

ESTTA Tracking number: **ESTTA637215**

Filing date: **11/05/2014**

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	Boston Ballroom Dance Center, LLC
Granted to Date of previous extension	11/05/2014
Address	141 California St. Newton, MA 02458 UNITED STATES

Attorney information	Seth H. Salinger 53 Langley Rd Suite 270 Newton, MA 02459 UNITED STATES sethsal@gmail.com Phone:617-244-7630
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### Applicant Information

Application No	86203172	Publication date	07/08/2014
Opposition Filing Date	11/05/2014	Opposition Period Ends	11/05/2014
Applicant	Charlestown Dance Company, LLC 42 8th Street #3514 Charlestown, MA 02129 UNITED STATES		

### Goods/Services Affected by Opposition

Class 041. First Use: 2010/09/17 First Use In Commerce: 2010/09/17  
All goods and services in the class are opposed, namely: Dance events

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85345874	Application Date	06/14/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BOSTON BALLROOM		

Design Mark	<b>Boston Ballroom</b>
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2007/12/01 First Use In Commerce: 2008/02/18 Dance events, namely, dance competitions; Dance instruction; Dance instruction for children; Dance schools; Dance studios; Education services, namely, providing classes and instruction in the field of dance; Entertainment and education services in the nature of live dance and musical performances; Training of dance instructors

Attachments	85345874#TMSN.png( bytes ) 0034. Boston Ballroom - Notice of Opposition 10.24.14.pdf(232354 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 USPS Express Mail Post Office to Addressee on this date.

Signature	/s/ Seth H. Salinger
Name	Seth H. Salinger
Date	11/05/2014

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

In re: Trademark Application Serial Number 86203172

For the mark BBC&C

Published in the Official Gazette on July 8, 2014

Boston Ballroom Dance Center, LLC (“**the Opposer**”)

v.

Opposition No. \_\_\_\_\_

Charlestown Dance Company, LLC (“**the Applicant**”)

**NOTICE OF OPPOSITION**

Boston Ballroom Dance Center, LLC, (“**the Opposer**”), hereby opposes the registration of “BBC&C” (“**the Mark**”) in Trademark Application Serial Number 86203172. The Opposer is the owner of the mark, “Boston Ballroom” (“**the Opposer’s Mark**”), the application of registration of which was filed with the USPTO on June 14, 2011 and has Serial Number 85345874. A true and accurate copy of the Opposer’s trademark application is attached hereto and incorporated herein as **Exhibit A**. The Trademark Trial and Appeal Board (“**TTAB**”) granted two (2) extensions to the Opposer until November 5, 2014 to file this opposition. The Opposer asserts that it will be damaged by the registration of the Mark and states its opposition below:

1. Charlestown Dance Company, LLC (“**the Applicant**”) is a Massachusetts limited liability company, with a principal place of business at 42 Eighth Street, Unit 3514 in Charlestown, Massachusetts 02129 according to the Massachusetts Secretary of State and at which it operates a studio for dance instruction and performance. A true and accurate copy of the business entity summary is attached hereto and incorporated herein as **Exhibit B**.
2. Supershag Productions and Dance Studios, LLC (“**Supershag**”) is also a Massachusetts limited liability company with a principal place of business at 42 Eighth Street, Unit 3514 in Charlestown, Massachusetts 02129 according to the Massachusetts Secretary of State and at which it operates a studio for dance instruction and performance. A true and accurate copy of the business entity summary is attached hereto and incorporated herein as **Exhibit C**.
3. Both the Applicant and Supershag have the same principal place of business.
4. Supershag also conducts its operations at 406 Moody Street in Waltham, Massachusetts 02453.
5. Christopher E. W. Johnston (“**Johnston**”) is the resident agent and a manager of both the Applicant and Supershag.
6. Johnston resides at 42 Eighth Street, Unit 3514 in Charlestown, Massachusetts 02129, and operates the businesses for both the Applicant and Supershag at a physical address of 42 Eighth Street, Unit 100 in Charlestown, Massachusetts 02129.
7. Tibor Kerekes (“**Kerekes**”) is also a manager of Supershag.
8. Visionary Steps, LLC (“**Visionary Steps**”) is also a Massachusetts limited liability company with a principal place of business at 1313 Washington Street, Suite 519 in

Boston, Massachusetts 02118 according to the Massachusetts Secretary of State and at which it operates a business for organizing dance events. A true and accurate copy of the business entity summary is attached hereto and incorporated herein as **Exhibit D**.

