

ESTTA Tracking number: **ESTTA713084**

Filing date: **12/07/2015**

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	SFX-LIC OPERATING LLC
Granted to Date of previous extension	12/09/2015
Address	902 Broadway New York, NY 10010 UNITED STATES

Attorney information	Meredith D. Pikser Reed Smith LLP 599 Lexington Avenue New York, NY 10022 UNITED STATES mpikser@reedsmith.com, nycipdocketing@reedsmith.com, bshevin@sfxii.com
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### Applicant Information

Application No	86507530	Publication date	08/11/2015
Opposition Filing Date	12/07/2015	Opposition Period Ends	12/09/2015
Applicant	LIFE IN COLOR FOUNDATION 630 NINTH AVENUE NEW YORK, NY 10036 UNITED STATES		

### Goods/Services Affected by Opposition

Class 036. First Use: 0 First Use In Commerce: 0  
All goods and services in the class are opposed, namely: Charitable foundation services, namely, providing financial support to families with children in need for medical care, education and other necessities

### 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.	4429570	Application Date	05/30/2012
Registration Date	11/05/2013	Foreign Priority Date	NONE
Word Mark	LIFE IN COLOR		

Design Mark	<b>LIFE IN COLOR</b>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2013/01/31 First Use In Commerce: 2013/01/31 Clothing, namely, shirts, t-shirts, pants, dresses, shorts, jackets, coats, socks, and underwear; headgear, namely, caps, hats and headbands Class 041. First use: First Use: 2013/01/31 First Use In Commerce: 2013/01/31 Entertainment services, namely, organizing, arranging, conducting and hosting paint parties, social entertainment events and festivals featuring live entertainment, performers and artists, music and audio-visual material and DJ performances; social club services, namely, arranging, organizing, conducting and hosting social events, paint parties, social special-event parties and nightclub parties for club members

Attachments	85638822#TMSN.png( bytes ) Life In Color Notice of Opp.pdf(202610 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	/Meredith D. Pikser/
Name	Meredith D. Pikser
Date	12/07/2015

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

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SFX-LIC OPERATING LLC	:	
	:	
Opposer,	:	Serial No. 86/507,530
	:	Mark: LIFE IN COLOR
v.	:	Published: August 11, 2015
	:	
LIFE IN COLOR FOUNDATION,	:	Opposition No. _____
	:	
Applicant.	:	
-----x	:	

BOX TTAB - FEE  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-14513

**NOTICE OF OPPOSITION**

1. Opposer, SFX-LIC Operating LLC (“Opposer”), a Delaware limited liability company and having a place of business at 902 Broadway, New York, NY 10010, believes that it is or will be damaged by the registration of Application Serial No. 86/507,530 for the mark LIFE IN COLOR and hereby opposes same pursuant to 15 U.S.C. §§ 1052 and 1063.

2. On information and belief, Life In Color Foundation (hereinafter, “Applicant”), is a California corporation with a business address of 630 Ninth Avenue, Suite 405, New York, New York 10036.

As grounds for this opposition, Opposer alleges the following:

3. On January 19, 2015, Applicant filed Application Serial No. 86/507,530 under 15 U.S.C. § 1051(a) to register the mark LIFE IN COLOR on the basis of intent-to-use the mark in commerce on or in connection with “charitable foundation services, namely, providing financial

support to families with children in need for medical care, education and other necessities” in International Class 36.

4. Opposer is the owner of the following trademark registration in the U.S. Patent and Trademark Office (“USPTO”) for the mark LIFE IN COLOR (“Opposer’s Mark”), the registration of which is valid and in full force and effect:

Trademark	Ser./Reg. No.	Goods	Status
LIFE IN COLOR	SN:85/638,822 RN:4,429,570	(Int'l Class: 25 and 421 Clothing, namely, shirts, t-shirts, pants, dresses, shorts, jackets, coats, socks, and underwear; headgear, namely, caps, hats and headbands, in class 25  Entertainment services, namely, organizing, arranging, conducting and hosting paint parties, social entertainment events and festivals featuring live entertainment, performers and artists, music and audio-visual material and DJ performances; social club services, namely, arranging, organizing, conducting and hosting social events, paint parties, social special-event parties and nightclub parties for club members, in class 41	Filed May 30, 2012 Registered November 5, 2013

A copy of the Certificate of Registration for Opposer’s Mark from the USPTO’s Trademark Electronic Search System is attached hereto as Exhibit A and incorporated herein.

5. Opposer has continuously used and continues to use Opposer’s Mark in interstate commerce on or in connection with its goods and services since at least as early as January 31, 2013.

6. The goods and services offered under Opposer's Mark are known by consumers, prospective consumers and throughout the event industry as consistent, high-quality goods and services.

7. Opposer's Mark, through Opposer's long and extensive use in the US and worldwide in countries including Argentina, Australia, Brazil, Canada, Chile, Colombia, Ecuador, El Salvador, European Union, Guatemala, Hong Kong, Malaysia, Mexico, Panama, Peru, Singapore, South Africa, and Venezuela, has come to exclusively identify the high quality goods and services of Opposer and to distinguish them from goods and services emanating from others. As a result of Opposer's extensive advertising and marketing efforts and use for almost 3 years, Opposer's Mark has become well-known and represents goodwill of tremendous value to Opposer.

