

ESTTA Tracking number: **ESTTA544027**

Filing date: **06/19/2013**

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	Mad Dogg Athletics, Inc.
Granted to Date of previous extension	06/19/2013
Address	2111 Narcissus Ct. Venice, CA 90291 UNITED STATES

Correspondence information	Konrad Gatien Stubbs Alderton & Markiles, LLP 1453 3rd Street Promenade, Suite 310 Santa Monica, CA 90401 UNITED STATES uspto@stubbsalderton.com, kgatien@stubbsalderton.com Phone:(310) 746-9810
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**Applicant Information**

Application No	85729154	Publication date	02/19/2013
Opposition Filing Date	06/19/2013	Opposition Period Ends	06/19/2013
Applicant	4 Pillar Dynasty LLC 246 West 35th Street New York, NY 10001 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 025. First Use: 2012/06/00 First Use In Commerce: 2012/06/00 All goods and services in the class are opposed, namely: ladies, men and children's clothing, namely, bottoms, tops, athletic tops, athletic bottoms, sweaters, jeans, blouses, skirts, dresses, jackets, vests, coats, rainwear, lingerie, sleepwear, loungewear, swimwear, gloves, socks, hosiery and scarves
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**Applicant Information**

Application No	85729165	Publication date	02/19/2013
Opposition Filing Date	06/19/2013	Opposition Period Ends	
Applicant	4 Pillar Dynasty LLC 246 West 35th Street New York, NY 10001 UNITED STATES		

**Goods/Services Affected by Opposition**

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 All goods and services in the class are opposed, namely: ladies, mens and children's clothing, namely, bottoms, tops, athletic tops, athletic bottoms, sweaters, jeans, blouses, skirts, dresses, jackets, vests, coats, rainwear, lingerie, sleepwear, loungewear, swimwear, gloves, socks, hosiery and scarves

## 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.	2173202	Application Date	04/22/1996
Registration Date	07/14/1998	Foreign Priority Date	NONE
Word Mark	SPIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1992/01/00 First Use In Commerce: 1992/01/00 stationary exercise bicycles Class 041. First use: First Use: 1992/01/00 First Use In Commerce: 1992/01/00 physical fitness instruction		

U.S. Registration No.	4140957	Application Date	08/12/2010
Registration Date	05/15/2012	Foreign Priority Date	NONE
Word Mark	SPINCIRCUIT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1999/08/31 First Use In Commerce: 1999/08/31 prerecorded video tapes featuring exercise and general physical fitness instruction Class 028. First use: First Use: 1998/09/30 First Use In Commerce: 1998/09/30 exercise equipment, namely, stationary exercise bicycles Class 041. First use: First Use: 1998/09/30 First Use In Commerce: 1998/09/30 physical fitness instruction		

U.S. Registration No.	2336564	Application Date	11/05/1997
Registration Date	03/28/2000	Foreign Priority Date	NONE
Word Mark	SPINERVALS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1997/10/01 First Use In Commerce: 1997/10/01 Prerecorded video cassettes featuring exercise and general physical fitness		

	instruction		
U.S. Registration No.	3974848	Application Date	09/13/2007
Registration Date	06/07/2011	Foreign Priority Date	NONE
Word Mark	SPINFITNESS		
Design Mark			
Description of Mark	The mark consists, in part, of two stylized semi-circles appearing above and below the wording.		
Goods/Services	Class 025. First use: First Use: 2009/05/31 First Use In Commerce: 2009/05/31 APPAREL, NAMELY, T-SHIRTS, TANK TOPS, POLO SHIRTS, SPORTS BRAS, JACKETS, SPORTS JACKETS, COATS, RAIN SUITS, SWEATSHIRTS, SWEATPANTS, WARMUP SUITS, SWEATERS, JERSEYS, PULLOVERS, HOODED SWEATSHIRTS, TIGHTS, SHORTS, SHOES, SOCKS, SWEATBANDS, GLOVES, AND CAPS		
U.S. Registration No.	3990272	Application Date	02/05/2007
Registration Date	07/05/2011	Foreign Priority Date	NONE
Word Mark	SPIN FITNESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2009/05/31 First Use In Commerce: 2009/05/31 apparel, namely, T-shirts, tank tops, polo shirts, sports bras, jackets, coats, rain suits, sweatshirts, hooded sweatshirts, sweatpants, warm-up suits, sweaters, jerseys, pullovers, tights, shorts, socks, caps		
U.S. Registration No.	3334266	Application Date	03/13/2007
Registration Date	11/13/2007	Foreign Priority Date	NONE
Word Mark	SPINGYM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1999/08/05 First Use In Commerce: 1999/08/05 Prerecorded video cassettes, DVDs, audio cassettes, and compact discs featuring exercise and general fitness instruction Class 041. First use: First Use: 1999/08/05 First Use In Commerce: 1999/08/05 Physical fitness instruction		
U.S. Registration No.	3990274	Application Date	02/05/2007
Registration Date	07/05/2011	Foreign Priority Date	NONE
Word Mark	SPIN PILATES		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2008/02/11 First Use In Commerce: 2008/02/11 apparel, namely, T-shirts

