

ESTTA Tracking number: **ESTTA861180**

Filing date: **11/29/2017**

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	Hublot SA, Genève
Granted to Date of previous extension	11/29/2017
Address	Rue du Rhône 30 Genève, CH-1204 SWITZERLAND

Attorney information	John P. Margiotta Fross Zelnick Lehrman & Zissu, P.C. 4 Times Square, 17th Floor New York, NY 10036 UNITED STATES Email: jmargiotaa@fzlz.com, jinsley-pruitt@fzlz.com Phone: 212-813-5900
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Applicant Information

Application No	87353235	Publication date	08/01/2017
Opposition Filing Date	11/29/2017	Opposition Period Ends	11/29/2017
Applicant	Big Bangles Theory Inc 1441 Castlebrooke Way Marietta, GA 30066 UNITED STATES		

Goods/Services Affected by Opposition

Class 014. First Use: 2015/10/28 First Use In Commerce: 2015/12/04 All goods and services in the class are opposed, namely: Bangle bracelets; Bangles; Bracelets

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.	3149003	Application Date	10/28/2005
Registration Date	09/26/2006	Foreign Priority Date	06/01/2005
Word Mark	BIG BANG		

Design Mark	BIG BANG
Description of Mark	NONE
Goods/Services	Class 014. First use: First Use: 0 First Use In Commerce: 0 Timepieces and chronometric instruments and parts thereof namely watch cases, watch bands, watches used as chronographs, watches used as chronoscopes, chronometers, watches, wristwatches, dress watches, diving watches, movements for clocks and watches, movements for watches

U.S. Registration No.	3376234	Application Date	12/15/2006
Registration Date	01/29/2008	Foreign Priority Date	06/21/2006

Word Mark	BIG BANG
Design Mark	BIG BANG
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 0 First Use In Commerce: 0 [Perfumes, non-medicinal preparations for toiletry use, namely, oils, after-shave lotions, soaps] Class 009. First use: First Use: 0 First Use In Commerce: 0 Sunglasses, sports eyewear, spectacle frames, spectacle cases Class 016. First use: First Use: 0 First Use In Commerce: 0 [Pencil stands, propelling pencils, roller pens, penholders and pen clips, pens, pen nibs, pen cases, writing materials, namely, inks, pads] Class 018. First use: First Use: 0 First Use In Commerce: 0 [Rucksacks, handbags, travelling bags, trunks and suitcases, boxes and cases of leather or imitation leather, valises for personal effects, attaché cases, travelling bag sets, briefcases, key cases, business card cases, umbrellas, parasols and walking sticks]

U.S. Registration No.	5308982	Application Date	01/30/2014
Registration Date	10/17/2017	Foreign Priority Date	NONE
Word Mark	BIG BANG		

Design Mark	BIG BANG
Description of Mark	NONE
Goods/Services	<p>Class 003. First use: First Use: 0 First Use In Commerce: 0 Perfumes, non-medicinal preparations for toiletry use, namely, oils, after shave lotions and soaps; cosmetics</p> <p>Class 018. First use: First Use: 0 First Use In Commerce: 0 Rucksacks, handbags, traveling bags, trunks and suitcases, boxes and cases of leather or imitation leather, valises for personal effects, attache cases, traveling bag sets, briefcases, key cases, business card cases, umbrellas, parasols and walking sticks</p> <p>Class 034. First use: First Use: 0 First Use In Commerce: 0 tobacco; matches; smokers' articles not made of precious metals, namely, smokers' ashtray, cigar and cigarette boxes, smokers' lighter</p>

Attachments	<p>79017669#TMSN.png(bytes) 79033958#TMSN.png(bytes) 86179948#TMSN.png(bytes) F2434780.PDF(190985 bytes)</p>
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Signature	/John Margiotta/
Name	John P. Margiotta
Date	11/29/2017

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

HUBLLOT SA, GENÈVE,

Opposer,

v.

Opposition No. _____

BIG BANGLES THEORY INC.,

Applicant.

Opposer Hublot SA, Genève (“Opposer”), a société anonyme organized and existing under the laws of Switzerland with a principal place of business at Rue du Rhône 30, CH-1204 Genève, Switzerland, believes that it would be damaged by registration of the mark BIG BANGLES THEORY, as applied for in Application Serial No. 87/353,235, and therefore opposes the same. As grounds for the opposition, Opposer, by its attorneys Fross Zelnick Lehrman & Zissu, P.C., alleges as follows:

A. Opposer and Opposer’s BIG BANG Marks

1. Opposer is a well-known Swiss designer and manufacturer of finely crafted luxury products.
2. Since at least as early as 2011, Opposer has used the mark BIG BANG (the “BIG BANG Mark”) in the United States in connection with a variety of goods, including watches and fashion accessories.
3. Opposer has distributed goods bearing the BIG BANG Mark throughout the United States, resulting in substantial sales.
4. Opposer’s BIG BANG Mark is associated with and symbolizes the highest quality and embodies an image of refinement and elegance.

