

ESTTA Tracking number: **ESTTA701563**

Filing date: **10/12/2015**

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	Fitness EM, LLC
Granted to Date of previous extension	10/11/2015
Address	660 Douglas Street Uxbridge, MA 01569 UNITED STATES

Attorney information	Alicia Grahn Jones KILPATRICK TOWNSEND & STOCKTON LLP 1100 PEACHTREE STREETSUITE 2800 ATLANTA, GA 30309 UNITED STATES tmadmin@ktslaw.com, aljones@ktslaw.com, jshanks@ktslaw.com, sbarber@ktslaw.com, brook@ktslaw.com Phone:404-815-6500
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Applicant Information

Application No	86426004	Publication date	04/14/2015
Opposition Filing Date	10/12/2015	Opposition Period Ends	10/11/2015
Applicant	Empowern Inc. PO Box 310942 Miami, FL 33231 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 041. First Use: 2011/02/01 First Use In Commerce: 2011/12/22 All goods and services in the class are opposed, namely: Educational and entertainment services, namely, a continuing program about health, fitness, lifestyle, and the nursing profession accessible by means of the internet; Educational and entertainment services, namely, providing motivational speaking services in the field of health, fitness, lifestyle, and the nursing profession; Providing a website featuring educational information in the field of fitness; Providing a website featuring information in the field of fitness</p>
<p>Class 044. First Use: 2011/02/01 First Use In Commerce: 2011/12/22 All goods and services in the class are opposed, namely: Providing a website featuring educational information in the field of health, nursing care, and nursing services; Providing a website featuring information in the field of health, nursing care, and nursing services</p>

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.	3392283	Application Date	06/13/2005
Registration Date	03/04/2008	Foreign Priority Date	NONE
Word Mark	EMPOWER		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2005/12/00 First Use In Commerce: 2005/12/00 DVDs featuring exercise instruction and routines; educational software featuring instruction in fitness training; pedometers</p> <p>Class 021. First use: First Use: 2005/12/00 First Use In Commerce: 2005/12/00 Plastic water bottles sold empty</p> <p>Class 028. First use: First Use: 2005/12/00 First Use In Commerce: 2005/12/00 Athletic, body building, physical fitness and exercise equipment, namely, abdominal exercise boards, weight benches, incline benches, weight lifting equipment and accessories, namely, barbell bars, barbells, dumbbell bars, dumbbells, hand grippers, resistance bands, jump ropes, head straps, exercise benches, personal exercise mats, weight plates and organizer for weight plates, dumbbell organizer; caddy that attaches to fitness equipment that holds water bottle and television remote control; exercise squeeze balls; stability balls; yoga mats and carry straps; yoga blocks; yoga straps; weighted balls; stair climbing machines; treadmills; stationary bicycles; elliptical machines; home gyms comprised of weight benches and weight training machines; ankle/wrist weights; and balance trainers, namely, balance boards and exercise platforms</p>		

U.S. Registration No.	4118313	Application Date	08/02/2011
Registration Date	03/27/2012	Foreign Priority Date	NONE
Word Mark	EMPOWER		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 041. First use: First Use: 2005/11/23 First Use In Commerce: 2005/11/23 Providing a website featuring information and links relating to fitness and exercise

Attachments	76640728#TMSN.png(bytes) 85386828#TMSN.png(bytes) EMPOWERN.pdf(186509 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	/Alicia Grahn Jones/
Name	Alicia Grahn Jones
Date	10/12/2015

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

FITNESS EM, LLC,)	
)	
)	
)	In the matter of Application
Opposer,)	Serial No. 86/426,004
)	Mark: EMPOWERN
v.)	
)	Opposition No. _____
EMPOWERN INC.,)	
)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer Fitness EM (“Opposer”), a Massachusetts limited liability company with its principal place of business at 660 Douglas Street, Uxbridge, Massachusetts 01569 (“Opposer”), believes it will be damaged by registration of the mark EMPOWERN (Serial No. 86/426,004) by Empowern Inc. (“Applicant”), and opposes the same pursuant to 15 U.S.C. § 1063 and C.F.R. §§ 2.101 and 2.104. The grounds for this opposition are as follows:

1. Founded in 2001, Opposer designs, engineers, markets, and distributes personal training and wellness products exclusively for women. Since 2005, Opposer has offered goods and services under the EMPOWER mark, with the goal of providing fitness and wellness solutions that strengthen the body, mind, and spirit of women. The EMPOWER mark is used in connection with, *inter alia*, physical fitness and exercise equipment, fitness instruction videos, a website featuring information and links relating to fitness and exercise, and personal training services and information.

