

ESTTA Tracking number: **ESTTA722281**

Filing date: **01/22/2016**

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	Id Software LLC
Granted to Date of previous extension	01/24/2016
Address	1500 North Greenville Ave, Floor 7 Richardson, TX 75081 UNITED STATES

Attorney information	D. Wade Cloud, Jr. Hiersche, Hayward, Drakeley & Urbach PC 15303 Dallas Parkway, Suite 700 Addison, TX 75001 UNITED STATES wcloud@hhdulaw.com Phone:(972) 701-7013
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Applicant Information

Application No	86502137	Publication date	07/28/2015
Opposition Filing Date	01/22/2016	Opposition Period Ends	01/24/2016
Applicant	Doom Sayers, LLC Post Office Box 340782 Sacramento, CA 95834 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2011/04/11 First Use In Commerce: 2012/01/00 All goods and services in the class are opposed, namely: (Based on Use in Commerce) Baseball caps and hats; Beanies; Hooded sweatshirts; Long-sleeved shirts; Socks; Sweatshirts; T-shirts; (Based on Intent to Use) Jackets

Grounds for Opposition

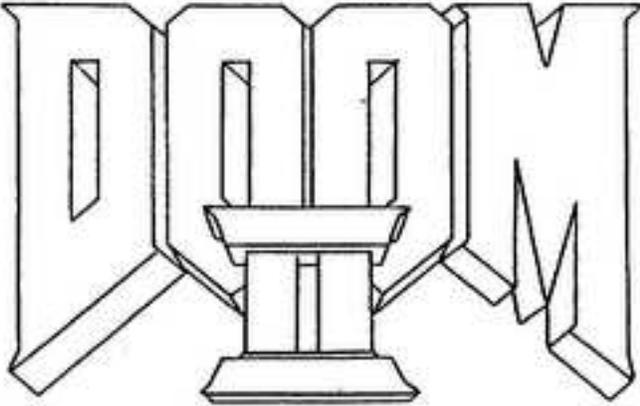
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2050083	Application Date	12/10/1992
Registration Date	04/08/1997	Foreign Priority Date	NONE
Word Mark	DOOM		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 1993/12/10 First Use In Commerce: 1993/12/10 computer software games and computer game programs

U.S. Registration No.	2084910	Application Date	02/07/1996
Registration Date	07/29/1997	Foreign Priority Date	NONE
Word Mark	FINAL DOOM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1996/06/27 First Use In Commerce: 1996/06/27 computer software games and computer game programs		

U.S. Registration No.	2303100	Application Date	09/30/1994
Registration Date	12/28/1999	Foreign Priority Date	NONE
Word Mark	DOOM II		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1994/09/27 First Use In Commerce: 1994/09/27 computer software games and computer game programs		

U.S. Registration No.	2928605	Application Date	02/13/2004
Registration Date	03/01/2005	Foreign Priority Date	NONE
Word Mark	DOOM3		

Design Mark	<h1>DOOM 3</h1>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2004/08/06 First Use In Commerce: 2004/08/06 computer software games, computer software game programs and computer game cartridges or CD-ROMs for video games for entertainment uses with manuals sold as a unit		

U.S. Registration No.	3529554	Application Date	01/30/2006
Registration Date	11/11/2008	Foreign Priority Date	NONE
Word Mark	DOOM RPG		
Design Mark	<h1>DOOM RPG</h1>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2005/10/31 First Use In Commerce: 2005/10/31 Computer game software for use on cell phones and other handheld wireless devices and via download for cell phones and other handheld wireless devices		

U.S. Registration No.	4621580	Application Date	05/31/2012
Registration Date	10/14/2014	Foreign Priority Date	NONE
Word Mark	DOOM 3 BFG EDITION		
Design Mark	<h1>DOOM 3 BFG EDITION</h1>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2012/10/16 First Use In Commerce: 2012/10/16 downloadable computer game software offered via the internet and wireless		

	devices; computer game software for use with computers and video game consoles; computer game software for use on cell phones and other handheld wireless devices; computer game software for use with on-line interactive games
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Attachments	74710905#TMSN.png(bytes) 76575353#TMSN.png(bytes) 76654206#TMSN.png(bytes) 85640286#TMSN.png(bytes) DOOM SAYERS Not. of Opp. Filed_FINAL_01.22.16.pdf(530655 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	/dwc/
Name	D. Wade Cloud, Jr.
Date	01/22/2016

