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

Proceeding	91211500
Party	Plaintiff Color Image Apparel, Inc.
Correspondence Address	LINDSAY J HULLEY RUTAN & TUCKER LLP 611 ANTON BLVD, STE 1400 COSTA MESA, AE 92626 UNITED STATES lhulley@rutan.com, trademarks@rutan.com
Submission	Motion to Suspend for Civil Action
Filer's Name	Lindsay J. Hulley
Filer's e-mail	lhulley@rutan.com, trademarks@rutan.com
Signature	/Lindsay J. Hulley/
Date	04/21/2014
Attachments	BELLA WEAR - Motion to Suspend.pdf(173280 bytes) BELLA WEAR - Motion to Suspend Exhibit A.pdf(611531 bytes)

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

In the Matter of Trademark Application Serial
No.: 85/360,287
For the Trademark: BELLA WEAR

Color Image Apparel, Inc.,

Opposer,

v.

Anthony Ferrara,

Respondent.

Opposition No. 91211500

**OPPOSER’S MOTION TO SUSPEND
PROCEEDINGS**

Pursuant to 37 C.F.R. §2.117(a), Opposer Color Image Apparel, Inc. (“CIA”) by and through its attorneys, hereby moves the Trademark Trial and Appeal Board (the “Board”) to suspend the above-captioned opposition proceeding against applicant/respondent Anthony Ferrara (“Respondent”). In support, CIA states as follows:

SUMMARY OF FACTS AND PROCEDURAL HISTORY

1. CIA filed the above-styled proceeding on or about July 10, 2013.
2. CIA is the owner of a family of registered marks for the mark “BELLA” in International Classes 025 and 035. CIA is the senior user of those marks. The instant proceeding requests that Respondent’s application to register the mark BELLA WEAR in International Class 25 be refused registration.
3. On or about April 17, 2014, CIA filed a civil action (the “Lawsuit”) against Respondent in the United States District Court for the Eastern District of New York. The style of the Lawsuit is Color Image Apparel, Inc. v. Anthony Ferrara, and Does 1 through 10, Case No. 14-cv-2475. A true and correct copy of the Lawsuit is attached hereto and incorporated herein by reference as Exhibit “A.”

4. The Lawsuit alleges, among other things, trademark infringement based on a likelihood of confusion under federal law. The lawsuit also seeks injunctive relief against Respondent. See Exhibit A.

5. The instant opposition proceeding makes the same infringement claims under federal law.

ARGUMENT

37 C.F.R. §2.117(a) states as follows:

Whenever it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in a civil action or another Board proceeding which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action or other Board proceeding.

Suspension of a TTAB proceeding is within the Board's discretion. See Trademark Trial and Appeal Board Manual of Procedure ("TBMP") §510.02(a). The Board will typically suspend such proceedings to allow final determination of the issues being litigated in the federal district court if those issues will have a bearing on the issues before the Board. *Id.*; see also *General Motors Corp. v. Cadillac Club Fashions, Inc.*, 22 U.S.P.Q.2d 1933 (T.T.A.B. 1992); *The Other Telephone Co. v. Connecticut Nat'l Telephone Co.*, 181 U.S.P.Q. 125 (T.T.A.B. 1974) (federal court ruling on infringement and unfair competition claims have bearing on outcome of 15 U.S.C. §1052(d) infringement proceeding before Board); TBMP §502.02(a) ("Most commonly, a request to suspend pending the outcome of another proceeding seeks suspension because of a civil action pending between the parties in a Federal district court. To the extent that a civil action in a Federal district court involves issues in common with those in a proceeding before the Board, the decision of the Federal district court is often binding upon the Board, while the decision of the Board is not binding upon the court.")

As shown in the attached Exhibit A, the common claims in CIA's Lawsuit are identical to those made in the instant opposition proceeding. Accordingly, CIA asks the Board to exercise its discretion and suspend the above matter pending resolution of the dispute in the Lawsuit.

WHEREFORE, for the foregoing reasons, CIA moves the Board to suspend the above proceeding, and for such other and further relief as the Board deems just and proper.

