

ESTTA Tracking number: **ESTTA741296**

Filing date: **04/20/2016**

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

| | |
|------------------------|--|
| Proceeding | 91227392 |
| Party | Plaintiff Tokyo Broadcasting System Television, Inc. |
| Correspondence Address | J. Alison Grabell, Esq. BRUTZKUS GUBNER ROZANSKY SEROR WEBER LLP 21650 Oxnard Street Suite 500 Woodland Hills, CA 91367 UNITED STATES agrabell@brutzkusgubner.com, sbroffman@brutzkusgubner.com, jwhiting@jwhitinglaw.com |
| Submission | Other Motions/Papers |
| Filer's Name | J. Alison Grabell |
| Filer's e-mail | agrabell@brutzkusgubner.com, sbroffman@brutzkusgubner.com, jwhiting@jwhitinglaw.com |
| Signature | /J. Alison Grabell/ |
| Date | 04/20/2016 |
| Attachments | Declaration of S. Broffman In Support of Filing Exhibits to Notice of Opposition.pdf(4106987 bytes) |

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

| | | |
|--|---|---|
| TOKYO BROADCASTING SYSTEM TELEVISION, INC., |) | Opposition No.: 91227392 |
| |) | |
| Opposer, |) | Mark: NINJALOUNGE NINJA WARRIOR |
| |) | COURSE & TRAMPOLINE PARK & |
| |) | Design |
| v. |) | |
| |) | Serial No.: 86626274 |
| NINJA LOUNGE, |) | |
| |) | Filing Date: May 12, 2015 |
| Applicant. |) | |
| _____ |) | Date of Publication: December 15, 2015 |

DECLARATION OF SHERI L. BROFFMAN

IN SUPPORT OF FILING EXHIBITS TO NOTICE OF OPPOSITION

I, Sheri L. Broffman, declare and state:

1. I am employed as a Trademark Administrator and Legal Assistant at the law firm of Brutzkus Gubner Rozansky Seror Weber LLP (“Brutzkus Gubner”), attorneys of record for Opposer, TOKYO BROADCASTING SYSTEM TELEVISION, INC. (“Opposer”). This Declaration is made in support of filing Exhibits 1-40 to Opposer’s Notice of Opposition filed with the Trademark Trial and Appeal Board (“TTAB”) on April 13, 2016. I have personal knowledge of the facts contained herein, and if called upon to testify, I could and would competently testify thereto.

2. On April 13, 2016, I attempted to electronically file Opposer’s Notice of Opposition to registration of Applicant’s trademark application for  **NINJALOUNGE**
NINJA WARRIOR COURSE & TRAMPOLINE PARK Serial No. 86626274 (the “Notice of Opposition”). The Notice of Opposition included 40

exhibits. My attempts to electronically file the Notice of Opposition occurred at 4:30 PM (Pacific), 5:00 PM (Pacific) and 6:30 PM (Pacific).

3. During the electronic filing process, each time I accessed the ESTTA filing page, there appeared an ESTTA "Alert On Payments" advisory regarding an intermittent Revenue Accounting and Management (RAM) time out message, with instructions to proceed with payment if the filer encountered payment failure prompts; and, each time I reached the payment page, I received a payment failure notification that the TTAB was unable to complete payment and to access the link on the failure notification advisory to continue the payment process. I accessed the link and followed the instructions each time I was prompted to do so, and each time I was redirected back to the failure notification. ESTTA would not allow me to complete the payment phase of the electronic filing. A copy of the TTAB's ESTTA Alert On Payments advisory and failure notification are attached hereto as **Exhibit A**.

4. On my third attempt to electronically file the Notice of Opposition, I attached the Notice of Opposition, without the accompanying exhibits, in the event that the filing was too large and to try to avoid another filing failure. This third attempt also resulted in a TTAB payment failure notification (See Exhibit A attached hereto).

5. In accordance with the TBMP, and to ensure timely filing, at 7:00 PM (Pacific), I mailed a paper copy of the Notice of Opposition and exhibits, along with a Certificate of Mailing dated April 13, 2016. Included in the mailing was a loose leaf copy of the TTAB's payment failure notification.

6. On April 13, 2016, I also served the Notice of Opposition and Exhibits on Applicant via U.S. mail, with a courtesy copy via U.S. mail and e-mail to Applicant's counsel of record.

