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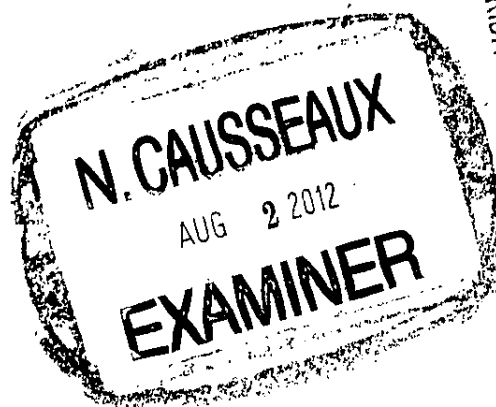
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**T12-736**

02/09/12--01027--028 \*\*262.50

**No  
Tutucute kids  
T08-57**

**FILED  
12 AUG -2 PM 1:34  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA**



## COVER LETTER

**TO:** Registration Section  
Division of Corporations

**SUBJECT:** TUTU CUTE & CO. and Design  
(Mark to be registered)

The enclosed Trademark/Service Mark Application, specimens and fee(s) are submitted for filing.

Please return all correspondence concerning this matter to the following:

Michael B. Chesal

(Name of Person)

Peretz Chesal & Herrmann, PL

(Firm/Company)

201 South Biscayne Blvd, Suite 1750

(Address)

Miami, FL 33131

(City/State and Zip Code)

For further information concerning this matter, please call:

Michael B. Chesal

(Name of Person)

at ( 305 ) 341-3000

(Area Code & Daytime Telephone Number)

### MAILING ADDRESS:

Registration Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

### STREET/COURIER ADDRESS:

Registration Section  
Division of Corporations  
Clifton Building  
2661 Executive Center Circle  
Tallahassee, FL 32301

**(NOTE:** The information contained in this cover letter will be included in the permanent record and will be available to the general public.)



FLORIDA DEPARTMENT OF STATE  
Division of Corporations

February 10, 2012

MICHAEL B. CHESAL, ESQUIRE  
PERETZ, C HESAL & HERRMANN, PL  
201 SOUTH BISCAYNE BLVD., SUITE 1750  
MIAMI, FL 33131

SUBJECT: TUTU CUTE & CO. & DESIGN OF THE WORDS APPEARING IN  
THE IMAGE OF A CLOUD  
Ref. Number: W12000008205

We have received your document for TUTU CUTE & CO. & DESIGN OF THE WORDS APPEARING IN THE IMAGE OF A CLOUD and your check(s) totaling \$262.50. However, the enclosed document has not been filed and is being returned for the following correction(s):

We must deny registration pursuant to section 495.021(1)(f), Florida Statutes. There is a Florida registration on file with our office for TUTUCUTEKIDS, Registration Number "T08000000057", for the same or similar name and class(es).

Pursuant to s. 495.035(5), F.S., this application will be considered abandoned if the applicant fails to reply or resubmit the corrected/amended application within three months from date of this letter.

If you have any questions concerning the filing of your document, please call (850) 245-6051.

Nanette Causseaux  
Document Specialist Supervisor

Letter Number: 912A00006117



REPLY to:  
MICHAEL B. CHESAL  
305.341.3000  
MCHESAL@PCH-IPLAW.COM

May, 10, 2012

By FedEx

Ms. Nanette Causseaux  
Document Specialist Supervisor  
Florida Department of State, Division of Corporations  
Clifton Building  
2661 Executive Center Circle  
Tallahassee, FL 32301

**Re:** *State of Florida Trademark Application*  
**Mark:** *TUTU CUTE & CO. and Design*  
**Ref. No.:** *W12000008205*  
**Our File No.:** *TUT.001FLT*

Dear Ms. Causseaux:

This is in response to your February 10, 2012 letter denying registration of the above referenced mark.

Registration has been refused under Section 495.021(1)(f) based on a prior registration for the mark TUTUCUTEKIDS and Design as shown below:



Without addressing the merits of the refusal, a diligent search and inquiry concerning the use of this mark shows that it appears to have been abandoned. Specifically, a phone call to the number listed on the registrant's specimen revealed that the number has been disconnected. An internet search uncovered another number for the registrant (954-447-3281), but this number has been disconnected too. Lastly, it appears that the domain name shown in the registrant's specimen is now owned by an individual in Michigan:

Ms. Nanette Causseaux

May 10, 2012

Page 2

Registrant:  
Catherine Moore  
619 N. Lapeer St.  
Davison, Michigan 48423  
United States

Registered through: GoDaddy.com, LLC (<http://www.godaddy.com>)  
Domain Name: TUTUCUTEKIDS.COM  
Created on: 07-Mar-11  
Expires on: 07-Mar-14  
Last Updated on: 14-Mar-12

Administrative Contact:  
Moore, Catherine CMooreHome@aol.com  
619 N. Lapeer St.  
Davison, Michigan 48423  
United States  
(810) 691-0001

Technical Contact:  
Moore, Catherine CMooreHome@aol.com  
619 N. Lapeer St.  
Davison, Michigan 48423  
United States  
(810) 691-0001

Accordingly, it is apparent that the registrant no longer uses the cited mark, and it should be cancelled for non-use under Section 495.101(3)(a). (In any event, the cited registration will expire January 16, 2013.) As such, Applicant respectfully requests that the instant file be suspended or held in abeyance pending such cancellation or expiration, whereupon Applicant will resubmit its application.