Dated: April 21, 2014

Respectfully submitted,

/Lindsay J. Hulley/
Lindsay J. Hulley
Rutan & Tucker, LLP
611 Anton Boulevard, Suite 1400
Costa Mesa, California 92626
lhulley@rutan.com
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 **OPPOSER'S MOTION TO SUSPEND PROCEEDINGS** to be served on the following by U.S. first class mail and email service:

Respondent's Attorney of Record:

Luke Brean
BreanLaw, LLC
P.O. Box 4120
ECM # 72065
Portland, Oregon 97208
luke@breanlaw.com

Dated: April 21, 2014
Costa Mesa, California

/Lindsay J. Hulley/
Lindsay J. Hulley

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

COLOR IMAGE APPAREL, INC., a
California corporation,

Plaintiff,

v.

ANTHONY FERRARA, an individual,
and DOES 1 through 10, inclusive,

Defendants.

Civil Action No. 14-cv-2475

COMPLAINT FOR:

- 1. FEDERAL TRADEMARK
INFRINGEMENT [15 U.S.C. §
1114(1)(a) and (b)]**
- 2. FALSE DESIGNATION OF
ORIGIN [15 U.S.C. § 1125(a)]**
- 3. COMMON LAW UNFAIR
COMPETITION AND
TRADEMARK INFRINGEMENT**

DEMAND FOR JURY TRIAL

Plaintiff Color Image Apparel, Inc. (hereinafter "CIA") for its Complaint against the above-named defendants, alleges as follows:

JURISDICTION AND VENUE

1. This action arises under the Lanham Act, 15 U.S.C. sections 1114 and 1125, *et seq.*; and under statutory and common law of unfair competition. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338, and 15 U.S.C. § 1121 because CIA's claims arise under the trademark laws of the United States. This Court also has supplemental jurisdiction pursuant to 28 U.S.C. §§ 1338(b) and 1367 over CIA's claims that arise under the laws of the State of New York.

2. This Court has personal jurisdiction over the Defendants because they transact business in the State of New York.

3. Venue is proper in the Eastern District of New York under 28 U.S.C. § 1391(b) and (c) because Defendants reside in this judicial district, a substantial part of the events, omissions and acts that are the subject matter of this action occurred within the Eastern District of New York, and Defendants are subject to personal jurisdiction and may be found in this district.

THE PARTIES

4. Plaintiff CIA is a corporation organized and existing under the laws of the State of California with its principal place of business located at 6670 Flotilla Street, Commerce, California 90040.

5. On information and belief, defendant Anthony Ferrara (hereinafter “Ferrara”) is an individual with an address at 14-47 159th Street, Whitestone, New York 11357.

6. On information and belief, Ferrara has manufactured, imported, advertised, promoted, distributed, offered for sale and/or sold products throughout the United States, and particularly in this judicial district, that infringe on CIA’s trademarks.

7. On information and belief, CIA alleges that each of the defendants named herein as DOES 1 through 10, inclusive, performed, participated in, or abetted in some manner, the acts alleged herein, proximately caused the damages alleged below, and are liable to CIA for the damages and relief sought herein.

8. Defendants Ferrara and DOES 1 through 10 are hereinafter collectively referred to as “Defendants.”

9. On information and belief, CIA alleges that, in performing the acts and omissions alleged herein, and at all times relevant hereto, each of the Defendants was the agent, servant, and employee of each of the other Defendants

and was at all times acting within the course and scope of such agency and employment, with the knowledge, approval, consent or ratification of each of the other Defendants.

10. The identities of the individuals and entities named as defendants DOES 1 through 10, inclusive, are not presently known, but CIA will seek to amend the Complaint to properly identify them when their proper names have been ascertained.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

11. CIA owns a number of federal trademark registrations for BELLA in International Classes 25 and 35 (collectively referred to herein as the “BELLA Marks”), including those listed below.

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Class</u>
BELLA	2,668,441	December 31, 2002	25
BELLA	2,895,709	October 19, 2004	25
BELLA GIRL	3,158,111	October 17, 2006	25
BELLA BABY	3,250,727	June 12, 2007	25
BELLA BABY	3,293,659	September 18, 2007	25
BELLA	3,519,794	October 21, 2008	25
BELLA LUXX	3,967,706	May 24, 2011	25
BELLA LUXX	4,116,227	March 20, 2012	35
BELLA	4,163,125	June 26, 2012	35
BELLA BABY	4,255,236	December 4, 2012	25
BELLA MISSY	4,259,037	December 11, 2012	25
BELLA GIRL	4,259,038	December 11, 2012	25
BELLA MISSY	4,262,459	December 18, 2012	25

True and correct copies of the certificates of registration for the above-mentioned BELLA Marks are attached hereto as Exhibit A.