5. Through years of sales, advertising, and promotional efforts, the BIG BANG Mark has become extremely valuable to Opposer and symbolizes a reputation and goodwill belonging in the United States to Opposer exclusively.

6. In addition to the common law rights accruing to Opposer in the BIG BANG Mark, Opposer owns numerous United States trademark registrations for the BIG BANG Mark, including the following:

- U.S. Registration No. 3,149,003 for BIG BANG in connection with “Timepieces and chronometric instruments and parts thereof namely watch cases, watch bands, watches used as chronographs, watches used as chronoscopes, chronometers, watches, wristwatches, dress watches, diving watches, movements for clocks and watches, movements for watches” in International Class 14, registered on September 26, 2006;
- U.S. Registration No. 3,376,234 for BIG BANG in connection with “Sunglasses, sports eyewear, spectacle frames, spectacle cases” in International Class 9, registered on January 29, 2008; and
- U.S. Registration No. 5,308,982 for BIG BANG in connection with “Perfumes, non-medicinal preparations for toiletry use, namely, oils, after shave lotions and soaps; cosmetics” in International Class 3, “Rucksacks, handbags, traveling bags, trunks and suitcases, boxes and cases of leather or imitation leather, valises for personal effects, attache cases, traveling bag sets, briefcases, key cases, business card cases, umbrellas, parasols and walking sticks” in International Class 18, and “tobacco; matches; smokers’ articles not made of precious metals, namely, smokers’ ashtray, cigar and cigarette boxes, smokers’ lighter” in International Class 34, registered on October 17, 2017.

7. The foregoing registrations are valid and subsisting, and serve as evidence of Opposer’s exclusive right to use the BIG BANG Mark in commerce on or in connection with the goods identified in the registrations, as provided by Section 33(a) of the Lanham Act, 15 U.S.C. § 1115(a). In addition, Registration Nos. 3,149,003 and 3,376,234 have become incontestable pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065, and therefore serve as conclusive proof of Opposer’s exclusive right to use the marks in commerce on or in connection with the

goods listed in those registrations, as provided by Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b).

B. Applicant and Its Application

8. On information and belief, Big Bangles Theory Inc (“Applicant”) is a Georgia corporation with an address at 1441 Castlebrooke Way, Marietta, Georgia 30066.

9. On February 28, 2017, Applicant filed Application Serial No. 87/353,235 (the “Application”) to register the mark BIG BANGLES THEORY (“Applicant’s Mark”) in connection with “Bangle bracelets; Bangles; Bracelets” in International Class 14, claiming first use on October 28, 2015 and first use in commerce on December 4, 2015.

COUNT 1:
PRIORITY AND LIKELIHOOD OF CONFUSION

10. Opposer repeats and re-alleges each and every allegation contained in paragraphs 1 through 9 as if fully set forth herein.

11. The Application was filed long after Opposer’s date of first use of the BIG BANG Mark and long after the date the BIG BANG Mark was registered by Opposer in the United States Patent and Trademark Office.

12. Opposer’s rights in the BIG BANG Mark are prior and superior to any rights Applicant may claim in Applicant’s Mark.

13. Applicant is not connected to Opposer in any way, and has not been authorized by Opposer to use Applicant’s Mark.

14. Applicant was on constructive notice of Opposer’s rights in the BIG BANG Mark based on Opposer’s registrations therefor.

15. Applicant’s Mark is similar in sound, meaning, appearance, and commercial impression to the BIG BANG Mark.

16. Applicant seeks to register Applicant's Mark for goods that consumers are likely to believe come from the same source as goods sold by Opposer under the BIG BANG Mark.

17. By virtue of Opposer's longstanding use of the BIG BANG Mark, the goodwill associated with the mark, and Opposer's registrations therefor, the registration by Applicant of a mark confusingly similar to the BIG BANG Mark for related goods is likely to cause confusion or cause mistake or to deceive the purchasing public into mistakenly believing that Applicant's goods offered under Applicant's Mark originate from, come from, or are otherwise associated with Opposer, or that Applicant's goods offered in connection with Applicant's Mark are endorsed, sponsored, or in some way connected with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

18. Registration to Applicant of Applicant's Mark would be inconsistent with Opposer's prior exclusive rights in the BIG BANG Mark, and would threaten destruction of Opposer's investment and goodwill in its longstanding and valuable BIG BANG Mark.

19. By reason of the foregoing, Opposer is likely to be harmed by registration of the Application for Applicant's Mark.

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration sought by Applicant in Application Serial No. 87/353,235 be denied.

Dated: New York, New York
November 29, 2017

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 

John P. Margiotta

Jennifer Insley-Pruitt

4 Times Square

New York, New York 10036

(212) 813-5900

Attorneys for Opposer