

ESTTA Tracking number: **ESTTA912865**

Filing date: **07/31/2018**

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	Aviator Nation, Inc.
Granted to Date of previous extension	08/08/2018
Address	1224 Abbot Kinney Blvd. Venice, CA 90291 UNITED STATES

Attorney information	Kent M. Walker Lewis Kohn & Walker LLP 15030 Avenue of Science Suite 201 San Diego, CA 92131 UNITED STATES Email: <a href="mailto:kwalker@lewiskohn.com">kwalker@lewiskohn.com</a>
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### Applicant Information

Application No	87622385	Publication date	04/10/2018
Opposition Filing Date	07/31/2018	Opposition Period Ends	08/08/2018
Applicant	Beltran, Chriselda PO BOX 33503 San Antonio, TX 78265 UNITED STATES		

### Goods/Services Affected by Opposition

Class 018. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Backpacks; Handbags; Purses; Tote bags
Class 021. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Beverage glassware; Coffee cups; Cups
Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Bottoms as clothing; Dresses; Footwear; Headwear; Neckwear; Tops as clothing


### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3662517	Application Date	03/11/2008
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Registration Date	08/04/2009	Foreign Priority Date	NONE
Word Mark	AVIATOR NATION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2006/04/01 First Use In Commerce: 2006/11/01 Hats; Jackets; Jeans; Polo shirts; Sandals; Shirts; Shoes; Shorts; Sweat pants;Sweat shirts; T-shirts		

U.S. Registration No.	4707772	Application Date	07/29/2014
Registration Date	03/24/2015	Foreign Priority Date	NONE
Word Mark	AVIATOR NATION VENICE, CA		
Design Mark			
Description of Mark	<p>The mark consists of a black and white image of a man on a surfboard surfing on blue water with five lines in dark blue, red, orange, dark yellow and yellow extending horizontally to the left from the surfer's body, the water surrounded by a green circle, the words "AVIATOR NATION" in red letters above the green circle and the words "VENICE, CA" in red letters below the green circle completely surrounded by a dark yellow circle. The white circle in which the words "AVIATOR NATION VENICE, CA" appear represents a transparent area and is not a part of the mark.</p>		

Goods/Services	Class 025. First use: First Use: 2006/05/01 First Use In Commerce: 2007/12/31 Hats; Sweat jackets; Sweat shirts; Sweat suits; T-shirts
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Attachments	77419351#TMSN.png( bytes ) 86351023#TMSN.png( bytes ) Notice of Opposition No. 87622385.pdf(32568 bytes )
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Signature	/Kent M. Walker/
Name	Kent M. Walker
Date	07/31/2018

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

In the matter of trademark application  
Serial No. 87/622,385  
Filed September 26, 2017  
For the mark AVIATOR CHIC DESIGNS  
Published in the *Official Gazette* on April 10, 2018

AVIATOR NATION, INC.,

Opposer,

vs.

CHRISELDA BELTRAN,

Applicant.

**Opposition No.:** \_\_\_\_\_

**NOTICE OF OPPOSITION**

Aviator Nation, Inc., a California corporation, having its principal place of business at 1224 Abbot Kinney Blvd, Venice, California 90291 (“Opposer”), believes that it will be damaged by the registration of the trademark AVIATOR CHIC DESIGNS as applied for by Chriselda Beltran (“Applicant”), in Application Serial No. 87/622,385 in connection with goods in International Classes 18, 21, and 25.

The above-identified Opposer believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

1. On September 26, 2017, Applicant CHRISELDA BELTRAN (“Applicant”) filed to register the proposed mark AVIATOR CHIC DESIGNS, Serial No. 87622385, in IC 18 for “backpacks; handbags; purses; tote bags,” in IC 21 for “beverage glassware; coffee cups; cups,” and in IC 25 for “bottoms as clothing; dresses; footwear; headwear; neckwear; tops as clothing,” claiming a bona fide intent to use the mark in commerce, as is evidenced by publication of said mark in the *Official Gazette* in the April 10, 2018 issue.

