

ESTTA Tracking number: **ESTTA657943**

Filing date: **02/25/2015**

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	Gregory Zaccagnino
Granted to Date of previous extension	02/25/2015
Address	7 Reading Avenue Staten Island, NY 10312 UNITED STATES
Party who filed Extension of time to oppose	GregoryZaccagnino
Relationship to party who filed Extension of time to oppose	It appears that a space was inadvertently left out between Opposer's first name and last name.

Attorney information	Meredith D. Pikser Reed Smith LLP 599 Lexington Avenue New York, NY 10022 UNITED STATES mpikser@reedsmith.com Phone:212-521-5400
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**Applicant Information**

Application No	86313913	Publication date	10/28/2014
Opposition Filing Date	02/25/2015	Opposition Period Ends	02/25/2015
Applicant	Ali, Kazi Apartment 2L Brooklyn, NY 11230 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 041. First Use: 2013/11/21 First Use In Commerce: 2013/11/21 All goods and services in the class are opposed, namely: Disc jockey services; Disc jockeys for parties and special events; Entertainment services in the nature of live audio performances by a disk jockey; Music production services
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**Grounds for Opposition**

False suggestion of a connection	Trademark Act section 2(a)
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	Non-use
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### Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ZAXX		
Goods/Services	entertainment services, musical performer, musical artist, musical performances both live and recorded, disc jockey services		

Attachments	ZAXX Opp.pdf(1442015 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	/Meredith D. Pikser/
Name	Meredith D. Pikser
Date	02/25/2015

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

-----x		
GREGORY ZACCAGNINO,	:	
	:	
Opposer,	:	Serial No. 86/313,913
	:	Mark: ZAXX
v.	:	Published: October 28, 2014
	:	
KAZI ALI,	:	Opposition No. _____
	:	
Applicant.	:	
-----x		

BOX TTAB - FEE  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-14513

**NOTICE OF OPPOSITION**

1. Opposer, Gregory Zaccagnino (“Opposer”), an individual and citizen of the United States, having an address of 7 Reading Avenue, Staten Island, NY 10312, believes that he is or will be damaged by the registration of Application Serial No. 86/313,913 for the mark ZAXX and hereby opposes same pursuant to 15 U.S.C. §§ 1052 and 1063.

2. On information and belief, Kazi Ali (hereinafter, “Applicant”), is an individual and citizen of the United States with an address of 611 Argyle Road, Apartment 2L, Brooklyn NY 11230.

As grounds for this opposition, Opposer alleges the following:

3. On June 18, 2014, Applicant filed Application Serial No. 86/313,913 under 15 U.S.C. § 1051(a) to register the mark ZAXX, claiming a date of first use of November 21, 2013 and a date of first use in commerce of November 21, 2013 on or in connection with “disc jockey services; disc jockeys for parties and special events; entertainment services in the nature of live

audio performances by a disk jockey; music production services” in International Class 41 (“Applicant’s Mark”).

4. Opposer is a well-known musical artist and DJ who is the owner of the name and mark ZAXX (“Opposer’s Mark”). Pages from websites evidencing Opposer’s use of the ZAXX name and mark, including Opposer’s SoundCloud® page, Facebook® page, Twitter® page and Instagram® page, are attached hereto as Exhibit A and incorporated herein.

5. Opposer has continuously used and continues to use Opposer’s Mark in interstate commerce as his identity as a performer and in connection with his entertainment services since at least as early as November 2012.

6. The services offered under Opposer’s Mark are known by consumers, prospective consumers and throughout the entertainment industry as consistent, high-quality services.

7. Opposer’s Mark, through Opposer’s long and extensive use, has come to exclusively identify Opposer and the high quality services offered by him and serves to distinguish him and his services from other entertainers. As a result of Opposer’s use and promotional efforts, Opposer’s Mark has become well-known and represents goodwill of tremendous value to Opposer.

8. Applicant’s Mark is confusingly similar to Opposer’s Mark.

9. Applicant’s Mark is identical to Opposer’s Mark.

10. The services in Application Serial No. 86/313,319 are identical and/or closely related to Opposer’s services.

11. Applicant's Mark is allegedly used in connection with disc jockey services; disc jockeys for parties and special events; entertainment services in the nature of live audio performances by a disk jockey; music production services, services that directly compete with those of Opposer and are likely to be offered for sale, sold and/or marketed through the same channels of trade to the same class of purchasers.

12. Opposer's use of Opposer's Mark predates any priority date that can validly be claimed by Applicant for Applicant's Mark, including the filing date of Application Serial No. 86/313,913 and Applicant's claimed date of first use of Applicant's Mark in commerce. As such, Opposer's rights in Opposer's Mark was established prior to and are superior to any rights Applicant may claim in Applicant's Mark.

