

ESTTA Tracking number: **ESTTA530062**

Filing date: **04/02/2013**

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	Color Image Apparel, Inc.		
Entity	Corporation	Citizenship	California
Address	6670 Flotilla Street Commerce, CA 90040 UNITED STATES		

Attorney information	Lindsay J. Hulley Rutan & Tucker, LLP 611 Anton Boulevard Suite 1400 Costa Mesa, CA 92626 UNITED STATES trademarks@rutan.com Phone:714-641-5100		
----------------------	--	--	--

Applicant Information

Application No	85755443	Publication date	04/02/2013
Opposition Filing Date	04/02/2013	Opposition Period Ends	05/02/2013
Applicant	Brand Sense Partners, LLC 10441 Jefferson Blvd., Suite 100 Culver City, CA 90232 UNITED STATES		

Goods/Services Affected by Opposition

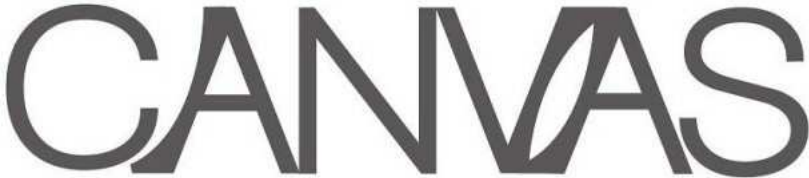
Class 025. All goods and services in the class are opposed, namely: Men's and women's apparel, namely, belts, blouses, boxer shorts, bras, camisoles, capes, caps, coats, dresses, footwear, gloves, halter tops, hats, hosiery, jackets, jeans, knit tops, loungewear, pants, panties, sandals, scarves, shawls, shirts, shoes, shorts, skirts, sleepwear, socks, sweaters, sweatpants, sweatshirts, swimwear, t-shirts, tank tops, ties, undershirts, underwear, vests and woven tops
--

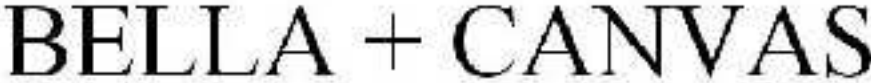
Grounds for Opposition

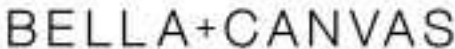
Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3884550	Application Date	03/03/2010
Registration Date	11/30/2010	Foreign Priority Date	NONE
Word Mark	CANVAS		

Design Mark	
Description of Mark	The mark consists of the word "CANVAS" in a stylized script.
Goods/Services	Class 025. First use: First Use: 2007/12/14 First Use In Commerce: 2007/12/14 men's clothing, namely, shirts, pants, jackets, sweatshirts, sweatpants, golf shirts, and tank tops

U.S. Registration No.	4254778	Application Date	07/06/2011
Registration Date	12/04/2012	Foreign Priority Date	NONE
Word Mark	BELLA + CANVAS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2012/10/24 First Use In Commerce: 2012/10/24 Clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, dresses, knit pants, skirts, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts, knit jackets, golf shirts		

U.S. Application No.	85762626	Application Date	10/24/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BELLA + CANVAS		
Design Mark			

Description of Mark	The mark consists of the words "BELLA + CANVAS" in a stylized form.
Goods/Services	Class 025. First use: First Use: 2012/10/24 First Use In Commerce: 2012/10/24 Women's and Men's clothing not made of canvas, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, polo shirts Class 035. First use: First Use: 2012/10/24 First Use In Commerce: 2012/10/24 Online retail and wholesale store services featuring clothing not made of canvas

U.S. Application No.	85762624	Application Date	10/24/2012
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	BELLA + CANVAS LOS ANGELES
-----------	----------------------------

Design Mark	 <p>The design mark shows the words "BELLA+CANVAS" in a large, bold, sans-serif font, with "LOS ANGELES" in a smaller, all-caps, sans-serif font centered below it.</p>
-------------	--

Description of Mark	The mark consists of the words "BELLA + CANVAS" in a stylized form, under which are the words "LOS ANGELES" in the same, but smaller stylized form.
---------------------	---

Goods/Services	Class 025. First use: First Use: 2012/10/24 First Use In Commerce: 2012/10/24 Women's and Men's clothing not made of canvas, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, polo shirts Class 035. First use: First Use: 2012/10/24 First Use In Commerce: 2012/10/24 Online retail and wholesale store services featuring clothing not made of canvas
----------------	---


U.S. Application No.	85762617	Application Date	10/24/2012
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	BELLA + CANVAS
-----------	----------------

Design Mark	 <p>The design mark shows the words "BELLA + CANVAS" in a large, bold, serif font with wide letter spacing.</p>
-------------	---

Description of Mark	NONE
---------------------	------

Goods/Services	Class 035. First use: First Use: 2012/10/24 First Use In Commerce: 2012/10/24
----------------	---