7. On April 14, 2016, at approximately 8:20 AM (Pacific), I called the TTAB to report the incidents of April 13, 2016, which resulted in my inability to electronically file the Notice of Opposition and the reasons therefor. I spoke with Tamika (TTAB Reference No. SR1-390848356). Tamika confirmed my filing attempts were within the acceptable filing hours at the TTAB. I advised Tamika that Brutzkus Gubner's USPTO Deposit Account contained ample funds for the filing, and that the payment failure notifications were rather a result of the TTAB website technical difficulties as confirmed by the notifications. I further advised Tamika of my paper filing via U.S. mail with a Certificate of Mailing to the TTAB. Tamika confirmed proper procedure along these lines was followed, and that the Notice of Opposition, once received by the TTAB via U.S. mail, would be accepted for filing as of 4/13/2016, the date on the Notice of Opposition and Certificate of Mailing. Tamika further confirmed that (a) I had properly placed the Notice of Opposition and exhibits in the U.S. mail addressed to the TTAB, (b) I had properly attached a Certificate of Mailing reflecting the mailing date of April 13, 2016, which will be accepted as the filing date, and (c) the TTAB will have ten (10) days from receipt of the mailing within which to scan the Notice of Opposition and exhibits into the database.

8. I asked Tamika if I should attempt to file the Notice of Opposition and exhibits following our telephone call of April 14, 2016, and Tamika instructed me not to do that because it would be deemed a late filing, and the filing may potentially not be accepted online in any

event, since the filing deadline of April 13, 2016 had expired. Tamika confirmed the filing by mail would meet the April 13, 2016 filing date.

9. On April 14, 2016 at 11:43 AM (Pacific), I placed another follow up call to the TTAB regarding payment of the filing fee for the Notice of Opposition. I spoke with "Shaka" who requested the serial number of the opposed application and then advised me to call Deposit Account Services Department at (571) 272-3150, and/or the TTAB Finance Department at (571) 272-6400 regarding payment of the filing fee.

10. I called the number I was given for the TTAB Finance Department and was put on hold. When my call was eventually answered, I was told by the TTAB representative to further call either (571) 272-4200, or (571) 272-4200 or 6500, because the numbers provided by Shaka were not correct for my purposes.

11. I also called the Deposit Account Services Department at the number provided to me by Shaka (see paragraph 9 above) to offer Brutzkus Gubner's deposit account information, and was told by the representative in that department that I should further call the Trademark Department instead at (800) 786-9199.

12. Upon calling the Trademark Department as directed by Shaka, I spoke with "Steven" who referred me back to the TTAB, advising this was a TTAB issue rather than a trademark matter. The reference number for my telephone call with Steven is 390897761.

13. During my conversation with Steven, I explained the history of my electronic filing attempts. Steven advised that upon the TTAB's receipt of the paper filing, we would receive a letter allowing ten (10) days within which to complete payment for the filing of the Notice of Opposition. Steven also advised payment could possibly be made via facsimile by way

of credit card, and that he wanted to confirm this with his supervisor, who was not in at the time. Steven advised me he would call me back upon his supervisor's return.

14. On April 14, 2016 at 5:04 PM (Pacific), I sent an email to TTABInfo@usptogov, and ESTTA@uspto.gov explaining my failed attempts to file the Notice of Opposition based on the TTAB Finance Online failure notices. I requested advice on options to pay for the filing as soon as possible.

15. On April 15, 2016, I was out of the office.

16. Upon my return to the office on Monday, April 18, 2016, I saw I had received an email dated 4/19/2016 at 8:38 AM, from Dwayne Bowling, Trademark Information Specialist, Reference No. SR1-392204963, which stated:

"Dear Sheri Lee Broffman,

Thank you for inquiring about the notice of opposition you filed against application 86626274 but the notice of opposition has already been instituted and a copy has been mailed to both parties.

The proceeding number for your opposition is 91227392 and the defendant has until May 28, 2016 to reply to the notice of opposition.

A copy of the institution order has been mailed to both parties.

We trust this provides you with the information you desire. If any further questions, or if you require additional information, please contact the Trademark Trial and Appeal Board [sic] (TTAB) Assistance Center 571-272-8500 and press 0. You can reference the following Service Request Number 1-392204963.

Sincerely,
Dwayne Bowling
Trademark Information Specialist
SR 1-392204963".

A true and correct copy of Mr. Bowling's email is attached hereto as **Exhibit B**.

17. Also upon my return to the office on Monday, April 18, 2016, I listened to a voice mail message left at my office from Steven at the United States Patent and Trademark Office (“USPTO”), on April 15, 2016 at 11:41 AM, which stated he had spoken with his supervisor, and that, “Since the filing fee was not submitted with the Opposition, the Opposition will be denied. Your only other recourse is to wait for the mark to register and file a petition to cancel. The TTAB no longer accepts payment by fax nor will they send a letter. You can reach me at 571-272-9250, and the supervisor, Angie Pope, can be reached at the TTAB at 571-272-8500.”