2. In addition to its common law rights in the EMPOWER Marks, Opposer owns the following federal registrations for the EMPOWER Marks, together with all right, title, and

interest in the marks shown therein, and all of the business and goodwill represented thereby (collectively, the “EMPOWER Registrations”):

Mark	Registration No.	Goods/Services	Registration Date
EMPOWER	3,392,283	Class 9: DVDs featuring exercise instruction and routines; educational software featuring instruction in fitness training; pedometer Class 21: Plastic water bottles sold empty Class 28: Athletic, body building, physical fitness and exercise equipment, namely, abdominal exercise boards, weight benches, incline benches, weight lifting equipment and accessories, namely, barbell bars, barbells, dumbbell bars, dumbbells, hand grippers, resistance bands, jump ropes, head straps, exercise benches, personal exercise mats, weight plates and organizer for weight plates, dumbbell organizer; caddy that attaches to fitness equipment that holds water bottle and television remote control; exercise squeeze balls; stability balls; yoga mats and carry straps; yoga blocks; yoga straps; weighted balls; stair climbing machines; treadmills; stationary bicycles; elliptical machines; home gyms comprised of weight benches and weight training machines; ankle/wrist weights; and balance trainers, namely, balance boards and exercise platforms	March 4, 2008
EMPOWER	4,118,313	Class 41: Providing a website featuring information and links relating to fitness and exercise	March 27, 2012

3. These EMPOWER Registrations are valid and subsisting, and affidavits have been filed in accordance with Sections 8 and 15 of the Lanham Act, 15 U.S.C. §§ 1068 and 1065, for Registration No. 3,392,283, and this registration is therefore incontestable. Pursuant to 37 C.F.R. § 2.122(d)(1), current printouts of information from electronic database records of the

USPTO showing the current status and title of the EMPOWER Registrations are attached collectively as **Exhibit A**.

4. The EMPOWER marks referred to in paragraphs 1 to 3 above are hereinafter collectively referred to as the “EMPOWER Marks.”

5. The EMPOWER Marks are inherently distinctive indicators of origin that, by virtue of Opposer’s substantial investments of time, money, and effort in advertising and promotion, have become symbolic of the extensive goodwill and quality of services and goods offered by Opposer.

6. On October 16, 2014, Applicant filed an application to register the EMPOWER N Mark for the following services in Classes 41 and 44:

Class 41: Educational and entertainment services, namely, a continuing program about health, fitness, lifestyle, and the nursing profession accessible by means of the internet; educational and entertainment services, namely, providing motivational speaking services in the field of health, fitness, lifestyle, and the nursing profession; providing a website featuring educational information in the field of fitness; providing a website featuring information in the field of fitness.

Class 44: Providing a website featuring educational information in the field of health, nursing care, and nursing services; Providing a website featuring information in the field of health, nursing care, and nursing services.

7. Applicant’s trademark application first published for opposition on April 14, 2015. Opposer was granted extensions of time through and including October 11, 2015 to oppose the Application. Because October 11, 2015 fell on a Sunday, this notice is timely filed on October 12, 2015, under 37 CFR § 2.196.

8. Applicant had constructive knowledge of Opposer’s EMPOWER Marks prior to filing the Application.

9. Applicant's EMPOWERN mark is confusingly similar in sight, sound, connotation, and commercial impression to the previously used, previously registered, EMPOWER Marks, as it encompasses the entirety of the EMPOWER Marks. The marks differ by only one letter at the end of Applicant's Mark, which is insufficient to distinguish it from Opposer's EMPOWER Marks.

10. The services recited in the Application are highly related to the goods and services identified in the EMPOWER Registrations. Applicant's Application includes health and fitness services that are identical to Opposer's health and fitness services offered under its EMPOWER Marks.

11. Applicant's EMPOWERN mark, when used in connection with Applicant's services as identified in the Application, so resembles the previously used EMPOWER Marks as to be likely to cause confusion or mistake and/or deceive members of the public concerning a sponsorship or endorsement of, or an affiliation, connection, or association with, the source of goods and services sold under the EMPOWER Marks, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), with consequent injury to Opposer, the public, and the trade.

