

TTAB

Docket No. 26753.004

TRADEMARK

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

In The Matter of Application Serial No. 77/399,921
Published in the Official Gazette of July 22, 2008

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WEIGHT WATCHERS INTERNATIONAL,
INC.,

Opposer,

v.

PROACTIVE PROGRESS, LLC,

Applicant.

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OPPOSITION NO.

NOTICE OF OPPOSITION

Commissioner for Trademarks
BOX TTAB FEE
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer, Weight Watchers International, Inc., a Virginia corporation, having a
business address of 11 Madison Avenue, New York, NY 10010 (hereinafter referred to as

08/20/2008 SWILSON1 00000033 77399921
01 FC:6402 300.00 DP

"Express Mail" Mailing Label Number EV 606064116 US

I hereby certify that this paper or fee is being deposited with the United States
Postal Service "Express Mail Post office to Addressee" service under 37
C.F.R. 1.10 on the date indicated above and is addressed to the Commissioner for
Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on
August 14, 2008
(Date of Deposit)

Phyllis Buchalter
(Print name)

Phyllis Buchalter
(Signature)



Opposer”) believes that it will be damaged by and hereby opposes registration of Applicant’s mark, EASYPOINTS 0 1 2 3 4 & Design. The grounds for opposition are as follows:

1. Applicant, Proactive Progress, LLC, a Virginia limited liability company with an address at 136 VFW Road, Daleville, VA 24083-3146 (hereinafter “Applicant”) has filed App. Ser. No. 77/399,921 for the mark EASYPOINTS 0 1 2 3 4 & Design, based upon intent-to-use in U.S. interstate commerce, in connection with “pre-printed and color coded stationery, adhesive labels, page markers and portfolios for the purpose of identifying, quantifying, marking and organizing food and drink product packages, storage containers, recipes and dietary or nutritional data, and for the identification and organization of printed articles or pages related to cooking, cookbooks and dietary information ” in class 16 (“Applicant’s EASYPOINTS Mark”).

2. Opposer is a leading global provider of weight management services, with a presence in over 25 countries around the world. In the more than 40 years since its founding, Opposer has been engaged in the business of developing and marketing its weight loss and weight maintenance services and products relating to such services (the “Business”). Opposer has extensively used the mark POINTS and marks incorporating the POINTS mark (hereinafter collectively referred to as “Opposer’s POINTS Marks”) in connection with its Business continuously since at least as early as 1997.

3. Opposer owns the following registrations and/or allowed applications for Opposer’s POINTS Marks, namely, Reg. Nos. 2,139,767, 3,163,684, 3,346,918, 2,432,287, 2,185,114, 2,272,683 and App. Ser. Nos. 77/011,759, 77/011,727 and 76/481,562. Many of

these registrations have become incontestable. Printouts from the USPTO database for these registrations and allowed applications are attached as Exhibit A to this Notice of Opposition.

4. A key aspect of Opposer's program for weight reduction is the Flex Plan, also known as the POINTS weight loss system. Under this plan, each food has a POINTS value determined by a patented formula based on a food's calories, fat and fiber for a single portion. Subject to certain nutritional guidelines and good health recommendations, consumers on this plan can eat any food as long as their total food consumption stays within their daily POINTS Target or their weekly POINTS budget. Since nutritious foods generally have lower POINTS values, this approach steers consumers toward healthier food options. Attached as Exhibit B is a page from Opposer's website further explaining Opposer's POINTS system.

5. Opposer sells a range of products, including bars, snacks, cook books, POINTS Value Guides, WEIGHTWATCHERS Magazines and POINTS Calculators directly to consumers to aid them in following the POINTS weight loss system. Opposer also licenses the WEIGHT WATCHERS and POINTS marks in certain categories of products (*e.g.*, foods and scales) to carefully selected partners. These products function as tools to consumers following the POINTS weight loss system.

6. Opposer and its licensees have spent millions of dollars advertising Opposer's POINTS Marks and the goods and services sold thereunder. In addition, directly and through its licensees, Opposer has sold millions of dollars of products collectively under its WEIGHT WATCHERS and POINTS Marks.

7. On many of these products, as well as materials distributed to its customers, Opposer illustrates the POINTS value it has assigned to a particular food by placing the POINTS value in a stylized circle. See Exhibits B and C. See also Reg. No. 3,346,918 (a printout from the USPTO database of which is included in Exhibit A).

8. By virtue of the extensive use and advertising in commerce of its goods and services under Opposer's POINTS Marks, Opposer has built up tremendous and highly valuable goodwill in its POINTS Marks. Such goodwill has become closely and uniquely associated with Opposer.