9. Francis John Miranda, also known as Francis Miranda (“**Miranda**”), is a manager of both the Applicant and Visionary Steps.
10. Upon information and belief, the Applicant uses the trade name: “Boston Ballroom,” which is the Opposer’s Application. A true and accurate copy of a flier with the Opposer’s Mark is attached hereto and incorporated herein as **Exhibit E**.
11. The Applicant claims the date of first use for the Mark is September 17, 2010. However, according to the records of the Massachusetts Secretary of State’s Corporations Division, the Applicant was not organized as a limited liability company until December 8, 2011.
12. Moreover, there is no evidence that Visionary Steps (which is *not* the Applicant) used the Mark prior to 2010. True and accurate copies of documents evidencing such usage are attached hereto and incorporated herein as **Exhibit F**.
13. Even if the Applicant asserts that its rights in the Mark derive from an assignment from Visionary Steps (and there is no such statement in the Applicant’s application), the Opposer’s use of the mark, “Boston Ballroom,” predates any use by Visionary Steps by two years. Additionally, the Opposer’s Application predates the Applicant’s application by four years.
14. The Opposer is also a Massachusetts limited liability company with a principal place of business at 141 California Street in Newton, Massachusetts 02458 according to the

- Massachusetts Secretary of State and at which it operates a studio for dance instruction and performance. A true and accurate copy of the business entity summary is attached hereto and incorporated herein as **Exhibit G**.
15. Peter K. Kovacs (“**Kovacs**”) is the resident agent and a manager of the Opposer. Marisa N. Panos (“**Panos**”) is also a manager of the same.
  16. The National Dance Council of America, Inc. (“**NDCA**”) is the official governing council of dance and dancesport in the USA. With 17 Member Organizations encompassing more than 20,000 dance professionals and over 110 sanctioned competitions and championships, it is the leading authority of dance for Professionals, Amateurs and Pro/Am Competitors. See <http://ndca.org/>. A true and accurate copy of the NDCA website is attached hereto and incorporated herein as **Exhibit H**.
  17. The Mark, BBC&C, is an acronym for “Boston Ballroom Conference and Competition,” although sometimes it has been referred to as “Boston Ballroom Competition and Conference” among other variations of the same. A true and accurate copy of pictures and Google search results (“boston ballroom competition and conference” and “boston ballroom conference and competition”) are attached hereto and incorporated herein as **Exhibit I**.
  18. In 2003, the Applicant hired Kovacs for part-time employment.
  19. In 2004, Kovacs soon became a full-time employee of the Applicant and continued to work there providing dance instruction until December 2007. See the Opposer’s Response to Office Action dated July 14, 2012, Exhibit C.

20. In the beginning of 2007, Panos was hired by the Applicant as an independent contractor and instructor and continued to work there until the end of that year. See the Opposer's Response to Office Action dated July 14, 2012, Exhibit C.
21. On or about December 30, 2007, Kovacs and Panos submitted a letter of resignation to the Applicant. See the Opposer's Response to Office Action dated July 14, 2012, Exhibit C.
22. In response to the resignation letters referenced above, on or about January 3, 2008, the Applicant sent an email signed by the Applicant and the general manager, Andy Fishel ("**Fishel**"), to the Applicant's entire student body and to potential clients of Supershag. A true and accurate copy of this email is attached hereto and incorporated herein as **Exhibit J**.
23. In or about the beginning of 2008, Kovacs and Panos jointly opened Boston Ballroom Dance Center LLC, which is the owner of the trade name and trade mark, "Boston Ballroom."
24. The Opposer's URL is [www.bostonballroomdancecenter.com](http://www.bostonballroomdancecenter.com).
25. The URL, [www.bbdcenter.com](http://www.bbdcenter.com), redirects to [www.bostonballroomdancecenter.com](http://www.bostonballroomdancecenter.com).
26. The Applicant is fully aware and has knowledge that Kovacs and Panos are the owners of Boston Ballroom Dance Center LLC.
27. At all material times hereto, the Applicant has had direct knowledge of the Opposer's prior use and superior rights in the Opposer's Mark. Additionally, the Opposer has also put Visionary Steps and Supershag on notice of the Opposer's prior rights in the Opposer's Mark.