12. Applicant's EMPOWERN mark, when used in connection with Applicant's services as identified in the Application, so resembles the registered marks shown in the previously registered EMPOWER Registrations as to be likely to cause confusion or mistake and/or deceive members of the public concerning a sponsorship or endorsement of, or an affiliation, connection, or association with, the source of goods and services sold under the EMPOWER Marks shown in the EMPOWER Registrations, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), with consequent injury to Opposer, the public, and the trade.

13. Pursuant to Section 13(a) of the Lanham Act, 15 U.S.C. § 1063(a), Opposer believes it will be damaged by registration of Applicant's EMPOWERN mark in that members of the purchasing public and/or the trade are likely to be confused or mistaken that Applicant's services offered under the EMPOWERN Mark originate from Opposer, or from the same source as goods and services sold under the EMPOWER Marks and/or the registered marks shown in the EMPOWER Registrations, or that such services of Applicant are sponsored by, endorsed by, or affiliated with the source of goods and services sold under the EMPOWER Marks and/or the registered marks shown in the EMPOWER Registrations. Such likelihood of confusion would result in damage to the goodwill among purchasers and the trade that the EMPOWER Marks symbolize. Registration of Applicant's EMPOWERN Mark will support and assist Applicant in the confusing and misleading use of Applicant's mark, and, in addition, will give exclusive statutory right to Applicant in violation and derogation of Opposer's prior and superior rights.

14. The fee in the amount of \$600.00 is filed herewith. The Commissioner is authorized to debit the deposit account of Kilpatrick Townsend & Stockton LLP (Deposit Account No. 20-1430) for any deficiency in the required fee.

WHEREFORE, Opposer requests that the Board refuse registration to the EMPOWERN mark underlying Application Serial No. 86/426,004.

Dated: October 12, 2015

Respectfully submitted,

/Alicia Grahn Jones/

Alicia Grahn Jones
KILPATRICK TOWNSEND &
STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4530
(404) 815-6500
Attorney for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served on Applicant on October 12, 2015, via first class mail to:

Caroline Thomas
Empowern Inc.
P.O. Box 310942
Miami, Florida 33231-0942

/Alicia Grahn Jones/ _____
Counsel for Opposer

CERTIFICATE OF TRANSMITTAL

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION is being filed electronically with the TTAB via ESTTA on this day, October 12, 2015.

/Alicia Grahn Jones/ _____
Counsel for Opposer

EXHIBIT A

Owner Name: FITNESS EM, LLC
Owner Address: 660 DOUGLAS STREET
UXBRIDGE, MASSACHUSETTS 01569
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: MASSACHUSETTS

Attorney/Correspondence Information

Attorney of Record

Attorney Name: William H. Brewster
Attorney Primary Email Address: tmadmin@kilpatricktownsend.com
Docket Number: 62649/399063
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: WILLIAM H. BREWSTER
KILPATRICK TOWNSEND & STOCKTON LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GEORGIA 30309
UNITED STATES
Phone: 404-815-6500
Fax: 404-815-6555
Correspondent e-mail: tmadmin@kilpatricktownsend.com
Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
May 28, 2014	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Mar. 21, 2014	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Mar. 21, 2014	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	64591
Mar. 04, 2014	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	64591
Mar. 21, 2014	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	64591
Mar. 04, 2014	TEAS SECTION 8 & 15 RECEIVED	
Mar. 04, 2014	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Mar. 04, 2014	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Nov. 02, 2011	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Jul. 21, 2011	ATTORNEY REVOKED AND/OR APPOINTED	
Jul. 21, 2011	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Mar. 04, 2008	REGISTERED-PRINCIPAL REGISTER	
Jan. 30, 2008	LAW OFFICE REGISTRATION REVIEW COMPLETED	76537
Jan. 30, 2008	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jan. 29, 2008	STATEMENT OF USE PROCESSING COMPLETE	66230
Dec. 17, 2007	USE AMENDMENT FILED	66230
Dec. 20, 2007	PAPER RECEIVED	
Jun. 19, 2007	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Mar. 27, 2007	PUBLISHED FOR OPPOSITION	
Mar. 07, 2007	NOTICE OF PUBLICATION	
Feb. 10, 2007	LAW OFFICE PUBLICATION REVIEW COMPLETED	76537
Feb. 10, 2007	ASSIGNED TO LIE	76537
Feb. 09, 2007	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jan. 31, 2007	EXAMINERS AMENDMENT MAILED	
Jan. 30, 2007	EXAMINER'S AMENDMENT ENTERED	88888
Jan. 30, 2007	EXAMINER'S AMENDMENT ENTERED	88888
Jan. 30, 2007	EXAMINERS AMENDMENT -WRITTEN	81847
Jan. 29, 2007	PREVIOUS ALLOWANCE COUNT WITHDRAWN	

