

ESTTA Tracking number: **ESTTA588067**

Filing date: **02/19/2014**

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	Greg Peralta
Granted to Date of previous extension	02/19/2014
Address	111 Beresford Creek Street Charleston, SC 29492 UNITED STATES
Party who filed Extension of time to oppose	GregPeralta
Relationship to party who filed Extension of time to oppose	A space was inadvertently excluded in the name of opposer on the previous extension of time to oppose.

Attorney information	Edward T. Fenno Fenno Law Firm, LLC 171 Church Street, Suite 170 Charleston, SC 29401 UNITED STATES efenno@fennolaw.com Phone:843-720-3747
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**Applicant Information**

Application No	85929120	Publication date	10/22/2013
Opposition Filing Date	02/19/2014	Opposition Period Ends	02/19/2014
Applicant	HIGH ON LIFE, INC. 1502, 1159 Main Street Vancouver, BC, CAX V6A4B6 SUDAN		

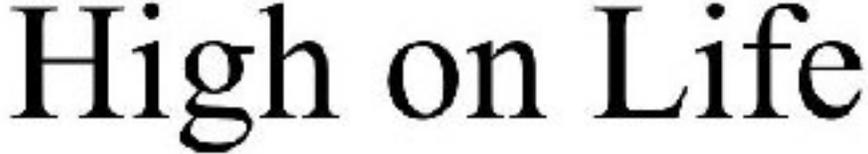
**Goods/Services Affected by Opposition**

Class 025. First Use: 2012/03/00 First Use In Commerce: 2012/03/00  
All goods and services in the class are opposed, namely: Tank Tops, T-shirts, Shirts, Shorts, Underwear, Knickers, Board Shorts, Swimwear, Socks, Sweaters, Fleece Tops, Sweat Shirts, Sweat Pants, Trousers, Hats, Wrist Bands, Bandanas, Bow ties, Ties, Ponchos, Shoes, Slippers, Flip Flops, Jackets

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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## Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4225429	Application Date	03/09/2012
Registration Date	10/16/2012	Foreign Priority Date	NONE
Word Mark	HIGH ON LIFE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2011/07/19 First Use In Commerce: 2011/07/19 Caps; Hats; Jackets; Pants; Shirts; Shorts; Sweat shirts; T-shirts		

Attachments	<p>85564900#TMSN.jpeg( bytes )</p> <p>PER001-3 Notice of Opposition.pdf(17776 bytes )</p> <p>PER001-3 Notice of Opposition Exhibit A TSDR Printout HIGH ON LIFE (and design).pdf(111998 bytes )</p> <p>PER001-3 Notice of Opposition Exhibit B Certificate of Registration.pdf(94118 bytes )</p> <p>PER001-3 Notice of Opposition Exhibit C TSDR Printout HIGH ON LIFE.pdf(102057 bytes )</p>
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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	/Edward T. Fenno/
Name	Edward T. Fenno
Date	02/19/2014

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

-----  
GREG PERALTA,

Opposer,

v.

HIGH ON LIFE, INC.,

Applicant.  
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In the Matter of Trademark Application  
Serial No. 85929120

For the Mark HIGH ON LIFE (and design)

Published in the Official Gazette  
on October 22, 2013

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

Greg Peralta, a South Carolina resident with an address of 111 Beresford Creek Street, Charleston, South Carolina 29492 (“Opposer”) hereby opposes the application of High on Life, Inc., a South Dakota corporation with an address of 1502, 1159 Main Street, Vancouver, BC 76A4B6, Canada (“Applicant”). Opposer believes that he will be damaged by registration of the mark identified in Application Serial No. 85929120 (the “Application”), and hereby opposes the same on the grounds set forth below and alleges as follows.

**FIRST GROUND FOR OPPOSITION  
(Likelihood of Confusion)  
(Trademark Act § 2(d), 15 U.S.C. § 1052(d))**

1. Upon information and belief, Applicant filed the Application on May 10, 2013 to register the mark HIGH ON LIFE (and design) (“Applicant’s Mark”) for use in connection with the following goods in International Class 025: “Tank Tops, T-shirts, Shirts, Shorts, Underwear, Knickers, Board Shorts, Swimwear, Socks, Sweaters, Fleece Tops, Sweat Shirts, Sweat Pants, Trousers, Hats, Wrist Bands, Bandanas, Bow ties, Ties, Ponchos, Shoes, Slippers, Flip Flops, Jackets” (collectively referred to herein as “Applicant’s Goods”). A current printout of

information from the electronic database records of the USPTO showing the current status and title of the Application is attached hereto as Exhibit A.