Online retail and wholesale store services featuring clothing not made of canvas			
U.S. Application No.	85762619	Application Date	10/24/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CANVAS		
Design Mark			
Description of Mark	The mark consists of the word "CANVAS" in a stylized form.		
Goods/Services	Class 025. First use: First Use: 2012/10/24 First Use In Commerce: 2012/10/24 men's clothing not made of canvas, namely, shirts, pants, jackets, sweatshirts, sweatpants, golf shirts, and tank tops		

Attachments	77950078#TMSN.jpeg (1 page)(bytes) 85364783#TMSN.jpeg (1 page)(bytes) 85762626#TMSN.jpeg (1 page)(bytes) 85762624#TMSN.jpeg (1 page)(bytes) 85762617#TMSN.jpeg (1 page)(bytes) 85762619#TMSN.jpeg (1 page)(bytes) CANVAS & TRIBE Notice of Opposition.pdf (5 pages)(86892 bytes) CANVAS registrations.pdf (4 pages)(84057 bytes)
-------------	---

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	/Lindsay J. Hulley/
Name	Lindsay J. Hulley
Date	04/02/2013

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

In the Matter of Application Serial No.: 85/755,443
For the Trademark: CANVAS & TRIBE
Published in the Official Gazette on
April 2, 2013

Color Image Apparel, Inc.,

Opposer,

v.

Brand Sense Partners, LLC

Applicant.

Opposition No.

NOTICE OF OPPOSITION

Opposer, Color Image Apparel, Inc, a California corporation having a place of business at 6670 Flotilla Street, Commerce, California 90040 (hereinafter "Opposer") believes that it will be damaged by registration of the mark CANVAS & TRIBE shown in Application Serial No. 85/755,443 ("Application"), as published in the Official Gazette on April 2, 2013 and hereby opposes the same.

As grounds for the Opposition, it is alleged that:

1. Applicant Brand Sense Partners, LLC ("Applicant") filed the Application on or about October 16, 2012, under Section 1(b) claiming an intent to use the mark CANVAS & TRIBE ("Applicant's Mark") in connection with "Men's and women's apparel, namely, belts, blouses, boxer shorts, bras, camisoles, capes, caps, coats, dresses, footwear, gloves, halter tops, hats, hosiery, jackets, jeans, knit tops, loungewear, pants, panties, sandals, scarves, shawls, shirts, shoes, shorts, skirts, sleepwear, socks, sweaters, sweatpants, sweatshirts, swimwear, t-shirts, tank tops, ties, undershirts, underwear, vests and woven tops" in International Class 25.

2. The Application was published for opposition on April 2, 2013.

3. Opposer is now and for many years past has been engaged in the manufacture, marketing and sale of apparel for men, women and children.

4. For more than five years and since at least as early as October 4, 2000, Opposer adopted and has used the trademark CANVAS on and in connection with its goods and services.

5. For more than five years, Opposer has drawn upon the goodwill and public recognition of its CANVAS mark by adopting and using this mark to signify its high quality goods.

6. Opposer's CANVAS mark has been conspicuously applied to or in connection with Opposer's goods and services, and said goods and services so marked have been extensively distributed, advertised, promoted and sold in interstate commerce in the United States.

7. For more than five years, Opposer has widely and extensively advertised and promoted its goods and services such that the public and trade recognize that these products and services emanate from one source, i.e., Color Image Apparel, Inc.

8. By virtue of Opposer's extensive advertising, promotion, and sales of its goods and services under its CANVAS mark, the public and trade have come to rely upon Opposer's CANVAS mark to identify Opposer's superior products and services and distinguish them from the products and services of others. The CANVAS mark has come to represent an extremely valuable goodwill belonging exclusively to Opposer.

9. Opposer has long maintained registrations of its CANVAS mark in the United States Patent and Trademark Office (the "USPTO") for its goods. Among said registrations owned by Opposer are the following, true and correct copies of which are attached hereto as Exhibit A:

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Class</u>
CANVAS	3,884,550	11/30/2010	25
BELLA + CANVAS	4,254,778	12/4/2012	25

10. In addition, Opposer has applied to register numerous other marks incorporating the word CANVAS at the USPTO, so that Opposer is the owner of a well-established family of CANVAS marks. Among such marks owned by Opposer are:

<u>Mark</u>	<u>Appl. No.</u>	<u>Appl. Date</u>	<u>Class</u>
BELLA + CANVAS	85762626	10/24/2012	25, 35
BELLA + CANVAS LOS ANGELES	85762624	10/24/2012	25, 35
BELLA + CANVAS	85762617	10/24/2012	35
CANVAS	85762619	10/24/2012	25

11. Said registrations and applications (collectively, the CANVAS Marks”) are valid and subsisting, and are owned by Opposer together with the business and goodwill connected therewith.

12. On information and belief, Applicant uses, or seeks to use, Applicant’s Mark on goods that will be, marketed, advertised, promoted, and sold through identical or similar channels of trade, and ultimately to the same kinds of customers as Opposer’s goods and services are marketed, promoted, and sold under its CANVAS Marks.