Jan. 29, 2007	WITHDRAWN FROM PUB - OG REVIEW QUERY	61844
Dec. 24, 2006	LAW OFFICE PUBLICATION REVIEW COMPLETED	72067
Dec. 24, 2006	ASSIGNED TO LIE	72067
Dec. 08, 2006	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 14, 2006	AMENDMENT FROM APPLICANT ENTERED	67215
Oct. 10, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	67215
Nov. 07, 2006	PETITION GRANTED - RESPONSE RECEIVED	66303
Oct. 21, 2006	ASSIGNED TO PETITION STAFF	66303
Oct. 10, 2006	PETITION TO REVIVE-RECEIVED	
Oct. 10, 2006	PAPER RECEIVED	
Aug. 07, 2006	ABANDONMENT NOTICE MAILED - FAILURE TO RESPOND	
Aug. 07, 2006	ABANDONMENT - FAILURE TO RESPOND OR LATE RESPONSE	
Jan. 05, 2006	NON-FINAL ACTION MAILED	
Jan. 05, 2006	NON-FINAL ACTION WRITTEN	81847
Jan. 03, 2006	ASSIGNED TO EXAMINER	81847
Jun. 22, 2005	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMEG LAW OFFICE 105

Date in Location: Mar. 21, 2014

Assignment Abstract Of Title Information

Summary

Total Assignments: 2

Registrant: Fitness Equipment Manufacturing, LLC

Assignment 1 of 2

Conveyance: SECURITY AGREEMENT

Reel/Frame: [4652/0136](#)

Pages: 8

Date Recorded: Sep. 06, 2011

Supporting Documents: [assignment-tm-4652-0136.pdf](#)

Assignor

Name: [FITNESS EQUIPMENT MANUFACTURING, LLC](#)

Execution Date: Aug. 31, 2011

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: NEVADA

Assignee

Name: [UNIBANK FOR SAVINGS](#)

Legal Entity Type: BANK

State or Country Where Organized: MASSACHUSETTS

Address: 49 CHURCH STREET
WHITINSVILLE, MASSACHUSETTS 01588

Correspondent

Correspondent Name: KAREN M. LAFOND, ESQ.

Correspondent Address: FLETCHER TILTON, PC
370 MAIN STREET
WORCESTER, MASSACHUSETTS 01608

Domestic Representative - Not Found

Assignment 2 of 2

Conveyance: MERGER EFFECTIVE 12/31/2012

Reel/Frame: [5281/0378](#)

Pages: 9

Date Recorded: May 16, 2014

Supporting Documents: [assignment-tm-5281-0378.pdf](#)

Assignor

Name: [FITNESS EQUIPMENT MANUFACTURING, LLC](#) Execution Date: Dec. 26, 2012
Legal Entity Type: LIMITED LIABILITY COMPANY State or Country Where Organized: NEVADA

Assignee

Name: [FITNESS EM, LLC](#)
Legal Entity Type: LIMITED LIABILITY COMPANY State or Country Where Organized: MASSACHUSETTS
Address: 660 DOUGLAS STREET
UXBRIDGE, MASSACHUSETTS 01569

Correspondent

Correspondent Name: WILLIAM H. BREWSTER
Correspondent Address: 1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309

Domestic Representative - Not Found

Proceedings

Summary

Number of Proceedings: 4

Type of Proceeding: Opposition

Proceeding Number: [91219316](#) Filing Date: Nov 12, 2014
Status: Terminated Status Date: Dec 17, 2014
Interlocutory Attorney: GEORGE POLOGEORGIS

Defendant

Name: NBCUniversal Media, LLC
Correspondent Address: KIMBERLY REDDICK
NBCUNIVERSAL MEDIA LLC
30 ROCKEFELLER PLAZA
NEW YORK NY , 10112
UNITED STATES
Correspondent e-mail: trademarks@nbcuni.com, kimberly.reddick@nbcuni.com, benita.collier@nbcuni.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
MPOWER10	Abandoned - After Inter-Partes Decision	86213280	