9. Opposer's POINTS Marks predate Applicant's EASYPOINTS Mark.

10. Applicant's goods are related to the goods and services covered by and offered in connection with Opposer's POINTS Marks. The word portion of Applicant's mark EASYPOINTS, suggests that use of Applicant's products makes it easy to keep track of the POINTS values Opposer has assigned to various food under its Flex Plan. The association of Applicant's goods to Opposer's POINTS goods and services is further heightened by the design element in Applicant's mark, in which the numbers 0, 1, 2, 3 and 4 are each in a circle.

11. Attached as Exhibit D is a copy of the specimen originally submitted with the opposed application.¹ This web page makes reference to both the WEIGHT WATCHERS and POINTS marks. This web page shows that Applicant chose Applicant's EASYPOINTS

Mark with the intention of associating the goods to be sold under that mark with Opposer and its POINTS system.

12. Applicant's EASYPOINTS Mark so resembles Opposer's POINTS Marks as to be likely, as applied to Applicant's goods, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's goods have their origin with Opposer and/or that such goods are licensed by or otherwise associated in some way with Opposer. Opposer would thereby be injured by the grant to Applicant of a registration for Applicant's Mark.

13. Opposer would further be injured by the grant of a registration to Applicant for Applicant's EASYPOINTS Mark because such mark would falsely suggest a connection between Applicant and Opposer.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's EASYPOINTS Mark and requests that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Baila H. Celedonia and Sujata Chaudhri (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

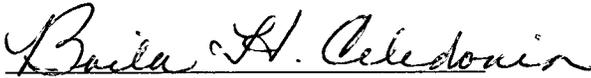
¹ The opposed application was originally filed as use-based and later amend to § 1(b) intent-to-use. Exhibit D-1 is a copy of the specimen actually submitted to the USPTO; Exhibit D-2 is a color printout from the internet of the same page, printed on August 11, 2008.

Please charge Deposit Account No. 03-3415 for \$300, the filing fee in connection with the opposition. Please address all communications to Baila H. Celedonia, Esq. at the address listed below.

Date: New York, New York
August 14, 2008

Respectfully submitted,

WEIGHT WATCHERS INTERNATIONAL, INC.

By: 
Baila H. Celedonia, Esquire
Sujata Chaudhri, Esquire
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, NY 10036
Tel: (212) 790-9200

Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2008, I caused a copy of the foregoing Notice of Opposition to be sent via first class, postage paid mail to Dayna R. Patrick, Proactive Progress, LLC, 136 VFW Rd, Dalesville, VA 24083-3146, with a courtesy copy to Charles S. Sara, Esq., DeWitt Ross & Stevens, SC, 2 East Mifflin St., Suite 600, Madison, WI 53703-2865.

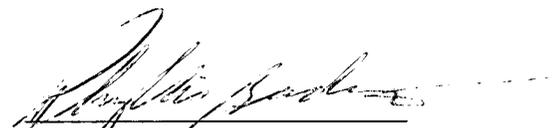

Phyllis Buchalter

EXHIBIT A

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-08-12 12:33:21 ET

Serial Number: 75175791 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2139767

Mark (words only): POINTS

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2007-12-13

Filing Date: 1996-10-02

Transformed into a National Application: No

Registration Date: 1998-02-24

Register: Principal

Law Office Assigned: LAW OFFICE 108

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2007-12-13

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Weight Watchers International, Inc.

Address:

Weight Watchers International, Inc.
11 Madison Avenue
New York, NY 10010
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Virginia

GOODS AND/OR SERVICES

International Class: 042

Class Status: Active

food nutrition consultation and advice

Basis: 1(a)

First Use Date: 1997-03-31

First Use in Commerce Date: 1997-08-11

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-12-13 - First renewal 10 year

2007-12-13 - Section 8 (10-year) accepted/ Section 9 granted

2007-12-12 - Assigned To Paralegal

2007-12-10 - TEAS Section 8 & 9 Received

2007-05-01 - Case File In TICRS

2006-06-12 - Applicant/Correspondence Changes (Non-Responsive) Entered

2006-06-12 - TEAS Change Of Owner Address Received

2003-06-10 - Section 8 (6-year) accepted & Section 15 acknowledged

2003-03-05 - Section 8 (6-year) and Section 15 Filed

2003-03-05 - PAPER RECEIVED

1998-02-24 - Registered - Principal Register

1997-12-22 - Allowed for Registration - Principal Register (SOU accepted)

1997-12-12 - Statement of use processing complete

1997-10-28 - Amendment to Use filed

1997-07-29 - Notice of allowance - mailed

1997-05-06 - Published for opposition

1997-04-04 - Notice of publication

1997-03-12 - Approved for Pub - Principal Register (Initial exam)

1997-03-10 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

ROBERT WILLIAM HOLLWEG

Correspondent

ROBERT WILLIAM HOLLWEG

WEIGHT WATCHERS INTERNATIONAL, INC.

