

ESTTA Tracking number: **ESTTA542622**

Filing date: **06/10/2013**

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	SparkNotes LLC
Granted to Date of previous extension	06/12/2013
Address	122 Fifth Avenue New York, NY 10011 UNITED STATES

Attorney information	TODD BRAVERMAN PEARL COHEN ZEDEK LATZER LLP 1500 BROADWAY , 12TH FLOOR NEW YORK, NY 10036 UNITED STATES tm-uspto@pczlaw.com
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### Applicant Information

Application No	79113656	Publication date	02/12/2013
Opposition Filing Date	06/10/2013	Opposition Period Ends	06/12/2013
International Registration No.	1118184	International Registration Date	03/01/2012
Applicant	ENOYA PROJECTS 75 rue de Passy F-75016 PARIS FRANCE		

### Goods/Services Affected by Opposition

<p>Class 035. All goods and services in the class are opposed, namely: Advertising; business management; business administration; office functions; direct mail advertising; arranging newspaper subscriptions for others; business management and organization consultancy; bookkeeping; document reproduction; employment agencies; computerized file management; organization of exhibitions for commercial or advertising purposes; online advertising on a computer network; rental of advertising time on communication media; publication of publicity texts; rental of advertising space; dissemination of advertisements; public relations</p>
<p>Class 041. All goods and services in the class are opposed, namely: Educational services, namely, providing classes, seminars and workshops in the fields of journalism, communications, entrepreneurship and innovation; providing training in the fields of journalism; publication of books; videotape and digital film production; videotape and digital film editing; photography services; organization of educational competitions in the field of journalism; arranging and conducting of educational colloquiums, conferences and congresses; organization of exhibitions for cultural or educational purposes;</p>

publication of electronic books and journals on-line; electronic desktop publishing
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## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2490292	Application Date	03/14/2000
Registration Date	09/18/2001	Foreign Priority Date	NONE
Word Mark	SPARKNOTES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1999/03/00 First Use In Commerce: 1999/03/00 On-line educational services, namely, providing information and analysis of literary works Class 042. First use: First Use: 1999/03/00 First Use In Commerce: 1999/03/00 Computer services, namely, providing on-line study guides in the field of literature		

U.S. Registration No.	2802909	Application Date	04/23/2001
Registration Date	01/06/2004	Foreign Priority Date	NONE
Word Mark	SPARKNOTES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2001/02/28 First Use In Commerce: 2001/02/28 PUBLICATIONS, NAMELY, STUDY GUIDES IN THE FIELD OF LITERATURE		

U.S. Registration No.	2905459	Application Date	04/23/2001
Registration Date	11/30/2004	Foreign Priority Date	NONE
Word Mark	THESPARK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 1999/01/00 First Use In Commerce: 1999/01/00 Telecommunication services, namely, providing on-line chat rooms and transmission of instant messages and e-mail among computer users concerning topics of interest to college students Class 041. First use: First Use: 1999/01/00 First Use In Commerce: 1999/01/00 Entertainment services, namely, providing on-line games, quizzes and science experiments, and providing humorous content on a variety of topics and subject matters; educational services, namely, providing on-line study guides in the field of literature and providing educational information and content on a variety of		

	college topics		
U.S. Registration No.	2882198	Application Date	06/19/2001
Registration Date	09/07/2004	Foreign Priority Date	NONE
Word Mark	SPARKNOTES		
Design Mark			
Description of Mark	The mark consists in part of a stylized design of a spark.		
Goods/Services	<p>Class 016. First use: First Use: 2001/02/28 First Use In Commerce: 2001/02/28 Publications, namely, study guides in the field of literature</p> <p>Class 041. First use: First Use: 2001/02/28 First Use In Commerce: 2001/02/28 [On-line educational services, namely, providing information and analysis of literary works]</p> <p>Class 042. First use: First Use: 2001/02/28 First Use In Commerce: 2001/02/28 [Computer services, namely, providing on-line study guides in the field of literature]</p>		
U.S. Registration No.	2797269	Application Date	01/31/2003
Registration Date	12/23/2003	Foreign Priority Date	NONE
Word Mark	SPARKCHARTS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 2003/01/17 First Use In Commerce: 2003/01/17 publications, namely, study guides and charts in the fields of literature, history, government, law, foreign languages, English composition, business, science, mathematics, computers, computer languages, computer operating systems, computer software, economics, sociology, mythology, philosophy, medicine and test preparation</p>		
U.S. Registration No.	3380421	Application Date	02/09/2007
Registration Date	02/12/2008	Foreign Priority Date	NONE
Word Mark	SPARK PUBLISHING		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 2002/12/31 First Use In Commerce: 2002/12/31 publications, namely, books, study guides and charts on a variety of college-level subjects, namely, Math, Algebra, Calculus, Trigonometry, Geometry, Chemistry, Organic Chemistry, Biology, Microbiology, Physics, Astronomy, Computer Science, Geology, History, Psychology, Philosophy, Economics, Film, Health, Art History, Language, English, ESL, Sign Language, Spanish, French, Italian, German, Hebrew, Japanese, Chinese, Latin, Law, Anatomy, Medicine, Nursing, Music, Marketing, Macroeconomics, Accounting, Mythology, Women's Studies, Sociology and SAT Test Prep</p>		