12. Since at least as early as 1999, and long prior to any use of a similar design or mark by Defendants, CIA has been continuously, prominently and exclusively using its BELLA Marks to denote the source of its goods and services in the United States and has enjoyed substantial commercial success. During this period, CIA has committed enormous amounts of time, effort and money to developing a widely respected reputation in the clothing and apparel industry through which the BELLA Marks have acquired secondary meaning as indicting CIA as the source of these high-quality goods and services. Thus, long before the acts complained of herein, members of the general consumer population recognized the BELLA Marks as an exclusive source identifier for clothing and apparel originating from, sponsored or approved by CIA.

13. On information and belief, CIA has had the exclusive right to use the BELLA Marks in interstate commerce and CIA's use has been exclusive since it first adopted the BELLA Marks, with the exception of unauthorized uses such as Defendants' described below. CIA's BELLA Marks are valid and subsisting and remain in full force and effect.

14. CIA has widely advertised, promoted and marketed goods and services under its BELLA Marks in numerous and diverse advertising media including print, catalogs, and the Internet in order to promote the strength and renown of its BELLA Marks. CIA has achieved a high level of commercial success in selling products and services bearing its BELLA Marks, and has built a valuable reputation and substantial goodwill, with which the BELLA Marks have become synonymous. Because of these efforts, and the renown of its BELLA Marks, customers and potential customers have come to associate the BELLA Marks with CIA.

15. On information and belief, Defendants have offered, and are offering for sale and selling clothing items bearing the mark “BELLA WEAR.” Defendants’ use of the mark BELLA WEAR in connection with these accused products began after CIA’s adoption and use of the BELLA Marks, and without CIA’s authorization, permission or consent.

16. Defendants are not authorized to use the BELLA Marks in connection with their goods or services, nor are Defendants affiliated with CIA.

17. On information and belief, on or about June 30, 2011, Ferrara applied for a U.S. trademark application, Serial No. 85/360,287, for the word mark “BELLA WEAR” for goods in International Class 25 (the “Application”).

18. On July 10, 2013, CIA initiated a Notice of Opposition, Proceeding No. 91211500 before the Trademark Trial and Appeal Board, requesting that the Application be denied registration.

19. On information and belief, Ferrara acted with full knowledge of CIA’s prior ownership and use of CIA’s registered trademarks, and without CIA’s authorization or consent, and has engaged in an intentional infringement by using and applying for federal registration of the “BELLA WEAR” mark in order to interfere with and capitalize on CIA’s prior use, ownership, reputation and goodwill.

20. Defendants’ use of “BELLA WEAR” and sale of infringing goods is likely to cause confusion, mistake and deception among the public and purchasers such that members of the public and purchasers of the infringing products are likely to be confused as to the existence of an association, connection or relationship between CIA and the Defendants, and confused into believing Defendants’ products are endorsed by, connected to, or affiliated with CIA.

21. Defendants’ use of “BELLA WEAR” in connection with their goods is confusingly similar to CIA’s BELLA Marks.

22. On information and belief, Defendants have acted willfully, in bad faith and with the intent to confuse and mislead the public and unfairly trade on the substantial and valuable goodwill encompassed in CIA's BELLA Marks to capitalize on CIA's highly respected reputation as a high-quality clothing and apparel company.

23. CIA is in need of injunctive relief to bring an end to the irreparable harm caused by the sale of the Defendants' goods that infringe on CIA's BELLA Marks. Without an injunction, Defendants will undoubtedly continue to sell the infringing goods and cause additional confusion in the marketplace.

FIRST CLAIM FOR RELIEF

(Federal Trademark Infringement - 15 U.S.C. §1114)

24. CIA repeats and incorporates herein by reference each and every allegation contained in paragraphs 1 through 23 above, inclusive, as though fully set forth herein.