11 Madison Avenue

New York NY 10010

Phone Number: 212-817-4200

Fax Number: 212-589-2858

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-08-12 12:33:55 ET

Serial Number: 78494178 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3163684

Mark

POINTS

(words only): POINTS

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2006-10-24

Filing Date: 2004-10-04

Transformed into a National Application: No

Registration Date: 2006-10-24

Register: Principal

Law Office Assigned: LAW OFFICE 115

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-09-20

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Weight Watchers International, Inc.

Address:

Weight Watchers International, Inc.
11 MADISON AVE.

NEW YORK, NY 10010
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Virginia

GOODS AND/OR SERVICES

International Class: 044

Class Status: Active

Providing weight reduction planning, treatment and supervision through weight reduction programs featuring counseling, creating diet regimes, and discussions; providing advice, consultation and information in the field of weight control and nutrition

Basis: 1(a)

First Use Date: 1997-08-00

First Use in Commerce Date: 1997-08-00

ADDITIONAL INFORMATION

Prior Registration Number(s):

2139767

2185114

2432287

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2006-10-24 - Registered - Principal Register

2006-09-19 - Law Office Registration Review Completed

2006-09-19 - Assigned To LIE

2006-09-03 - Allowed for Registration - Principal Register (SOU accepted)

2006-08-09 - Statement of use processing complete

2006-07-13 - Amendment to Use filed

2006-07-13 - TEAS Statement of Use Received

2006-03-14 - Notice of allowance - mailed

2006-03-01 - TEAS Change Of Owner Address Received
2005-12-20 - Published for opposition
2005-11-30 - Notice of publication
2005-10-31 - Law Office Publication Review Completed
2005-10-28 - Assigned To LIE
2005-10-25 - Approved for Pub - Principal Register (Initial exam)
2005-10-25 - Teas/Email Correspondence Entered
2005-10-17 - Communication received from applicant
2005-10-17 - TEAS Response to Office Action Received
2005-10-17 - TEAS Change Of Correspondence Received
2005-05-17 - Non-final action mailed
2005-05-17 - Non-Final Action Written
2005-05-05 - Assigned To Examiner
2004-10-13 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

Tern J. Frank
WEIGHT WATCHERS INTERNATIONAL, INC.
11 MADISON AVENUE
NEW YORK NY 10010
Phone Number: 212-589-2700
Fax Number: 212-589-2858

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-08-12 12:34:16 ET

Serial Number: 77059493 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3346918

Mark



(words only): POINTS VALUE

Standard Character claim: No

Current Status: Registered.

Date of Status: 2007-12-04

Filing Date: 2006-12-07

Transformed into a National Application: No

Registration Date: 2007-12-04

Register: Principal

Law Office Assigned: LAW OFFICE 104

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-12-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Weight Watchers International, Inc.

Address:

Weight Watchers International, Inc.
11 Madison Avenue

New York, NY 10010
United States
Legal Entity Type: Corporation
State or Country of Incorporation: New York
Phone Number: 212-589-2708
Fax Number: 212-589-2858

GOODS AND/OR SERVICES

International Class: 044

Class Status: Active

Providing weight reduction planning, treatment and supervision through weight reduction programs featuring counseling and diet plans; providing advice, consultation and information in the field of weight control and nutrition

Basis: 1(a)

First Use Date: 2005-09-00

First Use in Commerce Date: 2005-09-00

ADDITIONAL INFORMATION

Color(s) Claimed: Color is not claimed as a feature of the mark.

Description of Mark: The mark consists of Stylized circle.

Design Search Code(s):

26.03.03 - Incomplete ovals; Ovals, incomplete

26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

Prior Registration Number(s):

3163684

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-12-04 - Registered - Principal Register

2007-09-18 - Published for opposition

2007-08-29 - Notice of publication

2007-08-14 - Law Office Publication Review Completed

2007-08-14 - Assigned To LIE
2007-06-29 - Approved for Pub - Principal Register (Initial exam)
2007-06-22 - Teas/Email Correspondence Entered
2007-06-22 - Communication received from applicant
2007-06-22 - TEAS Response to Office Action Received
2007-02-21 - Non-final action mailed
2007-02-21 - Non-Final Action Written
2007-02-17 - Assigned To Examiner
2006-12-13 - Notice Of Design Search Code Mailed
2006-12-12 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent
WEIGHT WATCHERS INTERNATIONAL INC
11 MADISON AVE
NEW YORK, NY 10010-3643
Phone Number: 212-589-2708
Fax Number: 212-589-2858

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-08-12 12:34:37 ET

Serial Number: 75735721 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2432287

Mark (words only): POINTSBOOSTER

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2006-11-17

Filing Date: 1999-06-23

Transformed into a National Application: No

Registration Date: 2001-02-27

Register: Principal

Law Office Assigned: LAW OFFICE 113

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2006-11-24

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Weight Watchers International, Inc.

