

ESTTA Tracking number: **ESTTA494262**

Filing date: **09/13/2012**

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	G&H TEXTILES TRADING, INC.		
Entity	Corporation	Citizenship	California
Address	18115 S Del Mar Avenue, Ste 219 San Gabriel, CA 91776 UNITED STATES		

Attorney information	Maurice B. Pilosof Law Offices of Maurice B. Pilosof 1925 Century Park East, Suite 2300 Los Angeles, CA 90067 UNITED STATES mpilosof@ipbymbp.com Phone:3109854283
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Applicant Information

Application No	85563183	Publication date	08/14/2012
Opposition Filing Date	09/13/2012	Opposition Period Ends	09/13/2012
Applicant	BG USA, INC. 6017 LOWERGATE DRIVE WAXHAW, NC 28173 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Dresses; Knit dresses; Skirts and dresses; Women's clothing, namely, shirts, dresses, skirts, blouses; Woven dresses

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.	2733795	Application Date	10/23/2000
Registration Date	07/08/2003	Foreign Priority Date	NONE
Word Mark	BUBBLEGUM BG USA AMERICAN FLAVOUR		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2000/06/13 First Use In Commerce: 2000/06/13 [Cosmetics, namely, nail polish, lipstick, lipgloss, lipcolor, lip pencil,] foundation, eyeshadow, [eyeliner, eyebrow pencil,] blush, mascara, [makeup,] face concealer, eye concealer, face powder, powder, skin cream, compacts, [bath gel, bath oil, bath soap, body lotion,] skin moisturizer, hair shampoo, hair conditioner, hair styling mousse, [fragrances, namely, perfume, cologne,] cologne spray, eau de toilette, after shave, and body talc		

U.S. Registration No.	2733751	Application Date	06/30/2000
Registration Date	07/08/2003	Foreign Priority Date	NONE

Word Mark BUBBLEGUM BG USA AMERICAN FLAVOUR

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2000/08/31 First Use In Commerce: 2000/08/31 Articles of leather and imitation leather, namely, backpacks, fanny packs, gym bags, handbags, purses, school bags, shopping bags, tote bags, travel bags, knapsacks, [briefcase type portfolios, garment bags for travel, attache cases, briefcases,] card cases, key cases, key fobs, vanity cases sold empty, [billfolds, clutch bags,] coin purses and wallets		

U.S. Registration No.	4026284	Application Date	04/14/2011
Registration Date	09/13/2011	Foreign Priority Date	NONE

Word Mark BUBBLEGUM BG USA AMERICAN FLAVOUR

Design Mark			
Description of Mark	The mark consists of the word "BUBBLEGUM", a star design containing the letters "BG", below the star is "USA", with the words "AMERICAN FLAVOUR" below.		
Goods/Services	Class 025. First use: First Use: 1996/06/01 First Use In Commerce: 1996/06/01 Clothing, namely, jeans, skirts, shorts, pants, dress, capris, overalls, floods in the nature of pants, belts, tops, jackets, vests, shirts and shoes		

U.S. Registration No.	2774387	Application Date	06/30/2000
Registration Date	10/21/2003	Foreign Priority Date	NONE
Word Mark	BUBBLEGUM BG USA AMERICAN FLAVOUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 2001/06/13 First Use In Commerce: 2001/06/13 [Jewelry, namely, bracelets, ankle bracelets, brooches,] belt buckles [, chains, charms, costume jewelry, earrings, medallions, necklaces, pendants, pins, rings, toe rings, tie clips, money clips, watch bands, watches and clocks]		

Attachments	76152874#TMSN.gif (1 page)(bytes) 76081125#TMSN.gif (1 page)(bytes) 85294917#TMSN.jpeg (1 page)(bytes) 76082406#TMSN.gif (1 page)(bytes) EXEC NOTOFOPP.pdf (5 pages)(652030 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	/Maurice B. Pilosof/
Name	Maurice B. Pilosof
Date	09/13/2012

