

ESTTA Tracking number: **ESTTA674691**

Filing date: **05/28/2015**

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	Proofzy LLC
Granted to Date of previous extension	05/30/2015
Address	2942 Trappers Trail Long Lake, MN 55356 UNITED STATES
Correspondence information	Stephen G. Levy, Esq. Levy Law Associates P.A. 5500 Military Trail Suite 22-240 Jupiter, FL 33458 UNITED STATES levylevyllaw@aol.com Phone:561-594-1550

Applicant Information

Application No	86434217	Publication date	03/31/2015
Opposition Filing Date	05/28/2015	Opposition Period Ends	05/30/2015
Applicant	Moses, VI, Stephen 175 Barick St. New York, NY 10014 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Project management services for others in the fields of language translation, custom writing, text adaptation, interpreting and proofreading

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.	86559030	Application Date	03/10/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	PROOFFIX		

Design Mark	PROOFFIX
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2014/10/14 First Use In Commerce: 2014/10/14 Proofreading and editing services

Attachments	86559030#TMSN.png(bytes) ProoffixNoticeOpp.pdf(508810 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	/Stephen G. Levy/
Name	Stephen G. Levy, Esq.
Date	05/28/2015

LEVY LAW ASSOCIATES P.A.

Counselors a Law

5500 Military Trail
Suite 22-240
Jupiter, FL 33458

STEPHEN G. LEVY
(Admitted NY and CT Bars)

Telephone: 561-594-1550
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New York Offices
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New York, NY 10017
Tel 212-631-1100
Fax 212-631-1150

May 28, 2015

BY ELECTRONIC FILING

Commissioner for Trademarks
Attn: TTAB
P.O. Box 1451
Alexandria, VA 22313-1451

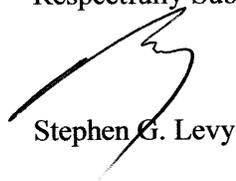
**Re: Proofzy LLC
Notice of Opposition Against
Stephen Moses, VI
Application to register PROOFFIX**

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 86/434,217 published in the Official Gazette on March 31, 2015. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$300 to cover the filing fee.

Please address all future correspondence to the attention of Stephen G. Levy of Levy Law Associates P.A., 5500 Military Trail, Suite 22-240, Jupiter, FL 33458.

Respectfully Submitted,



Stephen G. Levy

SGL/em
Enclosure

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

In re Application Serial No. 86434217
Filed: October 24, 2014
For Mark: PROOFFIX
Published in the Official Gazette: March 31, 2015

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PROOFZY LLC,	:	
	:	Opposition No.
Opposer,	:	
	:	
v.	:	
	:	<u>NOTICE OF OPPOSITION</u>
STEPHEN MOSES, VI,	:	
	:	
Applicant.	:	
	:	
-----	X	

Commissioner for Trademarks
Attn: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer, Proofzy LLC (“Opposer”), a Delaware limited liability company with offices at 2942 Trappers Trail, Long Lake, MN 55356, believes that it will be damaged by registration of the mark PROOFFIX (“Applicant’s Mark”) in International Class 35 for “Project management services for others in the fields of language translation, custom writing, text adaptation, interpreting and proofreading” as shown in Application Serial No. 86434217 (the “Application”),

and having been granted an extension of time to oppose up to and including May 30, 2015 hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer, prior to any date of first use upon which Applicant can rely, has adopted and continuously used the term PROOFFIX as a trademark for proofreading and editing services.
2. Opposer has common law interest and rights in and to the term PROOFFIX as trademark for proofreading and editing services, which has been in use by Opposer in interstate commerce since at least as early as October 14, 2014.
3. Opposer filed a trademark application, Serial No. 86559030, based on actual use for the mark PROOFFIX in International Class 35 on March 10, 2015.
4. Upon information and belief, Opposer alleges that the services of Opposer and Applicant are offered in the same or similar channels of commerce and offered to similar customers.
5. As a result of the confusing exact nature and appearance between Opposer's mark and Applicant's Mark and because the services of Applicant and Opposer are the same or similar, are in similar channels of commerce, and are directed to similar customers, registration of the mark PROOFFIX in connection with Applicant's services will cause confusion or is likely to deceive purchasers as to the source or sponsorship of such services.
6. Applicant's application alleges its original filing basis as "intent to use", and the current basis of the application remains unchanged.
7. Opposer has made substantial investment in advertising and promoting its services

under Opposer's PROOFFIX mark since its initial use. Opposer has extensively used, advertised, promoted and offered Opposer's services bearing Opposer's PROOFFIX mark to the public through various channels of trade and commerce, with the result that Opposer's customers and the public in general have come to know and recognize Opposer's PROOFFIX mark and associate the same with Opposer and/or the services offered and sold by Opposer.

8. If Applicant is granted the registration herein opposed, it would thereby obtain at least a *prima facie* right to the exclusive use of Applicant's Mark. This is harmful to Opposer, who has used PROOFFIX in connection with the relevant services at an earlier date. Also, Opposer has a customer base and name recognition with the purchasing public. Applicant's registration thus would confuse the trade and public, be a source of damage and injury to Opposer, and diminish the significant investment Opposer has made in Opposer's mark.

9. Given Opposer's prior trademark rights in and to the PROOFFIX mark for proofreading and editing services, any federal trademark registration for PROOFFIX, conferring exclusive, nationwide rights, would be improper and would interfere with Opposer's prior rights.

10. In addition, if Applicant's Mark application in Class 35 matures to registration, Opposer believes it will be damaged in that, any application by Opposer for federal trademark registration of PROOFFIX for "proofreading and editing services" is likely to be refused by the Trademark Office due to the similarity of the marks and the relatedness of the respective parties' services.

11. Upon information and belief, Applicant has yet to have bona fide use of the mark in commerce and merely attempts to reserve a right in the mark in its application.

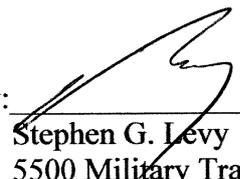
WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's
Mark and requests that the opposition be sustained and said registration be denied.

Dated: Jupiter, Florida
May 27, 2015

Respectfully submitted,

LEVY LAW ASSOCIATES P.A.
Attorneys for Opposer

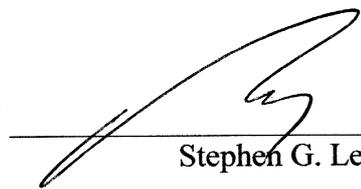
By: _____



Stephen G. Levy
5500 Military Trail
Suite 22-240
Jupiter, FL 33458
Tel: (561) 594-1550

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on May 27, 2015, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant's Attorney and Correspondent of Record, Matthew H. Swyers, The Trademark Company, PLLC, 344 Maple Avenue W., Suite 151, Vienna, VA 22180.



Stephen G. Levy