

ESTTA Tracking number: **ESTTA771778**

Filing date: **09/20/2016**

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	A&H Sportswear Co., Inc.
Granted to Date of previous extension	09/28/2016
Address	110 Commerce Way Stockertown, PA 18083 UNITED STATES

Attorney information	Andrew B. Katz Belles Katz LLC 721 Dresher Rpad, Suite 1100 HORSHAM, PA 19044 UNITED STATES akatz@belleskatz.com Phone:215-658-1890
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Applicant Information

Application No	86681346	Publication date	05/31/2016
Opposition Filing Date	09/20/2016	Opposition Period Ends	09/28/2016
Applicant	Sebastian Cangemi 206B South Euclid, OH 44121 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Apparel and clothing, namely, shirts, pants, tops, dresses; hats

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1728652	Application Date	07/08/1991
Registration Date	10/27/1992	Foreign Priority Date	NONE
Word Mark	MIRACLESUIT		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1991/11/18 First Use In Commerce: 1991/11/27 swimwear

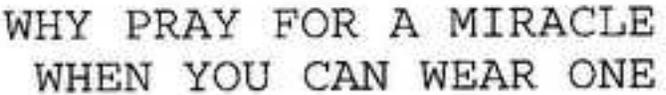
U.S. Registration No.	2631990	Application Date	07/29/1996
Registration Date	10/08/2002	Foreign Priority Date	NONE

Word Mark	MIRACLESUIT
Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2001/12/01 First Use In Commerce: 2001/12/01 men's and women's sportswear, namely, shorts, pants, tops, bodysuits; uni-forms; intimate apparel, namely, shapers, girdles, figure controlling underwear; bodywear, namely, leotards

U.S. Registration No.	3292018	Application Date	12/15/2005
Registration Date	09/11/2007	Foreign Priority Date	NONE

Word Mark	SKINNY DIPPERS BY MIRACLESUIT
Design Mark	 <p>SKINNY DIPPERS BY MIRACLESUIT</p>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2006/08/18 First Use In Commerce: 2006/08/18 Girls, juniors and misses swimwear and cover-ups

U.S. Registration No.	2636869	Application Date	01/30/2001
Registration Date	10/15/2002	Foreign Priority Date	NONE

Word Mark	WHY PRAY FOR A MIRACLE WHEN YOU CAN WEAR ONE
Design Mark	 <p>WHY PRAY FOR A MIRACLE WHEN YOU CAN WEAR ONE</p>
Description of	NONE

Mark	
Goods/Services	Class 025. First use: First Use: 2001/07/17 First Use In Commerce: 2001/07/17 men's and women's swimwear and sportswear, namely, dresses, shorts, pants, tops, bodysuits, and uniforms; intimate apparel, namely, shapers, girdles, figure controlling underwear; bodywear, namely, leotards

U.S. Registration No.	2787470	Application Date	10/10/2000
Registration Date	11/25/2003	Foreign Priority Date	NONE

Word Mark	MIRACLEBODY
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 025. First use: First Use: 2001/12/06 First Use In Commerce: 2001/12/06 Men's dancewear, namely, leotards, tights and unitards; bodywear, namely, body shapers, body suits and swimwear; men's and women's golfwear, namely polo shirts, shorts and pants; tenniswear; ski wear; uniforms; active sportswear for mountain climbing, kayaking, walking, running, biking and basketball, namely, shorts, T-shirts, jackets
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U.S. Registration No.	3002228	Application Date	10/01/2001
Registration Date	09/27/2005	Foreign Priority Date	NONE

Word Mark	MIRACLEBODY
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 025. First use: First Use: 2005/06/02 First Use In Commerce: 2005/06/02 men's and women's Jeans
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U.S. Registration No.	2011542	Application Date	05/05/1995
Registration Date	10/29/1996	Foreign Priority Date	NONE

Word Mark	MIRACLEBODY
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 025. First use: First Use: 1995/05/29 First Use In Commerce: 1995/05/29 women's and children's leotards; dancewear, namely, tights and unitards; body-wear, namely, body shapers, body suits; and swim wear		
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U.S. Registration No.	4115402	Application Date	12/15/2009
Registration Date	03/20/2012	Foreign Priority Date	NONE
Word Mark	MIRACLEJEANS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2011/09/19 First Use In Commerce: 2011/09/19 Jeans; Activewear, namely, pants and shirts		