Mark	Reg No.	Reg date	Class	Goods
	2733751	07/08/03	18	talc Articles of leather and imitation leather, namely, backpacks, fanny packs, gym bags, handbags, purses, school bags, shopping bags, tote bags, travel bags, knapsacks, card cases, key cases, key fobs, vanity cases sold empty, coin purses and wallets
	4,026,284	09/13/11	25	Clothing, namely, jeans, skirts, shorts, pants, dress, capris, overalls, floods in the nature of pants, belts, tops, jackets, vests, shirts and shoes
	2774387	10/21/03	14	Belt buckles

2. These registrations were all registered on dates prior to the date of filing of Applicant's application, and prior to any date of first use Applicant may claim. Opposer's registered marks are valid and subsisting and are prima facie evidence of Opposer's right to use said marks in commerce on the goods specified in the registrations.

3. Opposer and its predecessor in interest has been using the trademark BUBBLEGUM BG USA AMERICAN FLAVOUR trademark on articles of clothing including but not limited to jeans, skirts, shorts, pants, dress, capris, overalls, floods in the nature of pants,

belts, tops, jackets, vests, shirts and shoes since June 1996. Applicant's common law rights in such trademark with respect to such specified goods date back to such date.

4. A primary element in all of Opposer's registrations' is the BG USA and star design element. This element has been a main component of Applicant's trademark since June 1996.

5. Applicant BG USA, INC. ("Applicant") seeks to register the trademark BG USA which Applicant intends to use for Dresses; Knit dresses; Skirts and dresses; Women's clothing, namely, shirts, dresses, skirts, blouses; Woven dresses in International Class 025, as evidenced by Applicant's application filed March 7, 2012, assigned Serial No. 851563183 and published in the August 14, 2012 issue of the *Official Gazette*.

6. Through the widespread use, and advertising of the Opposer's BUBBLEGUM BG USA AMERICAN FLAVOUR trademarks over a long period of time and by virtue of the quality of goods distributed and sold and the business operations undertaken in association with the BUBBLEGUM BG USA AMERICAN FLAVOUR trademarks, Opposer has built up valuable goodwill and reputation in such mark, including the BG USA and star design element.

7. The BG USA and star design element of Opposer's trademarks would be jeopardized by Applicant's use and registration of the trademark BG USA by Applicant.

8. Applicant's mark BG USA, is confusingly similar to a primary element Opposer's trademark as to visual appearance, pronunciation, commercial impression and connotation.

9. Further, the goods identified in Applicant's application are identical and closely related to the goods, namely clothing, for which Opposer distributes and sells in association with its BUBBLEGUM BG USA AMERICAN FLAVOUR trademarks, and for which it has acquired prior common law rights and rights as reflected in its U.S. Trademark Registrations.

Therefore, the public is likely to be confused, to be deceived, and to assume erroneously that Applicant and Applicant's goods are in some way associated with, sponsored by, or affiliated with Opposer, all to Opposer's substantial detriment.

10. Registration of the mark shown in Application Serial No. **85/563183** will result in damage to Opposer under the provisions of Section 2(d) of the U.S. Trademark Act, 15 U.S.C. § 1052(c), pursuant to the allegations stated above.

11. Further, registration of Applicant's mark will support and assist Applicant in the confusing and misleading use of such mark, and will give color of exclusive statutory right to Applicant in violation and in derogation of the superior and pre-existing rights of Opposer, and will cause Opposer to lose control over the valuable reputation derived and represented by Opposer's BUBBLEGUM BG USA AMERICAN FLAVOUR Flavour trademarks.

WHEREFORE, Opposer requests that the registration sought by Applicant in Application No. **85/563183** be refused and that this opposition be sustained.

Respectfully submitted,

LAW OFFICES OF MAURICE B. PILOSOFF

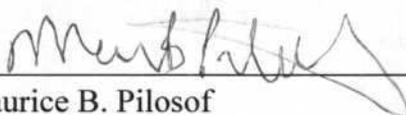
By: 

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CERTIFICATE OF SERVICE

I certify that on September 13 2012, the foregoing **NOTICE OF OPPOSITION** is being served by email and by mailing a copy thereof by U.S. Mail, addressed to:

Chie-Young Chyung, Esq.
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By 
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