13. Applicant was well aware of Opposer's prior rights in Opposer's Mark when it filed the application for Applicant's Mark.

14. Applicant adopted Applicant's Mark in order to benefit from the valuable goodwill associated with Opposer's Mark and with the intent to deceive, mislead, and confuse the public into believing that there is a connection between Applicant's alleged services and those of Opposer, and that the services are of the same character, quality and function as those of Opposer.

15. If Applicant is permitted to use and register the subject mark for the services specified in the application herein opposed, confusion in trade resulting in damage and injury to Opposer would result. Persons familiar with Opposer's Mark would likely confuse Applicant's services as originating from Opposer, or as being in some way associated with, connected with, sponsored by, licensed by, or otherwise

authorized by Opposer, all to the detriment of Opposer, unless this Opposition is sustained. Any such confusion in trade would inevitably result in loss of sales to Opposer. Furthermore, any objections or faults found with the alleged services offered by Applicant under Applicant's Mark would adversely reflect upon and seriously injure the reputation of Opposer by association.

16. In view of, without limitation, the similarity of the respective marks, similarity of the channels of trade, similarity of the class of purchasers and the identical and/or related nature of the services offered for sale by the respective parties, the mark in Application Serial No. 86/313,913 so resembles Opposer's Mark as to be likely to cause confusion, or to cause mistake, or to deceive as to the source of Applicant's services by suggesting that Applicant's services are associated with or approved, endorsed, affiliated, authorized, or sponsored by Opposer.

#### **Likelihood of Confusion**

17. Applicant's Mark is identical to Opposer's Mark as to be likely, when applied to Applicant's alleged services, to cause confusion, to cause mistake, and to deceive with consequent injury to Opposer and the public, all to the damage of Opposer.

18. Applicant's Mark so closely resembles Opposer's Mark that potential consumers of the services to be offered under Applicant's Mark would be likely to believe that Opposer is the source of such services, or that Opposer has authorized, sponsored, approved of, or in some others manner associated itself with the services of Applicant, thereby creating a likelihood of confusion, deception or mistake, all to the damage of Opposer.

### **False Suggestion of a Connection**

19. Applicant's Mark is identical to Opposer's Mark so that potential consumers of the services to be offered under Applicant's Mark would be likely to believe that Opposer is the source or origin of such services, all to the damage of Opposer.

20. Applicant's use and registration of Applicant's Mark is without the consent or permission of Opposer.

### **Non-Use**

21. Applicant claims to have used Applicant's Mark for "disc jockey services; disc jockeys for parties and special events; entertainment services in the nature of live audio performances by a disk jockey; music production services" in International Class 41, with an alleged date of first use of November 21, 2013.

22. Upon information and belief, Applicant has not used Applicant's Mark in commerce as of the alleged date of first use for the services identified in the application herein opposed.

23. Upon information and belief, at the time of filing its §1(a) application, Applicant had not used Applicant's Mark in commerce for any of the services identified in the application.

24. Applicant is not entitled to any rights in Applicant's Mark for the services identified in the application, and the application should be denied registration on the ground that the mark was not used and is currently not in commercial use for all such services.

### **Fraud**

25. Applicant knowingly made false representations in the declaration submitted with the §1(a) application for Applicant's Mark by claiming that Applicant was the owner of the mark

and had used the mark in commerce for all of the services identified in the application, when in fact Applicant is not the owner of the mark and did not engage in such use.

26. The specimens of use submitted by Applicant in support of the application appear to be flyers promoting the services of Opposer.

27. The declaration filed in connection with the application was made with an intent to deceive the U.S. Patent and Trademark Office and only for the purpose of obtaining a registration.

28. The false representations made in the declaration were material to the registrability of the mark.

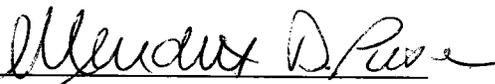
29. The application was filed on the basis of fraud and should therefore be denied.

WHEREFORE, Opposer prays that Application Serial No. 86/3133,913 be rejected, that no registration be issued thereon to Applicant and that this Opposition be sustained in favor of Opposer.

Respectfully submitted,

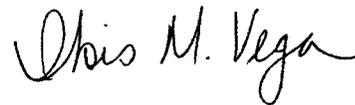
REED SMITH LLP

Date: February 25 , 2015

By:   
Meredith D. Pikser  
599 Lexington Avenue  
New York, NY 10022  
Tel: (212) 521-5400  
Email: mpikser@reedsmith.com  
Attorneys for Opposer

Certificate of Service

I hereby certify that a copy of the foregoing Notice of Opposition was mailed first-class mail postage prepaid to the Attention of Ali Kazi, 611 Argyle Road, Apt 2L, Brooklyn, New York 11230, with a courtesy copy to Tanvir Shah of Omicon Entertainment, 44 Wall Street, 12<sup>th</sup> Floor, New York, New York 10005 this 25th day of February 2015.