U.S. Registration No.	4135953	Application Date	02/23/2010
Registration Date	05/01/2012	Foreign Priority Date	NONE
Word Mark	MIRACLESHAPER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2011/11/18 First Use In Commerce: 2011/11/18 Swimwear; Jeans; Activewear, namely, shorts, pants, shirts and tops; and Sportswear, namely, shorts, pants, shirts and tops		

U.S. Registration No.	4135887	Application Date	11/04/2009
Registration Date	05/01/2012	Foreign Priority Date	NONE
Word Mark	WHY PRAY FOR A MIRACLE WHEN YOU CAN WEAR ONE		

Design Mark	<p style="text-align: center;">WHY PRAY FOR A MIRACLE WHEN YOU CAN WEAR ONE</p>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2011/12/12 First Use In Commerce: 2011/12/12 Apparel, namely, jeans, skirts, tops, dresses and sportswear, namely, tops, bottoms, shorts, pants, shirts, and blouses

U.S. Registration No.	4495016	Application Date	02/07/2002
Registration Date	03/11/2014	Foreign Priority Date	NONE
Word Mark	MIRACLE MAN		
Design Mark	<p style="text-align: center;">MIRACLE MAN</p>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2013/08/16 First Use In Commerce: 2013/08/16 women's, men's, girls' and boys' apparel, namely, swimwear; shapewear, namely, leotards, bike pants, unitards, t-shirts, vests, underpants; sportswear, namely, tops, bottoms, shorts, pants, jeans; tennis wear, namely, skirts, shorts, tank tops; running wear, namely, socks, shorts, unitards and long pants; and uniforms		

U.S. Registration No.	4459354	Application Date	05/20/2009
Registration Date	12/31/2013	Foreign Priority Date	NONE
Word Mark	MIRACLEMAN		

Design Mark	<h1>MIRACLEMAN</h1>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2013/10/02 First Use In Commerce: 2013/10/02 Jeans; Swimwear		

U.S. Registration No.	4685400	Application Date	05/28/2013
Registration Date	02/10/2015	Foreign Priority Date	NONE
Word Mark	MIRACLE DRESS		
Design Mark	<h1>MIRACLE DRESS</h1>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2014/08/27 First Use In Commerce: 2014/08/27 Dresses		

U.S. Registration No.	4786337	Application Date	06/04/2013
Registration Date	08/04/2015	Foreign Priority Date	NONE
Word Mark	MSP BY MIRACLESUIT		
Design Mark	<h1>MSP BY MIRACLESUIT</h1>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2014/08/19 First Use In Commerce: 2014/08/19 Body suits; Bottoms; Capris; Cycling shorts; Jackets; Leggings; Pants; Swimwear; T-shirts; Tank tops; Tee shirts; Tops;Unitards		

U.S. Registration No.	5037704	Application Date	07/08/2015
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Registration Date	09/06/2016	Foreign Priority Date	NONE
Word Mark	MIRACLE BRANDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2015/10/24 First Use In Commerce: 2015/10/24 Beach cover-ups; Bottoms; Jeans; Pants; Shapewear, namely, girdles, bras, bodysuits and bodyslips; Shirts; Socks; Swimwear; Tops; Underwear		

Attachments	78774289#TMSN.png(bytes) 76201912#TMSN.png(bytes) 76975827#TMSN.png(bytes) 76319674#TMSN.png(bytes) 77893558#TMSN.png(bytes) 77942116#TMSN.png(bytes) 77864791#TMSN.png(bytes) 76368182#TMSN.png(bytes) 77740829#TMSN.png(bytes) 85943729#TMSN.png(bytes) 85950460#TMSN.png(bytes) 86686861#TMSN.png(bytes) Notice of Opposition to MIRACLE ON THE LAKE_ 09-20-2016.pdf(124065 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	/Andrew B. Katz/
Name	Andrew B. Katz
Date	09/20/2016

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

In the matter of Application Serial No. 86/681,346
Filed: July 2, 2015
For the Mark: MIRACLE ON THE LAKE
Published in the Official Gazette of May 31, 2016