Please feel free to contact me if you should have any questions or need additional information regarding any of the foregoing.

Sincerely,

PERETZ CHESAL & HERRMANN, PL

By: 

Michael B. Chesal

MBC/ms



FLORIDA DEPARTMENT OF STATE  
Division of Corporations

June 5, 2012

MICHAEL B. CHESAL, ESQUIRE  
PERETZ, C HESAL & HERRMANN, PL  
201 SOUTH BISCAYNE BLVD., SUITE 1750  
MIAMI, FL 33131

We have received your document for TUTU CUTE & CO. & DESIGN OF THE WORDS APPEARING IN THE IMAGE OF A CLOUD and your check(s) totaling \$262.50. However, the enclosed document has not been filed and is being returned for the following correction(s):

We must deny registration pursuant to sections 495.021(1)(f) and 495.181, Florida Statutes. There is a federal registration on file with the U.S. Patent and Trademark Office for TUTU CUTE, Registration Number "4137012", for the same or similar name and class(es).

We will grant registration with the following corrections requested in this letter. We will grant registration in class 41 only for "PARTY AND WEDDING PLANNING AND CONSULTING SERVICES." Please delete any reference to "RETAIL & ONLINE STORE SERVICES....."

Pursuant to s. 495.035(5), F.S., this application will be considered abandoned if the applicant fails to reply or resubmit the corrected/amended application within three months from date of this letter.

If you have any questions concerning the filing of your document, please call (850) 245-6051.

Nanette Causseaux  
Document Specialist Supervisor

Letter Number: 912A00015892



REPLY to:  
MICHAEL B. CHESAL  
305.341.3000  
MCHESAL@PCH-IPLAW.COM

June 19, 2012

**Via FedEx**

Ms. Nanette Causseaux  
Document Specialist Supervisor  
Florida Department of State, Division of Corporations  
Clifton Building  
2661 Executive Center Circle  
Tallahassee, FL 32301

**Re: State of Florida Trademark Application**  
**Mark: TUTU CUTE & CO. and Design**  
**Your Ref. No.: 912A00015892**  
**Our File No.: TUT.001FLT**

Dear Ms. Causseaux:

This is in response to your June 5, 2012 letter denying registration of the above referenced mark. For the reasons set forth below, we respectfully request that you reconsider your decision and approve the application for registration.

Although the registration has been refused under Sections 495.021(1)(f) and 495.181 based upon Federal Registration No. 4137012 for the mark TUTU CUTE, it is clear that Applicant has superior common law rights in its mark based upon its prior use in Florida. Specifically, Applicant's dates of first use -- December 10, 2010 for class 35 and February 11, 2011 for classes 25 and 41 -- precede the constructive and actual first use dates for the mark in the cited registration, namely July 6, 2011 and August 10, 2011, respectively.

Accordingly, Applicant's trademark application for the mark TUTU CUTE & CO. and Design should be allowed to proceed to registration based upon Applicant's common law right of priority under Florida Statute Section 495.161.

Enclosed herewith please find Applicant's original trademark application for the subject Mark (in which Applicant has clarified its alleged dates of first use).

Please feel free to contact us if you should have any questions or need additional information regarding any of the foregoing.

Ms. Nanette Causseaux  
June 19, 2012  
Page 2

As always, we appreciate your attention to this matter.

Sincerely,

PERETZ CHESAL & HERRMANN, PL

By: 

Michael B. Chesal

MBC/ms



APPLICATION FOR THE REGISTRATION OF A TRADEMARK OR SERVICE MARK  
PURSUANT TO CHAPTER 495, FLORIDA STATUTES

FILED  
12 AUG -2 PM 1:34  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

TO: Division of Corporations  
Post Office Box 6327  
Tallahassee, FL 32314

PART I

1. OWNER/APPLICANT: Enter the name and address of the individual or the business entity to be listed as the owner of the Trademark and/or Service Mark on the records of the Florida Department of State.

(a) Owner's/Applicant's name: Tutu Cute & Co. Inc.