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Ibis M. Vega  
Assistant to Attorney for Opposer

# **EXHIBIT A**

SoundCloud uses cookies. By using our services, you're agreeing to our [Cookie Policy](#). We have updated our [Privacy Policy](#), effective as of 21 August 2014. [By using our services you're agreeing to the updated policy.](#)

# ZAXX OFFICIAL

Greg Zaccagnino  
 Follow  
 @ZAXXOffici  
 United States

27,792  
19

[Follow](#) [Share](#)

17 Year Old DJ/Producer from NYC.

General Management :  
erin.kapor@redlightmanagement.com

SUPPORTED BY :  
Tiesto  
Hardwell

Spotlight



Sign up for SoundCloud  
Connect with the world's music & audio creators

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1556 likes

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Fool's Gold Records  
**Funkin Matt - America**  
 250,349 | 8K | 3K | 154

FEDER  
**FEDER - GOODBYE ft LYSE**  
 734,021 | 16K | 5K | 186

Quintino Music  
**Pep & Rash - Fatality (Quintino edi...**  
 68,781 | 3K | 934 | 81

ZAXX OFFICIAL 26 days  
**DVBBS & Dropgun ft. Sanjin - Pyramids (ZAXX REMIX)** #dvvbs



FREE DOWNLOAD 75,684 | 4K | 1K | 208

99 following

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**DJ 4B**  
 17,390 | 34 [Follow](#)

**Songchimp**  
 14,372 [Follow](#)

**Future Order**  
 696 | 1 [Follow](#)

ZAXX OFFICIAL 4 months  
**ZAXX - Extermination (Original Mix) @ZAXXOFFICIAL** #ZAXX



FREE DOWNLOAD 99,136 | 4K | 1K | 172

1068 comments

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on HotelSixNine Ft. SolomonDaGod (prod. Smitty The BG)  
 " this dude ruined the whole song " 18 days

on Leroy & Nykko - Elephant (Original Mix) [FREE DOWNLOAD]  
 " SO DOPEEE " 1 month

on PHONK D'OR - GLOW [OUT NOW]  
 " Boooooom, Fuck yeah. " 2 months

ZAXX OFFICIAL 5 months  
**DOCO & Janpier - Spin It Back (ZAXX Remix) [Dim Mak]** #Doco



DOWNLOAD 64,372 | 3K | 853 | 120

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ZAXX OFFICIAL 7 months  
#goldskies

Sander van Doorn, Martin Garrix, DVBBB ft Alesia - G  
Old Skies (Zaxx & Jaylex Remix)

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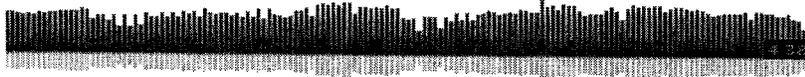
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132,162 5K 1K 151

ZAXX OFFICIAL  
ZILLA (Original Mix)

8 months

[#ZAXX](#)



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108,066 5K 2K 339

Recent

ZAXX OFFICIAL  
ZAXX - Titanic (Original "Chill " Mix)

3 months

[#Chill](#)

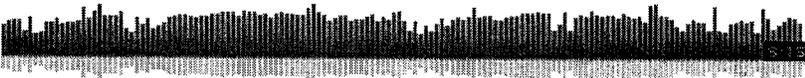


52,507 2K 346 92

Bassthunder ZAXX OFFICIAL  
ZAXX - Extermination (Bassthunder Official Re  
mix)

4 months

[#EXTERMINATION](#)



FB PAGE

21,916 929 229 41

Dim Mak Records ZAXX OFFICIAL  
DOCO & Janpier - Spin It Back (ZAXX Remix)

4 months

[#dirty audio](#)



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**Timeline** About FREE MUSIC TOUR DATES More ▾

PEOPLE

138,356 likes

ABOUT

595 21

Genre: EDM

Hometown: Staten Island, NY

<http://soundcloud.com/zaxxofficial>

APPS

FREE MUSIC

TOUR DATES

PHOTOS



**ZAXX**

21 hrs · Facebook Mentions ·

Fun times with my man @tiesto today in the city! New music coming soon! #MusicalFreedom