25. By the acts and omissions set forth above, Defendants have infringed and continue to infringe CIA's rights regarding its federal trademark registrations, in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114. Defendants' conduct and use of "BELLA WEAR" is likely to cause confusion, mistake and deception among the general purchasing public as to the affiliation, connection, association, origin, sponsorship or approval of their goods, and interferes with CIA's ability to use its mark to indicate a single quality control source of goods and services.

26. CIA has suffered, is suffering, and will continue to suffer irreparable injury for which CIA has no adequate remedy at law. CIA is therefore entitled to a permanent injunction against further infringing conduct by Defendants.

27. Defendants have profited and are profiting by such infringement and CIA has been and is being damaged by such infringement. CIA is therefore

entitled to recover damages from Defendants in an amount to be proved at trial as a consequence of Defendants' infringing activities.

28. Defendants' aforesaid infringing conduct has been willful, wanton and malicious and done with an intent to deceive. CIA is therefore entitled to an award of its reasonable attorneys' fees and costs, and treble its actual damages, pursuant to 15 U.S.C. § 1117(a).

SECOND CLAIM FOR RELIEF

(False Designation of Origin and Unfair Competition - 15 U.S.C. §1125(a))

29. CIA repeats and incorporates herein by reference each and every allegation contained in paragraphs 1 through 28 above, inclusive, as though fully set forth herein.

30. Defendants' acts as alleged herein also constitute false designation of origin and unfair competition in violation of Lanham Act § 43(a), 15 U.S.C. § 1125(a).

31. Defendants' use in commerce of the BELLA Marks and/or the confusingly similar "BELLA WEAR" mark in connection with their goods constitutes a false designation of the origin and/or sponsorship of such goods and falsely describes and represents such goods.

32. Defendants' acts and conduct constitute unfair competition that has caused and, unless restrained and enjoined by this Court, will continue to violate CIA's trademark rights and cause irreparable harm, damage, and injury to CIA's goodwill and business reputation.

33. CIA has been and continues to be irreparably injured as a result of Defendants' infringement and wrongful acts, and has no adequate remedy at law. CIA is therefore entitled to a permanent injunction against further infringing and unlawful conduct by Defendants.

34. Defendants have profited and are profiting by such infringement and CIA has been and is being damaged by such infringement. CIA is therefore entitled to recover damages from Defendants in an amount to be proved at trial as a consequence of Defendants' infringing and unlawful activities.

35. Defendants' aforesaid wrongful conduct has been willful, wanton and malicious and done with an intent to deceive. CIA is therefore entitled to an award of its reasonable attorneys' fees and costs, and treble its actual damages, pursuant to 15 U.S.C. § 1117(a).

THIRD CLAIM FOR RELIEF

(Common Law Trademark Infringement and Unfair Competition)

36. CIA repeats and incorporates herein by reference each and every allegation contained in paragraphs 1 through 35 above, inclusive, as though fully set forth herein.

37. Defendants have, without authorization from CIA, used the BELLA Marks or a mark similar to the BELLA Marks to offer for sale and sell clothing items.

38. Defendants' actions and conduct as alleged herein is likely to cause confusion, mistake, and deception to consumers as to the affiliation, connection, or association of Defendants with CIA, and as to origin, sponsorship, or approval of Defendants' goods by CIA.

39. Defendants' unauthorized actions and conduct as alleged herein constitute unfair competition under California common law.

40. Defendants' unauthorized actions and conduct constitute direct infringements of CIA's federal trademarks in violation of California common law.

41. On information and belief, Defendants' conduct is intentional, malicious, and wanton in that Defendants infringed and continue to infringe CIA's federal trademarks: (i) with full knowledge that CIA owns and has the exclusive

right to use its federal trademarks; (ii) with the intention of causing a likelihood of confusion and mistake and to deceive; and (iii) with the intention of eliminating competition from CIA.

42. Defendants have caused and, unless restrained and enjoined by this Court, will continue to cause irreparable harm, damage and injury to CIA, including but not limited to injury to CIA's goodwill and business reputation.

43. CIA has suffered, is suffering, and will continue to suffer irreparable injury for which CIA has no adequate remedy at law. CIA is therefore entitled to a permanent injunction against further infringing conduct by Defendants.

