

ESTTA Tracking number: **ESTTA751637**

Filing date: **06/10/2016**

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	STULLER, INC.
Granted to Date of previous extension	06/12/2016
Address	302 RUE LOUIS XIV LAFAYETTE, LA 70508 UNITED STATES
Correspondence information	R. BENNETT FORD ATTORNEY OF RECORD ROY KIESEL FORD DOODY & THURMON 9100 Bluebonnet Centre Blvd. Suite 100 Baton Rouge, LA 70809 UNITED STATES rbf@roykiesel.com, mmf@roykiesel.com Phone:2259279908

### Applicant Information

Application No	86684506	Publication date	12/15/2015
Opposition Filing Date	06/10/2016	Opposition Period Ends	06/12/2016
Applicant	GABRIEL BROS, INC. 545 West 45th Street New York, NY 10036 UNITED STATES		

### Goods/Services Affected by Opposition

Class 014. First Use: 2014/12/02 First Use In Commerce: 2014/12/02  
All goods and services in the class are opposed, namely: JEWELRY

### 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.	2967952	Application Date	11/18/2003
Registration Date	07/12/2005	Foreign Priority Date	NONE
Word Mark	STELLAR JEWELS		

Design Mark	<b>STELLAR JEWELS</b>
Description of Mark	NONE
Goods/Services	Class 014. First use: First Use: 2005/01/05 First Use In Commerce: 2005/01/05 Jewelry, namely rings, pendants and earrings

U.S. Registration No.	2746445	Application Date	04/12/2002
Registration Date	08/05/2003	Foreign Priority Date	NONE

Word Mark	STULLER
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Design Mark	<b>STULLER</b>
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Description of Mark	NONE
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Goods/Services	Class 014. First use: First Use: 1990/08/30 First Use In Commerce: 1990/08/30 Jewelry, namely rings, earrings, necklaces, pendants, bracelets, brooches, findings, mountings, diamonds, gemstones; raw precious metals for the manufacture of jewelry Class 035. First use: First Use: 1990/08/30 First Use In Commerce: 1990/08/30 Wholesale ordering services featuring jewelry namely rings, earrings, necklaces, pendants, bracelets, brooches, findings, mountings, diamonds, gemstones; and raw precious metals for the manufacture of jewelry
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U.S. Registration No.	1972605	Application Date	03/01/1995
Registration Date	05/07/1996	Foreign Priority Date	NONE

Word Mark	STULLER SETTINGS
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 014. First use: First Use: 1975/02/01 First Use In Commerce: 1975/02/01 jewelry, namely finished jewelry, findings, mountings, diamonds, colored stones, precious metal fabrication products, platinum and religious jewelry, sold to wholesale and/or retail jewelry stores
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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	/R. BENNETT FORD/
Name	R. BENNETT FORD
Date	06/10/2016

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

Stuller, Inc.

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

Opposer

Mark: STELLARE BY GABRIEL & CO.

Versus

Gabriel Bros., Inc.

Application Ser. No. 86/684,506

Applicant

**NOTICE OF OPPOSITION**

1.

Stuller, Inc. (“Opposer”) is a corporation organized under the laws of the state of Louisiana.

2.

Opposer has its principle place of business at 302 Rue Louis XIV, in Lafayette, Louisiana.

3.

On information and belief, Gabriel Bros., Inc. is a New York Corporation having a principle place of business at 545 West 45<sup>th</sup> Street; New York, NY 10036.

4.

On information and belief, Gabriel Bros. is the applicant (“Applicant”) in U.S. Trademark Application Serial Number 86/684,506 (the “‘506 Application”).

5.

The ‘506 Application was filed on July 6, 2015.

6.

The ‘506 Application was filed under § 1(a) of the Trademark Act, claiming a date of first of December 2, 2014.

7.

The '506 Application was published for opposition in the Official Gazette on Nov. 25, 2015.

8.

