

ESTTA Tracking number: **ESTTA608289**

Filing date: **06/05/2014**

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	The Board of Regents for Oklahoma State University
Granted to Date of previous extension	06/08/2014
Address	5th Floor - Student Union Stillwater, OK 74078 UNITED STATES

Attorney information	Todd A. Nelson Fellers Snider Blankenship Bailey & Tippens, P.C. 321 S. Boston Suite 800 Tulsa, OK 74103 UNITED STATES trademarks@fellerssnider.com Phone:918-599-0621
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Applicant Information

Application No	86016079	Publication date	12/10/2013
Opposition Filing Date	06/05/2014	Opposition Period Ends	06/08/2014
Applicant	Alexandra Rumpakis 5435 Southwood Drive Lake Oswego, OR 97035 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: Hats; Sweatshirts; T-shirts

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.	4388628	Application Date	07/25/2011
Registration Date	08/20/2013	Foreign Priority Date	NONE
Word Mark	AMERICA'S BRIGHTEST ORANGE		

Design Mark	AMERICA'S BRIGHTEST ORANGE
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2011/08/01 First Use In Commerce: 2011/08/01 Education and entertainment services, namely, providing course of instruction at the university level; research in the field of education; arranging and conducting athletic events and tournaments, exhibitions, conferences, live performances and festivals

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	LIVE ORANGE		
Goods/Services	educational services, athletics and related goods		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	HOW ORANGE ARE YOU?		
Goods/Services	educational services, athletics and related goods		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ORANGE CONNECTION		
Goods/Services	educational services, athletics and related goods		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ORANGE POWER		
Goods/Services	educational services, athletics and related goods		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ORANGE PRIDE		
Goods/Services	educational services, athletics and related goods		

Related Proceed-	YOU ONLY LIVE ORANGE (86/016,130)
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Attachments	85379603#TMSN.jpeg(bytes) Notice_of_Opposition.pdf(11065 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	/todd a. nelson/
Name	Todd A. Nelson
Date	06/05/2014

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

In re: 86/016,079
Filed: July 22, 2013
Mark: LIVE ORANGE
Published: December 10, 2013

THE BOARD OF REGENTS	§	
FOR OKLAHOMA STATE UNIVERSITY,	§	
	§	
Opposer,	§	
	§	
v.	§	Opposition No. _____
	§	
ALEXANDRA RUMPAKIS,	§	
	§	
Applicant.	§	

NOTICE OF OPPOSITION

The Board of Regents for Oklahoma State University, acting for and on behalf of Oklahoma State University (“Opposer” or “OSU”), by and through its undersigned counsel, believes it will be damaged by the registration of the mark shown in Application Serial Number 86/016,079, filed July 22, 2013 by Alexandra Rumpakis, 5435 Southwood Drive, Lake Oswego, Oregon 97035 (“Applicant”).

As grounds for opposition it is alleged that:

1. Applicant seeks to register “LIVE ORANGE” in International Class 025 for hats, sweatshirts and t-shirts.
2. The cited Application Serial No. 86/016,079 was filed as an intent-to-use application.
3. OSU has used the color orange as one of its team/university colors for many decades (the other principal color being black), and has also used and is using the word “orange”

on various merchandise and promotional materials for purposes of promoting its university and athletic teams. The color “orange” is well-known among the public as a color associated with Opposer and its goods and services, as well as its alumni association and foundation.

4. Opposer has used the mark LIVE ORANGE and other trademarks and service marks incorporating the term “orange,” including but not limited to AMERICA’S BRIGHTEST ORANGE (U.S. Registration No. 4,388,628), HOW ORANGE ARE YOU?, ORANGE CONNECTION, ORANGE POWER and ORANGE PRIDE in association with its educational services, athletics and related goods many years prior to the filing of Applicant’s application. This includes use of the mark LIVE ORANGE in association with t-shirts and apparel.

5. Opposer has expended considerable effort and expense in promoting its LIVE ORANGE and other Orange-based marks and has established valuable goodwill in its marks.

6. Upon information and belief, consumers will be confused as to the source or origin of Applicant’s goods or misled into mistakenly believing that there is a connection, affiliation or sponsorship of Applicant’s goods by Opposer.

7. Upon information and belief, Opposer will be damaged by the registration of the LIVE ORANGE mark on the Principal Register.

CONCLUSION

WHEREFORE, Opposer, The Board of Regents for Oklahoma State University, prays that the application for registration of Applicant’s mark be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

Date: June 5, 2014

Respectfully Submitted,

/todd a. nelson/

Todd A. Nelson
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Attorneys for Opposer,
THE BOARD OF REGENTS FOR
OKLAHOMA STATE UNIVERSITY

CERTIFICATE OF TRANSMITTAL - ESTTA

Date of Deposit June 5, 2014

I hereby certify that this correspondence is being transmitted to the UNITED STATES PATENT AND TRADEMARK OFFICE via the ESTTA system on June 5, 2014.

/todd a. nelson/

Todd A. Nelson

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on APPLICANT, by mailing said copy on June 5, 2014, via First Class Mail, postage prepaid to:

Charles R. Bowers, Esq.
CHARLES R. BOWERS, PC
2000 NE 42nd Ave, Suite 121
Portland, Oregon 97213

/todd a. nelson/

Todd A. Nelson