Address:

Weight Watchers International, Inc.
11 Madison Avenue
New York, NY 10010
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Virginia

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

manual calculator to calculate the values of exercise

Basis: 1(a)

First Use Date: 1999-12-15

First Use in Commerce Date: 1999-12-15

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2006-11-24 - Case File In TICRS

2006-11-17 - Section 8 (6-year) accepted & Section 15 acknowledged

2006-11-14 - Assigned To Paralegal

2006-09-14 - Section 8 (6-year) and Section 15 Filed

2006-09-14 - TEAS Section 8 & 15 Received

2006-09-14 - Applicant/Correspondence Changes (Non-Responsive) Entered

2006-09-14 - TEAS Change Of Owner Address Received

2001-02-27 - Registered - Principal Register

2000-12-15 - Allowed for Registration - Principal Register (SOU accepted)

2000-12-14 - Assigned To Examiner

2000-12-11 - Statement of use processing complete

2000-09-28 - Amendment to Use filed

2000-05-16 - Notice of allowance - mailed

2000-02-22 - Published for opposition

2000-01-21 - Notice of publication

1999-12-09 - Approved for Pub - Principal Register (Initial exam)

1999-11-10 - Examiner's amendment mailed

1999-11-04 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Robert William Hollweg

Correspondent

Terri J. Frank
11 Madison Avenue
New York NY 10010

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-08-12 12:35:13 ET

Serial Number: 75277723 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2185114

Mark (words only): POINTS

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2008-04-07

Filing Date: 1997-04-21

Transformed into a National Application: No

Registration Date: 1998-08-25

Register: Principal

Law Office Assigned: LAW OFFICE 109

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2008-04-07

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Weight Watchers International, Inc.

Address:

Weight Watchers International, Inc.
11 Madison Avenue
New York, NY 10010
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Virginia

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

calculator

Basis: 1(a)

First Use Date: 1997-08-24

First Use in Commerce Date: 1997-08-24

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-04-07 - First renewal 10 year

2008-04-07 - Section 8 (10-year) accepted/ Section 9 granted

2008-04-03 - Assigned To Paralegal

2008-03-25 - TEAS Section 8 & 9 Received

2008-02-22 - Applicant/Correspondence Changes (Non-Responsive) Entered

2008-02-22 - TEAS Change Of Owner Address Received

2007-08-08 - Case File In TICRS

2004-10-26 - Section 8 (6-year) accepted

2004-08-25 - Section 8 (6-year) filed

2004-08-25 - TEAS Section 8 Received

1998-08-25 - Registered - Principal Register

1998-07-01 - Allowed for Registration - Principal Register (SOU accepted)

1998-07-01 - Assigned To Examiner

1998-06-26 - Assigned To Examiner

1998-06-16 - Statement of use processing complete

1998-06-01 - Amendment to Use filed

1998-05-26 - Notice of allowance - mailed

1998-03-03 - Published for opposition

1998-01-30 - Notice of publication

1998-01-03 - Approved for Pub - Principal Register (Initial exam)

1997-12-31 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

ROBERT WILLIAM HOLLWEG

Correspondent

Terri J. Frank

WEIGHT WATCHERS INTERNATIONAL, INC.

11 Madison Avenue

New York NY 10010

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-08-12 12:35:30 ET

Serial Number: 75238984 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2272683

Mark (words only): POINTSFINDER

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2005-09-29

Filing Date: 1997-02-10

Transformed into a National Application: No

Registration Date: 1999-08-24

Register: Principal

Law Office Assigned: LAW OFFICE 103

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2006-08-23

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Weight Watchers International, Inc.