	Class 041. First use: First Use: 2002/12/31 First Use In Commerce: 2002/12/31 book publishing		
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U.S. Registration No.	3391019	Application Date	03/09/2007
Registration Date	03/04/2008	Foreign Priority Date	NONE
Word Mark	SPARKCOLLEGE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 2005/07/25 First Use In Commerce: 2005/07/25 books and guides on colleges, college life, college admissions, college loans and financial aid</p> <p>Class 036. First use: First Use: 2005/07/25 First Use In Commerce: 2005/07/25 Providing online information for assisting in applying for college loans and scholarships via a web site</p> <p>Class 038. First use: First Use: 2005/07/25 First Use In Commerce: 2005/07/25 Providing on-line electronic bulletin boards for transmission of messages among computer users concerning assistance in selecting and applying to colleges and universities, college loans and scholarships, and information on colleges, college life, college admissions, college loans and financial aid</p> <p>Class 041. First use: First Use: 2005/07/25 First Use In Commerce: 2005/07/25 Providing on-line information for assisting in selecting and applying to colleges and universities; Providing on-line information in the field of college admissions; Providing a website that features information on college life, namely, attending college and university with an emphasis on newly enrolled students and activities</p> <p>Class 042. First use: First Use: 2005/07/25 First Use In Commerce: 2005/07/25 Providing non-downloadable diagnostic tools and programs for assisting in applying for college loans and scholarships via a web site; Providing non-downloadable diagnostic tools and programs for assisting in selecting and applying to colleges and universities</p>		

U.S. Registration No.	3425933	Application Date	08/13/2007
Registration Date	05/13/2008	Foreign Priority Date	NONE
Word Mark	SPARKLIFE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 041. First use: First Use: 2003/01/31 First Use In Commerce: 2003/01/31 Providing a web site featuring educational and entertainment information and content in the fields of pop culture, television shows, movies, literature, fiction and non-fiction books on a variety of topics, the Internet, computers, music, news, current events, humor, blogs concerning college life, education and current events, college life, academics, quizzes, computer games and trivia games</p>		

U.S. Registration No.	3541252	Application Date	08/13/2007
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Registration Date	12/02/2008	Foreign Priority Date	NONE
Word Mark	SPARKCHAT		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 038. First use: First Use: 2008/09/25 First Use In Commerce: 2008/09/25 Telecommunication services, namely, providing on-line chat rooms and transmission of instant messages and e-mails among computer users concerning topics of interest to college students, educational topics and study guides on literary works</p> <p>Class 041. First use: First Use: 2008/09/25 First Use In Commerce: 2008/09/25 On-line educational services, namely, a web site which provides information and analysis of literary works, on-line study guides in the field of literature, and educational information and content on a variety of college topics</p>		

U.S. Registration No.	3605844	Application Date	09/09/2008
Registration Date	04/14/2009	Foreign Priority Date	NONE
Word Mark	SPARKNOTES 101		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 2004/01/31 First Use In Commerce: 2004/01/31 publications, namely, books and study guides on a variety of college-level subjects, namely, mathematics, algebra, science, biology, history, political science, psychology, philosophy, literature, english, foreign languages, sociology and test prep</p>		

U.S. Registration No.	3495516	Application Date	01/29/2008
Registration Date	09/02/2008	Foreign Priority Date	NONE
Word Mark	THE DAILY SPARK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 2004/07/31 First Use In Commerce: 2004/07/31 Publications, namely, a series of teacher and student lessons, activities and exercise books in the fields of primary, secondary, college and post-graduate education, history, science, vocabulary, writing, spelling, grammar, mathematics, journal writing, research paper writing, literature, language, Shakespeare, foreign languages, poetry, test preparation and college entrance examinations</p>		

U.S. Registration No.	3952293	Application Date	06/29/2009
Registration Date	04/26/2011	Foreign Priority Date	NONE
Word Mark	*SPARKNOTES		
Design Mark			

