

ESTTA Tracking number: **ESTTA1096434**

Filing date: **11/19/2020**

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	Unconditional Love Inc.		
Entity	Corporation	Citizenship	Delaware
Address	17383 SUNSET BLVD SUITE B200 PACIFIC PALISADES, CA 90272 UNITED STATES		
Attorney information	JOHN M. MUELLER BAKER & HOSTETLER LLP 312 WALNUT STREET SUITE 3200 CINCINNATI, OH 45202 UNITED STATES Primary Email: bhipdocket@bakerlaw.com Secondary Email(s): jmueller@bakerlaw.com, jmbarr@bakerlaw.com 513-929-3400		
Docket Number	118803.21020		

Applicant Information

Application No.	88771099	Publication date	10/20/2020
Opposition Filing Date	11/19/2020	Opposition Period Ends	11/19/2020
Applicant	Hello Products, LLC 363 BLOOMFIELD AVENUE MONTCLAIR, NJ 07042 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. First Use: 2013/03/00 First Use In Commerce: 2013/03/00 All goods and services in the class are opposed, namely: (Based on Intent to Use) lip balm; bar soap; anti-perspirant; breath fresheningsprays; breath freshening preparations for personal hygiene; dissolvable breathstrips and tablets, namely, breath freshening strips and non-medicated breath freshening tablets; nonmedicated breath freshening strips and tablets; tooth whitener, namely, strips, tooth whitening preparations; (Based on Use) deodorant for personal use, dentifrices; mouthwash, not for medical purposes; toothpaste; non-medicated mouth rinse; tooth whitener, namely, pastes, tablets and rinses
Class 021. First Use: 2013/03/00 First Use In Commerce: 2013/03/00 All goods and services in the class are opposed, namely: (Based on Intent to Use) electric toothbrushes; (Based on Use) dental floss, dental floss picks for personal use; toothbrushes
Class 030. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: breath freshening mints; breath freshening gum

Applicant Information

Application No.	88771114	Publication date	10/20/2020
Opposition Filing Date	11/19/2020	Opposition Period Ends	11/19/2020
Applicant	Hello Products, LLC 363 BLOOMFIELD AVENUE MONTCLAIR, NJ 07042 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. First Use: 2013/03/00 First Use In Commerce: 2013/03/00

All goods and services in the class are opposed, namely: (Based on Intent to Use) lip balm; bar soap; anti-perspirant; breath fresheningsprays; breath freshening preparations for personal hygiene; dissolvable breathstrips and tablets, namely, breath freshening strips and non-medicated breath freshening tablets; nonmedicated breath freshening strips and tablets; tooth whitener, namely, strips, tooth whitening preparations; (Based on Use) deodorant for personal use, dentifrices; mouthwash, not for medical purposes; toothpaste; non-medicated mouth rinse; tooth whitener, namely, pastes, tablets and rinses

Class 021. First Use: 2013/03/00 First Use In Commerce: 2013/03/00

All goods and services in the class are opposed, namely: (Based on Intent to Use) electric toothbrushes; (Based on Use) dental floss, dental floss picks for personal use; toothbrushes

Class 030. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: breath freshening mints; breath freshening gum

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Failure to function as a mark	Trademark Act Sections 1, 2 and 45

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	88921938	Application Date	05/18/2020
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HELLO BELLO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2019/11/00 First Use In Commerce: 2019/11/00 Lip balm; Bath bombs		

U.S. Application No.	88921944	Application Date	05/18/2020
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HELLO BELLO		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 0 First Use In Commerce: 0 Window cleaning preparations for household use; Bathroom cleaning preparations for household use; Floor cleaning preparations for household use; Cleaning preparations for household use; Multi-surfacehousehold cleaning preparations; Multi-surface spray cleaning preparations for household use; Laundry stain removers; Non-medicated hand soap; Dishwashing preparations; Dishwashing detergents; Automatic dishwashing detergent pods; Massage oil; Baby lotion; Aloe vera spray for cosmetic purposes; SPF sun block spray; Non-medicated balm for use on the chest inthe nature of a chest rub stick; Non-medicated nipple balm stick