A & H Sportswear Co., Inc.)	
a Pennsylvania Corporation,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
Sebastian Cangemi)	
a U.S. citizen residing in Ohio,)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

A & H Sportswear Co., Inc., a Pennsylvania Corporation with a principal address of 110 Commerce Way, Stockertown, Pennsylvania 18083 (“A & H” or “Opposer”) believes that it will be damaged by registration of the mark MIRACLE ON THE LAKE (“the Mark”) shown in Application Serial No. 86/681,346 (“the Application”) filed July 2, 2015 by Sebastian Cangemi (“Applicant”) for the goods described in International Class 025: “Apparel and clothing, namely, shirts, pants, tops, dresses; hats” (“Applicant’s goods”). Accordingly, A & H hereby opposes registration of the Mark in International Class 025.

As grounds for opposition, Opposer alleges as follows:

1. In 1991, A & H began prominently using the term “Miracle” as the dominant portion of its trademarks in connection with many articles of clothing. Since then, A & H has adopted several Miracle-formative marks covering apparel in International Class 025. Many of

the marks which form A & H's family of "Miracle" marks are registered with the United States Patent and Trademark Office as set forth in the table below. (Collectively, these marks are hereinafter referred to as the "Miracle Marks").

	Ser. No.	Reg. No.	Word Mark	Class	I.D.
1	74182986	1728652	Miraclesuit	25	Swimwear
2	75141810	2631990	Miraclesuit	25	Men's and women's sportswear namely, shorts, pants, tops, bodysuits; uniforms; intimate apparel, namely, shapers, girdles, figure controlling underwear; bodywear, namely, leotards
3	78774289	3292018	Skinny Dippers by Miraclesuit	25	Girls, juniors and misses swimwear and cover-ups.
4	76201912	2636869	Why Pray for a Miracle When You Can Wear One	25	men's and women's swimwear and sportswear, namely, dresses, shorts, pants, tops, bodysuits, and uniforms; intimate apparel, namely, shapers, girdles, figure controlling underwear; bodywear, namely, leotards.
5	76975827	2787470	Miraclebody	25	Men's dancewear, namely, leotards, tights and unitards; bodywear, namely, body shapers, body suits and swimwear; men's and women's golfwear, namely polo shirts, shorts and pants; tenniswear; ski wear; uniforms; active sportswear for mountain climbing, kayaking, walking, running, biking and basketball, namely, shorts, T-shirts, jackets.
6	76319674	3002228	Miraclebody	25	men's and women's Jeans
7	74670469	2011542	Miraclebody	25	women's and children's leotards; dancewear, namely, tights and unitards; bodywear, namely, body shapers, body suits; and swim wear.
8	77893558	4115402	MIRACLEJEANS	25	Jeans; Activewear, namely, pants and shirts
9	77942116	4135953	MIRACLESHAPER	25	Swimwear; Jeans; Activewear, namely, shorts, pants, shirts and tops; and Sportswear, namely, shorts, pants, shirts and tops
10	77864791	4135887	WHY PRAY FOR A MIRACLE WHEN YOU CAN WEAR ONE	25	Apparel, namely, jeans, skirts, tops, dresses and sportswear, namely, tops, bottoms, shorts, pants, shirts, and blouses
11	76368182	4495016	MIRACLE MAN	25	women's, men's, girls' and boys' apparel, namely, swimwear; shapewear, namely, leotards, bike pants, unitards, t-shirts, vests, underpants; sportswear, namely, tops, bottoms, shorts, pants, jeans; tennis wear, namely, skirts, shorts, tank tops; running wear, namely, socks, shorts, unitards and long pants; and uniforms
12	77740829	4459354	MIRACLEMAN	25	Jeans; Swimwear
13	85943729	4685400	MIRACLE DRESS	25	Dresses
14	85950460	4786337	MSP BY MIRACLESUIT	25	Body suits; Bottoms; Capris; Cycling shorts; Jackets; Leggings; Pants; Swimwear; T-shirts; Tank tops; Tee shirts; Tops; Unitards

15	86686861	5037704	MIRACLE BRANDS	25	Beach cover-ups; Bottoms; Jeans; Pants; Shapewear, namely, girdles, bras, bodysuits and bodyslips; Shirts; Socks; Swimwear; Tops; Underwear
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2. All of the Miracle Marks listed in the table of Paragraph 1 are valid and subsisting. Further, the Miracle Marks identified as Nos. 1, 2, 3, 4, 5, 6, and 7 are incontestable.