Description of Mark	The mark consists of the word "SPARKNOTES" with an asterisk.		
Goods/Services	<p>Class 009. First use: First Use: 2009/08/00 First Use In Commerce: 2009/08/00 Downloadable electronic publications in the nature of study guides in the field of literature; Downloadable electronic publications in the nature of books, study guides and charts on a variety of high school and college-level subjects, namely, Math, Algebra, Calculus, Trigonometry, Geometry, Chemistry, Organic Chemistry, Biology, Microbiology, Physics, Astronomy, Computer Science, Geology, History, Psychology, Philosophy, Economics, Film, Health, Art History, Language, English, ESL, Sign Language, Spanish, French, Italian, German, Hebrew, Japanese, Chinese, Latin, Law, Anatomy, Medicine, Nursing, Music, Marketing, Macroeconomics, Accounting, Mythology, Women's Studies, Sociology and SAT Test Prep</p> <p>Class 038. First use: First Use: 2009/08/00 First Use In Commerce: 2009/08/00 Providing on-line electronic bulletin boards for transmission of messages among computer users concerning assistance in selecting and applying to colleges and universities, college loans and scholarships, and information on colleges, college life, college admissions, college loans and financial aid; Telecommunication services, namely, providing on-line chat rooms and transmission of instant messages and e-mails among computer users concerning topics of interest to high school and college students, educational topics and study guides on literary works</p> <p>Class 041. First use: First Use: 2009/08/00 First Use In Commerce: 2009/08/00 On-line educational services, namely, providing information and analysis of literary works; On-line educational services, namely, a web site which provides information and analysis of literary works and on-line quizzes on a variety of high school and college topics, on-line study guides in the field of literature, and educational information and content on a variety of high school and college topics; Providing a web site featuring educational and entertainment information and content in the fields of pop culture, television shows, movies, literature, fiction and non-fiction books on a variety of topics, the Internet, computers, music, news, current events, humor, blogs concerning college life, education and current events, high school life, college life, academics, quizzes, computer games and trivia games; book publishing services; Providing on-line information for assisting in selecting and applying to colleges and universities; Providing on-line information in the field of college admissions; Providing a website that features information on college life, namely, attending college and university with an emphasis on newly enrolled students and activities; Computer services, namely, providing on-line study guides in the field of literature; Providing non-downloadable publications in the nature of books, study guides and charts on a variety of high school and college-level subjects, namely, Math, Algebra, Calculus, Trigonometry, Geometry, Chemistry, Organic Chemistry, Biology, Microbiology, Physics, Astronomy, Computer Science, Geology, History, Psychology, Philosophy, Economics, Film, Health, Art History, Language, English, ESL, Sign Language, Spanish, French, Italian, German, Hebrew, Japanese, Chinese, Latin, Law, Anatomy, Medicine, Nursing, Music, Marketing, Macroeconomics, Accounting, Mythology, Women's Studies, Sociology and SAT Test Prep</p> <p>Class 042. First use: First Use: 2009/08/00 First Use In Commerce: 2009/08/00 Providing online non-downloadable diagnostic tools in the nature of software, computer databases and computer programs for assisting in applying for college loans and scholarships via a web site; Providing online non-downloadable diagnostic tools in the nature of software, computer databases and computer programs for assisting in selecting and applying to colleges and universities</p>		
U.S. Application No.	85562439	Application Date	03/07/2012

Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THESPARK.COM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 038. First use:  Providing on-line electronic bulletin boards for transmission of messages among computer users concerning assistance in selecting and applying to colleges and universities, college loans and scholarships, and information on colleges, college life, college admissions, college loans and financial aid;  Telecommunication services, namely, providing on-line chat rooms and transmission of instant messages and e-mails among computer users concerning topics of interest to high school and college students, educational topics and study guides on literary works</p> <p>Class 041. First use:  Entertainment services, namely, providing online quizzes and games regarding relationships, personalities, and education; entertainment services, namely, providing a web site featuring humorous content; On-line educational services, namely, providing information and analysis of literary works; On-line educational services, namely, a web site which provides information and analysis of literary works and on-line quizzes on a variety of high school and college topics, on-line study guides in the field of literature, and educational information and content on a variety of high school and college topics; Providing a web site featuring educational and entertainment information and content in the fields of pop culture, television shows, movies, literature, fiction and non-fiction books on a variety of topics, the Internet, computers, music, news, current events, humor, blogs concerning college life, education and current events, high school life, college life, academics, quizzes, computer games and trivia games; book publishing services; Providing on-line information for assisting in selecting and applying to colleges and universities; Providing on-line information in the field of college admissions; Providing a website that features information on college life, namely, attending college and university with an emphasis on newly enrolled students and activities; Computer services, namely, providing on-line study guides in the field of literature. Providing non-downloadable publications in the nature of books, study guides and charts on a variety of high school and college-level subjects, namely, Math, Algebra, Calculus, Trigonometry, Geometry, Chemistry, Organic Chemistry, Biology, Microbiology, Physics, Astronomy, Computer Science, Geology, History, Psychology, Philosophy, Economics, Film, Health, Art History, Language, English, ESL, Sign Language, Spanish, French, Italian, German, Hebrew, Japanese, Chinese, Latin, Law, Anatomy, Medicine, Nursing, Music, Marketing, Macroeconomics, Accounting, Mythology, Women's Studies, Sociology and SAT Test Prep</p>		