18. Also upon my return to the office on Monday, April 18, 2016, I saw I had received an email from ESTTA, sent April 13, 2016, at 7:07 PM (Pacific) (“the ESTTA email”) (after I had left my office for the night) which stated:

“You attempted an ESTTA filing on Wed Apr 13 22:06:46 EDT 2016. We were not able to confirm receipt of the payment for your submission. To complete payment of the required fee, go to <http://estta.uspto.gov/load.jsp?iname=UFYS8MGQNK2O-13634> to restart payment process. Pending completion of your ESTTA filing, your attempted submission will be held on the ESTTA server for 7 days, or until Wed Apr 20 22:06:46 EDT 2016, at which time it will be deleted from the server. Note that any deadline applicable to your filing has not been extended. An ESTTA submission is not considered filed until it has been received in full, along with any required fee. Be sure to complete your submission prior to any deadline for the filing.

ESTTA server at <http://estta.uspto.gov>.”

A true and correct copy of the ESTTA email is attached hereto as **Exhibit C**.

19. On April 18, 2016, I was instructed by counsel for Opposer, J. Alison Grabell of Brutzkus Gubner, to complete payment via the link provided in the ESTTA email (Exhibit C). I thereafter received payment confirmation. A true and correct copy of TTAB's payment confirmation is attached hereto as **Exhibit D**.

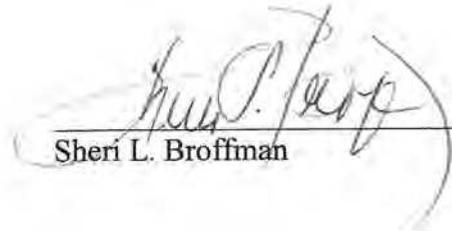
20. On April 18, 2016, upon receipt of the TTAB's payment confirmation, I checked the TTAB docket and accessed the filed Notice of Opposition, without Exhibits.

21. On April 18, 2016, the TTAB issued an Institution Order which I received via email. Said Institution Order is attached hereto as **Exhibit E**.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 20th day of April, 2016, at Woodland Hills, California.

Dated: April 20, 2016



Sheri L. Broffman

EXHIBIT A

Electronic System for Trademark Trials and Appeals

Alert On Payments:

ESTTA is currently generating an intermittent Revenue Accounting and Management (RAM) timeout message.

If you encounter the message "Your browser session with the USPTO Office of Finance has expired..", try the following steps:

1. Close all browser windows.
2. Open a new browser window and try again.

If the above does not work, try the following steps:

1. Clear your browser's cache.
2. Close all browser windows.
3. Open a new browser window and try again.

Return To:

USPTO
Home
Page

Finance
Online
Shopping
Page



**United States
Patent and
Trademark Office**

Your browser session with the USPTO Office of Finance has expired; this occurred either because your transaction completed successfully or we did not detect any activity between your browser and our WEB server for over 15 minutes. If your transaction did not complete successfully, then you will need to return to the [Finance Online Shopping Page](#) or to the original USPTO storefront and attempt the transaction again.

EXHIBIT B

Sheri Broffman

From: ttabinfo@uspto.gov
Sent: Tuesday, April 19, 2016 8:38 AM
To: Sheri Broffman
Subject: RE: 4342.002 TIME SENSITIVE REQUEST: PLEASE REPLY IMMEDIATELY: Ref. Nos. 390897761 (Phone call with Steven) and SR1-390848356 (Phone call with Tamika) USPTO and TTAB Representatives

Dear Sheri Lee Broffman,

Thank you for inquiring about the notice of opposition you filed against application 86626274 but the notice of opposition has already been instituted and a copy has been mailed to both parties.

The proceeding number for your opposition is 91227392 and the defendant has until May 28, 2016 to reply to the notice of opposition.

A copy of the institution order has been mailed to both parties.

We trust this provides you with the information you desire. If any further questions, or if you require additional information, please contact the Trademark Trial and Appeal Board (TTAB) Assistance Center 571-272-8500 and press 0. You can reference the following Service Request Number 1-392204963.