PRAYER FOR RELIEF

WHEREFORE, CIA prays for an order and judgment against Defendants, and each of them, as follows:

1. That Defendants, and each of them, their officers, directors, partners, agents, servants, distributors, affiliates, employees, representatives, and all those in privity or acting in concert with Defendants or on their behalf, be permanently enjoined and restrained from, directly or indirectly:

a. Manufacturing, selling, offering to sell, importing for sale, advertising, displaying, or using the BELLA WEAR mark, BELLA Marks, any derivative thereof, any mark including the word "BELLA," or any other mark similar thereto, alone or in combination with other words, names, styles, titles, designs or marks in connection with the manufacture, distribution, sale, advertising, marketing and promotion of any clothing, apparel or accessories;

b. Using in any other way any other mark or designation so similar to CIA's marks as to be likely to cause confusion, mistake or deception or to misappropriate CIA's intellectual property;

c. Representing or implying that Defendants are in any way sponsored by, affiliated with, endorsed by or licensed by CIA;

- d. Otherwise competing unfairly with CIA in any manner;
- e. Using any words, names, styles, designs, titles or marks that create a likelihood of injury to the business reputation of CIA and the goodwill associated therewith;
- f. Using any trade practices whatsoever including those complained of herein, which tend to unfairly compete with or injure CIA's business and goodwill pertaining thereto; and
- g. Continuing to perform in any manner whatsoever any of the acts complained of in this complaint.

2. For an order requiring Defendants to deliver to CIA's attorneys within thirty (30) days after the entry of any preliminary or permanent injunction, to be impounded or destroyed by CIA, all literature, signs, labels, prints, packages, wrappers, containers, advertising and promotional materials, products and any other written materials or items in Defendants' possession or control that bear the aforesaid infringing mark or design, together with all means and materials for making or reproducing the same, pursuant to 15 U.S.C. § 1118, and other applicable laws;

3. For an order requiring Defendants to file with the Clerk of this Court and serve CIA, within thirty (30) days after the entry of any preliminary or permanent injunction, a report in writing, under oath, setting forth in detail the manner and form in which Defendants have complied with 1 through 2 above;

4. For an award of Defendants' profits and CIA's damages according to proof at trial;

5. For an award of three times CIA's damages or Defendants' profits in view of the intentional and willful nature of Defendants' acts, pursuant to 15 U.S.C. section 1117;

6. For an order requiring Defendants to account for and pay to CIA all gains, profits and advantages derived by Defendants from the unlawful activities alleged herein, and /or as a result of unjust enrichment;
7. For an award of punitive damages according to proof;
8. For an award of reasonable attorneys' fees under 15 U.S.C. section 1117;
9. For an award of pre- and post-judgment interest at the highest rate allowed by law;
10. For an award of costs and disbursements incurred in this action; and
11. For such further relief as this Court shall deem just and proper.

DEMAND FOR JURY TRIAL

CIA hereby demands a jury trial in this action.

Dated: April 17, 2014

Respectfully submitted,

GIBBONS P.C.

By: /s/ Daniel S. Weinberger
Edward W. Larkin
Daniel S. Weinberger

One Pennsylvania Plaza, 37th Floor
New York, New York 10119
Tel: (212) 613-2063
Fax: (212) 554-9632
E-mail: elarkin@gibbonslaw.com
dweinberger@gibbonslaw.com

- and -

Michael R. McDonald, Esq. (not admitted
in E.D.N.Y.)
One Gateway Center
Newark, NJ 07102-5310

Tel.: (973) 596-4827
Fax: (973) 639-6295
E-mail: mmcdonald@gibbonslaw.com

- and -

RUTAN & TUCKER, LLP

Lindsay J. Hulley (State Bar No. 184924)
(not admitted in E.D.N.Y.)
Chelsea A. Epps (State Bar No. 261026)
(not admitted in E.D.N.Y.)
611 Anton Boulevard, Suite 1400
Costa Mesa, California 92626-1931
Tel: (714) 641-5100
Fax: (714) 546-9035
lhulley@rutan.com

*Attorneys for Plaintiff
Color Image Apparel, Inc.*

EXHIBIT A

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 2,668,441

United States Patent and Trademark Office

Registered Dec. 31, 2002

**TRADEMARK
PRINCIPAL REGISTER**

bella

COLOR IMAGE APPAREL, INC. (CALIFORNIA
CORPORATION)
601 WALSH AVENUE
SANTA CLARA, CA 95050

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SER. NO. 76-308,113, FILED 9-4-2001.