(b) Owner's/Applicant's business address: 2760 NE 8th Avenue

Wilton Manors, FL 33334

City/State/Zip

If different, Owner's/Applicant's mailing address: \_\_\_\_\_

City/State/Zip

(c) Owner's/Applicant's telephone number: ( 954 ) 663-2559

Check the appropriate box to indicate the Owner/Applicant is a(n):

☐ Individual ☒ Corporation ☐ Joint Venture ☐ Limited Liability Company  
☐ General Partnership ☐ Limited Partnership ☐ Union ☐ Other: \_\_\_\_\_

If the Owner/Applicant is a business entity, the business entity must have an active filing or registration on file with the Florida Department of State. If the Owner/Applicant is not an individual, enter the business entity's Florida registration/document number in #1, the state or country under the laws of which the business entity is currently formed, organized or incorporated under in #2, and the entity's federal employer identification number (EIN) in #3.

(1) Florida registration/document number: P10000100850 ✓

(2) Domicile State or Country: Florida

(3) Federal Employer Identification Number: 274267375

2. (a) SERVICE MARK: If the owner/applicant is using the name, logo, design and/or slogan being registered in connection with a type of service, the mark is a service mark. If the mark is a service mark, the applicant/owner must list the specific service(s) the mark is being used in connection with. For example: furniture moving services, diaper services, house painting services, wholesale and retail sales of tractor equipment, etc. If the owner/applicant is using the mark to identify services available in the market place, enter the specific service(s) being rendered here:

(Note: List only those services currently being rendered by the owner/applicant. Do not include future services.)

Retail and online retail store services featuring children's clothing, footwear, swimwear and accessories (class 35)

Party and wedding planning and consulting services (class 41)

2. (b) TRADEMARK: If the owner/applicant is using the name, logo, design and/or slogan being registered in connection with an actual product manufactured by the owner/applicant or on the owner/applicant's behalf, the mark is a trademark. If the mark is a trademark, the applicant/owner must list the specific product(s) the name, logo, design and/or slogan is being used to identify. For example: ladies sportswear, cat food, barbecue grills, shoe laces, etc. If the owner/applicant is using the name, logo, design and/or slogan to identify goods available in the market place, enter the specific product(s) the name, logo, design and/or slogan is being used to identify:

(Note: List only those product(s) currently available. Do not include future products.)

Clothing and custom clothing, namely tops, bottoms, infantwear and headwear (class 25)

2. (c) HOW IS THE NAME, LOGO, DESIGN AND/OR SLOGAN CURRENTLY USED:

SERVICE MARKS: If the name, logo, design and/or slogan are/is being used in connection with a type of service, you must specify the form(s)/mean(s) of advertisement the applicant/owner is using to advertise the services to the general public. For example: newspaper advertisements, business cards, brochures, flyers, pamphlets, menus, etc. If the mark is being used in connection with a type of service, state how the name, logo, design and/or slogan are/is being used in advertising here:

Advertising and promotional materials and internet

TRADEMARKS: If the name, logo, design and/or slogan are/is being used to identify a product manufactured by or for the applicant/owner, you must specify how the mark is applied or affixed to the actual product or its packaging. For example: a tag, label, imprinted or engraved on the actual product, etc. If the mark is being used in connection with a specific product, state how the name, logo, design and/or slogan is applied or affixed to the actual product(s) or the packaging:

Labels, hang tags and internet

2. (d) FEE(S) AND CLASS(ES): There are a total of 45 classes or categories in which all products or services must be categorized. The fee to register a mark is \$87.50 per class. Make check payable to Florida Department of State.

List the class(es) which apply to the product(s) and/or service(s) listed in 2(a) and/or 2(b) above:

Classes 25, 35 and 41

**PART II**

1. You must state the date the name, logo, design and/or slogan was first used in the state of Florida, and, if it was used in another state or country, the date you first used the name, logo, design and/or slogan in the other state or country. Enter the month, day, and year the name, logo, design and/or slogan was first used by the applicant/owner, the predecessor, or a related company in Florida. If the name, logo, design and/or slogan has been used in another state or country, then you must also enter the month, day, and year the name, logo, design and/or slogan was/were used in another state or country, when applicable.

**Note: The Florida Statutes require a mark to be in use prior to registration.**

(a) Date first used in other state or country, if applicable: \_\_\_\_\_

(b) Date first used in Florida: 12/10/2010 and 2/11/2011

Class 35      classes 25 and 41

**PART III**

**ENTER NAME, LOGO, DESIGN AND/OR SLOGAN BEING REGISTERED:**

1. Enter the name, a brief description of the logo or design, and/or the slogan you are registering. The description of the logo and/or design must be 25 words or less. List the exact name, slogan, and/or description of the logo/design here: (NOTE: The name, logo, design and/or slogan listed in this section must match the exact name, logo, design and/or slogan listed on your specimens or examples.)