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

Id Software LLC	§	In the Matter of Trademark
	§	Application Serial No. 86502137
Opposer,	§	
	§	For the Mark:
v.	§	DOOM SAYERS
	§	
Doom Sayers, LLC	§	Published in the Official Gazette on
	§	July 28, 2015
	§	
Applicant.	§	Opposition No. _____

NOTICE OF OPPOSITION

COMES NOW, Id Software LLC (“*Opposer*”) and opposes the trademark application for the mark DOOM SAYERS (“*Opposed Mark*”); Serial No. 86502137 (“*Opposed Application*”) filed by Doom Sayers, LLC (“*Applicant*”) under the provisions of Sections 2(d), 13 and 43(c) of the Trademark Act of July 5, 1946, 15 U.S.C. §§ 1052(d), 1063 and 1125(c), and respectfully asserts the following:

PARTIES

1. Opposer is a Delaware limited liability company located at 1500 N. Greenville Ave., Suite 700, Richardson, Texas 75150.
2. Applicant, on information, is a limited liability company with an address of Post Office Box 340782 Sacramento, California 95834.

FACTUAL BACKGROUND

3. Opposer, a developer of computer software games and computer game programs, is the owner of all right, title and interest in and to these trademarks registered with the United States Patent and Trademark Office: DOOM, (Reg. Number 2050083, Registered April 8, 1997); FINAL DOOM, (Reg. Number 2084910, Registered July 29, 1997); DOOM II, (Reg. Number 2303100, Registered December 28, 1999); DOOM 3, (Reg. Number 2928605, Registered March 1, 2005); and DOOM RPG, (Reg. Number 3529554, Registered November 11, 2008). In addition, Opposer is the owner of DOOM 3 BFG EDITION in International Class (“*IC*”) 009 (Reg. Number 4621580, Registered October 14, 2014) for “downloadable computer game software offered via the internet and wireless devices; computer game software for use with computers and video game consoles; computer game software for use on cell phones and other handheld wireless devices; computer game software for use with on-line interactive games.” All of the foregoing marks of Opposer are collectively referred to as the DOOM Marks.

4. DOOM, DOOM II, and FINAL DOOM are registered in IC 009 for "computer games and computer game programs". DOOM 3 is registered in IC 009 for "computer software games, computer software game programs and computer game cartridges or CD-ROMs for video games for entertainment uses with manuals sold as a unit". DOOM RPG is registered in IC 009 for "computer game software for use on cell phones and other handheld wireless devices and *via* download for cell phones and other handheld wireless devices."

5. The Opposed Application was filed on January 13, 2015 and published for Opposition on July 28, 2015. Opposer timely filed a request for extension to file Opposition. Opposer's extension request was granted by the Trademark Trial and Appeal Board ("*TTAB*") thereby extending the Opposition period to November 25, 2015.

6. Opposer has used DOOM on or in connection with computer software games and computer game programs on a valid and continuous basis since at least as early as December 10, 1993. Opposer's computer games, which include the famous games of DOOM, QUAKE, and WOLFENSTEIN, have appeared in both PC and video game console versions. Some of Opposer's computer games including DOOM, DOOM II AND DOOM 3 are multiplayer, real-time games playable over the Internet and local area networks. Some of Opposer's computer games including DOOM, DOOM II AND DOOM 3 are available *via* download from the Internet and *via* tangible media made available through retailers. DOOM RPG is a role playing software game. The DOOM mark has been used in connection with toy figurines. In addition, Opposer has used some of the DOOM Marks on caps and t-shirts and intends to continue to do so. The DOOM Marks have not been abandoned and their Registrations continue in full effect.

7. Opposer has established substantial goodwill in the DOOM Marks. The DOOM Marks are identified exclusively with Opposer and Opposer's computer software games and computer game programs as well as clothing goods marked with DOOM.

8. The Opposed Application states that Applicant uses or intends to use the Opposed Mark in connection with the following goods ("*Opposed Goods*"):

IC 025 - (Based on Use in Commerce) Baseball caps and hats; Beanies; Hooded sweatshirts; Long-sleeved shirts; Socks; Sweatshirts; T-shirts; (Based on Intent to Use) Jackets.