U.S. Application No.	87953005	Application Date	06/07/2018
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HELLO BELLO		
Design Mark			
Description of Mark	The mark consists of a vertical rectangle with the wording "HELLO" inside the rectangle on the left side written vertically with the "H" towards the bottom andthe wording "BELLO" inside the rectangle on the right side written vertically with the "B" towards the top.		
Goods/Services	Class 003. First use: First Use: 0 First Use In Commerce: 0 baby hand soap; baby lotion; baby powder; baby wipes; bath soaps; body lotion; body oil; body wash; bubble bath; cleaning preparations for household purposes; hair conditioner; laundry detergent; non-medicated diaper rash cream; non-medicated hand soaps; shampoos; skin lotion; spray cleaners for use on household purposes; sun-block lotions; sun-tanning oilsand lotions; wipes impregnated with a cleaning preparation Class 005. First use: First Use: 0 First Use In Commerce: 0 Antibacterial hand soaps; Baby diapers;Baby food; Hand-sanitizing preparations; Infant formula		

U.S. Application No.	88648105	Application Date	10/09/2019
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HELLO BELLO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2019/06/03 First Use In Commerce: 2019/06/03 Hand-sanitizing preparations; Baby diapers; Insect repellent; Gummy vitamins; Prenatal vitamins; Dietary and nutritional supplements containing fish oil		

U.S. Application No.	88648119	Application Date	10/09/2019
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HELLO BELLO		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2019/07/22 First Use In Commerce: 2019/07/22 Baby powder; Baby wipes impregnated with cleaning preparations; Bath soaps; Body lotion; Baby oil; Body wash and shampoo; Hair detangler preparations; Body oil; Bubble bath; Bath bombs; Hair conditioner; Laundry detergent; Non-medicated diaper rash cream; Sun block lotions; Wipes impregnated with a cleaning solution

U.S. Application No.	88675668	Application Date	10/31/2019
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HELLO BELLO		
Design Mark			
Description of Mark	The mark consists of a vertical rectangle with the wording "HELLO" inside the rectangle on the left side written vertically with the "H" towards the bottom and the wording "BELLO" inside the rectangle on the right side written vertically with the "B" towards the top.		
Goods/Services	Class 035. First use: First Use: 2019/02/25 First Use In Commerce: 2019/02/25 Retail store services featuring a wide variety of consumer goods, namely, eco-friendly baby products, baby bath products, baby diaper products, baby body care products, household cleaning products, hand-sanitizing preparations, insect repellent, vitamins and dietary and nutritional supplements; Providing consumer product information via the Internet or other communications networks; Computerized on-line ordering services featuring a wide variety of consumer goods, namely, eco-friendly baby products, baby bath products, baby diaper products, baby body care products, household cleaning products, hand-sanitizing preparations, insect repellent, vitamins and dietary and nutritional supplements		

U.S. Application No.	88675675	Application Date	10/31/2019
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HELLO BELLO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2019/02/25 First Use In Commerce: 2019/02/25 Retail store services featuring a wide variety of consumer goods, namely, eco-friendly baby products, baby bath products, baby diaper products, baby body care products, household cleaning products, hand-sanitizing preparations, insect repellent, vitamins and dietary and nutritional supplements; Providing consumer product information via the Internet or other communications networks; Computerized on-line ordering services featuring a wide variety of consumer goods, namely, eco-friendly baby products, baby bath products, baby diaper products, baby body care products, household cleaning products, hand-sanitizing preparations, insect repellent, vitamins and dietary and nutritional supplements		

Attachments	88771099_201119_Notice of Opposition.pdf(617559 bytes)
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Signature	/John M. Mueller/
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Name	John M. Mueller
Date	11/19/2020

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

In re Serial Nos. 88/771099 and 88/771114 for the marks HELLO and HELLO and Design.
Published October 20, 2020

UNCONDITIONAL LOVE, INC.)	
)	
Opposer)	
v.)	Opposition No. _____
HELLO PRODUCTS, LLC)	
)	
Applicant)	

NOTICE OF OPPOSITION

Unconditional Love Inc. d/b/a Hello Bello, a Delaware corporation, having its principal place of business at 17383 Sunset Blvd., Suite B200, Pacific Palisades, California 90272 (“Hello Bello” or “Opposer”) believes that it will be damaged by registration of the marks HELLO and HELLO and Design under application for federal trademark registration Ser. Nos. 88/771099 and 88/771114, filed January 23, 2020, by Hello Products, LLC, a Delaware limited liability company, having an address at 363 Bloomfield Avenue, Suite 2D, Montclair, New Jersey 07042 (“Applicant”), relating to goods in International Class 03 (lip balm; bar soap; anti-perspirant; breath freshening sprays; breath freshening preparations for personal hygiene; dissolvable breath strips and tablets, namely, breath freshening strips and non-medicated breath freshening tablets; nonmedicated breath freshening strips and tablets; tooth whitener, namely, strips, tooth whitening preparations; deodorant for personal use, dentifrices; mouthwash, not for medical purposes; toothpaste; non-medicated mouth rinse; tooth whitener, namely, pastes, tablets and rinses), 21 (electric toothbrushes; dental floss, dental floss picks for personal use; toothbrushes),

and 30 (breath freshening mints; breath freshening gum) (“Applications”) and hereby opposes the same pursuant to Section 13 of the Trademark Act (15 U.S.C. § 1063). As grounds therefore, Hello Bello alleges as follows:

1. Hello Bello is the owner of the highly valuable and widely recognized “Hello Bello” brand of baby and family products. Hello Bello brings this opposition against Applicant to prevent Applicant from illegitimately hindering competition by asserting the exclusive right to use the ubiquitous word “hello” in certain product areas. Applicant’s claimed dominion over the word “hello” defies common sense and turns trademark law on its head. Indeed, as Applicant itself has recognized, the idea of asserting exclusive trademark rights to a common greeting like “hello” is “crazy.”

2. “Hello” is the most common greeting in the English language. For decades, companies have used the word as a way to communicate with consumers. The use of the word “hello” on product packaging and advertising functions as a friendly greeting meant to attract attention to the product without regard to its origin. Standing alone, “hello” does not indicate a source of goods to consumers. Accordingly, Applicant’s purported trademarks to the word “hello” are invalid and unenforceable because they do not function as a trademark when used on advertising or product packaging in violation of 15 U.S.C. § 1052(e)(5).

3. By asserting the exclusive right to the word “hello,” Applicant seeks to weaponize trademark law to improperly enrich itself, stifle competition, and gain an unfair competitive edge that is not based on any reputational value.

4. Applicant sells toothpaste and other oral care products. Despite not competing in the baby care space, in September 2020, Applicant began filing notices of opposition to Hello

Bello’s trademark applications, including Nos. 87/953005, 88/684105, 88/648119, 88/675668, 88/675675, 88/921938, and 88/921944.

5. Applicant’s use of the word “hello” as a purported trademark upends the purposes of trademark law. The primary benefit that Applicant receives from use of the word “hello” is not that the mark allows consumers to identify a brand that has independently developed a reputation. Instead, Applicant has sought to take advantage of the linguistic function of the word “hello” as a friendly greeting to gain unmerited attention for its products and, more importantly, to attempt to preclude other companies from using the word “hello” to similarly greet potential consumers.

6. Applicant itself has effectively recognized that its registration of the word “hello” represents an attempt to profit on the word’s ubiquity and that the company was able to register this trademark due to the cleverness of its attorneys, not the genuine use of the word as a legitimate trademark. In the “Frequently Asked Questions” portion of Applicant’s website, Applicant includes the question, “is it true you trademarked hello?” As reflected below, Applicant’s answer is “yes, we did. hello is a registered trademark now. crazy, right? big ups to our trademark and IP legal counsel, you all rock.” Crazy, indeed.



7. Similarly, in a recent interview, Applicant’s founder Craig Dubitsky gleefully acknowledged that Applicant’s purported trademark of a generic greeting like “hello” defies consumer expectations as well as common sense. Mr. Dubitsky told the New Jersey Tech Council, “When it came time to name our product, I thought, ‘What’s the friendliest word I can

think of?’ It was ‘hello,’ and I trademarked the word all over the world for the relevant categories. People were like, ‘You can’t do that,’ and I said, ‘Well, I did.’” Available at <https://njtechweekly.com/montclair-entrepreneur-dubitsky-who-sold-hello-products-to-calgate-talks-about-entrepreneurship-during-njtc-webinar/>.

8. Applicant’s marketing campaigns also center around the fact that its asserted trademark functions as a greeting. For example, on its social media pages, the company places a registered trademark symbol next to the word “hello” even when the word is used in a sentence, as when the company asks consumers to “say hello® to a new kind of oral care[.]”



9. Similarly, the function of the word “hello” as a greeting is readily apparent in a Applicant’s advertisement titled “What’s In Your Toothpaste?” *Available at* <https://www.youtube.com/watch?v=yALrFpURtcc>. In the video, a talking cartoon tooth says that nobody stopped to think about the ingredients in toothpaste, “until someone did.” Then, a cartoon rabbit pops out from behind a bathroom mirror and says “hello” to a family brushing its teeth. The talking tooth then responds, “That’s right, ‘hello’ did.” The ad then ends with the phrase “say hello to hello.” The video’s puns highlight the essential issue: the word “hello” functions and is perceived primarily as a friendly greeting, not as an indication of the product’s source.

