

ESTTA Tracking number: **ESTTA555429**

Filing date: **08/21/2013**

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	Eric J. Figueroa
Granted to Date of previous extension	08/21/2013
Address	201 S. Biscayne Blvd., Suite 2800 Miami, FL 33131 UNITED STATES

Correspondence information	Eric J. Figueroa CEO Yeah Baby Inc. 201 S. Biscayne Blvd., Suite 2800 Miami, FL 33131 UNITED STATES ericjfigueroa@hotmail.com Phone:305-300-4583
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Applicant Information

Application No	85768262	Publication date	04/23/2013
Opposition Filing Date	08/21/2013	Opposition Period Ends	08/21/2013
Applicant	Suzanne Evans Coaching of SC, LLC 5178 Horry Drive, Suite B Murrells Inlet, SC 29576 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2011/03/00 First Use In Commerce: 2011/03/00 All goods and services in the class are opposed, namely: Advertising and marketing; Promoting the goods and services of others by arranging for businesses to affiliate their goods and services with the goods and services of third parties by means of sponsorship relationships

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.	4180641	Application Date	06/05/2011
Registration Date	07/24/2012	Foreign Priority Date	NONE
Word Mark	YEAH		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2012/01/24 First Use In Commerce: 2012/04/04 Advertising and marketing; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium

U.S. Registration No.	4193922	Application Date	12/23/2011
Registration Date	08/21/2012	Foreign Priority Date	NONE
Word Mark	YEAH BABY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2010/08/22 First Use In Commerce: 2010/08/22 Advertising agencies; Advertising and marketing; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium		

U.S. Registration No.	4083983	Application Date	06/17/2011
Registration Date	01/10/2012	Foreign Priority Date	NONE
Word Mark	YEAH BABY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2010/08/22 First Use In Commerce: 2010/08/22 Advertising agencies, namely, promoting the goods and services of others; Advertising and marketing services, namely, promoting the goods and services of others; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium		

U.S. Registration No.	4165146	Application Date	08/22/2010
Registration Date	06/26/2012	Foreign Priority Date	NONE
Word Mark	YEAH BABY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2010/08/22 First Use In Commerce: 2010/08/22 Advertising and marketing services, namely, promoting the goods and services of third parties through print, audio, video, digital and on-line medium in the agricultural, aircraft, airline, apparel, appliance, automobile, banking, book, business, computer, construction, cosmetic, educational, electrical, electronics, energy, engineering, environmental, financial, food, hardware, health, insurance, internet, investment, legal, machinery, management, manufacturing, media,		

	medical, news, office, pharmaceutical, real estate, retail, shipping, software, technology, telecommunications, textile, transportation and travel fields, not including any baby products or services
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U.S. Application No.	85589533	Application Date	04/04/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	YEAH BABY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 2010/08/22 First Use In Commerce: 2010/08/22 Audio broadcasting; Video broadcasting		

Attachments	Notice of Opposition - Hell Yeah - Suzanne Evans Coaching of South Carolina, LLC.pdf(83402 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	/Eric J. Figueroa/
Name	Eric J. Figueroa
Date	08/21/2013

**UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board**

8/21/2013

Trademark - Hell Yeah
Trademark - SN/85768262

Opposer	:
	:
Eric J. Figueroa,	:
201 S. Biscayne Blvd., Suite 2800	:
Miami, FL 33131	:
	:
Applicant	:
	:
Suzanne Evans Coaching of South Carolina, LLC,	:
5178 Horry Dr., Suite B	:
Murrells Inlet, SC 29576	:

NOTICE OF OPPOSITION

The registered trademark, YEAH, RN/4180641, is used to provide advertising, marketing, and audio/video broadcasting services for general products and services of others, directly and indirectly to consumers, through print, audio, video, digital and on-line medium. Audio and video broadcasting is used by advertising and marketing organizations to advertise and market, products and services via electronic devices such as computers, TV's, etc. The trademark application for the mark, YEAH, was filed on 6/5/2011. We have been using the trademark, YEAH, for advertising, marketing, and audio/video broadcasting services, since 4/4/2012. We provide advertising, marketing, and audio/video broadcasting services through all media. We provide advertising, marketing, and audio/video broadcasting services for companies in the business of computers, media(tv, etc.), news, telecommunications, etc. Yeahbabytv.com(created 2/17/2010), yeahbaby.tv (created 12/18/2010), yeahbabytelevision.com(created 2/13/2011), yahtv.org(created 6/5/2011), yahtv.us(created 6/13/2011), yahtelevision.com (created 6/13/2011), are some of our websites.

In the description of goods and services for my registered trademark, YEAH, it states that we provide advertising and marketing services and advertising and publicity services, namely promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium.

The phrases, Yeah Baby and Hell Yeah, are used to emphasize the word, YEAH, with passion and excitement, and is defined by words like yes, acknowledge, approve, allow, concur, consent, okay, permit, recognize, etc.

The marks being used by Suzanne Evans Coaching of SC, LLC., as shown in the specimen provided in the trademark application, Hell Yeah, SN/85768262, are, Hell Yeah! Sponsorships(design mark on page 1), Hell Yeah Studios(design mark on page 2 and 4). The specimen provided shows that the mark, Hell Yeah, is not being used. Their slogan is, "Open your video gold mine! Become a Hell Yeah Studios VIP!".