FOR: GARMENTS, NAMELY COTTON T-SHIRTS
AND TOPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

AMOS T. MATTHEWS, JR., EXAMINING ATTOR-
NEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 2,895,709

Registered Oct. 19, 2004

TRADEMARK
PRINCIPAL REGISTER

BELLA

COLOR IMAGE APPAREL, INC. (CALIFORNIA CORPORATION)
6670 FLOTILLA STREET
COMMERCE, CA 90040

FOR: MEN'S, WOMEN'S AND CHILDREN'S CLOTHING, NAMELY JEANS, DRESSES, SKIRTS, MINISKIRTS, SHORTS, PANTS, SLACKS, TROUSERS, SUITS, PANTSUITS, JACKETS, SWEATERS, CARDIGANS, PULLOVERS, COATS, SPORT COATS, BLOUSES, VESTS, BLAZERS, OVERALLS, SWEATSHIRTS, SWEATPANTS, SWEATSHORTS, SWEATSUITS, SHIRTS, POLO SHIRTS, KNIT SHIRTS, SPORT SHIRTS, TEE-SHIRTS, COTTON SHIRTS, TOPS, TANK-TOPS, HALTER TOPS, KNIT TOPS, WOVEN TOPS, BODYSUITS, CAMISOLES, PAJAMAS, JUMPSUITS, SWIM SUITS, SWIMWEAR, SOCKS, GLOVES; CLOTHING ACCESSORIES

NAMELY BELTS, SCARVES, HATS, CAPS AND VISORS; FOOTWEAR, NAMELY LOAFERS, ESPADRILLES, SANDALS, THONGS, MULES, PUMPS, ATHLETIC SHOES, SLIPPERS, BOOTS, BEACH FOOTWEAR, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

OWNER OF U.S. REG. NO. 2,668,441.

THE ENGLISH TRANSLATION OF "BELLA" IS "BEAUTIFUL".

SER. NO. 78-306,447, FILED 9-28-2003.

MATTHEW PAPPAS, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,158,111

Registered Oct. 17, 2006

TRADEMARK
PRINCIPAL REGISTER

BELLA GIRL

COLOR IMAGE APPAREL, INC. (CALIFORNIA CORPORATION)
6670 FLOTILLA STREET
COMMERCE, CA 90040

OWNER OF U.S. REG. NOS. 2,668,441 AND 2,895,709.

FOR: GIRLS CLOTHING, NAMELY KNIT TOPS AND BOTTOMS, FLEECE TOPS AND BOTTOMS, BASIC TOPS AND BOTTOMS, TANK TOPS, SHORT SLEEVE TOPS AND SHIRTS, LONG SLEEVE TOPS AND SHIRTS, SPAGHETTI STRAP TANK TOPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

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

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

FIRST USE 8-7-2002; IN COMMERCE 8-7-2002.

SER. NO. 78-753,725, FILED 11-14-2005.

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

ADA HAN, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,250,727

Registered June 12, 2007

TRADEMARK
PRINCIPAL REGISTER

BELLA BABY

COLOR IMAGE APPAREL, INC. (CALIFORNIA CORPORATION)

6670 FLOTILLA STREET

COMMERCE, CA 90040

FOR: CLOTHING FOR NEWBORNS AND INFANTS, NAMELY KNIT TOPS AND BOTTOMS, FLEECE TOPS AND BOTTOMS, BASIC TOPS AND BOTTOMS, ONE-PIECE GARMENTS WITH FEET, HATS, CLOTH BIBS, TANK TOPS, SHORT-SLEEVE SHIRTS AND TOPS, LONG-SLEEVE SHIRTS AND TOPS, AND SPAGHETTI STRAP TANK TOPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 9-0-2005; IN COMMERCE 9-0-2005.

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

OWNER OF U.S. REG. NOS. 2,668,441 AND 2,895,709.

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

THE ENGLISH TRANSLATION OF THE FOREIGN WORDING "BELLA" IS "BEAUTIFUL".

