575 Lexington Avenue, 14th Floor
New York, NY 10022

Attorneys for Applicant
Spirit of Shamballa, Inc.

Dated: July 24, 2012



Kristen M. Walsh