2. Upon information and belief, Applicant alleged a date of first use of Applicant's Mark anywhere and in commerce of at least as early as March 2012.

3. The Application was published for Opposition in the *Official Gazette* on October 22, 2013.

4. On November 19, 2013, Opposer timely filed a request for a 90-day extension of time to oppose the Application, which was granted and allowed Opposer until February 19, 2013 to oppose.

5. Opposer is the owner of U.S. Trademark Registration No. 4225429 (the "Registration") for the standard character mark HIGH ON LIFE (the "Registered Mark") in connection with the following goods in International Class 025: "Caps; Hats; Jackets; Pants; Shirts; Shorts; Sweat shirts; T-shirts" (collectively referred to herein as "Opposer's Goods"). The Certificate of Registration is attached hereto as Exhibit B. A current printout of information from the electronic database records of the USPTO showing the current status and title of the Registration is attached hereto as Exhibit C.

6. Opposer applied for registration of the Registered Mark on March 9, 2012 and alleged a date of first use of the Registered Mark anywhere and in commerce at least as early as July 19, 2011.

7. Applicant's Mark, HIGH ON LIFE (and design), is identical or nearly identical to the Registered Mark, HIGH ON LIFE.

8. Notwithstanding the addition of a design and stylization of the words by Applicant, both marks contain the words "High on Life" as the only words in the mark, and the

marks are highly similar or virtually identical as to appearance, sound, connotation and commercial impression.

9. Applicant's Goods are identical or nearly identical to Opposer's Goods.

10. Applicant's Goods are closely related to and/or are in the natural zone of expansion of Opposer's Goods.

11. Applicant's Goods and Opposer's Goods are frequently used together and are complementary goods.

12. Applicant's Goods and Opposer's Goods frequently emanate from the same source.

13. Applicant's Goods and Opposer's Goods travel in the same channels of trade and are viewed by the same consumers.

14. Accordingly, Applicant's Mark consists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office as to be likely, when used in connection with Applicant's Goods, to cause confusion, or to cause mistake or deceive.

15. Accordingly, Applicant's Mark consists of or comprises a mark which so resembles a mark or trade name previously used in the United States by another and not abandoned as to be likely, when used in connection with Applicant's Goods, to cause confusion, or to cause mistake or deceive.

16. For the foregoing reasons, Applicant's registration and use of Applicant's Mark would likely create confusion, mistake or deception in the minds of prospective purchasers as to the origin or source of Opposer's Goods and would damage Opposer's rights to the Registered Mark.

17. Therefore, Applicant is not entitled to federal registration of Applicant's Mark pursuant to 15 U.S.C. § 1052(d), and Opposer believes that it would be damaged thereby.

WHEREFORE, Opposer prays that said Application Serial No. 85929120 be rejected, that no registration be issued thereon to Applicant, that this Opposition be sustained in favor of Opposer.

This Notice of Opposition is being filed electronically pursuant to the ESTTA system.

Dated: February 19, 2013

Respectfully submitted,

FENNO LAW FIRM, LLC

/Edward T. Fenno/

Edward T. Fenno, Esq.

Christina B. Humphries, Esq.

171 Church Street, Suite 160

Charleston, SC 29401

Ph: (843) 720-3747

Fax: (843) 577-0460

Email: [efenno@fennolaw.com](mailto:efenno@fennolaw.com)

[chumphries@fennolaw.com](mailto:chumphries@fennolaw.com)

*Attorneys for Opposer Greg Peralta*

#### CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Notice of Opposition* was served on the attorney of record at the correspondence address of record for Applicant, this 19<sup>th</sup> day of February, 2014 by sending the same via certified first-class mail:

Joshua M. Gerben, Esquire  
Gerben Law Firm, PLLC  
1050 Connecticut Avenue NW Fl 10  
Washington, District of Columbia 20036-5334

