

ESTTA Tracking number: **ESTTA257424**

Filing date: **12/24/2008**

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	Zumba Fitness, LLC		
Entity	limited liability company	Citizenship	Florida
Address	3801 N. 29th Ave. Hollywood, FL 33020 UNITED STATES		

Attorney information	Paul Kobak Kluger, Peretz, Kaplan & Berlin, P.L. 201 S. Biscayne Blvd. Miami, FL 33131 UNITED STATES pkobak@kpkb.com, mchesal@kpkb.com, ssantos@kpkb.com, trademarks@kpkb.com Phone:(305) 379-9000		
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Applicant Information

Application No	77371281	Publication date	12/02/2008
Opposition Filing Date	12/24/2008	Opposition Period Ends	01/01/2009
Applicant	Andalib, A. Hamid 717 Creek Drive Chattanooga, TN 37415 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. All goods and services in the class are opposed, namely: Entertainment services, namely, providing music, games, movies, videos, news, e-books, and user-generated content to on-line users via the worldwide web to recipients authorized by club membership, gift cards or certificates, credit or debit card accounts, or other access criteria
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Applicant Information

Application No	77371229	Publication date	12/09/2008
Opposition Filing Date	12/24/2008	Opposition Period Ends	01/08/2009
Applicant	Andalib, A. Hamid 717 Creek Drive Chattanooga, TN 37415 UNITED STATES		

Goods/Services Affected by Opposition

Class 041.

All goods and services in the class are opposed, namely: Entertainment services, namely, providing a website where persons authorized by club membership, gift cards or certificates, credit or debit card accounts, or other access criteria may access music, games, movies, videos, news, and e-books

Applicant Information

Application No	77371247	Publication date	12/09/2008
Opposition Filing Date	12/24/2008	Opposition Period Ends	01/08/2009
Applicant	Andalib, A. Hamid 717 Creek Drive Chattanooga, TN 37415 UNITED STATES		

Goods/Services Affected by Opposition

Class 041.

All goods and services in the class are opposed, namely: Entertainment services, namely, providing a website where persons authorized by club membership, gift cards or certificates, credit or debit card accounts, or other access criteria may access music, games, movies, videos, news, and e-books

Applicant Information

Application No	77371302	Publication date	12/09/2008
Opposition Filing Date	12/24/2008	Opposition Period Ends	01/08/2009
Applicant	Andalib, A. Hamid 717 Creek Drive Chattanooga, TN 37415 UNITED STATES		

Goods/Services Affected by Opposition

Class 041.

All goods and services in the class are opposed, namely: Entertainment services, namely, providing a website where persons authorized by club membership, gift cards or certificates, credit or debit card accounts, or other access criteria may access music, games, movies, videos, news, and e-books

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.	3046534	Application Date	10/19/2001
Registration Date	01/17/2006	Foreign Priority Date	NONE
Word Mark	ZUMBA		

Design Mark	<h1>ZUMBA</h1>
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 2001/10/01 First Use In Commerce: 2002/07/01 [VIDEO RECORDINGS IN THE FIELD OF EXERCISE AND PHYSICAL FITNESS; PRE-RECORDED VIDEO CASSETTES IN THE FIELD OF PHYSICAL FITNESS AND EXERCISE]</p> <p>Class 025. First use: First Use: 2002/10/01 First Use In Commerce: 2002/10/01 CLOTHING, NAMELY, HATS, CAPS, SHIRTS, PANTS, SHORTS, SOCKS, SHOES, ATHLETIC SHOES, PULLOVERS, JACKETS, SWEATSHIRTS, SWEAT PANTS, LEOTARDS; Exercise clothing, namely shirts, shorts, pants, leotards, sweatshirts, jackets, socks, shoes, caps and hats</p>

U.S. Registration No.	3244094	Application Date	12/26/2005
Registration Date	05/22/2007	Foreign Priority Date	NONE
Word Mark	ZUMBA		
Design Mark	<h1>ZUMBA</h1>		
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2002/06/01 First Use In Commerce: 2002/06/01 Education services, namely, providing classes in the field of dance and exercise		

U.S. Registration No.	3296721	Application Date	12/15/2006
Registration Date	09/25/2007	Foreign Priority Date	NONE
Word Mark	ZUMBA GOLD		

Design Mark	Zumba Gold
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2006/01/01 First Use In Commerce: 2006/11/01 Education services, namely, providing classes in the field of dance and exercise