Plaintiff(s)

Name: Fitness EM, LLC
Correspondent Address: JOHN L WELCH
LANDO & ANASTASI LLP
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE MA , 02142
UNITED STATES
Correspondent e-mail: jlwtrademarks@lalaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
EMPOWER	Section 8 and 15 - Accepted and Acknowledged	76640728	3392283
EMPOWER	Registered	85386828	4118313

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Nov 12, 2014	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Nov 12, 2014	Dec 22, 2014
3	PENDING, INSTITUTED	Nov 12, 2014	
4	W/DRAW OF APPLICATION	Nov 17, 2014	
5	BD DECISION: SUSTAINED	Dec 17, 2014	
6	TERMINATED	Dec 17, 2014	

Type of Proceeding: Opposition

Proceeding Number: [91219317](#)

Filing Date: Nov 12, 2014

Status: Terminated

Status Date: Dec 19, 2014

Interlocutory Attorney: ROBERT COGGINS

Defendant

Name: NBCUniversal Media, LLC

Correspondent Address: KIMBERLY REDDICK
NBCUNIVERSAL MEDIA LLC
30 ROCKEFELLER PLAZA
NEW YORK NY , 10112
UNITED STATESCorrespondent e-mail: kimberly.reddick@nbcuni.com , trademarks@nbcuni.com , benita.collier@nbcuni.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
MPOWER10	Abandoned - After Inter-Partes Decision	86213291	

Plaintiff(s)

Name: Fitness EM, LLC

Correspondent Address: JOHN L WELCH
LANDO & ANASTASI LLP
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE MA , 02142
UNITED STATESCorrespondent e-mail: jwtrademarks@lalaw.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
EMPOWER	Section 8 and 15 - Accepted and Acknowledged	76640728	3392283
EMPOWER	Registered	85386828	4118313

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Nov 12, 2014	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Nov 12, 2014	Dec 22, 2014
3	PENDING, INSTITUTED	Nov 12, 2014	
4	W/DRAW OF APPLICATION	Nov 17, 2014	
5	BD DECISION: SUSTAINED	Dec 19, 2014	
6	TERMINATED	Dec 19, 2014	
7	D UNDELIVERABLE MAIL	Feb 18, 2015	

Type of Proceeding: Opposition

Proceeding Number: [91211140](#)

Filing Date: Jun 10, 2013

Status: Terminated

Status Date: Apr 23, 2014

Interlocutory Attorney: ELIZABETH A DUNN

Defendant

Name: Empower Athletic Development LLC

Correspondent Address: ANDREW N FREDBECK
FROSS ZELNICK LEHRMAN & ZISSU PC
866 UNITED NATIONS PLZ
NEW YORK NY , 10017 1822
UNITED STATESCorrespondent e-mail: afredbeck@fzlz.com , sfarias@fzlz.com , cweigell@fzlz.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
EMPOWER ATHLETIC DEVELOPMENT	Registered	85496460	4535496

Plaintiff(s)

Name: Fitness Equipment Manufacturing, LLC

Correspondent Address: DEAN W RUSSELL
KILPATRICK TOWNSEND LLP

1100 PEACHTREE STREET, SUITE 2800
ATLANTA GA , 30309
UNITED STATES

Correspondent e-mail: drussell@ktslaw.com , lcrumley@ktslaw.com , tmadmin@ktslaw.com , jshanks@ktslaw.com

Mark	Application Status	Serial Number	Registration Number
EMPOWER	Registered	85386828	4118313
EMPOWER	Section 8 and 15 - Accepted and Acknowledged	76640728	3392283

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jun 10, 2013	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jun 18, 2013	Jul 28, 2013
3	PENDING, INSTITUTED	Jun 18, 2013	
4	D MOT FOR EXT W/ CONSENT	Jul 24, 2013	
5	EXTENSION OF TIME GRANTED	Jul 24, 2013	
6	D MOT FOR EXT W/ CONSENT	Sep 25, 2013	
7	EXTENSION OF TIME GRANTED	Sep 25, 2013	
8	CHANGE OF CORRESP ADDRESS	Oct 16, 2013	
9	P APPEARANCE / POWER OF ATTORNEY	Oct 16, 2013	
10	D MOT FOR EXT W/ CONSENT	Nov 22, 2013	
11	EXTENSION OF TIME GRANTED	Nov 22, 2013	
12	D MOT FOR EXT W/ CONSENT	Jan 24, 2014	
13	EXTENSION OF TIME GRANTED	Jan 24, 2014	
14	MOT TO AMEND APPLICATION	Feb 21, 2014	
15	RESPONSE DUE 30 DAYS (DUE DATE)	Mar 28, 2014	Apr 27, 2014
16	W/DRAW OF OPPOSITION	Mar 31, 2014	
17	BD DECISION: DISMISSED	Apr 23, 2014	
18	TERMINATED	Apr 23, 2014	