Address:

Weight Watchers International, Inc.
11 Madison Avenue
New York, NY 10010
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Virginia

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

manual calculator used to calculate the values of food

Basis: 1(a)

First Use Date: 1997-08-24

First Use in Commerce Date: 1997-08-24

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2006-08-23 - Case File In TICRS

2005-10-26 - Assigned To Paralegal

2005-09-29 - Section 8 (6-year) accepted & Section 15 acknowledged

2005-09-26 - Assigned To Paralegal

2005-08-05 - Section 8 (6-year) and Section 15 Filed

2005-08-05 - Section 8 (6-year) and Section 15 Filed

2005-08-05 - TEAS Section 8 & 15 Received

2005-08-05 - TEAS Change Of Owner Address Received

1999-08-24 - Registered - Principal Register

1999-05-10 - Allowed for Registration - Principal Register (SOU accepted)

1999-05-04 - Assigned To Examiner

1999-04-27 - Statement of use processing complete

1999-03-31 - Amendment to Use filed

1998-10-06 - Notice of allowance - mailed

1998-07-14 - Published for opposition

1998-06-12 - Notice of publication

1998-04-20 - Approved for Pub - Principal Register (Initial exam)
1998-03-31 - Communication received from applicant
1998-04-06 - Assigned To Examiner
1998-04-06 - Previous allowance count withdrawn
1998-04-06 - Notice of Allowance canceled
1998-01-20 - Notice of allowance - mailed
1997-10-28 - Published for opposition
1997-09-26 - Notice of publication
1997-08-28 - Approved for Pub - Principal Register (Initial exam)
1997-08-20 - Examiner's amendment mailed
1997-08-15 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent
TERRI J. FRANK
WEIGHT WATCHERS INTERNATIONAL, INC.
175 CROSSWAY PARK WEST
WOODBURY, NY 11797

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-08-12 12:36:33 ET

Serial Number: 77011759 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

POINTS

(words only): POINTS

Standard Character claim: Yes

Current Status: A request for the second extension of time to file a statement of use has been granted.

Date of Status: 2008-05-19

Filing Date: 2006-10-02

The Notice of Allowance Date is: 2007-08-07

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 104

Attorney Assigned:
FINNEGAN TIMOTHY J

Current Location: 700 -Intent To Use Section

Date In Location: 2007-08-07

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Weight Watchers International, Inc.

Address:

Weight Watchers International, Inc.
11 Madison Avenue
New York, NY 10010
United States
Legal Entity Type: Corporation
State or Country of Incorporation: New York
Phone Number: 212-589-2708
Fax Number: 212-589-2858

GOODS AND/OR SERVICES

International Class: 030

Class Status: Active

Frozen meals consisting primarily of pasta or rice; bagels; bakery products, namely sweet bakery goods; bread and buns; rolls; breakfast cereal; cereal-based snack foods; ready to eat cereal derived food bars; chocolate candies; cookies; pretzels; oatmeal; ice cream

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Prior Registration Number(s):

2139767

2185114

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-05-19 - Extension 2 granted

2008-05-19 - Extension 2 filed

2008-05-19 - TEAS Extension Received

2008-05-19 - TEAS Change Of Correspondence Received

2008-01-04 - Extension 1 granted

2008-01-04 - Extension 1 filed

2008-01-04 - TEAS Extension Received

2007-08-07 - Notice of allowance - mailed

2007-05-15 - Published for opposition

2007-04-25 - Notice of publication

2007-03-16 - Law Office Publication Review Completed

2007-03-16 - Assigned To LIE

2007-02-21 - Approved for Pub - Principal Register (Initial exam)

2007-02-17 - Assigned To Examiner

2006-10-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

Robert W. Hollweg

Weight Watchers International, Inc.

11 Madison Avenue

New York NY 10010

Phone Number: 212-589-2700

Fax Number: 212-589-2858

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-08-12 12:36:50 ET

Serial Number: 77011727 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark

POINTS

(words only): POINTS

Standard Character claim: Yes

Current Status: A request for the second extension of time to file a statement of use has been granted.

Date of Status: 2008-05-19

Filing Date: 2006-10-02

The Notice of Allowance Date is: 2007-08-07

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 104

Attorney Assigned:
FINNEGAN TIMOTHY J

Current Location: 700 -Intent To Use Section

Date In Location: 2007-08-07

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Weight Watchers International, Inc.

Address:

Weight Watchers International, Inc.
11 Madison Avenue
New York, NY 10010
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Virginia
Phone Number: 212-589-2708
Fax Number: 212-589-2858

GOODS AND/OR SERVICES

International Class: 029
Class Status: Active
Frozen meals consisting primarily of meat, fish, poultry or vegetables; drinking yogurt; yogurt
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Prior Registration Number(s):
2139767
2185114

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-05-19 - Extension 2 granted
2008-05-19 - Extension 2 filed
2008-05-19 - TEAS Extension Received
2008-05-19 - TEAS Change Of Correspondence Received
2008-01-04 - Extension 1 granted
2008-01-04 - Extension 1 filed
2008-01-04 - TEAS Extension Received
2007-08-07 - Notice of allowance - mailed

2007-05-15 - Published for opposition

2007-04-25 - Notice of publication

2007-03-16 - Law Office Publication Review Completed

2007-03-16 - Assigned To LIE

2007-02-21 - Approved for Pub - Principal Register (Initial exam)

2007-02-17 - Assigned To Examiner

2006-10-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

Robert W. Hollweg

Weight Watchers International, Inc.