Like · Comment · Share · 963 16 2

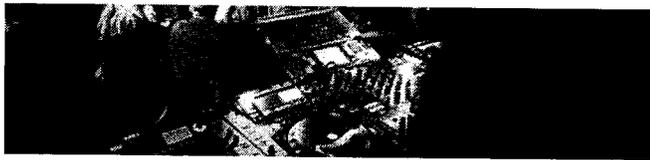


**ZAXX**

February 22 at 8:07am · Facebook Mentions ·

#Throwback opening for Tiësto at LAVO NYC #MusicalFreedom #ClubLife



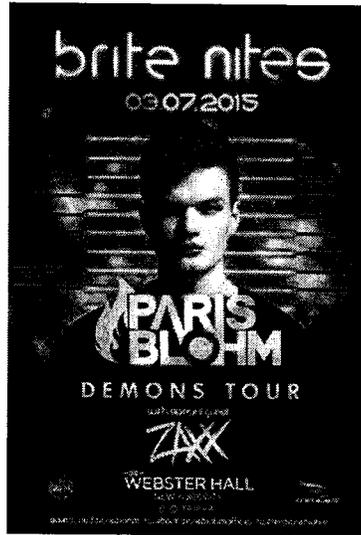


Like · Comment · Share · 745 3 3



**ZAXX**  
February 18 at 4:18pm · Facebook Mentions ·

NYC!!! Supporting my brother Paris Blohm at Webster Hall on March 7th! Get tix at : <http://t.co/Q71pJenQwq>



Like · Comment · Share · 364 12 1

VIDEOS

1.4k 59

2.2k 230

1.4k 140

POSTS TO PAGE



**Kacper Lipka**  
Today at 8:31am

check out !

Like · Comment · Share



**Lucy Nicoll Less**  
February 8 at 6:14pm

hiii  
<https://soundcloud.com/user164670554/tritonal-anchor-cristopher-bootleg>

Like · Comment · Share



**Pablo Oliver Tarré**  
February 7 at 1:52pm  
<https://soundcloud.com/pablo-oliver-tarre/motidzeko-torres-g-a-n-j-a-pablo-oliver-blacklax-remix-free-download>

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LIKED BY THIS PAGE

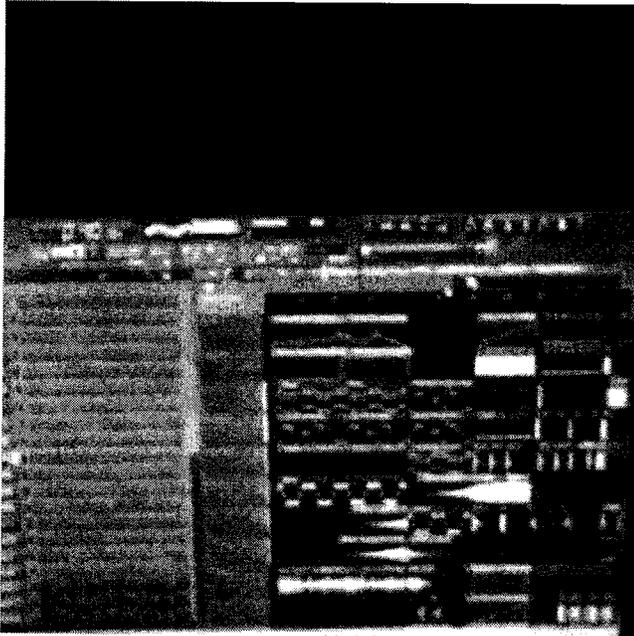


**Jaylex**



**ZAXX**  
February 17 at 11:13am · Facebook Mentions ·

How I wake up every day (How most producers wake up every day)



26,782 Views  
Like · Comment · Share · 1,464 53 51



LarsM



Kennedy Jones

English (US) · Privacy · Terms · Cookies · Advertising · More  
Facebook © 2015



ZAXX

February 14 at 12:55pm ·

me and bae today. #HappyValentinesDay



Like · Comment · Share · 2,560 31 195



ZAXX

February 12 at 11:04am · Facebook Mentions ·

This collab with KSHMR is truly next level. Who's excited for it?

Like · Comment · 2,774 92 17



ZAXX

February 11 at 1:44pm · Facebook Mentions ·

Throwback to when I used to go to school. Was probably dreaming of FL Studio or something.



Like · Comment · Share · 863 22 12



ZAXX

February 7 at 1:29pm · Facebook Mentions ·

Forbidden Voices (ZAXX REMIX ) +



92 114

Who wants it?



Like · Comment · Share · 1,852 77 16



**ZAXX**

February 3 at 1:07pm ·

ZAXX - ID.