Attachments	Notice of Opposition - Spark News.pdf(877553 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 Overnight Courier on this date.

Signature	/tjbraverman/
Name	TODD BRAVERMAN

Date	06/10/2013
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consultancy; bookkeeping; document reproduction; employment agencies; computerized file management; organization of exhibitions for commercial or advertising purposes; online advertising on a computer network; rental of advertising time on communication media; publication of publicity texts; rental of advertising space; dissemination of advertisements; public relations,” in International Class 35 and “educational services, namely, providing classes, seminars and workshops in the fields of journalism, communications, entrepreneurship and innovation; providing training in the fields of journalism; publication of books; videotape and digital film production; videotape and digital film editing; photography services; organization of educational competitions in the field of journalism; arranging and conducting of educational colloquiums, conferences and congresses; organization of exhibitions for cultural or educational purposes; publication of electronic books and journals on-line; electronic desktop publishing,” in International Class 41 (“Spark News Services”), as evidenced by the publication of said mark in the *Official Gazette* in the February 12, 2013 issue.

2. Applicant, ENOYA PROJECTS, filed the application for the mark SPARK NEWS on March 1, 2012, pursuant to Section 66(a) of the Lanham Act, 15 U.S.C. §1141f(a), based upon International Registration No. 1118184 registered on March 1, 2012 listing France as the Initial Designation.

3. The U.S. Patent and Trademark Office (“USPTO”) assigned U.S. Trademark Application Serial No. 79/113,656 to the application for the mark SPARK NEWS.

4. In connection with U.S. Trademark Application Serial No. 79/113,656 for the mark SPARK NEWS, Applicant claimed September 26, 2011 as a foreign priority

filing date based on France Trademark Application No. 11 3 861 761 filed on September 26, 2011 and registered on January 20, 2012.

5. SparkNotes LLC, through its predecessors, parent and related companies (hereinafter referred to as "Opposer"), owns and operates the SPARKNOTES.COM web site which provides on-line and downloadable educational content, user forums and entertainment content to students, including, but not limited to, study guides and charts on various academic topics, information and analysis of literary works, test preparation materials and guides, and information on news, current events, the Internet, fashion, beauty, celebrities, college admissions and college and campus life, among other subjects.

6. Opposer owns numerous valid and subsisting Federal registered marks which incorporate the term SPARK ("Opposer's Family of Spark Marks").

7. Opposer owns U.S. Registration No. 2490292, for the mark SPARKNOTES, for "on-line educational services, namely, providing information and analysis of literary works," in International Class 41 and "computer services, namely, providing on-line study guides in the field of literature," in International Class 42. The USPTO issued said registration on September 18, 2001 and said registration is valid, subsisting, incontestable and renewed.

8. Opposer first used the mark SPARKNOTES, U.S. Registration No. 2490292, in commerce at least as early as March 1999 and Opposer's use has been valid and continuous and has not been abandoned.

9. Opposer owns U.S. Registration No. 2802909, for the mark SPARKNOTES, for "publications, namely, study guides in the field of literature," in

International Class 16. The USPTO issued said registration on January 6, 2004 and is valid, subsisting, incontestable and renewed.

10. Opposer first used the mark SPARKNOTES, U.S. Registration No. 2802909, in commerce at least as early as February 28, 2001 and Opposer's use has been valid and continuous and has not been abandoned.

11. Opposer owns U.S. Registration No. 2905459, for the mark THESPARK, for "telecommunication services, namely, providing on-line chat rooms and transmission of instant messages and e-mail among computer users concerning topics of interest to college students," in International Class 38 and "entertainment services, namely, providing on-line games, quizzes and science experiments, and providing humorous content on a variety of topics and subject matters; educational services, namely, providing on-line study guides in the field of literature and providing educational information and content on a variety of college topics," in International Class 41. The USPTO issued said registration on November 30, 2004 and is valid, subsisting and incontestable.

