

ESTTA Tracking number: **ESTTA234410**

Filing date: **09/03/2008**

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	Edge Athletic Performance LLC
Granted to Date of previous extension	09/03/2008
Address	121 Cheshire Lane, Suite 400 Minnetonka, MN 55305 UNITED STATES

Attorney information	Jennifer C. Debrow Gray Plant Mooty Mooty & Bennett PA P.O. Box 2906 Minneapolis, MN 55402 UNITED STATES jennifer.debrow@gpmlaw.com, trademark@gpmlaw.com Phone:612-632-3357
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Applicant Information

Application No	77217602	Publication date	05/06/2008
Opposition Filing Date	09/03/2008	Opposition Period Ends	09/03/2008
Applicant	Sellers, Omar 212 Clearwater Dr. Smithfield, NC 27577 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. All goods and services in the class are opposed, namely: Operation of strength and conditioning camps for athletes during their off-season
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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. Application No.	77336408	Application Date	11/26/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE EDGE		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 041. First use: First Use: 2003/05/01 First Use In Commerce: 2003/05/01 physical fitness instruction, namely personalized athletic performance training; and health club services, namely, providing instruction and equipment in the field of physical exercise

U.S. Application No.	77336419	Application Date	11/26/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE EDGE SPORTS TRAINING CENTERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2003/05/01 First Use In Commerce: 2003/05/01 physical fitness instruction, namely personalized athletic performance training; and health club services, namely, providing instruction and equipment in the field of physical exercise		

U.S. Registration No.	3255004	Application Date	11/03/2005
Registration Date	06/26/2007	Foreign Priority Date	NONE
Word Mark	THE EDGE SPORTS TRAINING CENTERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2003/05/01 First Use In Commerce: 2003/05/01 physical fitness instruction, namely personalized athletic performance training; and health club services, namely, providing instruction and equipment in the field of physical exercise		

Attachments	77336408#TMSN.jpeg (1 page)(bytes) 77336419#TMSN.jpeg (1 page)(bytes) 78746658#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (4 pages)(250968 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	/Dean C. Eyler/
Name	Dean C. Eyler
Date	09/03/2008

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

Edge Athletic Performance, LLC

Opposer

v.

Omar Sellers

Applicant

Serial No. 77/217,602

Mark: THE EDGE STRENGTH AND
CONDITIONING CAMP

Opposition No.: _____

Commissioner for Trademarks
Attn: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

In the matter of pending application Serial No. 77/217,602, filed on June 28, 2007, by Omar Sellers, for THE EDGE STRENGTH AND CONDITIONING CAMP in International Class 41, published in the *Official Gazette* of May 6, 2008, Opposer Edge Athletic Performance, LLC (“EAP”) believes that it will be damaged, within the meaning of Section 13 of the Lanham Trademark Act, 15 U.S.C. §1063, by the registration of the mark and hereby gives notice of its intention to oppose the above application.

The grounds for opposition are as follows:

1. Opposer EAP is a limited liability company duly organized and existing under the laws of the State of Minnesota, with its principal place of business at 7121 Cheshire Lane, Suite 400, Minnetonka, Minnesota.

2. Opposer has filed applications with the United States Patent and Trademark Office for the following marks in connection with personalized athletic performance training and providing instruction and equipment in the field of physical exercise in the United States:

Mark	Application No.	Registration No.
THE EDGE SPORTS TRAINING CENTERS and Design	78/746,658	3,255,004
THE EDGE	77/336,408	
THE EDGE SPORTS TRAINING CENTERS	77/336,419	

3. The application for THE EDGE SPORTS TRAINING CENTERS and Design has achieved registration on the Principal register under registration number 3,255,004 as of June 26, 2007.

4. Opposer's use of each of the above-listed marks in commerce began at least as early as May 1, 2003.

5. Applicant's mark consists, in dominant part, of the word "EDGE," which is identical to the dominant part of Opposer's marks. THE EDGE is the only part of Applicant's mark that has not been disclaimed, which further demonstrates that it is the dominant part of Applicant's mark.

6. The services recited in Applicant's application are:

"Operation of strength and conditioning camps for athletes during their off season."

7. The services recited in Applicant's application are nearly identical to the services promoted and sold by Opposer.

8. Upon information and belief, Applicant sells or intends to sell its services to the same class of consumers to whom Opposer sells its services, and the channels of trade in which Applicant sells or intends to sell its goods are the same as the ones in which Opposer sells its services.

9. Registration of Applicant's mark is likely to cause confusion, mistake and/or deception among members of the consuming public as to the respective rights of the parties, and as to the source or sponsorship of Applicant's goods within the meaning of Section 2(d) of the Lanham Trademark Act, 15 U.S.C. §1052(d).

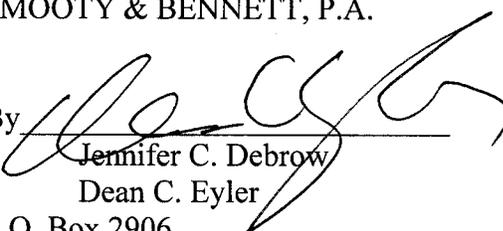
10. By reason of all of the foregoing, Opposer Edge Athletic Performance, LLC will be damaged by the registration of Applicant's purported mark.

WHEREFORE, Opposer Edge Athletic Performance, LLC, by its undersigned attorneys, respectfully requests that its Notice of Opposition be sustained and that the registration of THE EDGE STRENGTH AND CONDITIONING CAMP, Application Serial No. 77/217,602, be refused.

Dated: September 3, 2008.

GRAY, PLANT, MOOTY,
MOOTY & BENNETT, P.A.

By



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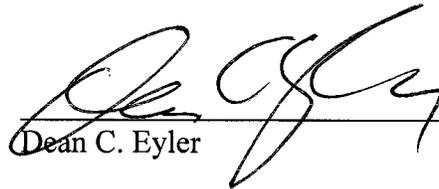
Attorneys for Opposer
Edge Athletic Performance, LLC

CERTIFICATE OF SERVICE

I, Dean C. Eyler, certify that I arranged for a copy of the foregoing Notice of Opposition to be served upon Applicant's counsel of record, namely:

Christopher J. Day
Law Office of Christopher Day
301 E. Bethany Home Road, Suite A-213
Phoenix, AZ 85012

by first-class mail on the 3rd day of September, 2008



Dean C. Eyler