3. A & H has taken great care to register and protect its rights in this family of Miracle Marks for its goods in the United States and around the world. The Miracle Marks have been used long and continuously throughout the United States and have been the subject of extensive advertising and promotion. Because of this, and because of the superior quality of such merchandise bearing the Miracle Marks, the Miracle Marks have become well known and famous. Further, as A & H has expanded its business, it has introduced additional MIRACLE-formative marks into its family of Miracle-branded apparel, such as, MIRACLE DENIM, MIRACLE BLUES, MIRACLE INDIGO and MIRACLE LEGS BY MIRACLESUIT. All of these marks are subjects of US trademark applications which have been approved for registration on the Principal Register.

4. A & H has invested a substantial sum of money in promoting the Miracle Marks in commerce.

5. The goods in Applicant's description of goods are very similar to, or identical to, the goods offered by A & H and are in the same International Class 025. In addition, it is likely that A&H will offer other related apparel under its Miracle Marks.

6. A & H's apparel marketed under the Miracle Marks are well known in the industry, nationwide and throughout the entire world.

7. The dates of first use of almost all of the Miracle Marks long precede any date on which Applicant may rely to support its application for registration in International Class 025.

8. The mark Applicant seeks to register is confusingly similar to A & H's family of Miracle Marks and would likely be confused as being part of the family.

9. On information and belief, A & H's goods and Applicant's goods are capable of sale to and use by the same class of purchasers.

10. On information and belief, A & H's goods and Applicant's goods would be found in the same channels of trade.

11. The use and registration by Applicant of the designation MIRACLE ON THE LAKE in International Class 025 will enable Applicant to use and trade on the goodwill established by Opposer.

12. The use and registration by Applicant of the designation MIRACLE ON THE LAKE in International Class 025 will dilute, blur and erode the distinctiveness of Opposer's famous MIRACLEBODY and MIRACLESUIT marks, and/or damage the good will associated with the Miracle Marks.

13. Opposer believes and alleges that Applicant's mark when applied to the goods in International Class 025 of Application Serial No. 86/681,346 is likely to cause confusion or mistake or to deceive, and will deceive and mislead the trade and purchasing public into believing that Applicant's goods are the goods of A& H, or that Applicant's goods are sponsored, approved or endorsed by A & H, or that Applicant is affiliated with A & H, or that Applicant is in some way related to A & H.

14. By reason of the foregoing facts, Opposer will be damaged by the registration of Applicant's confusingly similar mark in International Class 025.

WHEREFORE, Opposer prays that this opposition be sustained and that the registration sought by Application Serial No. 86/681,346 in International Class 025 be denied.

Opposer appoints the following as its attorney with full power of substitution, association and revocation in the above-entitled opposition to prosecute same and to transact all business in the United States Patent and Trademark Office in connection with said opposition:

Andrew B. Katz, Esq., U.S.P.T.O. Reg. No. 34,200
Lisa P. London, Esq.
BELLES KATZ LLC
721 Dresher Road, Suite 1100
Horsham, Pennsylvania 19044
Phone: (215) 658-1890
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This paper is being filed electronically through ESSTA. Payment in the amount of the three hundred dollar (\$300) filing fee is being made via credit card. To the extent that any additional funds are required for this filing, the Commissioner is authorized to charge any such fee to PTO Deposit Account No. 50-3656. The undersigned is an authorized user of this account.

Respectfully submitted,

BELES KATZ LLC

/Andrew B.Katz/
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akatz@belleskatz.com

ATTORNEY FOR A & H SPORTSWEAR CO., INC.

Dated: September 20, 2016

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of September 2016 a true and correct copy of the foregoing Notice of Opposition (along with this Certificate of Service) was sent by first class mail, postage pre-paid to counsel for Applicant at the following address:

JOHN D. GUGLIOTTA
Law Offices Of John D Gugliotta P E Esq Lpa
PO Box 506
Richfield, OHIO 44286-0506

In addition, a courtesy copy was sent to John D. Gugliotta via email at johnng@inventorshelp.com

/Andrew B. Katz/
Andrew B. Katz