Type of Proceeding: Opposition

Proceeding Number: [91195097](#)

Filing Date: Jun 01, 2010

Status: Terminated

Status Date: Nov 14, 2011

Interlocutory Attorney: CHERYL S GOODMAN

Defendant

Name: Fitness4Her, Inc.

Correspondent Address: SHAWN R FARMER
MUSKIN & CUSICK LLC
100 W MAIN ST STE 205
LANSDALE PA , 19446-2030
UNITED STATES

Correspondent e-mail: sfarmer@patentstrademarks.com

Mark	Application Status	Serial Number	Registration Number
EMPOWER BEAUTY!	Abandoned - After Inter-Partes Decision	77839245	
EMPOWER THE BEAUTY IN YOU!	Abandoned - After Inter-Partes Decision	77838493	

Plaintiff(s)

Name: Fitness Equipment Manufacturing, LLC

Correspondent Address: LAUREN A LINDER
KILPATRICK STOCKTON LLP
1100 PEACHTREE STREET, SUITE 2800
ATLANTA GA , 30309
UNITED STATES

Correspondent e-mail: llinder@kilpatricktownsend.com, rgordon@kilpatricktownsend.com, tmadmin@kilpatricktownsend.com

Mark	Application Status	Serial Number	Registration Number
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Mark	Application Status	Serial Number	Registration Number
EMPOWER	Section 8 and 15 - Accepted and Acknowledged	76640728	3392283

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jun 01, 2010	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jun 01, 2010	Jul 11, 2010
3	PENDING, INSTITUTED	Jun 01, 2010	
4	ANSWER	Jul 12, 2010	
5	STIP TO SUSPEND PEND SETTLEMENT NEGOTNS	Sep 07, 2010	
6	SUSPENDED	Sep 07, 2010	
7	APPEARANCE	Dec 08, 2010	
8	CHANGE OF CORRESPONDENCE ADDRESS	Dec 08, 2010	
9	STIP TO SUSPEND PEND SETTLEMENT NEGOTNS	Jan 05, 2011	
10	SUSPENDED	Jan 05, 2011	
11	STIP TO SUSPEND PEND SETTLEMENT NEGOTNS	Jul 17, 2011	
12	SUSPENDED	Jul 17, 2011	
13	STIPULATION FOR AN EXTENSION OF TIME	Aug 25, 2011	
14	EXTENSION OF TIME GRANTED	Aug 25, 2011	
15	WITHDRAWAL OF APPLICATION	Oct 14, 2011	
16	BOARD'S DECISION: SUSTAINED	Nov 14, 2011	
17	TERMINATED	Nov 14, 2011	

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Mark: EMPOWER

EMPOWER

US Serial Number: 85386828
Application Filing Date: Aug. 02, 2011
US Registration Number: 4118313
Registration Date: Mar. 27, 2012
Register: Principal
Mark Type: Service Mark
Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.
Status Date: Mar. 27, 2012
Publication Date: Jan. 10, 2012

Mark Information

Mark Literal Elements: EMPOWER
Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.
Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US Registrations: 3392283

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *...* identify additional (new) wording in the goods/services.