22,899 Views

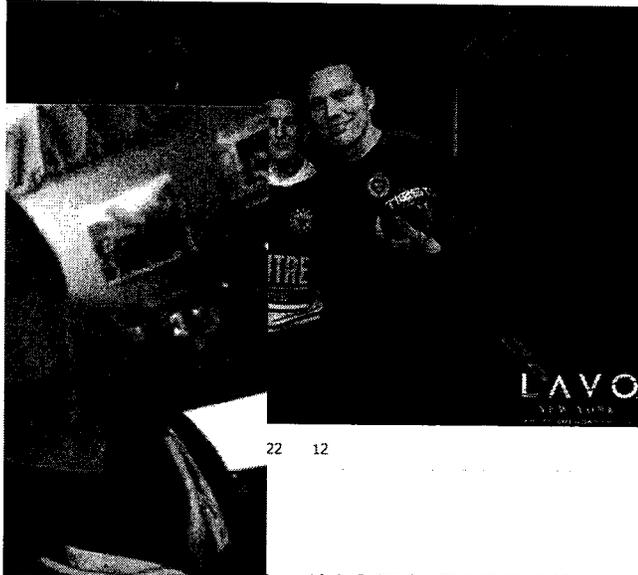
Like · Comment · Share · 1,401 129 51



**ZAXX**

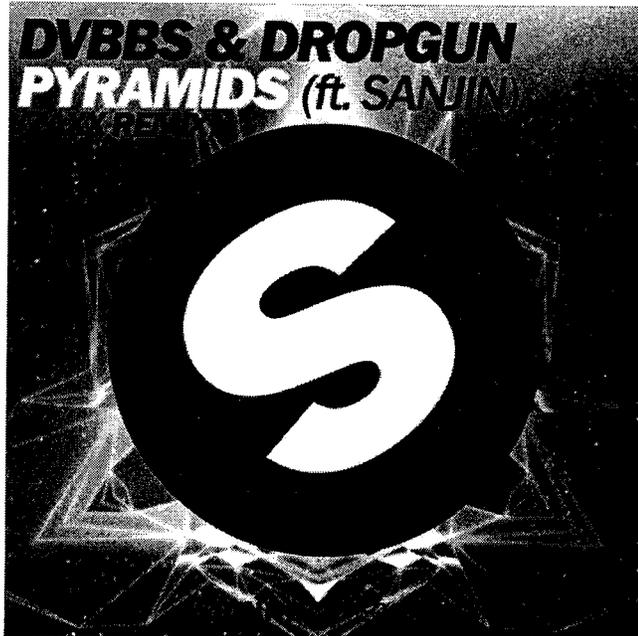
February 1 at 12:48pm ·

With the man Tiësto! New music coming soon! #MusicalFreedom



22 12

My remix to DVBS & Dropgun - Pyramids is OUT NOW FOR FREE ON MY SOUNDCLOUD!!! GRAB IT NOW! <https://soundcloud.com/.../dvbs-dropgun-ft-sanjin-pyramids-z...>



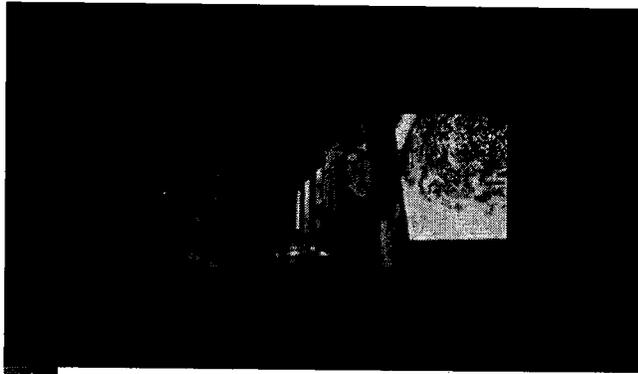
Like · Comment · Share · 370 22 15



**ZAXX**

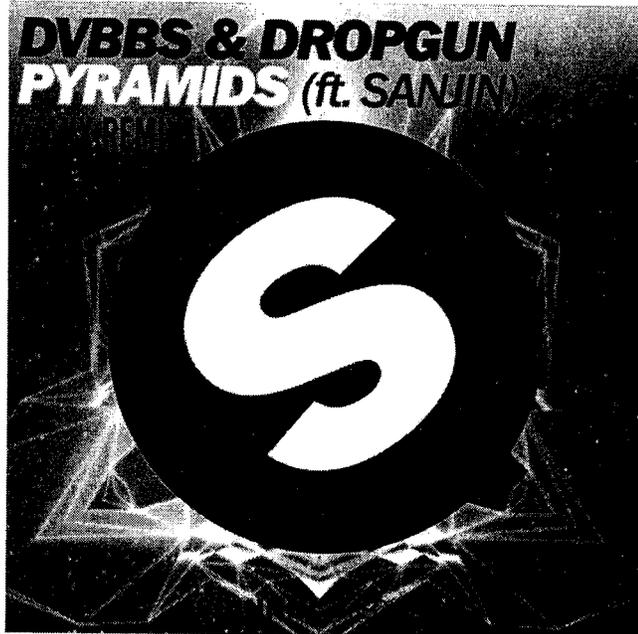
January 28 at 1:50pm ·

DVBBS & Dropgun - Pyramids (ZAXX REMIX) OUT TOMORROW !



**ZAXX**  
January 27 at 8:54am ·

DVBBS & Dropgun - Pyramids (ZAXX Remix)  
OUT ON 1/29.  
WHO'S READY?