SER. NO. 78-753,670, FILED 11-14-2005.

ADA HAN, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,293,659

Registered Sep. 18, 2007

TRADEMARK
PRINCIPAL REGISTER

COLOR IMAGE APPAREL, INC. (CALIFORNIA CORPORATION)
6670 FLOTILLA STREET
COMMERCE, CA 90040

FIRST USE 9-0-2005; IN COMMERCE 9-0-2005.

OWNER OF U.S. REG. NOS. 2,668,441 AND 2,895,709.

FOR: CLOTHING FOR NEWBORNS AND INFANTS, NAMELY KNIT TOPS AND BOTTOMS, FLEECE TOPS AND BOTTOMS, BASIC TOPS AND BOTTOMS, ONE-PIECE GARMENTS WITH FEET, HATS, CLOTH BIBS, TANK TOPS, SHORT-SLEEVE SHIRTS AND TOPS, LONG-SLEEVE SHIRTS AND TOPS, AND SPAGHETTI STRAP TANK TOPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

THE ENGLISH TRANSLATION OF THE FOREIGN WORDING "BELLA" IS "BEAUTIFUL".

SER. NO. 78-763,045, FILED 11-29-2005.

ADA HAN, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,519,794

Registered Oct. 21, 2008

TRADEMARK
PRINCIPAL REGISTER

BELLA

COLOR IMAGE APPAREL, INC. (CALIFORNIA CORPORATION)
6670 FLOTILLA STREET
COMMERCE, CA 90040

FOR: WOMEN'S CLOTHING, NAMELY, TEE SHIRTS, SHORT SLEEVE SHIRTS, LONG SLEEVE SHIRTS, TANK TOPS, FLEECE TOPS, FLEECE PANTS, SHIRTS, PANTS, YOGA PANTS, CAPRI PANTS, SHORTS, BRAS, UNDERWEAR, CAMI-SOLES, SWEATSHIRTS, POLO SHIRTS, AND JACKETS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

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

OWNER OF U.S. REG. NOS. 3,158,111, 3,293,659 AND OTHERS.

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

SER. NO. 77-423,400, FILED 3-17-2008.

LYDIA BELZER, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

BELLA LUXX

Reg. No. 3,967,706

COLOR IMAGE APPAREL, INC. (CALIFORNIA CORPORATION)
6670 FLOTILLA STREET
COMMERCE, CA 90040

Registered May 24, 2011

Int. Cl.: 25

FOR: WOMEN'S CLOTHING, NAMELY, TEE SHIRTS, SHORT SLEEVE SHIRTS, LONG SLEEVE SHIRTS, TANK TOPS, SHIRTS, DRESSES, IN CLASS 25 (U.S. CLS. 22 AND 39).

TRADEMARK

FIRST USE 4-6-2011; IN COMMERCE 4-6-2011.

PRINCIPAL REGISTER

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

OWNER OF U.S. REG. NOS. 3,158,111, 3,519,794, AND OTHERS.

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

SN 85-019,598, FILED 4-21-2010.

DANNAN HETZEL, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

United States of America
United States Patent and Trademark Office

BELLA LUXX

Reg. No. 4,116,227

COLOR IMAGE APPAREL, INC. (CALIFORNIA CORPORATION)
6670 FLOTILLA STREET
COMMERCE, CA 90040

Registered Mar. 20, 2012

Int. Cl.: 35

FOR: ONLINE RETAIL AND WHOLESALE STORE SERVICES FEATURING CLOTHING,
IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

SERVICE MARK

FIRST USE 10-10-2011; IN COMMERCE 10-11-2011.

PRINCIPAL REGISTER

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

OWNER OF U.S. REG. NO. 3,967,706.

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

SN 85-297,573, FILED 4-18-2011.

MICHAEL SOUDERS, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

United States of America
United States Patent and Trademark Office

BELLA

Reg. No. 4,163,125

Registered June 26, 2012

Int. Cl.: 35

SERVICE MARK

PRINCIPAL REGISTER

COLOR IMAGE APPAREL, INC. (CALIFORNIA CORPORATION)
6670 FLOTILLA STREET
COMMERCE, CA 90040

FOR: ONLINE RETAIL AND WHOLESALE STORE SERVICES FEATURING CLOTHING,
IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 4-11-2001; IN COMMERCE 4-24-2001.