/Edward T. Fenno/

Edward T. Fenno

# **EXHIBIT A**

**STATUS**    **DOCUMENTS**

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**Generated on:** This page was generated by TSDR on 2014-02-18 12:46:25 EST

**Mark:** HIGH ON LIFE



**US Serial Number:** 85929120

**Application Filing Date:** May 10, 2013

**Register:** Principal

**Mark Type:** Trademark

**Status:** A request for an extension of time to file an opposition has been filed with the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

**Status Date:** Nov. 19, 2013

**Publication Date:** Oct. 22, 2013

### Mark Information

**Mark Literal Elements:** HIGH ON LIFE

**Standard Character Claim:** No

**Mark Drawing Type:** 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

**Description of Mark:** The mark consists of the stylized words "HIGH ON LIFE" appearing underneath two clouds.

**Color(s) Claimed:** Color is not claimed as a feature of the mark.

**Design Search Code(s):** 01.15.06 - Fog; Clouds; Advertising, skywriting

### Goods and Services

**Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks \*.\* identify additional (new) wording in the goods/services.

**For:** Tank Tops, T-shirts, Shirts, Shorts, Underwear, Knickers, Board Shorts, Swimwear, Socks, Sweaters, Fleece Tops, Sweat Shirts, Sweat Pants, Trousers, Hats, Wrist Bands, Bandanas, Bow ties, Ties, Ponchos, Shoes, Slippers, Flip Flops, Jackets

**International Class(es):** 025 - Primary Class

**U.S Class(es):** 022, 039

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Mar. 2012

**Use in Commerce:** Mar. 2012

### Basis Information (Case Level)

<b>Filed Use:</b> Yes	<b>Currently Use:</b> Yes	<b>Amended Use:</b> No
<b>Filed ITU:</b> No	<b>Currently ITU:</b> No	<b>Amended ITU:</b> No
<b>Filed 44D:</b> No	<b>Currently 44D:</b> No	<b>Amended 44D:</b> No
<b>Filed 44E:</b> No	<b>Currently 44E:</b> No	<b>Amended 44E:</b> No
<b>Filed 66A:</b> No	<b>Currently 66A:</b> No	
<b>Filed No Basis:</b> No	<b>Currently No Basis:</b> No	

**Current Owner(s) Information****Owner Name:** HIGH ON LIFE, INC.**Owner Address:** 1502, 1159 Main Street  
Vancouver, BC V6A4B6  
CANADA**Legal Entity Type:** CORPORATION**State or Country Where Organized:** SOUTH DAKOTA**Attorney/Correspondence Information****Attorney of Record****Attorney Name:** JOSHUA M. GERBEN**Attorney Primary Email Address:** [jgerben@gerbenlawfirm.com](mailto:jgerben@gerbenlawfirm.com)**Attorney Email Authorized:** Yes**Correspondent****Correspondent Name/Address:** JOSHUA M. GERBENGERBEN LAW FIRM, PLLC  
1050 CONNECTICUT AVE NW FL 10  
WASHINGTON, DISTRICT OF COLUMBIA 20036-5334  
UNITED STATES**Phone:** 202-294-2287**Correspondent e-mail:** [jgerben@gerbenlawfirm.com](mailto:jgerben@gerbenlawfirm.com)**Correspondent e-mail Authorized:** Yes**Domestic Representative - Not Found****Prosecution History**

<b>Date</b>	<b>Description</b>	<b>Proceeding Number</b>
Nov. 19, 2013	EXTENSION OF TIME TO OPPOSE RECEIVED	
Oct. 22, 2013	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Oct. 22, 2013	PUBLISHED FOR OPPOSITION	
Oct. 02, 2013	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Sep. 18, 2013	LAW OFFICE PUBLICATION REVIEW COMPLETED	68171
Sep. 18, 2013	ASSIGNED TO LIE	68171
Sep. 06, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 29, 2013	EXAMINER'S AMENDMENT ENTERED	88888
Aug. 29, 2013	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Aug. 29, 2013	EXAMINERS AMENDMENT E-MAILED	6328
Aug. 29, 2013	EXAMINERS AMENDMENT -WRITTEN	72008
Aug. 28, 2013	ASSIGNED TO EXAMINER	72008
May 18, 2013	NOTICE OF DESIGN SEARCH CODE E-MAILED	
May 17, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	