10. As Applicant itself has recognized, asserting a purported trademark in the most common greeting in the English language is “crazy.” Claiming the right to preclude others from using that word is even crazier. As with virtually all common words and phrases, the word “hello” standing alone functions to impart information—specifically, a greeting or generalized attempt to draw attention—rather than identifying the source of the goods on which the word “hello” is used.

11. The use of “hello” in commerce and advertising is commonplace. Indeed, use of the word “hello” in advertising is so prevalent across all product areas that the New York Times reported on the phenomenon as early as 2007. In an article titled “Madison Avenue Says Hello to ‘Hello’ Again” (*available at* <https://www.nytimes.com/2007/05/24/business/media/24adco.html>), the New York Times noted the pervasiveness of advertising campaigns “using the greeting ‘Hello’ as a way to attract consumer attention.”

12. To explain the word’s popularity, the article quoted one advertising executive who said that although “hello” was “pretty overused,” the word functioned “as a ‘pay attention to

me’ thing” because “we’re hard-wired to look up when someone says ‘hello.’” Another executive, echoing Applicant’s founder Craig Dubitsky’s own explanation for choosing the word, described “hello” as “kind of a nice salutation, a friendly way of introducing yourself.” Yet another stated that, “just as ‘Hello’ is a way to greet someone you don’t know, this is a way to greet the [brand] you don’t know.”

13. The repetitious use of the word “hello” in advertising is not a recent trend. As featured in the New York Times article, Apple introduced the Macintosh computer in 1984 with ads showing the computer with the stylized word “hello” displayed on its screen.



14. The New York Times article confirms what common sense and reasonable usage make clear—reasonable consumers do not interpret the word “hello” standing alone as an indication of the source of the goods in question. Instead, the word performs a specific function by conveying a message of greeting or a generalized appeal for attention. This is true not only of the non-stylized word “hello” but also of the stylized version that Applicant claims as a trademark. The subtle stylization of the word conveys the same basic greeting in a different font. Whether stylized or not, the word “hello” standing alone functions and is perceived as conveying

a common greeting or generalized appeal for attention rather than an indication of the product's source of origin.

15. Because it is informational and functional rather than a designation of origin, the word "hello" standing alone is not a valid trademark. Instead, it is a popular linguistic phrase that competitive policy dictates should be available to all market participants.

16. Hello Bello is and will continue to be damaged by potential registration of the Applications. Among other things, Hello Bello is named as a defendant in a present lawsuit in New Jersey (CA No. 2:20-cv-12618-KM-JBC) in which Applicant alleges that Hello Bello infringes its rights in its "hello" trademarks (including the marks set forth in the Applications). Further, Applicant's registered "hello" marks also are asserted before TTAB as grounds for denial of registration of Hello Bello's trademarks (see Opposition Nos. 91255416 and 91264920).

17. To be registrable, words must be used in a manner to indicate to consumers that there is a single source or origin for the goods. A designation that does not function as a trademark is not capable of being registered as a trademark. Pursuant to 15 U.S.C. §§ 1052(e)(5) and 1063, a trademark application shall not be allowed registration if it comprises any matter, that as a whole, is functional.

18. The word "hello" is part of the public lexicon. "Hello" functions and is perceived to convey a message in the form of a generalized greeting, rather than as an indication of the specific origin of a product. For that reason, "hello" is routinely used by merchants in all categories of goods and services, both verbally and in written form, to greet consumers and appeal for their attention. The word "hello" standing alone also is aesthetically functional

because it adds to the appeal of the product by offering a “friendly greeting.” Indeed, Applicant has traded upon the functionality of the word “hello” in its own marketing.

19. The Applications are invalid, unenforceable, and should not be granted pursuant to 15 U.S.C. §§ 1052(e)(5) and 1063 because the purported marks covered by the Applications are informational and functional, rather than serving as a designation of origin.

For the foregoing reasons, Hello Bello believes and asserts that it will be damaged by registration of the marks HELLO and HELLO and Design under application for federal trademark registration Ser. Nos. 88/771099 and 88/771114. Accordingly, Hello Bello respectfully requests that this Opposition be sustained and Applicant’s applications to register the marks HELLO and HELLO and Design be denied in all respects.

Dated: November 19, 2020

Respectfully Submitted,

/s/ John M. Mueller

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