Their intent was to register the mark, Hell Yeah Studios, SN/85537885(filed 2/9/2012), for class 41, Film and video production not in the field of music; Production of webinars and business marketing videos for others; Film and video production consulting services; Film editing; Film studios; Photography services, for filing basis 1B, which has been suspended. When the Hell Yeah Studios trademark application became suspended, the applicant then decided to use the mark, Hell Yeah, for advertising and marketing services.

Please visit their website at www.hellyeahsponsorships.com (created 10/15/2012), to see how they use the mark, Hell Yeah! Sponsorships. Also, visit their website at www.hellyeahstudios.com (created 1/9/2012) to see how they are using the mark, Hell Yeah Studios. Their other websites are, www.hellyeahstv.com (created 2/17/2012) and www.hellyeah.tv (created 4/25/2012) and www.hellyeahtraffic.com (created 10/15/2012) and www.hellyeahprograms.com (created 2/29/2012) and www.hellyeahtrafficprogram.com (created 5/29/2013) and www.hellyeahmarketingsystem.com (created 3/3/2012).

My registered and pending trademarks are:

Yeah Baby, RN/4083983(registered):

IC 035 Advertising agencies, namely, promoting the goods and services of others; Advertising and marketing services, namely, promoting the goods and services of others; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium. **FIRST USE: 20100822. FIRST USE IN COMMERCE: 20100822.**

Yeah Baby, RN/4193922(registered)

IC 035 Advertising agencies; Advertising and marketing; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium. **FIRST USE: 20100822. FIRST USE IN COMMERCE: 20100822.**

Yeah, RN/4180641(filed 6/5/2011, registered)

IC 035 Advertising and marketing; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium. **FIRST USE: 20120404. FIRST USE IN COMMERCE: 20120404**

Yeah Baby, RN/4165146(registered)

IC 035 Advertising and marketing services, namely, promoting the goods and services of third parties through print, audio, video, digital and on-line medium in the agricultural, aircraft, airline, apparel, appliance, automobile, banking, book, business, computer, construction, cosmetic, educational, electrical, electronics, energy, engineering, environmental, financial, food, hardware, health, insurance, internet, investment, legal, machinery, management, manufacturing, media, medical, news, office, pharmaceutical, real estate, retail, shipping, software, technology, telecommunications, textile, transportation and travel fields, not including any baby products or services.

FIRST USE: 20100822. FIRST USE IN COMMERCE: 20100822

Yeah Baby, SN/85589533(filed 4/4/2012, pending)

IC 038 Audio broadcasting; Video broadcasting.

FIRST USE: 20100822. FIRST USE IN COMMERCE: 20100822

I am opposing the application:

Hell Yeah, SN/85768262(filed 10/31/2012)

IC 035 Advertising and marketing; Promoting the goods and services of others by arranging for businesses to affiliate their goods and services with the goods and services of third parties by means of sponsorship relationships.

FIRST USE: 20110300. FIRST USE IN COMMERCE: 20110300

The trademark examining attorney did not refuse registration based on my registered trademarks for priority and likelihood of confusion. I am requesting that the mark, HELL YEAH, SN/85768262, for class 35, be refused registration based on my registered trademarks for priority and likelihood of confusion.

We look forward to working with Suzanne Evans Coaching of SC, LLC., to market their coaching services.

Yeah Baby Inc., and through current and pending trademarks, provides advertising, marketing, and audio/video broadcasting services for general products and services of others, directly and indirectly to consumers, through print, audio, video, digital and on-line medium.

It is sufficient that the advertising, marketing, and audio/video broadcasting services are the same and the conditions surrounding their marketing are such that they would be encountered by the same consumers and believe that the services come from the same source and will cause confusion, mistake and deception.

The word, YEAH, in the mark, HELL YEAH, is the main and dominant word in their pending mark and it is the same word in my registered trademarks, YEAH, and YEAH BABY. The pending mark, HELL YEAH, and the registered trademarks, YEAH, and YEAH BABY, are very similar. They have merely added the word, HELL, to my registered trademark, YEAH. The mere addition or removal of words from a mark is not sufficient to overcome a likelihood of confusion under Section 2(d). Because the marks are very similar and the services are the same, a

likelihood of confusion exists. The applicant is not entitled to registration of the mark, HELL YEAH, SN/85768262 in class 35.

I respectfully request that the mark, HELL YEAH, SN/85768262 be refused, and that this opposition be sustained in my favor.

Respectfully,

/Eric J. Figueroa/

Eric J. Figueroa
Yeah Baby Inc.
201 S. Biscayne Blvd., Suite 2800
Miami, FL. 33131
ericjfigueroa@hotmail.com
305-300-4583

**UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board**

CERTIFICATE OF SERVICE

I certify that I have provided a copy of this Notice of Opposition this 21st day of August 2013, via USPS mail to the applicants attorney.

Thomas L. Moses
Monahan & Moses, LLC
13B W Washington Street
Greenville, South Carolina 29601-2734

/Eric J. Figueroa/
Eric J. Figueroa