U.S. Registration No.	3359366	Application Date	04/25/2007
Registration Date	12/25/2007	Foreign Priority Date	NONE
Word Mark	ZUMBAWEAR		
Design Mark	ZUMBAWEAR		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2003/02/15 First Use In Commerce: 2003/02/15 CLOTHING, NAMELY, HATS, CAPS, SHIRTS, PANTS, SHORTS, SOCKS, SHOES, ATHLETIC SHOES, PULLOVERS, JACKETS, SWEATSHIRTS, SWEAT PANTS, LEOTARDS; EXERCISE CLOTHING, NAMELY, SHIRTS, SHORTS, PANTS, LEOTARDS, SWEATSHIRTS, JACKETS, SOCKS, SHOES, CAPS AND HATS		

U.S. Registration No.	3435705	Application Date	10/10/2007
Registration Date	05/27/2008	Foreign Priority Date	NONE
Word Mark	ZUMBA FITNESS		

Design Mark	<h1>Zumba Fitness</h1>
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2001/10/31 First Use In Commerce: 2001/10/31 Pre-recorded CDs, video tapes, laser disks and DVDs featuring physical fitness and exercise instruction; Video recordings featuring physical fitness and exercise instruction

U.S. Registration No.	3452926	Application Date	10/16/2007
Registration Date	06/24/2008	Foreign Priority Date	NONE
Word Mark	ZUMBA FITNESS		
Design Mark			
Description of Mark	The color black appears in the wording "ZUMBA FITNESS" and in the stick figure design, and the color green appears in the circular background behind the stick figure.		
Goods/Services	Class 009. First use: First Use: 2001/10/31 First Use In Commerce: 2001/10/31 Pre-recorded CDs, video tapes, laser disks and DVDs featuring physical fitness and exercise instruction; Video recordings featuring physical fitness and exercise instruction		

U.S. Registration No.	3452872	Application Date	10/11/2007
Registration Date	06/24/2008	Foreign Priority Date	NONE
Word Mark	ZUMBA FITNESS		

Design Mark			
Description of Mark	The color black appears in the wording "ZUMBA FITNESS" and in the stick figure design, and the color green appears in the circular background behind the stick figure.		
Goods/Services	Class 041. First use: First Use: 2002/06/30 First Use In Commerce: 2002/06/30 Education services, namely, providing classes in the field of dance and exercise		

U.S. Registration No.	3501639	Application Date	02/14/2008
Registration Date	09/16/2008	Foreign Priority Date	NONE

Word Mark	ZUMBATOMIC
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Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2007/06/01 First Use In Commerce: 2007/11/01 Digital media, namely, pre-recorded video cassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, DVDs, and high definition digital disks featuring physical fitness and dance exercise instruction for children		

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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	/Paul L. Kobak/
Name	Paul Kobak
Date	12/24/2008

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

In the Matter of:

Application Serial No.: 77371281
Filed: January 18, 2008
Trademark: YOUZOOMBA
Applicant: A. Hamid Andalib
Published in the
Official Gazette on: December 2, 2008

In the Matter of:

Application Serial No.: 77371229
Filed: January 14, 2008
Trademark: UZOOMBA
Applicant: A. Hamid Andalib
Published in the
Official Gazette on: December 9, 2008

In the Matter of:

Application Serial No.: 77371247
Filed: January 14, 2008
Trademark: UZUMBA
Applicant: A. Hamid Andalib
Published in the
Official Gazette on: December 9, 2008

In the Matter of:

Application Serial No.: 77371302
Filed: January 14, 2008
Trademark: YOUZUMBA
Applicant: A. Hamid Andalib
Published in the
Official Gazette on: December 9, 2008

ZUMBA FITNESS, LLC,
a Florida limited liability company,

Opposer,

v.

A. HAMID ANDALIB,
an individual,

Applicant.