For: Providing a website featuring information and links relating to fitness and exercise
International Class(es): 041 - Primary Class
U.S Class(es): 100, 101, 107
Class Status: ACTIVE
Basis: 1(a)
First Use: Nov. 23, 2005
Use in Commerce: Nov. 23, 2005

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: FITNESS EM, LLC
Owner Address: 660 DOUGLAS STREET
UXBRIDGE, MASSACHUSETTS 01569
UNITED STATES
Legal Entity Type: LIMITED LIABILITY COMPANY
State or Country Where Organized: MASSACHUSETTS

Attorney/Correspondence Information

Attorney of Record

Attorney Name: William H. Brewster
Docket Number: 62649/815982
Attorney Primary Email: tmadmin@kilpatricktownsend.com
Attorney Email: No

Address:

Authorized:

Correspondent

Correspondent Name/Address: WILLIAM H. BREWSTER
KILPATRICK TOWNSEND & STOCKTON LLP
1100 PEACHTREE ST NE STE 2800
ATLANTA, GEORGIA 30309-4528
UNITED STATES

Phone: 404-815-6500

Fax: 404-815-6555

Correspondent e-mail: tmadmin@kilpatricktownsend.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
May 28, 2014	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Mar. 27, 2012	REGISTERED-PRINCIPAL REGISTER	
Jan. 10, 2012	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jan. 10, 2012	PUBLISHED FOR OPPOSITION	
Dec. 21, 2011	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Dec. 02, 2011	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 25, 2011	ASSIGNED TO EXAMINER	66384
Nov. 02, 2011	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Aug. 09, 2011	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Aug. 05, 2011	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Mar. 27, 2012

Assignment Abstract Of Title Information

Summary

Total Assignments: 2

Registrant: Fitness Equipment Manufacturing, LLC

Assignment 1 of 2

Conveyance: SECURITY AGREEMENT

Reel/Frame: [4652/0136](#)

Pages: 8

Date Recorded: Sep. 06, 2011

Supporting Documents: [assignment-tm-4652-0136.pdf](#)

Assignor

Name: [FITNESS EQUIPMENT MANUFACTURING, LLC](#)

Execution Date: Aug. 31, 2011

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: NEVADA

Assignee

Name: [UNIBANK FOR SAVINGS](#)

Legal Entity Type: BANK

State or Country Where Organized: MASSACHUSETTS

Address: 49 CHURCH STREET
WHITINSVILLE, MASSACHUSETTS 01588

Correspondent

Correspondent Name: KAREN M. LAFOND, ESQ.

Correspondent Address: FLETCHER TILTON, PC
370 MAIN STREET
WORCESTER, MASSACHUSETTS 01608

Domestic Representative - Not Found

Assignment 2 of 2

Conveyance: MERGER EFFECTIVE 12/31/2012

Reel/Frame: [5281/0378](#)

Pages: 9

Date Recorded: May 16, 2014

Supporting Documents: [assignment-tm-5281-0378.pdf](#)

Assignor

Name: [FITNESS EQUIPMENT MANUFACTURING, LLC](#) Execution Date: Dec. 26, 2012
Legal Entity Type: LIMITED LIABILITY COMPANY State or Country Where Organized: NEVADA

Assignee

Name: [FITNESS EM, LLC](#)
Legal Entity Type: LIMITED LIABILITY COMPANY State or Country Where Organized: MASSACHUSETTS
Address: 660 DOUGLAS STREET
UXBRIDGE, MASSACHUSETTS 01569

Correspondent

Correspondent Name: WILLIAM H. BREWSTER
Correspondent Address: 1100 PEACHTREE STREET, SUITE 2800
ATLANTA, GA 30309

Domestic Representative - Not Found

Proceedings

Summary

Number of Proceedings: 3

Type of Proceeding: Opposition

Proceeding Number: [91219316](#) Filing Date: Nov 12, 2014
Status: Terminated Status Date: Dec 17, 2014
Interlocutory Attorney: GEORGE POLOGEORGIS

Defendant

Name: NBCUniversal Media, LLC
Correspondent Address: KIMBERLY REDDICK
NBCUNIVERSAL MEDIA LLC
30 ROCKEFELLER PLAZA
NEW YORK NY , 10112
UNITED STATES
Correspondent e-mail: trademarks@nbcuni.com, kimberly.reddick@nbcuni.com, benita.collier@nbcuni.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
MPOWER10	Abandoned - After Inter-Partes Decision	86213280	

Plaintiff(s)

Name: Fitness EM, LLC
Correspondent Address: JOHN L WELCH
LANDO & ANASTASI LLP
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE MA , 02142
UNITED STATES
Correspondent e-mail: jlwtrademarks@lalaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
EMPOWER	Section 8 and 15 - Accepted and Acknowledged	76640728	3392283
EMPOWER	Registered	85386828	4118313