Like · Comment · Share · 578 25 12



**ZAXX**  
January 23 ·

Okay...SO WHO'S READY FOR DVBBS & Dropgun - Pyramids (ZAXX REMIX) ???

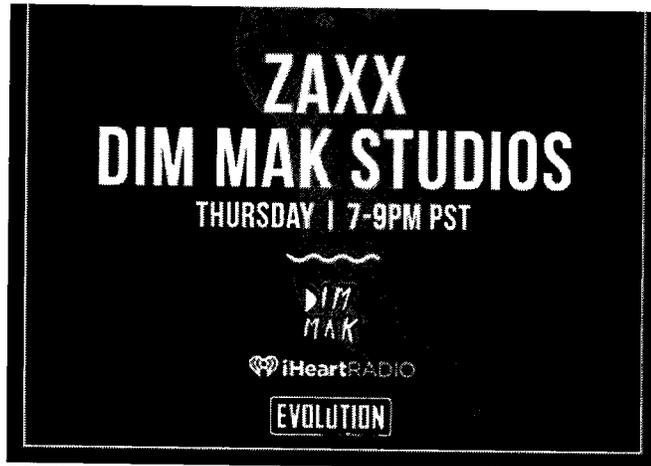
Like · Comment · 1,048 46



**ZAXX**  
January 22 ·

Taking over Dim Mak Records radio tonight for a full hour of exclusives and brand new music! Make sure you tune in at <http://smarturl.it/DimMakStudios> ! See you there





Like · Comment · Share · 452 7 3

 **ZAXX**  
January 19 ·

It's been far too long...WHO'S READY FOR SOME NEW ZAXX MUSIC?!?!

Like · Comment · 761 32 1

 **ZAXX** changed their profile picture.  
January 17 · Edited ·



Like · Comment · Share · 1,867 10 1

 **ZAXX**  
January 16 ·

Last night was amazing. Getting the opportunity to share the stage with Tiesto was life changing. Here's a video of me and him dropping "Left Behinds"

Email or Phone  Password

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**About ZAXX**

**Overview**

Page Info

Genre: EDM

Hometown: Staten Island, NY

<http://soundcloud.com/za...>

595 21

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[www.instagram.com/zaxxofficial](http://www.instagram.com/zaxxofficial)  
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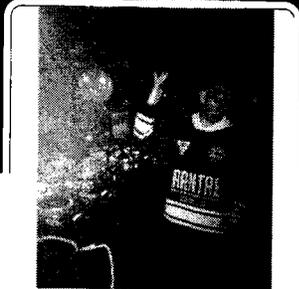
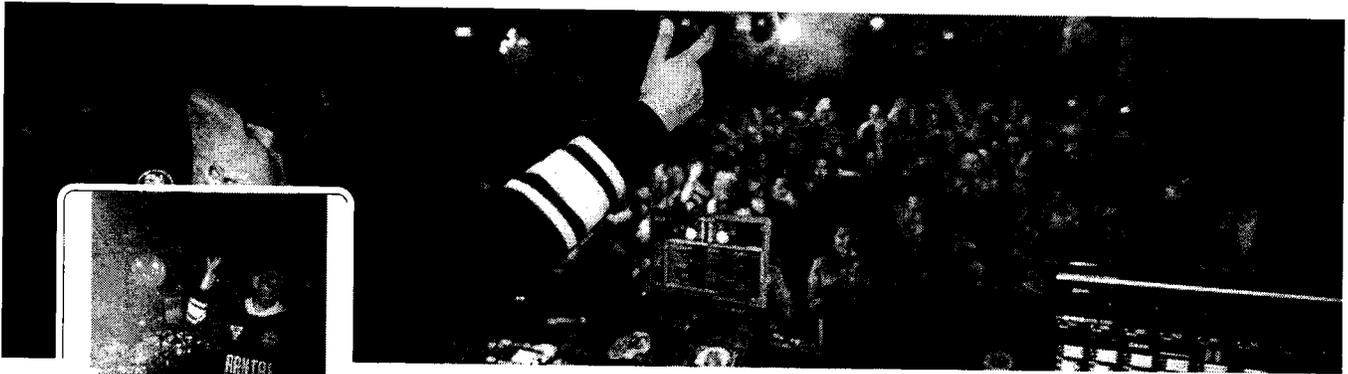
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 English (US)



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TWEETS  
64.9K

FOLLOWING  
951

FOLLOWERS  
12.8K

FAVORITES  
59.7K

+ Follow

### ZAXX

@ZAXXOfficial

im 17 and i make music ////////////////

mgmt/bookings :

erin.kapor@redlightmanagement.com

#ZAXXFAM

📍 Staten Island, NY

🔗 [soundcloud.com/zaxxofficial](https://soundcloud.com/zaxxofficial)