28. On or about November 13, 2008, the Opposer sent Supershag, Johnston, and Kerekes a written cease and desist letter via certified mail requesting Supershag to remove Kovacs's biography, picture, and email from the Supershag website within a 48-hour period. A true and accurate copy of this letter with the certified letter receipt is attached hereto and incorporated herein as **Exhibit K**.
29. On or about December 1, 2008, the Applicant provided a response to the cease and desist letter dated November 13, 2008 through its manager, Fishel. A true and accurate copy of this letter is attached hereto and incorporated herein as **Exhibit L**.
30. Subsequently, by letter dated June 10, 2010, the Opposer, through counsel, sent another cease and desist letter to the Applicant requesting that the Applicant discontinue all use of the "Boston Ballroom" brand. A true and accurate copy of this letter is attached hereto and incorporated herein as **Exhibit M**.
31. By letter dated June 18, 2010, Supershag and Visionary Steps, through counsel, responded to the above-referenced letter. A true and accurate copy of this letter is attached hereto and incorporated herein as **Exhibit N**.
32. Accordingly, the Applicant has been on actual notice of the Opposer's superior rights in the Opposer's Mark since as early as June 2010, a date that predates the Applicant's application by four years.
33. The Opposer will be damaged by the registration of the Applicant's mark.
34. The Opposer has invested considerable time, energy, and money to start, operate, and maintain its business and develop the Opposer's Mark and its brand, and has continued to do so consistently since 2008.

35. Since starting the business, the Opposer has employed various persons, paid multiple vendors, and increased its goodwill through recognition and use of the Opposer's Mark.
36. On the contrary, the Applicant began using the mark commercially with the NDCA only since 2014. True and accurate copies of the Applicant's usage of the Opposer's mark and Applicant's use of the Mark is attached hereto and incorporated herein as **Exhibit O**.
37. The use of "Boston Ballroom" by the Applicant will substantially increase the likelihood of confusion between the marks.
38. Additionally, the font used by the Applicant in the Mark is nearly identical to the font used by the Opposer in the Opposer's Mark which contributes to the likelihood of confusion.
39. Similarly, a Google search of the Applicant's name, "Charlestown Dance Company," yields Supershag's website under the name of "Boston Ballroom Dance." A true and accurate copy of the Google search result is attached hereto and incorporated herein by reference as **Exhibit P**.
40. Upon information and belief, the Applicant uses the Mark primarily, not to promote its business, but rather to interfere with the Opposer's business and cause consumer confusion. The Applicant's inconsistent use of the Mark as referred to in Paragraph 17 above only increases the likelihood of confusion and thereby harms the Opposer's use of its trade name and existing mark.
41. The use of "Boston Ballroom" in the Mark is identical or nearly identical to the Opposer's mark and further creates a likelihood of confusion. Furthermore the

- Applicant is not primarily known by the Mark. In fact, prior to 2010, it was not known by the Mark at all.
42. Both the Applicant and the Opposer offer similar services for dance instruction and dance events, and they are viewed by the same customers, including but not limited to current students and prospective students.
  43. As both the Applicant and the Opposer are closely related to each other and are in the same natural zone of expansion, both parties advertise similar services in similar manners which has likely confused customers and will continue to do so.
  44. However, the Opposer has established its own goodwill and has strived to reach a certain level of professionalism, respect and tastefulness for the art, and relationship with its students. True and accurate copies of the Boston Globe are attached hereto and incorporated herein by reference as **Exhibit Q**. See also the Opposer's Response to Office Action dated July 14, 2012, Exhibit M.
  45. Prospective students, and also out-of-state students, teachers, and dance studios, are likely to mistakenly believe that the Opposer is either affiliated with the Applicant or the two are one and the same.
  46. Such affiliation will substantially harm the Opposer.

WHEREFORE, based on the foregoing, the Opposer respectfully requests that registration of the Mark in Trademark Application Serial Number 86203172 be refused and that this Opposition be sustained in favor of the Opposer.

Boston Ballroom Dance Center LLC (Opposer)  
By its attorney:

*/s/ Seth Salinger*

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Dated November 5, 2014