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Nov 12, 2014	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Nov 12, 2014	Dec 22, 2014
3	PENDING, INSTITUTED	Nov 12, 2014	
4	W/DRAW OF APPLICATION	Nov 17, 2014	
5	BD DECISION: SUSTAINED TERMINATED	Dec 17, 2014	

Type of Proceeding: OppositionProceeding Number: [91219317](#)

Filing Date: Nov 12, 2014

Status: Terminated

Status Date: Dec 19, 2014

Interlocutory Attorney: ROBERT COGGINS

Defendant

Name: NBCUniversal Media, LLC

Correspondent Address: KIMBERLY REDDICK
NBCUNIVERSAL MEDIA LLC
30 ROCKEFELLER PLAZA
NEW YORK NY , 10112
UNITED STATESCorrespondent e-mail: kimberly.reddick@nbcuni.com , trademarks@nbcuni.com , benita.collier@nbcuni.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
MPOWER10	Abandoned - After Inter-Partes Decision	86213291	

Plaintiff(s)

Name: Fitness EM, LLC

Correspondent Address: JOHN L WELCH
LANDO & ANASTASI LLP
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE MA , 02142
UNITED STATESCorrespondent e-mail: jlwtrademarks@lalaw.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
EMPOWER	Section 8 and 15 - Accepted and Acknowledged	76640728	3392283
EMPOWER	Registered	85386828	4118313

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Nov 12, 2014	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Nov 12, 2014	Dec 22, 2014
3	PENDING, INSTITUTED	Nov 12, 2014	
4	W/DRAW OF APPLICATION	Nov 17, 2014	
5	BD DECISION: SUSTAINED	Dec 19, 2014	
6	TERMINATED	Dec 19, 2014	
7	D UNDELIVERABLE MAIL	Feb 18, 2015	

Type of Proceeding: OppositionProceeding Number: [91211140](#)

Filing Date: Jun 10, 2013

Status: Terminated

Status Date: Apr 23, 2014

Interlocutory Attorney: ELIZABETH A DUNN

Defendant

Name: Empower Athletic Development LLC

Correspondent Address: ANDREW N FREDBECK
FROSS ZELNICK LEHRMAN & ZISSU PC
866 UNITED NATIONS PLZ
NEW YORK NY , 10017 1822
UNITED STATESCorrespondent e-mail: afredbeck@fzlz.com , sfarias@fzlz.com , cweigell@fzlz.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
EMPOWER ATHLETIC DEVELOPMENT	Registered	85496460	4535496

Plaintiff(s)

Name: Fitness Equipment Manufacturing, LLC

Correspondent Address: DEAN W RUSSELL

KILPATRICK TOWNSEND LLP
 1100 PEACHTREE STREET, SUITE 2800
 ATLANTA GA , 30309
 UNITED STATES

Correspondent e-mail: drussell@ktslaw.com , lcrumbley@ktslaw.com , tmadmin@ktslaw.com , jshanks@ktslaw.com

Associated marks			
Mark	Application Status	Serial Number	Registration Number
EMPOWER	Registered	85386828	4118313
EMPOWER	Section 8 and 15 - Accepted and Acknowledged	76640728	3392283

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jun 10, 2013	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jun 18, 2013	Jul 28, 2013
3	PENDING, INSTITUTED	Jun 18, 2013	
4	D MOT FOR EXT W/ CONSENT	Jul 24, 2013	
5	EXTENSION OF TIME GRANTED	Jul 24, 2013	
6	D MOT FOR EXT W/ CONSENT	Sep 25, 2013	
7	EXTENSION OF TIME GRANTED	Sep 25, 2013	
8	CHANGE OF CORRESP ADDRESS	Oct 16, 2013	
9	P APPEARANCE / POWER OF ATTORNEY	Oct 16, 2013	
10	D MOT FOR EXT W/ CONSENT	Nov 22, 2013	
11	EXTENSION OF TIME GRANTED	Nov 22, 2013	
12	D MOT FOR EXT W/ CONSENT	Jan 24, 2014	
13	EXTENSION OF TIME GRANTED	Jan 24, 2014	
14	MOT TO AMEND APPLICATION	Feb 21, 2014	
15	RESPONSE DUE 30 DAYS (DUE DATE)	Mar 28, 2014	Apr 27, 2014
16	W/DRAW OF OPPOSITION	Mar 31, 2014	
17	BD DECISION: DISMISSED	Apr 23, 2014	
18	TERMINATED	Apr 23, 2014	