12. Opposer first used the mark THESPARK, U.S. Registration No. 2905459, in commerce at least as early as January 1999 and Opposer's use has been valid and continuous and has not been abandoned.

13. Opposer owns U.S. Registration No. 2882198, for the mark SPARKNOTES & DESIGN, for "publications, namely, study guides in the field of literature," in International Class 16. The USPTO issued said registration on September 7, 2004 and is valid, subsisting, incontestable and renewed.

14. Opposer first used the mark SPARKNOTES & DESIGN, U.S. Registration No. 2882198, in commerce at least as early as February 28, 2001 and Opposer's use has been valid and continuous and has not been abandoned.

15. Opposer owns U.S. Registration No. 2797269, for the mark SPARKCHARTS, for "publications, namely, study guides and charts in the fields of literature, history, government, law, foreign languages, English composition, business, science, mathematics, computers, computer languages, computer operating systems, computer software, economics, sociology, mythology, philosophy, medicine and test preparation," in International Class 16. The USPTO issued said registration on December 23, 2003 and is valid, subsisting, incontestable and renewed.

16. Opposer first used the mark SPARKCHARTS, U.S. Registration No. 2797269, in commerce at least as early as January 17, 2003 and Opposer's use has been valid and continuous and has not been abandoned.

17. Opposer owns U.S. Registration No. 3380421, for the mark SPARK PUBLISHING, for "publications, namely, books, study guides and charts on a variety of college-level subjects, namely, Math, Algebra, Calculus, Trigonometry, Geometry, Chemistry, Organic Chemistry, Biology, Microbiology, Physics, Astronomy, Computer Science, Geology, History, Psychology, Philosophy, Economics, Film, Health, Art History, Language, English, ESL, Sign Language, Spanish, French, Italian, German, Hebrew, Japanese, Chinese, Latin, Law, Anatomy, Medicine, Nursing, Music, Marketing, Macroeconomics, Accounting, Mythology, Women's Studies, Sociology and SAT Test Prep," in International Class 16 and "book publishing," in International Class

41. The USPTO issued said registration on February 12, 2008 and is valid, subsisting and incontestable.

18. Opposer first used the mark SPARK PUBLISHING, U.S. Registration No. 3380421 in commerce at least as early as December 31, 2003 and Opposer's use has been valid and continuous and has not been abandoned.

19. Opposer owns U.S. Registration No. 3391019, for the mark SPARK COLLEGE, for "books and guides on colleges, college life, college admissions, college loans and financial aid," in International Class 16; "providing online information for assisting in applying for college loans and scholarships via a web site," in International Class 36; "providing on-line electronic bulletin boards for transmission of messages among computer users concerning assistance in selecting and applying to colleges and universities, college loans and scholarships, and information on colleges, college life, college admissions, college loans and financial aid," in International Class 38; "providing on-line information for assisting in selecting and applying to colleges and universities; providing on-line information in the field of college admissions; providing a website that features information on college life, namely, attending college and university with an emphasis on newly enrolled students and activities," in International Class 41; and "providing non-downloadable diagnostic tools and programs for assisting in applying for college loans and scholarships via a web site; providing non-downloadable diagnostic tools and programs for assisting in selecting and applying to colleges and universities," in International Class 42. The USPTO issued said registration on March 4, 2008 and is valid, subsisting and incontestable.

20. Opposer first used the mark SPARK COLLEGE, U.S. Registration No. 3391019 in commerce at least as early as July 25, 2005 and Opposer's use has been valid and continuous and has not been abandoned.

21. Opposer owns U.S. Registration No. 3425933, for the mark SPARKLIFE, for "providing a web site featuring educational and entertainment information and content in the fields of pop culture, television shows, movies, literature, fiction and non-fiction books on a variety of topics, the Internet, computers, music, news, current events, humor, blogs concerning college life, education and current events, college life, academics, quizzes, computer games and trivia games," in International Class 41. The USPTO issued said registration on May 13, 2008 and is valid, subsisting and incontestable.

22. Opposer first used the mark SPARKLIFE, U.S. Registration No. 3425933 in commerce at least as early as January 31, 2003 and Opposer's use has been valid and continuous and has not been abandoned.

23. Opposer owns U.S. Registration No. 3541252, for the mark SPARKCHAT, for "telecommunication services, namely, providing on-line chat rooms and transmission of instant messages and e-mails among computer users concerning topics of interest to college students, educational topics and study guides on literary works," in International Class 38 and "on-line educational services, namely, a web site which provides information and analysis of literary works, on-line study guides in the field of literature, and educational information and content on a variety of college topics," in International Class 41. The USPTO issued said registration on December 2, 2008 and is valid and subsisting.