Sincerely,
Dwayne Bowling
Trademark Information Specialist
SR 1-392204963

[THREAD ID:1-6GR3PM]

EXHIBIT C

Sheri Broffman

From: estta-server@uspto.gov
Sent: Wednesday, April 13, 2016 7:07 PM
To: Alison Grabell; Sheri Broffman; jwhiting@jwhitinglaw.com
Subject: ESTTA payment server timeout

You attempted an ESTTA filing on Wed Apr 13 22:06:46 EDT 2016. We were not able to confirm receipt of the payment for your submission. To complete payment of the required fee, go to <http://estta.uspto.gov/load.jsp?iname=UFYS8MGQNK2O-13634> to restart payment process. Pending completion of your ESTTA filing, your attempted submission will be held on the ESTTA server for 7 days, or until Wed Apr 20 22:06:46 EDT 2016, at which time it will be deleted from the server.

Note that any deadline applicable to your filing has not been extended. An ESTTA submission is not considered filed until it has been received in full, along with any required fee. Be sure to complete your submission prior to any deadline for the filing.

ESTTA server at <http://estta.uspto.gov>

EXHIBIT D



United States Patent and Trademark Office

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Electronic System for Trademark Trials and Appeals

Receipt

Your submission has been received by the USPTO.
The content of your submission is listed below.
You may print a copy of this receipt for your records.

ESTTA Tracking number: **ESTTA740591**

Filing date: **04/18/2016**

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 | Tokyo Broadcasting System Television, Inc. |
| Granted to Date of previous extension | 04/13/2016 |
| Address | 5-3-6 Akasaka, Minato-Ku Tokyo, 107-8006 JAPAN |

| | |
|-----------------------------|--|
| Attorney information | J. Alison Grabell, Esq. BRUTZKUS GUBNER ROZANSKY SEROR WEBER LLP 21650 Oxnard Street Suite 500 Woodland Hills, CA 91367 UNITED STATES agrabell@brutzkusgubner.com, sbroffman@brutzkusgubner.com, jwhiting@jwhitinglaw.com Phone:(818) 827-9000 |
|-----------------------------|--|

Applicant Information

| | | | |
|-----------------------|----------|-------------------------|------------|
| Application No | 86626274 | Publication date | 12/15/2015 |
|-----------------------|----------|-------------------------|------------|

| | | | |
|-------------------------------|---|-------------------------------|------------|
| Opposition Filing Date | 04/18/2016 | Opposition Period Ends | 04/13/2016 |
| Applicant | Ninja Lounge P.O. Box 600979 North Miami Beach, FL 33160 UNITED STATES | | |

Goods/Services Affected by Opposition

Class 041. First Use: 2014/09/00 First Use In Commerce: 2014/09/00
All goods and services in the class are opposed, namely: Recreational park services featuring obstacle courses and climbing wall courses; entertainment services in the nature of an indoor trampoline park

Grounds for Opposition

| | |
|--------------------------------------|-----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
| Dilution by blurring | Trademark Act section 43(c) |

Marks Cited by Opposer as Basis for Opposition

| | | | |
|------------------------------|---|------------------------------|------------|
| U.S. Registration No. | 3387835 | Application Date | 02/16/2007 |
| Registration Date | 02/26/2008 | Foreign Priority Date | NONE |
| Word Mark | NINJA WARRIOR | | |
| Design Mark | 77109965#TMSN.png | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 041. First use: First Use: 2006/10/03 First Use In Commerce: 2006/10/03 Production of [motion picture films and] television programs, series and segments; production of pre-recorded optical, electronic, digital, and magnetic media in the nature of compact discs, laser discs, CD-ROMs, DVDs, DVD-ROMs, videotapes and videocassettes featuring competition-based entertainment and companion programming with actual and/or fictional characters involved in comedic, dramatic,documental and animated stories; design, creation, production and post-production of audiovisual works, particularly [cinematic,] television [and multimediaworks;]entertainment services, namely,a continuing competition-based program and companion variety programs | | |

with actual and/or fictional characters in comedic, dramatic, documental [and animated stories] broadcast over television, satellite, audio and video media, and via a global computer network; providing information in the field of entertainment viaa global computer network; distributionfor others of motion picture films and television programs; production of television programs; entertainment services, namely, an on-going television series broadcast over television and podcast featuring competition-based programming and companion programming with actual and/orfictional characters involved in comedic, dramatic, documental and animated stories; entertainment services in the nature of variety shows