13. Because of the fame of Opposer’s CANVAS Marks, consumers and the trade have come to associate the word “CANVAS” with Opposer and Opposer’s goods and services such that Applicant’s use of Applicant’s Mark on substantially similar goods is likely to create the erroneous impression that Applicant’s goods originate with Opposer or are licensed, sponsored or approved by Opposer or are in some way endorsed by or connected with Opposer’s business of selling goods and services under its CANVAS Marks.

14. Applicant's Mark is confusingly similar to the marks owned by Opposer, therefore, denying to Opposer the benefits of its CANVAS Marks in excluding confusingly similar uses.

15. Thus, when applied to Applicant’s goods, Applicant’s Mark is likely to cause confusion, to cause mistake, and to deceive consumers as to the origin, sponsorship and approval of Applicant’s goods with consequent injury to Opposer, to the public and to the trade.

16. Opposer will be damaged by the registration sought herein by Applicant because such registration will support and assist Applicant in the confusing and misleading use of Applicant's Mark, and will give color of exclusive statutory rights in Applicant in violation and derogation of the prior and superior rights of Opposer.

17. The Trademark Trial and Appeal Board has authority under 15 U.S.C. § 1068 to refuse to register Applicant's Mark.

WHEREFORE, Opposer believes and avers that it will be damaged by registration of Applicant's Mark and prays that Application Serial No. 85/755,443 be denied registration, and that this Opposition be sustained in favor of Opposer.

Please recognize Lindsay J. Hulley and the law firm of Rutan & Tucker, LLP, as attorneys for Opposer in this proceeding and address all communications to Ms. Hulley at the address below.

This Notice of Opposition is being submitted electronically through ESTTA. The required fee is authorized to be charged against the Deposit Account of the Attorney for Opposer.

Dated: April 2, 2013

Respectfully submitted,

/Lindsay J. Hulley/
Lindsay J. Hulley
Rutan & Tucker, LLP
611 Anton Boulevard, Suite 1400
Costa Mesa, California 92626
(714) 641-5100
Attorneys for Opposer,
COLOR IMAGE APPAREL, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is one of the attorneys for Opposer Color Image Apparel, Inc., in the above-captioned Opposition proceeding and that on the date which appears below, she caused a copy of the foregoing **NOTICE OF OPPOSITION** to be served on the following with the United States Postal Service with fully pre-paid postage by first class mail service:

Applicant:

Brand Sense Partners, LLC
10441 Jefferson Blvd. Ste. 100
Culver City, California 90232

Dated: April 2, 2013
Costa Mesa, California

/Lindsay J. Hulley/
Lindsay J. Hulley

EXHIBIT A

United States of America
United States Patent and Trademark Office

CANVAS

Reg. No. 3,884,550

COLOR IMAGE APPAREL, INC. (CALIFORNIA CORPORATION)
6670 PLUTILLA STREET
COMMERCE, CA 90020

Registered Nov. 30, 2010

Int. Cl.: 25

FOR: MEN'S CLOTHING, NAMELY, SHIRTS, PANTS, JACKETS, SWEATSHIRTS,
SWEATPANTS, GOLF SHIRTS, AND TANK TOPS, IN CLASS 25 (U.S. CL. 22 AND 29).

TRADEMARK

FIRST USE 12-14-2007, IN COMMERCE 12-14-2007.

SUPPLEMENTAL REGISTER

OWNER OF U.S. REG. NO. 3 411,161.

THE MARK CONSISTS OF THE WORD "CANVAS" IN A STYLIZED SCRIPT.

SER. NO. 77-950,078, FILED FR. 3-3-26 0; AM. S.R. 3-3-26 0.

DANNEAN HETZEL, EXAMINING ATTORNEY



David J. Kappas

REGISTERED TRADEMARK OFFICE OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

United States of America

United States Patent and Trademark Office

BELLA + CANVAS

Reg. No. 4,254,778

Registered Dec. 4, 2012

Int. Cl.: 25

TRADEMARK

PRINCIPAL REGISTER

COLOR IMAGE APPAREL, INC. (CALIFORNIA CORPORATION)
5670 LLOVILLA STREET
COMMERCE, CA 90040

FOR CLOTHING, NAMELY TEE SHIRTS, SHORT SLEEVE SHIRTS, LONG SLEEVE SHIRTS, TANK TOPS, FLEECE TOPS, FLEECE PANTS, SHIRTS, DRESSES, KNIT PANTS, SKIRTS, YOGA PANTS, CAPRI PANTS, SHORTS, BRAS, UNDERWEAR, CAMISOLES, SWEAT SHIRTS, POLO SHIRTS, KNI. JACKETS, GOLF SHIRTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 10-24-2012; IN COMMERCE 10-24-2012.

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

OWNER OF U.S. REG. NOS. 2,668,411, 3,519,791, AND OTHERS

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CANVAS", APART FROM THE MARK AS SHOWN.

THE ENGLISH TRANSLATION OF THE WORD "BELLA" IN THE MARK IS BEAUTIFUL.

SN 85-36-785, FILED 7-6-2011.

KELLY BOULTON, EXAMINING A. TORNEY



David J. Kappas
Not a Trademark and Not a Service Mark

**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. §114j. For more information about 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>.