NOTICE OF OPPOSITION

Opposer, Zumba Fitness, LLC, a Florida limited liability company, having its principal place of business at 3801 N. 29th Ave., Hollywood, Florida 33020 (“Opposer”), believes it will be damaged by registration of the marks shown in Trademark Application Nos. 77371281, 77371229, 77371247, and 77371302 and hereby opposes the same. The grounds for opposition are as follows:

1. Opposer is the owner of multiple U.S. trademark registrations (collectively, the “Zumba Registrations”), including:

Mark	Registration Number	Registration Date	Class / Description
ZUMBA	3046534	January 17, 2006	Clothing, namely, hats, caps, shirts, pants, shorts, socks, shoes, athletic shoes, pullovers, jackets, sweatshirts, sweat pants, leotards; Exercise clothing, namely shirts, shorts, pants, leotards, sweatshirts, jackets, socks, shoes, caps and hats. (Class 25)
ZUMBA	3244094	May 22, 2007	Education services, namely, providing classes in the field of dance and exercise. (Class 41)
ZUMBA GOLD	3296721	September 25, 2007	Education services, namely, providing classes in the field

Mark	Registration Number	Registration Date	Class / Description
			of dance and exercise. (Class 41)
ZUMBAWEAR	3359366	December 25, 2007	Clothing, namely, hats, caps, shirts, pants, shorts, socks, shoes, athletic shoes, pullovers, jackets, sweatshirts, sweat pants, leotards; exercise clothing, namely, shirts, shorts, pants, leotards, sweatshirts, jackets, socks, shoes, caps and hats. (Class 25)
ZUMBA FITNESS	3435705	May 27, 2008	Pre-recorded CDs, video tapes, laser disks and DVDs featuring physical fitness and exercise instruction; Video recordings featuring physical fitness and exercise instruction. (Class 9)
	3452926	June 24, 2008	Pre-recorded CDs, video tapes, laser disks and DVDs featuring physical fitness and exercise instruction; Video recordings featuring physical fitness and exercise instruction. (Class 9)
	3452872	June 24, 2008	Education services, namely, providing classes in the field of dance and exercise. (Class 41)
ZUMBATOMIC	3501639	September 16, 2008	Digital media, namely, pre-recorded video cassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, DVDs, and high definition digital disks featuring physical fitness and dance exercise instruction for children. (Class 9)

2. Opposer uses all of the foregoing marks (collectively, the “ZUMBA Marks”) for all of the identified goods and services.

3. As the above registrations reflect, Opposer has been using the mark ZUMBA for over seven years, dating back to 2001, and the other ZUMBA Marks for a number of years. Opposer’s use has been valid and continuous and Opposer has not abandoned any of the ZUMBA Marks.

4. Applicant, A. Hamid Andalib (“Applicant”), is an individual having a principal place of residence 717 Creek Drive, Chattanooga, Tennessee 37415.

5. Applicant is seeking registration of the mark YOUZOOMBA in international class 41 for “Entertainment services, namely, providing music, games, movies, videos, news, e-books, and user-generated content to on-line users via the worldwide web to recipients authorized by club membership, gift cards or certificates, credit or debit card accounts, or other access criteria.”

6. Applicant is seeking registration of the marks UZOOMBA, UZUMBA, and YOUZUMBA in international class 41 for “Entertainment services, namely, providing a website where persons authorized by club membership, gift cards or certificates, credit or debit card accounts, or other access criteria may access music, games, movies, videos, news, and e-books.” Applicant’s applications for the U.S. trademarks listed above and in ¶ 5 are hereafter collectively referred to as the “the Disputed Applications.”

7. There is no priority issue in this case as Opposer has been using its various ZUMBA Marks for several years, and Applicant just filed the Disputed Applications in January 2008.

8. The marks covered by the Disputed Applications so resemble the ZUMBA Marks that, when used on or in connection with the goods or services of the Applicant, they are likely to cause confusion, or to cause mistake, or to deceive.

9. Because the Disputed Applications cover marks that are phonetically equivalent to the Zumba Marks and cover services related to the goods and services covered by the Zumba Registrations, if Applicant is permitted to register its YOUZOOMBA, UZOOMBA, YOUZUMBA, and UZUMBA marks for the services identified in the Disputed Applications, Opposer will be damaged because (a) confusion may result, causing consumers to purchase Applicant's services under the mistaken impression that they are Opposer's services, or are otherwise sponsored by or affiliated with Opposer; and/or (b) Applicant will be able to achieve presumptive exclusive rights to its marks, which are confusingly similar to Opposer's marks.

Wherefore, Opposer, Zumba Fitness, LLC, respectfully requests that Application Nos. 77371281, 77371229, 77371247, and 77371302 be refused, and that the Board grant such other relief deemed just and proper.

Dated: December 24, 2008.

Respectfully submitted,

KLUGER, PERETZ, KAPLAN & BERLIN, P.L.
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By: /s/ Paul L. Kobak

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24 day of December, 2008, the foregoing is being served upon the following via U.S. Mail:

Mark S. Graham, Esq.
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