11 Madison Avenue

New York NY 10010

Phone Number: 212-589-2700

Fax Number: 212-589-2858

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-08-12 12:37:10 ET

Serial Number: 76481562 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark (words only): POINTS

Standard Character claim: No

Current Status: A request for the third extension of time to file a statement of use has been granted.

Date of Status: 2008-04-22

Filing Date: 2003-01-09

The Notice of Allowance Date is: 2006-12-19

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 106

Attorney Assigned:
WELLS CHRISTOPHER WILLIAM

Current Location: 700 -Intent To Use Section

Date In Location: 2006-12-19

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Weight Watchers International, Inc.

Address:

Weight Watchers International, Inc.
11 Madison Avenue
New York, NY 10010
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Virginia

Phone Number: 516.390.1460

Fax Number: 516.390.1719

GOODS AND/OR SERVICES

International Class: 043**Class Status:** Active

Restaurant services

Basis: 1(b)**First Use Date:** (DATE NOT AVAILABLE)**First Use in Commerce Date:** (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-05-19 - TEAS Change Of Correspondence Received

2008-04-22 - Extension 3 granted

2008-04-22 - Extension 3 filed

2008-04-22 - TEAS Extension Received

2007-11-01 - Extension 2 granted

2007-11-01 - Extension 2 filed

2007-11-01 - TEAS Extension Received

2007-05-30 - Extension 1 granted

2007-05-30 - Extension 1 filed

2007-05-30 - TEAS Extension Received

2006-12-19 - Notice of allowance - mailed

2006-09-26 - Published for opposition

2006-09-06 - Notice of publication

2006-08-03 - Law Office Publication Review Completed

2006-07-24 - Assigned To LIE
2006-04-14 - Assigned To LIE
2006-04-10 - Approved for Pub - Principal Register (Initial exam)
2006-03-25 - LIE Checked Susp - To Atty For Action
2006-03-01 - TEAS Change Of Owner Address Received
2005-08-31 - Report Completed Suspension Check Case Still Suspended
2005-08-11 - Assigned To Examiner
2005-02-22 - Report Completed Suspension Check Case Still Suspended
2004-08-20 - Report Completed Suspension Check Case Still Suspended
2003-11-26 - Letter of suspension mailed
2003-10-03 - Communication received from applicant
2003-10-06 - PAPER RECEIVED
2003-07-14 - Letter of suspension mailed
2003-07-11 - Previous allowance count withdrawn
2003-07-10 - Approved for Pub - Principal Register (Initial exam)
2003-07-10 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

Robert W. Hollweg
Weight Watchers International, Inc.
11 Madison Avenue
New York NY 10010
Phone Number: 212-589-2700
Fax Number: 212-589-2858

EXHIBIT B

Search For

How Weight Watchers Works Food & Recipes Fitness & Health Success Stories Community M

Our Approach | What You'll Eat | Weight Watchers Meetings | Weight Watchers Online | Ready to Lose Weight?

The Flex Plan & Core Plan

Food plans tailored to fit your life



Food plans

Flex Plan & Core Plan

Why the Flex Plan?

There's no need to give up your favorite foods while losing weight. On the Flex Plan, our updated version of the popular **POINTS**® Food System, you can eat any food you want. Just stay within your personalized daily **POINTS**® Target and you'll be making healthier, better food choices in no time.

How the **POINTS** system works

Every food has a **POINTS** value, which is calculated based on a food's calories, fat and fiber. **POINTS** values help you keep track of what you eat, so that you stay within a daily **POINTS** Target that's personalized for you, based on your height, weight and other factors, such as gender.

Along with your daily **POINTS** Target, you also get a "Weekly Allowance" to use for a special occasion like a night on the town--so you can still indulge sometimes, without going off track.

Looking beyond food

Our food plans are just one part of our approach. We also offer support in developing healthy habits, creating a supportive environment and getting exercise.

Our approach to weight loss

See what you can eat on the Flex Plan.



Whole wheat English muffin



1 cup mixed berries



1 large slice thin crust pizza topped with vegetables



2 cups tossed salad

Why the Core Plan?

It's easy to follow. With the Core Plan, there's no counting—you can eat as much as you need to

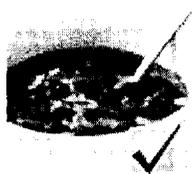
feel satisfied. The Core Plan provides a balanced diet by centering on a list of healthy foods that keep you full longer. These Core Foods include avocados, potatoes, salsa, brown rice, lean meats, and more.