The mark consists of the words TUTU CUTE & CO. appearing in the image of a cloud  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Provide the English translation of any and all terms listed #1 above, when applicable: N/A  
\_\_\_\_\_  
\_\_\_\_\_

**2. DISCLAIMER STATEMENT (if applicable):**

Your mark may include a word or design that is commonly used by others. Commonly used terms or designs must be disclaimed. When you disclaim a specific term or design, you are acknowledging this term is commonly used by others and that you do not claim the exclusive right to use the disclaimed term or design. All geographical terms and representations of cities, states or countries must be disclaimed (i.e., Miami, Orlando, Florida, the design of the state of Florida, the design of the United States of America, etc.). Corporate suffixes and terms readily associated with the specific product(s) and/or(s) service being provided must also be disclaimed.

Enter all terms listed in #1 above which require a disclaimer in the space provided below:

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE THE TERM(S) ~~TRA~~ Co.

\_\_\_\_\_  
"APART FROM THE MARK AS SHOWN."

3. ATTACH OR INCLUDE THREE SPECIMENS OR EXAMPLES OF THE TRADEMARK OR SERVICE MARK BEING REGISTERED

Chapter 495, F.S., requires you to submit three specimens (samples or examples) of the mark in use. You must submit three specimens FOR EACH CLASS listed in Part I #2(d). The name, logo, design and/or slogan on the specimens must be identical to the name, logo, design and/or slogan being registered. You may provide three identical specimens or three different specimens. For each service mark class (classes 35-45), you may provide three newspaper advertisements, business cards, brochures, flyers, or any combination thereof. For each trademark class (classes 1-34), you may provide three tags, labels, boxes, etc. or any combination thereof. Photographs of bulky specimens are acceptable if the mark being registered and the good(s) or product(s) are clearly legible.

SIGNATURE OF APPLICANT/OWNER AND NOTARIZATION:

I, Amber-Rose Sousa, being sworn, depose and say that I am the owner and the applicant herein, or that I am authorized to sign on behalf of the owner and applicant herein, and to the best of my knowledge no other person except a related company has registered this mark in this state or has the right to use such mark in Florida either in the identical form thereof or in such near resemblance as to be likely, when applied to the goods or services of such other person to cause confusion, to cause mistake or to deceive. I make this affidavit and verification on my/the applicant's behalf. I further acknowledge that I have read the application and know the contents thereof and that the facts stated herein are true and correct.

Tutu Cute & Co. Inc.  
Typed or printed name of applicant

Amber Sousa owner/president  
Applicant's signature  
(List name and title)

FILED  
12 AUG -2 PM 1:34  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

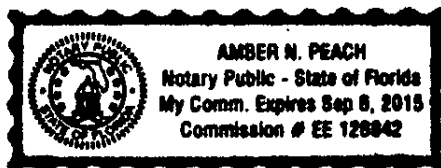
STATE OF Florida

COUNTY OF Broward

Sworn to and subscribed before me on this 30<sup>th</sup> day of JANUARY, 2012 Amber-Rose Sousa  
(Name of Individual Signing)

☒ who is personally known to me ☐ whose identity I proved on the basis of \_\_\_\_\_

(Seal)

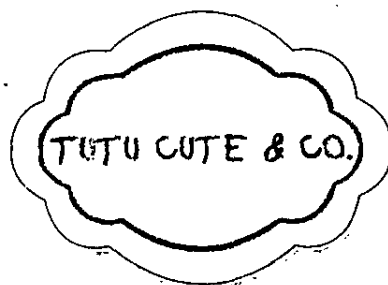


Amber N. Peach  
Notary Public Signature

Amber Peach  
Notary's Printed Name

My Commission Expires: 09/08/2015

FILING FEE: \$87.50 per class

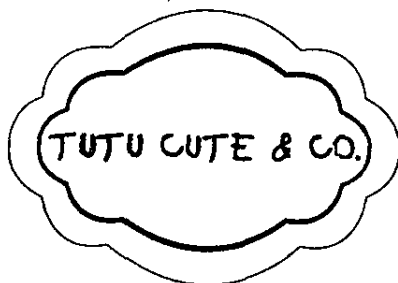


**"IF YOU CAN DREAM IT WE CAN MAKE IT"**



**GIRLS CLOTHING BOY'S CLOTHING FOR MOMMY  
HAIR ACCESSORIES CUSTOM COLLECTIONS SPECIAL OCCASIONS**

**(954) 663-2559 • [WWW.TUTUCUTEANDCO.COM](http://WWW.TUTUCUTEANDCO.COM) • [amber@tutucuteandco.com](mailto:amber@tutucuteandco.com)**



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