24. Opposer first used the mark SPARKCHAT, U.S. Registration No. 3541252 in commerce at least as early as September 25, 2008 and Opposer's use has been valid and continuous and has not been abandoned.

25. Opposer owns U.S. Registration No. 3605844, for the mark THE DAILY SPARK, for "publications, namely, a series of teacher and student lessons, activities and exercise books in the fields of primary, secondary, college and post-graduate education, history, science, vocabulary, writing, spelling, grammar, mathematics, journal writing, research paper writing, literature, language, Shakespeare, foreign languages, poetry, test preparation and college entrance examinations," in International Class 16. The USPTO issued said registration on September 2, 2008 and is valid and subsisting.

26. Opposer first used the mark THE DAILY SPARK, U.S. Registration No. 3605844 in commerce at least as early as July 31, 2004 and Opposer's use has been valid and continuous and has not been abandoned.

27. Opposer owns U.S. Registration No. 3495516, for the mark SPARKNOTES 101, for "publications, namely, books and study guides on a variety of college-level subjects, namely, mathematics, algebra, science, biology, history, political science, psychology, philosophy, literature, English, foreign languages, sociology and test prep," in International Class 16. The USPTO issued said registration on April 14, 2009 and is valid and subsisting.

28. Opposer first used the mark SPARKNOTES 101, U.S. Registration No. 3495516 in commerce at least as early as January 31, 2004 and Opposer's use has been valid and continuous and has not been abandoned.

29. Opposer owns U.S. Registration No. 3952293, for the mark \*SPARKNOTES, for “downloadable electronic publications in the nature of study guides in the field of literature; downloadable electronic publications in the nature of books, study guides and charts on a variety of high school and college-level subjects, namely, Math, Algebra, Calculus, Trigonometry, Geometry, Chemistry, Organic Chemistry, Biology, Microbiology, Physics, Astronomy, Computer Science, Geology, History, Psychology, Philosophy, Economics, Film, Health, Art History, Language, English, ESL, Sign Language, Spanish, French, Italian, German, Hebrew, Japanese, Chinese, Latin, Law, Anatomy, Medicine, Nursing, Music, Marketing, Macroeconomics, Accounting, Mythology, Women's Studies, Sociology and SAT Test Prep,” in International Class 09; “providing on-line electronic bulletin boards for transmission of messages among computer users concerning assistance in selecting and applying to colleges and universities, college loans and scholarships, and information on colleges, college life, college admissions, college loans and financial aid; telecommunication services, namely, providing on-line chat rooms and transmission of instant messages and e-mails among computer users concerning topics of interest to high school and college students, educational topics and study guides on literary works,” in International Class 38; “providing on-line electronic bulletin boards for transmission of messages among computer users concerning assistance in selecting and applying to colleges and universities, college loans and scholarships, and information on colleges, college life, college admissions, college loans and financial aid,” in International Class 38; “on-line educational services, namely, providing information and analysis of literary works; on-line educational services, namely, a web site which provides information and analysis of

literary works and on-line quizzes on a variety of high school and college topics, on-line study guides in the field of literature, and educational information and content on a variety of high school and college topics; providing a web site featuring educational and entertainment information and content in the fields of pop culture, television shows, movies, literature, fiction and non-fiction books on a variety of topics, the Internet, computers, music, news, current events, humor, blogs concerning college life, education and current events, high school life, college life, academics, quizzes, computer games and trivia games; book publishing services; providing on-line information for assisting in selecting and applying to colleges and universities; providing on-line information in the field of college admissions; providing a website that features information on college life, namely, attending college and university with an emphasis on newly enrolled students and activities; computer services, namely, providing on-line study guides in the field of literature; providing non-downloadable publications in the nature of books, study guides and charts on a variety of high school and college-level subjects, namely, Math, Algebra, Calculus, Trigonometry, Geometry, Chemistry, Organic Chemistry, Biology, Microbiology, Physics, Astronomy, Computer Science, Geology, History, Psychology, Philosophy, Economics, Film, Health, Art History, Language, English, ESL, Sign Language, Spanish, French, Italian, German, Hebrew, Japanese, Chinese, Latin, Law, Anatomy, Medicine, Nursing, Music, Marketing, Macroeconomics, Accounting, Mythology, Women's Studies, Sociology and SAT Test Prep,” in International Class 41; and “providing online non-downloadable diagnostic tools in the nature of software, computer databases and computer programs for assisting in applying for college loans and scholarships via a web site; providing online

non-downloadable diagnostic tools in the nature of software, computer databases and computer programs for assisting in selecting and applying to colleges and universities,” in International Class 42. The USPTO issued said registration on April 26, 2011 and is valid and subsisting.