8. Applicant's Mark is confusingly similar to Opposer's Mark.

9. Applicant's Mark is identical to Opposer's Mark.

10. The services in Application Serial No. 86/507,530 are closely related to Opposer's goods and services.

11. Upon information and belief, Applicant's Mark is intended for use in connection with charitable foundation services, namely, providing financial support to families with children in need for medical care, education and other necessities, services that will travel through the same channels of trade as Opposer's goods and services under Opposer's Mark, and will be aimed to at the same consumer base as that of Opposer.

12. Opposer's use and registration of the Opposer's Mark predates any priority date that can validly be claimed by Applicant for Applicant's Mark, including the filing date of Application Serial No. 86/507,530. As such, Opposer's rights in Opposer's

Mark were established long prior to and are superior to any rights Applicant may claim in Applicant's Mark.

13. If Applicant is permitted to use and register the subject mark for the services specified in the application herein opposed, confusion in trade resulting in damage and injury to Opposer would result. Persons familiar with Opposer's Marks would likely confuse Applicant's services as originating from Opposer, or as being in some way associated with, connected with, sponsored by, licensed by, or otherwise authorized by Opposer, all to the detriment of Opposer, unless this Opposition is sustained. Any such confusion in trade would inevitably result in loss of sales to Opposer. Furthermore, any objections or faults found with the services offered by Applicant under Applicant's Mark would adversely reflect upon and seriously injure the reputation of Opposer by association.

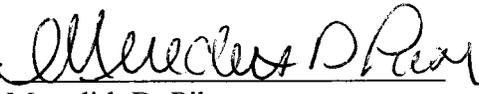
14. In view of, without limitation, the similarity of the respective marks, similarity of the channels of trade, similarity of the class of purchasers and the related nature of the services offered and/or intended to be offered by the respective parties, the mark in Application Serial No. 86/507,530 so resembles Opposer's Mark as to be likely to cause confusion, or to cause mistake, or to deceive as to the source of Applicant's services by suggesting that Applicant's services are associated with or approved, endorsed, affiliated, authorized, or sponsored by Opposer.

WHEREFORE, Opposer prays that Application Serial No. 86/507,530 be rejected, that no registration be issued thereon to Applicant and that this Opposition be sustained in favor of Opposer.

Respectfully submitted,

REED SMITH LLP

Date: December 7<sup>th</sup>, 2015

By: 

Meredith D. Pikser

Reed Smith LLP

599 Lexington Avenue

New York, NY 10022

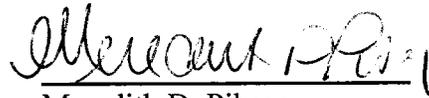
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Attorneys for Opposer

Certificate of Service

I hereby certify that a copy of the foregoing Notice of Opposition was mailed first-class mail postage prepaid to the Attention of Charles H. Knull, Esq. of Knull P.C., attorney of record for Life In Color Foundation, 630 Ninth Avenue, Suite 405, New York, New York 10036 this 7th day of December 2015.



Meredith D. Pikser  
Meredith D. Pikser  
Attorney for Opposer

# **EXHIBIT A**

# United States of America

United States Patent and Trademark Office

## LIFE IN COLOR

**Reg. No. 4,429,570**

**Registered Nov. 5, 2013**

**Int. Cls.: 25 and 41**

**TRADEMARK**

**SERVICE MARK**

**PRINCIPAL REGISTER**

SFX-LIC OPERATING LLC (DELAWARE LIMITED LIABILITY COMPANY)  
430 PARK AVENUE  
NEW YORK, NY 10022

FOR: CLOTHING, NAMELY, SHIRTS, T-SHIRTS, PANTS, DRESSES, SHORTS, JACKETS, COATS, SOCKS, AND UNDERWEAR; HEADGEAR, NAMELY, CAPS, HATS AND HEADBANDS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 1-31-2013; IN COMMERCE 1-31-2013.

FOR: ENTERTAINMENT SERVICES, NAMELY, ORGANIZING, ARRANGING, CONDUCTING AND HOSTING PAINT PARTIES, SOCIAL ENTERTAINMENT EVENTS AND FESTIVALS FEATURING LIVE ENTERTAINMENT, PERFORMERS AND ARTISTS, MUSIC AND AUDIO-VISUAL MATERIAL AND DJ PERFORMANCES; SOCIAL CLUB SERVICES, NAMELY, ARRANGING, ORGANIZING, CONDUCTING AND HOSTING SOCIAL EVENTS, PAINT PARTIES, SOCIAL SPECIAL-EVENT PARTIES AND NIGHTCLUB PARTIES FOR CLUB MEMBERS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 1-31-2013; IN COMMERCE 1-31-2013.

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

SN 85-638,822, FILED 5-30-2012.

CHRISTINA SOBRAL, EXAMINING ATTORNEY



*Lena Staretz*  
Deputy Director of the United States Patent and Trademark Office