

ESTTA Tracking number: **ESTTA541773**

Filing date: **06/05/2013**

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	Zion's Daughters Dance Ensemble, Inc.
Granted to Date of previous extension	06/05/2013
Address	4306 Ridgecrest Drive Suitland, MD 20746 UNITED STATES

Attorney information	Frederick N. Samuels Cahn & Samuels, LLP 1100 17th st., NWSuite 401 Washington, DC 20036 UNITED STATES fnsdocketing@cahnsamuels.com Phone:202 331-8777
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Applicant Information

Application No	85701306	Publication date	02/05/2013
Opposition Filing Date	06/05/2013	Opposition Period Ends	06/05/2013
Applicant	Landis, Mone't D 7000 Muir Drive Fort Washington, MD 20744 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2009/11/15 First Use In Commerce: 2009/11/15 All goods and services in the class are opposed, namely: Providing educational services, namely, providing workshops, classes, and seminars in the field of Christian dance

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Other	lack of ownership

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85872062	Application Date	03/10/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ZION'S DAUGHTERS DANCE ENSEMBLE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2009/01/31 First Use In Commerce: 2009/01/31 Entertainment services in the nature of live liturgical dance performances

Attachments	Notice of Opposition.pdf(77083 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	/frederick samuels/
Name	Frederick N. Samuels
Date	06/05/2013

**In the United States Patent and Trademark Office
Before the Trademark Trial and Appeal Board**

In the Matter of Trademark Application Serial No. 85/701,306

Filed: August 11, 2012

Mark: ZION'S DAUGHTERS DANCE ENSEMBLE

Published in the Official Gazette: February 5, 2013

Zion's Daughters Dance Ensemble, Inc.

Opposer,

v.

Mone't Landis

Applicant

Opposition No:

Notice of Opposition

In the matter of the application for registration of the mark ZION'S DAUGHTERS DANCE ENSEMBLE for "providing educational services, namely, providing workshops, classes, and seminars in the field of Christian dance", in International Class 41 Serial No: 85/701,306 filed August 11, 2012 by Mone't Landis published for opposition on February 5, 2013, Opposer, Zion's Daughters Dance Ensemble, Inc. believes that it would be damaged by such registration, and hereby opposes the registration of Applicant's mark.

The grounds for the opposition are as follows:

1. Opposer, Zion's Daughters Dance Ensemble, Inc. ("ZDDE"), is a Maryland tax-exempt nonstock corporation. Opposer has a place of business at 4306 Ridgecrest Drive, Suitland, Maryland 20746.
2. Opposer began as an unincorporated association started by Ms. Marjorie Gorham in January of 2009, operating under the name ZION'S DAUGHTERS DANCE ENSEMBLE and providing a ministry to bring liturgical dance to church goers and to the community at large.
3. As the ministry grew, Ms. Gorham, along with others, decided to formalize the organization and she incorporated the association in the state of Maryland as Zion's Daughters Dance Ensemble, Inc. in January of 2012. Therefore, Zion's Daughters Dance Ensemble, Inc. is the successor in interest to Zion's Daughters Dance Ensemble.
4. Opposer has been continuously and substantially exclusively using the mark ZION'S DAUGHTERS DANCE ENSEMBLE since its inception in 2009, first as an unincorporated and then as a corporation. Opposer has been using the mark for presentation of live liturgical dance performances. Since at least as early as 2011, Opposer has been using the mark in connection with offering community based classes in liturgical dance.
5. Because of Opposer's continuous and substantially exclusive use of the ZION'S DAUGHTER'S DANCE ENSEMBLE mark in connection with the services set forth above in paragraph 4, Opposer has established substantial goodwill in the mark and the consuming public recognizes Opposer as being the sole source of the services provided under the mark. Accordingly, Opposer has significant

common law and statutory rights in the mark as applied to the services identified herein.

6. On or about January 2009, shortly after formulation of Zion's Daughters, Opposer asked Applicant to serve in a leadership role in Zion's Daughters Dance Ensemble. Specifically, Applicant was asked to help coordinate dance routines for ZDDE.

7. From January of 2009 until August 13, 2012, Opposer served in her leadership role and was sporadically compensated for her services. At no time during her service did Applicant have control over the nature or quality of services provided by ZDDE. On or about August 13, 2012, ZDDE terminated its relationship with Applicant due to Applicant's severe misconduct.

8. Two days prior to her termination, on August 11, 2012, Applicant filed its trademark application to register the mark ZION'S DAUGHTERS DANCE ENSEMBLE, claiming a date of first use in commerce at least as early as November 15, 2009. Applicant's trademark application seeks registration of the mark for providing educational services, namely, providing workshops, classes, and seminars in the field of Christian dance, in International Class 041.

9. The specimens filed with Applicant's application belong to Opposer. Upon information and belief, Applicant has never used the mark in commerce.

10. After learning of Applicant's fraudulent trademark filing, Opposer filed a trademark application, Serial No: 85/872,062 for the mark ZION'S DAUGHTERS DANCE ENSEMBLE in International Class 041 on March 10, 2013, claiming a date

of first use of .in in commerce at least as early as January 31, 2009. Opposer's application has yet to be examined.

11. Applicant's application seeks registration for a mark that is identical to Opposer's mark as applied to services that are equivalent to Opposer's services. Due to its prior use of the mark in commerce and Applicant's failure to use the mark in commerce, Opposer not Applicant is the rightful owner of the mark.

12. As part of its application, Applicant signed a declaration under penalty of perjury stating that (i) she believes herself to be entitled to use the mark in commerce;(ii) to the best of her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive.

13. Applicant knew that Opposer was the rightful owner of the mark when she signed the declaration therefore the statements made in the declaration are false and the declaration is fraudulent.

14. Opposer will be damaged by registration of the Application in that Applicant's mark so resembles Opposer's mark subject to Application No. 85/872,062, and in which Opposer owns common law trademark rights, as to be likely, when used in connection with services that are identified in the Application, as to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

15. In view of Opposer's prior rights in its ZION'S DAUGHTERS DANCE ENSEMBLE mark, Applicant is not entitled to federal registration of ZION'S DAUGHTERS DANCE ENSEMBLE pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer prays that U.S. Trademark Application Serial No. 85/701,306 be rejected and stricken, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

June 5, 2013

Respectfully submitted,

/Frederick Samuels/
Frederick N. Samuels, Esq.
CAHN & SAMUELS, LLP
1100 17th Street, N.W., Suite 401
Washington, D.C. 20036
Tele: (202) 331-8777
Fax: (202) 331-3838
fnsdocketing@cahnsamuels.com

Counsel for Opposer