**Notice of Opposition**

1           2.       Opposer is the owner of Registration No. 3,662,517 for AVIATOR NATION for  
2 “Hats; jackets; jeans; polo shirts; sandals; shirts; shoes; shorts; sweat pants; sweat shirts; t-shirts”

3 IC 25. Opposer is also the owner of the Registration No. 4,707,772:



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5  
6 i.e. AVIATOR NATION VENICE, CA for “Hats; Sweat jackets; Sweat shirts; Sweat suits; T-  
7 shirts” IC 25. These registrations are valid, subsisting, unrevoked, and uncanceled. Opposer also  
8 sells bags in connection with Opposer’s Marks.

9           3.       Opposer’s use of Opposer’s Marks has been valid and continuous since at least  
10 2006 and has not been abandoned. Opposer’s marks are symbolic of extensive goodwill and  
11 consumer recognition. As a result of the substantial amounts of time and effort in advertising and  
12 promotion, Opposer has developed valuable goodwill with respect to Opposer’s Marks.

13           4.       Applicant’s Mark and Opposer’s Marks are similar in appearance.

14           5.       Applicant’s goods and Opposer’s goods are similar and related.

15           6.       On information and belief, Opposer alleges that the goods of Opposer and  
16 Applicant are offered or to be offered in similar channels of commerce and offered to similar  
17 customers.

18           8.       Applicant’s use of and application to register Applicant’s Mark is without consent  
19 or permission of Opposer.

20           9.       Applicant’s Mark and Opposer’s Marks are likely to be confused.

21           10.      On information and belief, Opposer’s first use of Opposer’s Marks precede  
22 Applicant’s first use of Applicant’s Mark in commerce.

23           11.      Opposer is likely to be damaged by registration of Applicant’s Mark in that the  
24 effect of registration of Applicant’s Mark and Applicant’s use of the Mark would be likely to  
25 cause consumers and purchasers, both actual and prospective, of Opposer’s and Applicant’s goods  
26 to mistakenly believe that Applicant and/or Applicant’s goods are sponsored, authorized,  
27 endorsed, affiliated, or otherwise approved by Opposer.  
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1 12. Opposer is likely to be damaged by registration of Applicant's Mark in that the  
2 effect of registration of Applicant's Mark and Applicant's use of the mark would be likely to  
3 cause dilution of the distinctive quality of Opposer's Marks.

4 13. Opposer is likely to be damaged by registration of Applicant's Mark in that the  
5 effect of registration of Applicant's Mark would tend to impair Opposer's right to use, protect and  
6 own Opposer's Marks and the goodwill therein.

7 14. Opposer is likely to be damaged by registration of Applicant's Mark in that the  
8 effect of registration of Applicant's Mark would tend to impair Opposer's right to maintain  
9 existing registration and register future of Opposer's Marks with the U.S. Patent and Trademark  
10 Office.

11 14. For the foregoing reasons, the registration sought by Applicant is contrary to the  
12 provisions of the Lanham Act, and Opposer would be damaged thereby.

13 WHEREFORE, Opposer AVIATOR NATION, INC. prays that the application for  
14 registration of the mark AVIATOR CHIC DESIGNS and design, Serial No. 87/622,385, be  
15 refused and that this Opposition be sustained in favor of Opposer.

16  
17 DATED: July 31, 2018

18 Respectfully submitted

19  
20 By: /KENT M. WALKER/  
21 KENT M. WALKER  
22 LEWIS KOHN & WALKER LLP  
23 Attorney for Opposer  
24 Reg. No.: 38,649  
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CERTIFICATE OF SERVICE BY MAIL

1 I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION is  
2  
3 being served by First Class mail, postage prepaid, and by email, on July 31, 2018, on Applicant via  
4 its attorney of record at the street and email address below:

5 Antonio G. Vann  
6 DUNALP BENNETT & LUDWIG PLLC  
7 211 Church St., SE  
8 Leesburg, VA 20175  
9 [trademarks@dbllawyers.com](mailto:trademarks@dbllawyers.com)

Executed on July 31, 2018 at San Diego, California.

10 /s / KENT M. WALKER  
11 Kent M. Walker

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