

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

In the Matter of Trademark Application )  
 Serial No. 77/533,334 )  
 Filed: July 29, 2008 )  
 Published: December 16, 2008 )  
 By: Abinko Digital Studio, Inc. )  
 For the Trademark: BELLACROFT )  
 \_\_\_\_\_ )  
 COLOR IMAGE APPAREL, INC., )  
 a California Corporation, )  
 Opposer, )  
 v. )  
 ABINKO DIGITAL STUDIO, INC., )  
 a Florida Corporation, )  
 Applicant. )  
 \_\_\_\_\_ )

Opposition No. 91189728  
Serial No. 77533334

**ANSWER**

Comes now Applicant, ABINKO DIGITAL STUDIO, INC. ("ABINKO") and answers the Notice of Opposition and states:

1. As to Paragraph 1, Applicant is without knowledge and information sufficient to form a belief; therefore the allegations are denied.
2. As to Paragraph 2, Applicant is without knowledge and information sufficient to form a belief; therefore the allegations are denied.
3. As to Paragraph 3, Applicant is without knowledge and information sufficient to form a belief; therefore the allegations are denied.
4. As to Paragraph 4, the allegations are denied.
5. As to Paragraph 5, the allegations are denied.
6. All claims not addressed heretofore are deemed denied.



**05-26-2009**

**Affirmative Defenses**

7. There is no likelihood of confusion between the marks.
8. Methods and lines of sale are not similar; therefore no confusion can exist.
9. Channels of promotion are distinctive; therefore no confusion can exist.
10. That to the extent goods and services are not being currently provided by Opposer, the mark has expired.
11. That the uses of BELLA are numerous and constitute a crowded field where consumers readily distinguish between brands; therefore, no confusion can exist.
12. Opposer has failed to police its mark, thereby losing its rights to enforce its mark.

**Counterclaim**

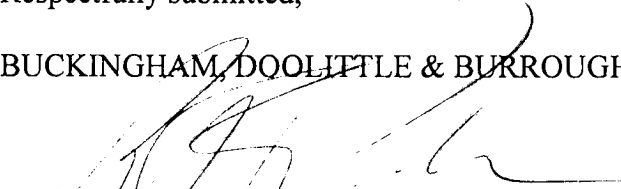
13. That the mark of Opposer translates to “Beautiful” from the Italian and is thereby generic.
14. That the mark of Opposer is not distinctive.

Wherefore, ABINKO moves this Board for entry of an Order dismissing the action of Opposer and permitting ABINKO to proceed with its application, invalidating Opposer’s Registration, and such other relief as is just and proper.

The required fee or charge is authorized to be charged to Deposit Account No. 50-0983 of the attorney for Applicant.

Respectfully submitted,

BUCKINGHAM, DOOLITTLE & BURROUGHS, LLP



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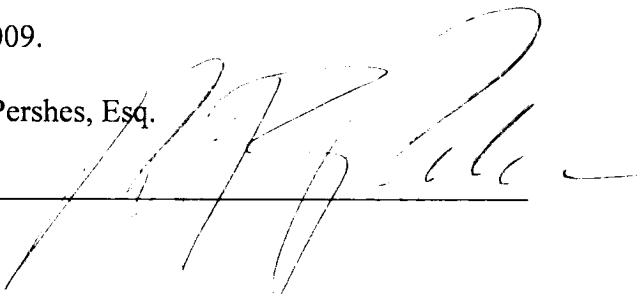
**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of this Answer to Notice of Opposition was sent by Federal Express for filing to the TTAB at Madison East, Concourse Level, Room C-55, 600 Dulany Street, Alexandria, VA 22314, and a true copy sent to Opposer's Attorney by Federal Express, c/o Gordon & Rees, LLP, 101 West Broadway, Suite 1600, San Diego, CA 92101 and via email, [msarah@gordonrees.com](mailto:msarah@gordonrees.com) on this 22<sup>st</sup> day of May, 2009.

Date of Mailing: May 21, 2009.

Printed Name: Robert E. Pershes, Esq.

Signature:



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