🕒 Joined November 2011

📷 4,012 Photos and videos



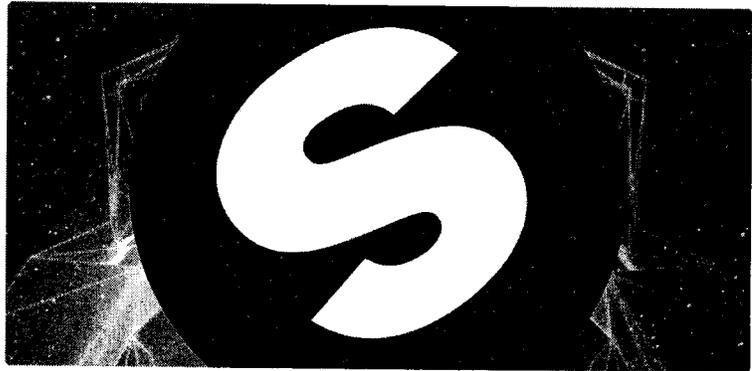


Tweets   Tweets & replies   Search Twitter   Photos & videos   Have an account? Log in

Pinned Tweet

ZAXX @ZAXXOfficial · Jan 29

My remix to @DVBBS & @DropgunMusic - Pyramids is OUT NOW ON MY SOUNDCLOUD!!! GRAB IT NOW!  
[soundcloud.com/zaxxofficial/d...](https://soundcloud.com/zaxxofficial/d...)



Retweets: 50   Likes: 71

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ZAXX @ZAXXOfficial · 5m

another picture from today. Lunch with @tiesto 🙄



Retweets: 9   Likes: 40

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ZAXX retweeted Search Twitter Have an account? Log in

Regoton #HAVEN @regoton · 28m

Hey @ZAXXOfficial look what I found. Inspiration to all of us



tiesto @tiesto 2014-02-20 @MrRagerx so what are the new ones you think are gonna blow up?

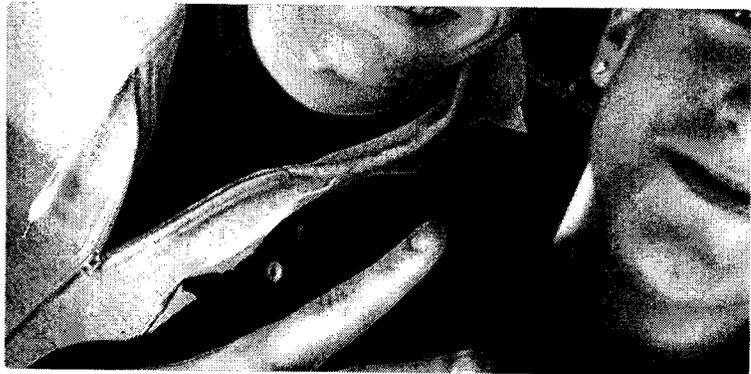


Mr. Rager @MrRagerx 2014-02-20 @tiesto this year @whatsonot @ZAXX Official @OliverHoldens

3 15 View more photos and videos

ZAXX @ZAXXOfficial · 4h

Fun times with my man @tiesto today in the city! New music coming soon! #MusicalFreedom



13 69 View more photos and videos

ZAXX @ZAXXOfficial · 8h

Breakfast at my nana's house is always a necessity before a big day

1 28

ZAXX @ZAXXOfficial · 9h

WERE GOIN ON A TRIP IN OUR FAVORITE ROCKET SHIP

14 46

ZAXX retweeted

vaccid @vaccid · 16h

zaxx gets 20 favs in 3 mins asking about whos awake... my turn

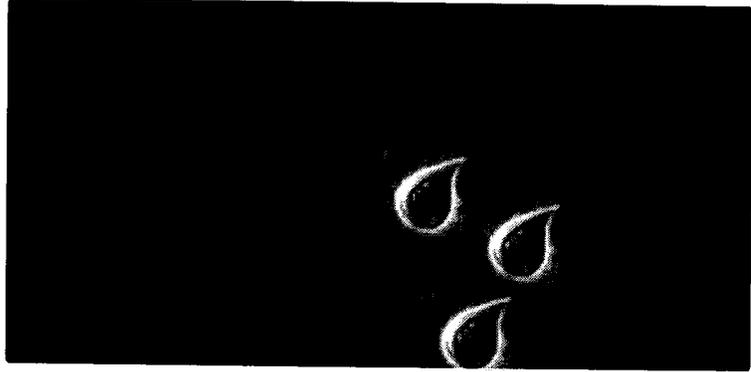
2 10



ZAXX retweeted Search Twitter Have an account? Log in

Andrew Claps @andrewciaps · 15h

@ZAXXOfficial tears for zaxx new track cry with us #ZAXXFAM



1 2

View more photos and videos

ZAXX @ZAXXOfficial · 16h

Who's awake

2 47

ZAXX @ZAXXOfficial · 17h

new chill music incoming

6 25

View more photos and videos

ZAXX @ZAXXOfficial · 20h

Patience is key.