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

SER. NO. 85-156,401, FILED 10-19-2010.

SEAN CROWLEY, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

BELLA_BABY

Reg. No. 4,255,236
Registered Dec. 4, 2012
Int. Cl.: 25

COLOR IMAGE APPAREL, INC. (CALIFORNIA CORPORATION)
6670 FLOTTILLA STREET
COMMERCE, CA 90040

FOR: CLOTHING FOR NEWBORNS AND INFANTS, NAMELY, SHIRTS, ONE-PIECE GARMENTS, HATS, AND BIBS, IN CLASS 25 (U.S. CLS. 22 AND 39).

TRADEMARK

FIRST USE 10-23-2012; IN COMMERCE 10-23-2012.

PRINCIPAL REGISTER

OWNER OF U.S. REG. NOS. 3,250,727, 3,519,794, AND OTHERS.

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

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

SN 85-516,044, FILED 1-13-2012.

ELLEN BURNS, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

United States of America
United States Patent and Trademark Office

BELLA MISSY

Reg. No. 4,259,037
Registered Dec. 11, 2012
Int. Cl.: 25

COLOR IMAGE APPAREL, INC. (CALIFORNIA CORPORATION)
6670 FLOTILLA STREET
COMMERCE, CA 90040

TRADEMARK

FOR: WOMEN'S CLOTHING, NAMELY, TEE SHIRTS, SHORT SLEEVE SHIRTS, LONG SLEEVE SHIRTS, TANK TOPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

PRINCIPAL REGISTER

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. 2,668,441, 3,519,794, AND OTHERS.

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

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

SN 85-487,399, FILED 12-5-2011.

ELLEN BURNS, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

BELLAGIRL

Reg. No. 4,259,038

Registered Dec. 11, 2012

Int. Cl.: 25

TRADEMARK

PRINCIPAL REGISTER

COLOR IMAGE APPAREL, INC. (CALIFORNIA CORPORATION)
6670 FLOTILLA STREET
COMMERCE, CA 90040

FOR: GIRLS CLOTHING, NAMELY, KNIT TOPS AND BOTTOMS, FLEECE TOPS AND BOTTOMS, BASIC TOPS AND BOTTOMS, TANK TOPS, SHORT SLEEVE TOPS AND SHIRTS, LONG SLEEVE TOPS AND SHIRTS, SPAGHETTI STRAP TANK TOPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 10-23-2012; IN COMMERCE 10-23-2012.

OWNER OF U.S. REG. NOS. 2,895,709, 3,519,794, AND OTHERS.

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

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

SN 85-487,403, FILED 12-5-2011.

ELLEN BURNS, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

BELLA_{MISSY}

Reg. No. 4,262,459

Registered Dec. 18, 2012

Int. Cl.: 25

TRADEMARK

PRINCIPAL REGISTER

COLOR IMAGE APPAREL, INC. (CALIFORNIA CORPORATION)
6670 FLOTILLA STREET
COMMERCE, CA 90040

FOR: WOMEN'S CLOTHING, NAMELY, TEE SHIRTS, SHORT SLEEVE SHIRTS, LONG SLEEVE SHIRTS, TANK TOPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

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

OWNER OF U.S. REG. NOS. 2,668,441, 3,519,794, AND OTHERS.

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

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

SN 85-487,405, FILED 12-5-2011.

ELLEN BURNS, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

Civil Action No. 14-cv-2475

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

JS 44 (Rev. 1/2013)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Color Image Apparel, Inc., a California corporation

DEFENDANTS

Anthony Ferrara, an individual, and DOES 1 though 10, inclusive

(b) County of Residence of First Listed Plaintiff Los Angeles County, CA
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Queens
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Gibbons P.C.
One Pennsylvania Plaza, 37th floor
New York, New York 10119 (212) 613-2000

Attorneys (If Known)
N/K

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Lanham Act, 15 U.S.C. sections 1114 and 1125, et seq.

Brief description of cause:
Action for injunctive relief and damages for trademark infringement and unfair competition.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Daniel S. Weinberger, counsel for Plaintiff, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

None.

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No
 - b) Did the events of omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County?

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: //S// Daniel S. Weinberger