How the Core Plan works

The Core Food List is based on the science of energy density. It contains foods that are low in energy density, meaning they contain a small number of calories per ounce. That means they'll make you feel more satisfied while you are actually consuming fewer calories. You can mix and match these foods as much as you want, and you'll learn to stay aware of hunger and fullness, so you won't overeat.

Along with eating any Core Foods you want, you get a "Weekly Allowance" for foods that aren't on the Core Plan. You can use them for daily treats, a night on the town, or a special occasion--so you can still indulge sometimes, without going off track.

See what you can eat on the Core Plan...



Garden vegetable soup



Grilled lean steak and vegetables



Melon chunks



Chicken and brown rice

Visit a meeting or follow the plan online

Weight Watchers Meetings

Meetings provide a motivating environment led by a leader who has lost weight with Weight Watchers and kept it off. Each weighing is confidential. Plus, you can subscribe to eTools, the Internet companion for meetings.

Weight Watchers Meetings

Find a meeting:

Weight Watchers Online

Follow our customized plan step-by-step online. Get interactive tools and videos, 1500+ recipes, workout a rich resource library.

Weight Watchers Online

Weight Watchers Online for Men

[SIGN UP FOR WEIGHT WATCHERS ONLINE](#)

Meetings or online -- [which is right for you?](#)

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International Sites



[Home](#) [Find a Meeting](#)

Search For

[How Weight Watchers Works](#) [Food & Recipes](#) [Fitness & Health](#) [Success Stories](#) [Community](#) [Ma](#)
[From Weight Watchers](#) | [From our Sponsors](#) | [F](#)

From Weight Watchers

Looking for **foods and tools** to help you meet your **weight-loss goals**? You can always count on the quality and value of these products from Weight Watchers, **available where you already shop.**



Browse Our Products:

- [Snack Cakes](#)
- [NEW! Soft Cookies](#)
- [Smart Ones](#)
- [Muffins](#)
- [Smoothies](#)
- [Applebee's](#)
- [Yogurt](#)
- [Chocolate Candies](#)
- [Books](#)
- [NEW! Cheese](#)
- [Bread](#)
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Endorsed Products

These Products: Loved by You, Trusted by Us!



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Start Your Day Out Light!
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Progresso Light Soups
5 soups with 60 calories and 0 POINTS per serving!
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From Our Sponsors



Our Sponsors
Be sure to check out new re and services offered from ou
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The Incredible Edible Egg
It's all natural. It's got 6 gram quality protein available. At c it's the original snack pack. F reasons why an egg is so inc
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[International Sites](#)



EXHIBIT C



CONVENTIONAL OVEN:

Due to variations in all ovens, adjustment to cooking time may be required.

1. Preheat oven to 350°F. Do not exceed 350°F.
2. Remove tray from outer carton; pull back corner of film to vent.
3. Place tray on baking sheet on middle oven rack.
4. Cook for 30 minutes.
5. Pull back film and stir. Replace film.
6. Cook for 10 additional minutes.
7. When removing from oven, keep tray on baking sheet. Let stand 1-2 minutes. Stir and enjoy.

MICROWAVE OVEN:

The following cook preparation was developed using a 1000 watt microwave oven. Due to variations in all ovens, adjustment to cooking time may be required.

1. Remove tray from outer carton; pull back corner of film to vent.
2. Cook on HIGH for 4 1/2 minutes.
3. Let stand in microwave 1-2 minutes. Stir and enjoy.

FOR BEST QUALITY AND FOOD SAFETY, FOLLOW THESE COOKING INSTRUCTIONS:

- DO NOT PREPARE IN TOASTER OVEN
- DO NOT REUSE TRAY
- KEEP FROZEN UNTIL READY TO USE
- COOK THOROUGHLY BEFORE EATING
- USE CAUTION AS PRODUCT AND PACKAGING WILL BE HOT



Smart Ones®

WeightWatchers®

Thai Style Chicken & Rice Noodles

Bistro SELECTIONS™



5 POINTS VALUE

260 Calories
4g of Fat

KEEP FROZEN & SERVING SUGGESTION:
COOK THOROUGHLY

NET WT. 9.0 OZ. (255 g)

Thai Style Chicken & Rice Noodles

QUALITY PLEDGE: If you have any questions or comments, please call us at 1-800-762-0228, Monday - Friday, or write to Heinz North America, Consumer Affairs, P.O. Box 57, Pittsburgh, PA 15230. Please have the package identification panel with the stamped-in code available when you call, or include when you write.