36 49

ZAXX @ZAXXOfficial · 21h

Soon. RT "@TheFPIA: @ZAXXOfficial ummmm that new collab with @KSHMRmusic soon please!"

5 11

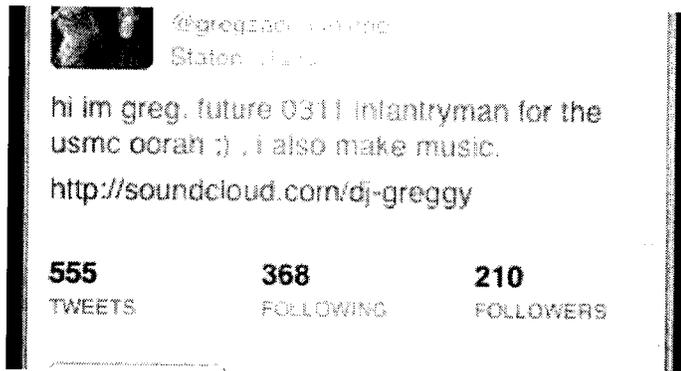
View conversation

ZAXX retweeted

Seb▼s @lifewithsebvs · 21h

I just found this. .. @ZAXXOfficial

ZAXX



@greggsonmusic Staten, NJ

hi im greg. future 0311 infantryman for the usmc oorah ;) , i also make music.  
<http://soundcloud.com/dj-greggy>

555	368	210
TWEETS	FOLLOWING	FOLLOWERS

1 6

View more photos and videos

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SUBSCRIPTIONS

Add channels

- Popular on YouTube
- Music
- Sports
- Gaming

Browse channels

Manage subscriptions



### Zaxx Official

- Home
- Videos
- Playlists
- Channels
- Discussion
- About**

Hi! My name is Greg Zaccagnino, better known as Zaxx. I'm 145 years old and started writing and producing music years ago. I enjoy every second of writing my music and LOVE releasing songs for other people to listen to. I hope you enjoy my music and like listening to it :) ENJOY! And also PLEASE COMMENT. Criticism is well appreciated.

Google+

1,213 subscribers  
31,587 views

Joined Jul 24, 2012

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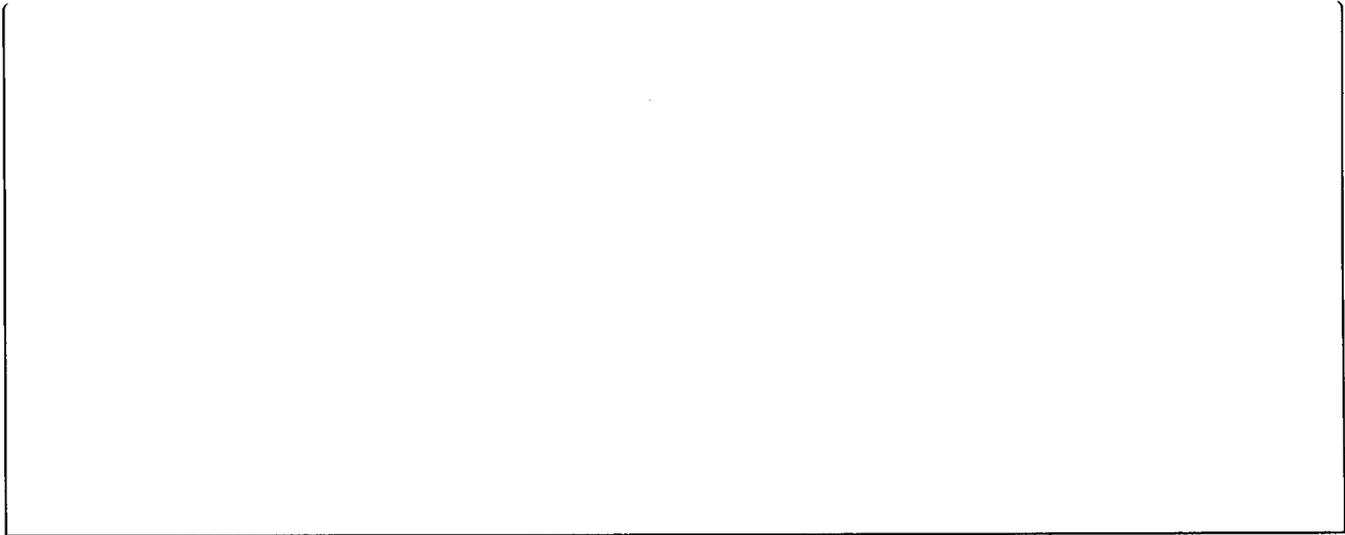
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