30. Opposer first used the mark \*SPARKNOTES, U.S. Registration No. 3952293 in commerce at least as early as August 2009 and Opposer’s use has been valid and continuous and has not been abandoned

31. Opposer owns U.S. Trademark Application Serial No. 85562439, for the mark THESPARK.COM, for “providing on-line electronic bulletin boards for transmission of messages among computer users concerning assistance in selecting and applying to colleges and universities, college loans and scholarships, and information on colleges, college life, college admissions, college loans and financial aid; telecommunication services, namely, providing on-line chat rooms and transmission of instant messages and e-mails among computer users concerning topics of interest to high school and college students, educational topics and study guides on literary works,” in International Class 16 and “entertainment services, namely, providing online quizzes and games regarding relationships, personalities, and education; entertainment services, namely, providing a web site featuring humorous content; on-line educational services, namely, providing information and analysis of literary works; on-line educational services, namely, a web site which provides information and analysis of literary works and on-line quizzes on a variety of high school and college topics, on-line study guides in the field of literature, and educational information and content on a variety of high school and college topics; providing a web site featuring educational and entertainment information

and content in the fields of pop culture, television shows, movies, literature, fiction and non-fiction books on a variety of topics, the internet, computers, music, news, current events, humor, blogs concerning college life, education and current events, high school life, college life, academics, quizzes, computer games and trivia games; book publishing services; providing on-line information for assisting in selecting and applying to colleges and universities; providing on-line information in the field of college admissions; providing a website that features information on college life, namely, attending college and university with an emphasis on newly enrolled students and activities; computer services, namely, providing on-line study guides in the field of literature. providing non-downloadable publications in the nature of books, study guides and charts on a variety of high school and college-level subjects, namely, Math, Algebra, Calculus, Trigonometry, Geometry, Chemistry, Organic Chemistry, Biology, Microbiology, Physics, Astronomy, Computer Science, Geology, History, Psychology, Philosophy, Economics, Film, Health, Art History, Language, English, ESL, Sign Language, Spanish, French, Italian, German, Hebrew, Japanese, Chinese, Latin, Law, Anatomy, Medicine, Nursing, Music, Marketing, Macroeconomics, Accounting, Mythology, Women's Studies, Sociology and SAT Test Prep," in International Class 41. The USPTO published U.S. Trademark Application Serial No. 85562439 for opposition on August 14, 2012 and issued the Notice of Allowance on October 9, 2013.

32. Opposer has used the mark SPARKNOTES in various forms and iterations in commerce on or in connection with the above listed goods and services, since at least as early as March 1999. Opposer's use has been valid and continuous and has not been abandoned.

33. Opposer's Family of Spark Marks has been in use in interstate commerce on or in connection with the above listed goods and services long prior to March 30, 2011.

34. Opposer has been and still is engaged in the sale, distribution and marketing of various goods and services, including, but not limited to, on-line educational services, namely, a web site which provides information and analysis of literary works and on-line quizzes on a variety of high school and college topics, on-line study guides in the field of literature, and educational information and content on a variety of high school and college topics; providing a web site featuring educational and entertainment information and content in the fields of pop culture, television shows, movies, literature, fiction and non-fiction books on a variety of topics, the Internet, computers, music, news, current events, humor, blogs concerning college life, education and current events, high school life, college life, academics, quizzes, computer games and trivia games; and book publishing services under Opposer's SparkNotes and Family of Spark Marks, alone and with other terms, prior to September 26, 2011, the priority filing date for SPARK NEWS, U.S. Application Serial No. 79/113656.

35. Over the past fourteen (14) years, Opposer has expended substantial resources building the goodwill and reputation of its business in connection with the distinctive and unique SparkNotes and Family of Spark Marks.

36. Opposer expends substantial resources promoting and advertising Opposer's SparkNotes and Family of Spark Marks on the Internet and through Barnes & Noble retail stores throughout the United States.

37. Opposer's SparkNotes and Family of Spark Marks are distinctive designations known by consumers in connection with educational and entertainment products and services throughout the United States.

38. Opposer's SparkNotes and Family of Spark Marks are highly distinctive due to the unique combination of the word SPARK with additional terms.

39. Applicant seeks to register the mark SPARK NEWS for use in connection with the above-listed Spark News Services

40. There is no issue as to priority. Upon information and belief, Applicant has not made any use in commerce of the mark SPARK NEWS in connection with the services identified in U.S. Application Serial No. 79/113,656 prior to the filing date of March 01, 2012 or the priority filing date of September 26, 2011.