9. Opposer would show that Opposer will suffer damages, including, without limitation, the loss of goodwill, unless the Opposed Mark is refused registration.

CLAIMS / GROUNDS FOR OPPOSITION

A. Prior Use.

10. Opposer incorporates paragraphs 1 through 9, inclusive, herein.

11. The DOOM Marks are prior and senior to the Opposed Mark as described above.

Opposer's prior use of the DOOM Marks in connection with caps and t-shirts overlaps and/or is related to some of the goods identified by Applicant and Opposer's prior use supports denial of the Opposed Application and refusal of registration of the Opposed Mark.

B. Likelihood of Confusion.

12. Opposer incorporates paragraphs 1 through 11, inclusive, herein.

13. The Opposed Mark closely resembles the registered DOOM Marks because of Applicant's inclusion of DOOM in the title. Opposer contends that when the Opposed Mark is used on or in connection with Applicant's proposed goods, namely, clothing, including caps and shirts, the Opposed Mark is likely to cause confusion, or to cause mistake, or to deceive.

14. Opposer has continuously and prominently used the DOOM Marks in connection with computer games and computer game programs.

15. According to the Opposed Application, Applicant uses and intends to use the Opposed Mark in connection with Opposed Goods which overlap with Opposer's prior uses, and potential future uses, namely, in connection with clothing. Accordingly, a likelihood of confusion, mistake or deception amongst consumers appears to be likely, as well as a loss of goodwill by Opposer should registration issue for the Opposed Mark.

C. Dilution.

16. Opposer incorporates paragraphs 1 through 15, inclusive, herein.

17. Opposer's DOOM Marks are famous and became famous before the filing date or any use of the Opposed Mark by Applicant. The use and registration of the Opposed Mark is likely to dilute the distinctive quality of Opposer's famous DOOM Marks in violation of Section 43(c) of the Trademark Act, 15 U.S.C. § 1125(c).

CONCLUSION

18. Opposer believes it will be damaged by registration of the Opposed Mark under Section 13 of the Trademark Act, 15 U.S.C. § 1063, because consumers, familiar with Opposer's famous DOOM Marks are likely to believe, mistakenly, that Applicant's Opposed Goods emanate from, are sponsored or authorized by, or are otherwise associated or affiliated with Opposer, in violation of Section 2(d) of the

Trademark Act, 15 U.S.C. § 1052(d).

19. Opposer believes it will be damaged by registration of the Opposed Mark under Section 13 of the Trademark Act, 15 U.S.C. § 1063, because the use and registration of the Opposed Mark with the Opposed Goods is likely to dilute the distinctive quality of Opposer's famous DOOM Marks in violation of Section 43(c) of the Trademark Act, 15 U.S.C. § 1125(c).

20. For the foregoing reasons, the Opposed Application should be denied and registration of the Opposed Mark should be refused.

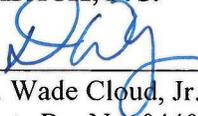
WHEREFORE, Opposer believes that it will be damaged by registration of the Opposed Mark and respectfully requests that the registration sought by Applicant be refused entirely.

DATED: **January 22, 2016**

Respectfully submitted,

**HIERSCHE, HAYWARD, DRAKELEY
& URBACH, P.C.**

By: _____


D. Wade Cloud, Jr.
State Bar No. 04407500

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Addison, Texas 75001
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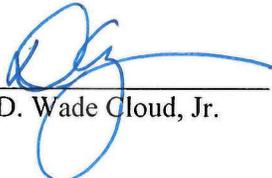
**ATTORNEYS FOR OPPOSER
ID SOFTWARE LLC**

CERTIFICATE OF SERVICE

I, D. Wade Cloud, Jr., hereby certify that a true copy of the foregoing **NOTICE OF OPPOSITION** was served on Applicant's attorney of record this **January 22, 2016** sending same *via* First Class mail, postage prepaid to:

Michael J. Thomas, Esq.
Downey Brand LLP
621 Capitol Mall Fl 18
Sacramento, CALIFORNIA 95814-4731

By: _____


D. Wade Cloud, Jr.