**TM Staff and Location Information****TM Staff Information****TM Attorney:** LOOK, JEFFREY J**Law Office Assigned:** LAW OFFICE 108**File Location****Current Location:** PUBLICATION AND ISSUE SECTION**Date in Location:** Sep. 18, 2013

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# **EXHIBIT B**

**United States of America**  
United States Patent and Trademark Office

# High on Life

**Reg. No. 4,225,429**

PERALTA, GREG (UNITED STATES INDIVIDUAL)  
111 BERESFORD CREEK STREET  
CHARLESTON, SC 29492

**Registered Oct. 16, 2012**

**Int. Cl.: 25**

FOR: CAPS; HATS; JACKETS; PANTS; SHIRTS; SHORTS; SWEAT SHIRTS; T-SHIRTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

**TRADEMARK**

FIRST USE 7-19-2011; IN COMMERCE 7-19-2011.

**PRINCIPAL REGISTER**

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 85-564,900, FILED 3-9-2012.

KEVIN CORWIN, EXAMINING ATTORNEY



*David J. Kyfos*

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***  
**What and When to File:**

***First Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

***Second Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\*  
*See* 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***  
**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or  
reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

# **EXHIBIT C**

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**Mark:** HIGH ON LIFE

# High on Life

**US Serial Number:** 85564900

**Application Filing Date:** Mar. 09, 2012

**US Registration Number:** 4225429

**Registration Date:** Oct. 16, 2012

**Filed as TEAS Plus:** Yes

**Currently TEAS Plus:** Yes

**Register:** Principal

**Mark Type:** Trademark

**Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Status Date:** Oct. 16, 2012

**Publication Date:** Jul. 31, 2012

## Mark Information

**Mark Literal Elements:** HIGH ON LIFE

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

## Goods and Services

**Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [.] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Caps; Hats; Jackets; Pants; Shirts; Shorts; Sweat shirts; T-shirts

**International Class(es):** 025 - Primary Class

**U.S Class(es):** 022, 039

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Jul. 19, 2011

**Use in Commerce:** Jul. 19, 2011

## Basis Information (Case Level)

**Filed Use:** Yes

**Currently Use:** Yes

**Amended Use:** No

**Filed ITU:** No

**Currently ITU:** No

**Amended ITU:** No

**Filed 44D:** No

**Currently 44D:** No

**Amended 44D:** No

**Filed 44E:** No

**Currently 44E:** No

**Amended 44E:** No

**Filed 66A:** No

**Currently 66A:** No

**Filed No Basis:** No

**Currently No Basis:** No

## Current Owner(s) Information

**Owner Name:** Peralta, Greg

**Owner Address:** 111 Beresford Creek Street  
Charleston, SOUTH CAROLINA 29492  
UNITED STATES

**Legal Entity Type:** INDIVIDUAL

**Citizenship:** UNITED STATES

**Attorney/Correspondence Information**

**Attorney of Record - None**

**Correspondent**

**Correspondent** PERALTA, GREG  
**Name/Address:** 111 BERESFORD CREEK ST  
 CHARLESTON, SOUTH CAROLINA 29492-7520  
 UNITED STATES

**Phone:** 843-568-8452

**Correspondent e-mail:** [geperalt@g.cofc.edu](mailto:geperalt@g.cofc.edu)

**Correspondent e-mail** Yes  
**Authorized:**

**Domestic Representative - Not Found**

**Prosecution History**

<b>Date</b>	<b>Description</b>	<b>Proceeding Number</b>
Oct. 16, 2012	REGISTERED-PRINCIPAL REGISTER	
Jul. 31, 2012	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jul. 31, 2012	PUBLISHED FOR OPPOSITION	
Jul. 11, 2012	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Jun. 19, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 18, 2012	ASSIGNED TO EXAMINER	82417
Mar. 15, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Mar. 13, 2012	NEW APPLICATION ENTERED IN TRAM	

**TM Staff and Location Information**

**TM Staff Information - None**

**File Location**

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Oct. 16, 2012

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