41. Applicant's filing date is long after Opposer's dates of first use for the SPARKNOTES mark and Family of Spark Marks.

42. Opposer, by virtue of its efforts, and the expenditure of considerable sums for advertising, marketing and promotional activities, and by virtue of the excellence of its products and services, has developed an exceedingly valuable goodwill and reputation in respect to Opposer's SparkNotes and Family of Spark Marks.

43. By virtue of Opposer's efforts in selling and distributing services bearing Opposer's SparkNotes and Family of Spark Marks, and through Opposer's substantially exclusive and continuous use of SparkNotes and Opposer's Family of Spark Marks in commerce since at least as early as March 1999, Opposer's SparkNotes and Opposer's Family of Spark Marks have become distinctive of the goods and services listed herein.

44. Applicant's mark SPARK NEWS is confusingly similar in sound, appearance and/or meaning to Opposer's SparkNotes and Family of Spark Marks.

45. Upon information and belief, Applicant uses the mark SPARK NEWS on and in connection with services that are similar and related to those offered by Opposer under Opposer's SparkNotes and Family of Spark Marks.

46. Upon information and belief, Applicant intends to offer and offers services in whole or in part within the same channels of trade and to the same class of purchasers as Opposer.

47. Opposer believes and alleges that when the Applicant uses the mark SPARK NEWS in connection with the services listed in Application Serial No. 79/113,656, consumers are likely to believe that the services originate with, sponsored by or affiliated with Opposer.

48. Applicant's use and registration of the mark SPARK NEWS for the services identified in Application Serial No. 79/113,656 will enable Applicant to trade upon and utilize the goodwill established by Opposer in Opposer's SparkNotes and Family of Spark Marks.

49. Opposer believes and alleges that Applicant's SPARK NEWS mark when used on or in connection with the services identified in Application Serial No. 79/113,656 is likely to cause confusion or mistake or to deceive and will deceive and mislead the public and/or potential consumers into believing that Applicant is licensed or controlled by Opposer or that Applicant is in some way related to, sponsored by or affiliated with Opposer.

50. If the Applicant is permitted to use and register its mark for its services, as specified in the application herein opposed, confusion in trade resulting in damage and injury to the Opposer would be caused and would result by reason of the similarity between the Applicant's mark and the Opposer's SparkNotes and Family of Spark Marks. Persons familiar with Opposer's marks would be likely to purchase or make use of Applicant's services thinking those services are related to Opposer's goods and services. Any such confusion in trade inevitably would result in loss of sales and business opportunities under the mistaken belief that such goods and services are offered by or connected with Opposer. Furthermore, any defect, objection or fault found with Applicant's services marketed and performed under its mark SPARK NEWS would necessarily reflect upon and seriously injure the reputation which the Opposer has established for its goods and services merchandised, sold and distributed under Opposer's SparkNotes and Family of Spark Marks.

51. If the Applicant is granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its mark. Such registration would be a source of damage and injury to the Opposer, as well as confusion in the relevant marketplace.

52. In view of the similarity in overall commercial impression of the respective marks, the related nature of the goods and services of the respective parties, and Opposer's priority as to use of the mark, Opposer alleges that Applicant's mark SPARK NEWS so resembles Opposer's SparkNotes marks and Opposer's Family of Spark Marks as to be likely to cause confusion, or mistake, or to deceive under Trademark Act

Sections 2(d) and 43(a), 15 U.S.C. Sections 1052(d) and 1125(a), and will cause damage to Opposer and its goodwill represented by its prior-used marks.

53. In addition, Opposer's rights and fame in its SparkNotes and Family of Spark Marks, including those based on its extensive use, registrations and public recognition, were established long before Applicant filed the application for SPARK NEWS. Thus, granting registration to Applicant would diminish and dilute the distinctive quality of Opposer's rights in its SparkNotes and Family of Spark Marks in violation of Trademark Act Section 43(c), 15 U.S.C. Section 1125(c), and could also, in the event of any mishaps involving, or poor quality of, the services offered by Applicant, tarnish such distinctiveness.

54. A duplicate service copy of this Notice of Opposition is being mailed via first-class mail, postage pre-paid to Applicant, ENOYA PROJECTS, a French SAS, located at 75 rue de Passy F-75016, Paris, France, and a filing fee of \$300 is submitted herewith.

WHEREFORE, the Opposer prays that the application Serial No. 79/113,656 be rejected, that the mark therein sought for the services therein specified in International Classes 35 and 41 be denied and refused and that this opposition be sustained in favor of Opposer.

Respectfully submitted,

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Date: June 10, 2013