Opposer filed two requests for extension to the deadline to oppose registration of the '506 Application, and the latest of said extensions is set to expire on June 12, 2016.

9.

Opposer believes it will be damaged by the registration of the mark in the '506 Application and hereby opposes registration of the same.

### **LIKELIHOOD OF CONFUSION**

10.

The allegations of paragraphs 1-9 are re-averred.

11.

The '506 Application seeks to register the mark, STELLARE BY GABRIEL & CO., for use with the following goods in international class 014: "jewelry."

12.

Since prior to the filing and first use dates of the '506 Application, Opposer has been, and is now, using the marks STELLAR JEWELS, STULLER, and STULLER SETTINGS in interstate commerce on or in connection with various items and articles of jewelry in international class 014.

13.

Opposer's use of the marks STELLAR JEWELS, STULLER, and STULLER SETTINGS has been valid and continuous and has not been abandoned.

14.

STELLAR JEWELS, STULLER, and STULLER SETTINGS are capable of serving as

trademarks, both because they are inherently distinctive and, alternatively, because they have acquired distinctiveness.

15.

STELLAR JEWELS, STULLER, and STULLER SETTINGS are symbolic of extensive good will and consumer recognition developed by Opposer through substantial time and effort in advertising and promotion.

16.

Opposer's rights in the marks STELLAR JEWELS, STULLER, and STULLER SETTINGS are evidenced by Opposer's federal registration numbers 2,967,952; 2,746,445; and 1,972,605.

17.

Opposer's federal registration numbers 2,967,952; 2,746,445; and 1,972,605 are entitled to and have been accorded incontestable status pursuant to 15 U.S.C. § 1065.

18.

The mark in the '506 Application is confusingly similar to Opposer's STELLAR JEWELS, STULLER, and STULLER SETTINGS marks.

19.

The goods with which registration is sought in the '506 Application are substantially similar to the goods and services with which Opposer uses its STELLAR JEWELS, STULLER, and STULLER SETTINGS marks.

20.

In view of the foregoing, the mark for which registration is sought in the '506 Application so resembles Opposer's STELLAR JEWELS, STULLER, and STULLER SETTINGS marks as to be likely to cause confusion, or to cause mistake, or to deceive.

WHEREFORE, Opposer respectfully requests that registration of the mark shown in U.S. Trademark Application Serial Number 86/684,506 be denied, that this opposition be sustained, that all costs be assessed against the Applicant, and that the Board award the Opposer all other relief to which it may be entitled.

Please address all correspondence regarding this opposition to R. Bennett Ford, Jr. of Roy Kiesel, Ford, Doody & Thurmon. aplc at the following address:

Roy Kiesel, Ford, Doody & Thurmon  
P.O. Box 15928  
Baton Rouge, Louisiana 70895-5928

Please address all telephone calls to R. Bennett Ford, Jr. at (225) 927-9908.

Please address all facsimiles to R. Bennett Ford, Jr. at (225) 926-2685.

Please address all email to R. Bennett Ford, Jr. at [rbf@roykiesel.com](mailto:rbf@roykiesel.com)

Respectfully submitted:

Dated: June 10, 2016

s /R. Bennett Ford, Jr. /  
R. Bennett Ford, LA B.R. # 24,093  
William David Kiesel, LA B.R. # 7367  
Chad A. Grand, LA B.R. # 29885  
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**ATTORNEYS FOR OPPOSERS**

**Certificate of Service**

I hereby certify that a true and complete copy of this Notice of Opposition was served on Applicant by depositing the same with the U.S. Postal Service in a sealed envelope, first class certified postage thereon fully prepaid and addressed to Carl E. Jennison; Jennison & Schultz, PC; 2001 Jefferson Davis Hwy.; Suite 1102; Arlington, VA 22202-3618 on this 10th day of June, 2016.

s /R. Bennett Ford, Jr./  
R. Bennett Ford