U.S. Registration No.	3986020	Application Date	08/17/2007
Registration Date	06/28/2011	Foreign Priority Date	NONE
Word Mark	SPIN YOGA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2011/01/31 First Use In Commerce: 2011/01/31 Apparel, namely, T-shirts, tank tops, polo shirts, sports bras, sweatshirts, hooded sweatshirts, sweatpants, tights		

U.S. Registration No.	2003922	Application Date	10/19/1994
Registration Date	10/01/1996	Foreign Priority Date	NONE
Word Mark	SPINNING		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1990/02/00 First Use In Commerce: 1990/02/00 prerecorded video cassettes featuring exercise and general physical fitness instruction</p> <p>Class 025. First use: First Use: 1990/01/00 First Use In Commerce: 1990/01/00 clothing in the nature of sports and leisure clothing, namely shoes, T-shirts, sweatshirts, sweat pants, polo shirts, shorts, sports coats and jackets, socks, sweatbands, and warmup suits</p> <p>Class 028. First use: First Use: 1990/01/00 First Use In Commerce: 1990/01/00 exercise equipment in the nature of stationary exercise bicycles and weight training machines</p>		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	SPINGEAR		
Goods/Services	apparel and fitness accessories		

Attachments	Notice of Opposition - SPINWEAR.pdf(37979 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	/s/
Name	Konrad Gatién
Date	06/19/2013

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

In re Application Nos. 85729154 and 85729165, Published on February 19, 2013

Mad Dogg Athletics, Inc.	)	
	)	Opposition No. _____
Opposer,	)	
	)	
v.	)	
	)	
4 Pillar Dynasty LLC,	)	
	)	
Applicant.	)	
_____	)	

**NOTICE OF OPPOSITION**

Mad Dogg Athletics, Inc. (“Opposer”), a California corporation, having its principal place of business at 2111 Narcissus Court, Venice, California, 90291, believes that it will be damaged by the registration of the above-identified mark (the “SPINWEAR Mark”) for use in connection with “ladies, mens and children’s clothing, namely, bottoms, tops, athletic tops, athletic bottoms, sweaters, jeans, blouses, skirts, dresses, jackets, vests, coats, rainwear, lingerie, sleepwear, loungewear, swimwear, gloves, socks, hosiery and scarves,” in Class 25 and hereby opposes the same under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, Opposer alleges:

1. Opposer is the owner of all rights, title and interest in and to, among others, the following trademarks:
  - a. SPIN (Reg. No. 2173202), which is registered with the United States Patent and Trademark Office for use in connection with “stationary exercise

bicycles” in International Class 028 and “physical fitness instruction” in International Class 041;

- b. SPINCIRCUIT (Reg. No. 4140957), which is registered with the United States Patent and Trademark Office for use in connection with “prerecorded video tapes featuring exercise and general physical fitness instruction” in International Class 009, “exercise equipment, namely, stationary exercise bicycles” in International Class 028, and “physical fitness instruction” in International Class 041;
- c. SPINERVALS (Reg. No. 2336564), which is registered with the United States Patent and Trademark Office for use in connection with “Prerecorded video cassettes featuring exercise and general physical fitness instruction” in International Class 009;
- d. SPINFITNESS (Reg. No. 3974848), which is registered with the United States Patent and Trademark Office for use in connection with “apparel, namely, t-shirts, tank tops, polo shirts, sports bras, jackets, sports jackets, coats, rain suits, sweatshirts, sweatpants, warm-up suits, sweaters, jerseys, pullovers, hooded sweatshirts, tights, shorts, shoes, socks, sweatbands, gloves, and caps” in International Class 025;
- e. SPIN FITNESS (Reg. No. 3990272), which is registered with the United States Patent and Trademark Office for use in connection with “apparel, namely, T-shirts, tank tops, polo shirts, sports bras, jackets, coats, rain suits,

sweatshirts, hooded sweatshirts, sweatpants, warm-up suits, sweaters, jerseys, pullovers, tights, shorts, socks, caps” in International Class 025;

- f. SPINGYM (Reg. No. 3334266), which is registered with the United States Patent and Trademark Office for use in connection with “prerecorded video cassettes, DVDs, audio cassettes, and compact discs featuring exercise and general fitness instruction” in International Class 009 and “physical fitness instruction” in International Class 041;
- g. SPIN PILATES (Reg. No. 3990274), which is registered with the United States Patent and Trademark Office for use in connection with “apparel, namely, T-shirts” in International Class 025;
- h. SPIN YOGA (Reg. No. 3986020), which is registered with the United States Patent and Trademark Office for use in connection with “apparel, namely, T-shirts, tank tops, polo shirts, sports bras, sweatshirts, hooded sweatshirts, sweatpants, tights” in International Class 025;
- i. SPINNING (Reg. No. 2003922), which is registered with the United States Patent and Trademark Office for use in connection with prerecorded video cassettes featuring exercise and general physical fitness instruction in International Class 009; clothing in the nature of sports and leisure clothing, namely shoes, T-shirts, sweatshirts, sweat pants, polo shirts, shorts, sports coats and jackets, socks, sweatbands, and warm-up suits in International Class

025; and exercise equipment in the nature of stationary exercise bicycles and weight training machines in International Class 028.