PRODUCT IDENTIFICATION PANEL
PITTSBURGH, PA 15230

WeightWatchers® Smart Ones®

Thai Style Chicken & Rice Noodles

The flavors of Thailand are infused into this tasty dish of juicy white meat chicken and tender rice noodles in a spicy peanut sauce, accented with carrots, chives and red peppers. So delicious, so satisfying, and another little way you can be good today. Smart Ones®. Taste so good, you want to be good™.

TO OPEN
PUSH IN PULL OUT



Also try other delicious
Smart Ones® Entrees!
www.EatYourBest.com

WeightWatchers®

Stop by and see why those who attend our meetings lose three times more weight than people dieting on their own.¹ For more information on how Weight Watchers can help you lose and maintain your weight in a healthy, liveable way, call 1-800-651-6000 or visit WeightWatchers.com. This product was prepared to fit the Weight Watchers program and is useful for weight control when used strictly in accordance with the Weight Watchers food plan.

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¹Journal of the American Medical Association 2003; 289(14): 1792 Heshka S et al.



W W S N O I T C E L E S
Bistro

WeightWatchers®
Smart Ones®

Thai Style Chicken & Rice Noodles

Nutrition Facts

Serving Size 1 Package (255g)
Servings Per Container 1

Amount Per Serving	% Daily Value*
Calories 260	Calories from Fat 35
Total Fat 4g	6%
Saturated Fat 0.5g	4%
<i>Trans</i> Fat 0g	
Polyunsaturated Fat 1g	
Monounsaturated Fat 1.5g	
Cholesterol 25mg	9%
Sodium 570mg	24%
Total Carbohydrate 43g	14%
Dietary Fiber 2g	8%
Sugars 9g	
Protein 14g	
Vitamin A 50%	Vitamin C 2%
Calcium 4%	Iron 4%

*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs.
Calories: 2,000

Total Fat	Less than 65g	80g
Sat Fat	Less than 20g	25g
Cholesterol	Less than 300mg	300mg
Sodium	Less than 2,400mg	2,400mg
Total Carbohydrate	300g	375g
Dietary Fiber	25g	30g

PROOF OF PURCHASE
9 0 0 2 T H A I S T Y L E C H I C K E N & R I C E N O O D L E S

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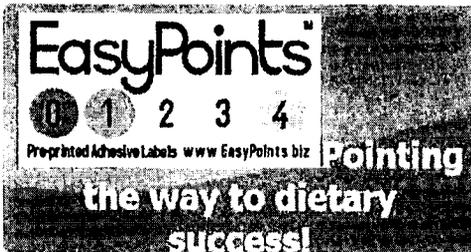
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O-174722

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132

EXHIBIT D



EasyPoints help you stay on track with your diet plan and healthy eating choices!

- Do you count "Points"?
- Do you count Carbs?
- Do you try to keep track of the dietary impact of the foods you bring home?
- Did you join Weight Watchers or another weight loss program, then get "burned out" from continually doing the math?
- Did you hope that your family members would take an interest and learn more about what they are eating?



If you answered YES, and want to have more success with any of the above, then EasyPoints are for you!

Each EasyPoints Pack Includes 12 color coded label sheets (720 "Points"), a sheet of blank points & a **FREE Magnetic PointsPack** to keep on your refrigerator for easy storage and easy access! **Only \$9.95 plus S&H.**

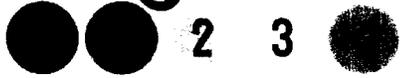
Finally, a simple method of quickly marking your food packages, drinks, storage containers and recipes, so that at a glance, you and your family will know the dietary impact of each item.

Having these points right at your fingertips is sure to aid your meal planning and diet success!

EasyPoints Pre-printed Adhesive Labels, offer a variety of the most commonly used number values. **Stick them on your Pantry Items, Snack Foods, Leftovers & Recipes!**

FREE Shipping	EasyPoints Packs make great gifts, too! Order 3 PointsPacks and shipping is FREE!
----------------------	--

EasyPoints™



Pre-printed Adhesive Labels www.EasyPoints.biz

**Pointing
the way to dietary
success!**



EasyPoints help you stay on track with your diet plan and healthy eating choices!

- Do you count "Points"?
- Do you count Carbs?
- Do you try to keep track of the dietary impact of the foods you bring home?
- Did you join Weight Watchers or another weight loss program, then get "burned out" from continually doing the math?
- Did you hope that your family members would take an interest and learn more about what they are eating?

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Having these points right at your fingertips is sure to aid your meal planning and diet success!

**FREE
Shipping**

**EasyPoints Packs
make great gifts,
too! Order 3
PointsPacks and
shipping is FREE!**