- j. SPINGEAR, which is an unregistered trademark used in connection with apparel and fitness accessories.

(hereinafter collectively referred to as the “SPIN Family of Marks”)

2. Opposer’s SPIN Family of Marks is well-known and distinctive through extensive use and advertizing by Opposer and its licensees, and the marks therein have become highly valuable symbols of Opposer’s business and goodwill.

3. Since long before Applicant’s filing of its trademark application with the United States Patent and Trademark Office, Opposer has used its SPIN Family of Marks in connection with the advertising and sale of fitness goods and services, and, in particular with respect to this proceeding, apparel.

4. The United States Patent and Trademark Office has recognized Opposer’s exclusive right to use its SPIN Family of Marks by issuing the registrations for said marks.

5. Opposer’s registrations are valid and subsisting and provide *prima facie* evidence of Opposer’s ownership of, and exclusive right to use, Opposer’s SPIN Family of Marks in commerce.

6. Opposer has developed a well-known business reputation throughout the United States and Opposer’s SPIN Family of Marks has been and continues to be publicized through advertising and promotion in the United States.

7. As a result of the advertising and sales of goods and services offered under Opposer's SPIN Family of Marks, the marks have become established as distinctive source indicators and valuable symbols of Opposer's business and goodwill.

8. Notwithstanding Opposer's prior established rights in its SPIN Family of Marks, Applicant filed on September 14, 2012, its applications for registration of the SPINWEAR Mark.

9. Opposer has used its SPIN Family of Marks continuously on or in connection with its goods and services in interstate commerce since long prior to Applicant's filing date for Applicant's SPINWEAR Mark.

10. Applicant had constructive knowledge of Opposer's prior rights in Opposer's SPIN Family of Marks well before Applicant filed its applications for its SPINWEAR Mark.

11. On information and belief, Applicant had actual knowledge of Opposer's prior rights in Opposer's SPIN Family of Marks well before Applicant filed its applications for its SPINWEAR Mark.

**COUNT I**  
**LIKELIHOOD OF CONFUSION - §2(d)**

12. Applicant's SPINWEAR Mark so closely resembles Opposer's SPIN Family of Marks, and each of them, that the use and registration thereof is likely to cause confusion, mistake and deception as to the source or origin of Applicant's apparel, including athletic apparel, and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's SPIN Family of Marks, and each mark in said family.

13. The goods of Applicant are so closely related to the goods and services of Opposer that the public is likely to be confused, to be deceived and to assume erroneously that

Applicant's goods are those of Opposer or that Applicant is in some way connected to, sponsored by, or affiliated with Opposer, all to Opposer's irreparable damage.

14. Likelihood of confusion in this case is enhanced by the fact that customers or viewers of Applicant's goods are likely to associate Applicant's SPINWEAR Mark with goods and services sold, approved or endorsed by Opposer under its SPIN Family of Marks; moreover, customers and viewers of Applicant's goods are prospective purchasers of Opposer's goods and services.

15. Opposer is not affiliated or associated with or connected to Applicant; Applicant's goods do not originate from Opposer; and Opposer has not endorsed, sponsored or approved of Applicant's goods or commercial activities offered under the SPINWEAR Mark.

16. Similarly, Opposer has not approved any goods sold or intended for sale by Applicant under Applicant's SPINWEAR Mark, nor has Opposer granted Applicant permission to use said mark.

WHEREFORE, Opposer prays that its opposition be sustained and that registration be denied.

Respectfully submitted,



Dated: June 19, 2013

Konrad K. Gatien  
Stubbs Alderton & Markiles, LLP  
Attorneys for Opposer  
Mad Dogg Athletics, Inc.  
1453 3<sup>rd</sup> Street Promenade, Suite 310  
Santa Monica, California 90401  
Telephone: (310) 746-9800  
Facsimile: (310) 746-9820

**CERTIFICATE OF SERVICE**

It is hereby certified that I served a true and correct copy of the foregoing Notice of Opposition on Applicant and its correspondent of record, 4 Pillar Dynasty LLC, 246 West 35th Street, New York, NY 10001, by placing a true and correct copy thereof in a sealed envelope, postage prepaid, in First Class U.S. mail, for collection and mailing with the United States Postal Service on this 19<sup>th</sup> day of June 2013.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 19, 2013, at Beverly Hills, California



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Konrad Gaten