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|------------------------------|---|------------------------------|------------|
| U.S. Registration No. | 4109319 | Application Date | 12/16/2009 |
| Registration Date | 03/06/2012 | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 77894610#TMSN.png | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 009. First use: First Use: 2010/07/01 First Use In Commerce: 2011/07/01 Pre-recorded compact discs, laser discs, CD-ROMs, DVDs, DVD-ROMs, videotapes, videocassettes, and other pre-recorded optical, electronic, digital, and magneticmedia featuring competition-based entertainment and companion programming with actual and/or fictional characters involved in comedic, dramatic, documental, live-action and animated stories; computergame software; computer game programs and cartridges; electronic game programs;video game software; computer screen saver software; downloadable graphics and sound recordings via a global computer network and wireless devices; analog and digital materials, namely, downloadable video recordings, audio recordings, digital photographs, digital still images, digital moving images, computer software screen savers, and digital computer desktop background images for computers and wireless devices; motion picture films featuring competition-based entertainmentand companion programming with actual and/or fictional characters involved in comedic, dramatic, documental and animated stories | | |

| | | | |
|------------------------------|------------|------------------------------|------------|
| U.S. Registration No. | 4476074 | Application Date | 12/12/2012 |
| Registration Date | 01/28/2014 | Foreign Priority Date | NONE |

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| Word Mark | NINJA WARRIOR |
| Design Mark | 85800909#TMSN.png |
| Description of Mark | NONE |
| Goods/Services | Class 041. First use: First Use: 2013/04/08 First Use In Commerce: 2013/05/29 Providing on-line computer games; providing on-line computer games for use on smart phones |

| | | | |
|------------------------------|--|------------------------------|------------|
| U.S. Registration No. | 4767586 | Application Date | 09/12/2014 |
| Registration Date | 07/07/2015 | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86393966#TMSN.png | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 041. First use: First Use: 2009/12/31 First Use In Commerce: 2009/12/31 Production of television programs, series and segments; design, creation, production and post-production of audiovisualworks, particularly television entertainment services, namely, a continuing competition-based program and companion variety programs with actual and/or fictional characters in comedic, dramatic, documental broadcast over television, satellite, audio and video media, and via a global computer network; providing information in the field of entertainment via a global computer network; entertainment services, namely, an on-going television series broadcast over television and podcast featuring competition-based programming and companion programming with actual and/or fictional characters involved in comedic, dramatic, documental and animated stories; distribution for others of programs; Production of pre-recorded optical, electronic, digital, and magnetic media in the nature of downloadable media featuring competition-based entertainment and companion programming with actual and/or fictional characters involved in comedic, dramatic and documental stories | | |

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|------------------------------|------------|------------------------------|------------|
| U.S. Registration No. | 4777365 | Application Date | 07/16/2010 |
| Registration Date | 07/21/2015 | Foreign Priority Date | NONE |

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|----------------------------|---|
| Word Mark | AMERICAN NINJA WARRIOR |
| Design Mark | 85086615#TMSN.png |
| Description of Mark | NONE |
| Goods/Services | Class 025. First use: First Use: 2015/05/26 First Use In Commerce: 2015/05/26 clothing for men, women and children, namely, shirts, t-shirts, sweatshirts, hats, caps, headbands |

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|-----------------------------|--|------------------------------|------------|
| U.S. Application No. | 86646068 | Application Date | 05/29/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | NINJA WARRIOR | | |
| Design Mark | 86646068#TMSN.png | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 025. First use: First Use: 0 First Use In Commerce: 0 clothing for men, women and children, namely, shirts, t-shirts, sweatshirts, jogging suits, trousers, pants, shorts, tank tops, rainwear, sweaters, jackets, coats, raincoats, snow suits, ties, robes, hats, caps, sun visors, headbands, belts, scarves, gloves, sleepwear, pajamas, lingerie, underwear, briefs, boxer shorts, boots, shoes, sneakers, sandals, booties, slipper socks, socks, tights, stockings, hosiery and swimwear | | |

| | | | |
|-----------------------------|---|------------------------------|------------|
| U.S. Application No. | 86852460 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852460#TMSN.png | | |
| Description of Mark | The mark consists of the words AMERICANNINJA WARRIOR inside a stylized shield. | | |
| Goods/Services | Class 009. First use: First Use: 0 First Use In Commerce: 0 Game software, including downloadable computer game application software, computer game software provided on CDs, DVDs, cartridges and memory cards and downloadable computer game programs; video gamecartridges, memory cards, cassettes, discs, software and programs; downloadableapplication software for mobile, portable and handheld devices that allow usersto view and play audio, video and audiovisual | | |

Goods/Services

content and information relating to content in the field of entertainment; computer application software for mobile, portable and handheld devices for use in distribution and viewing of audio, video and audiovisual content and information relating to content in the field of entertainment; downloadable audio, video and audiovisual multimedia content in the field of entertainment, namely, motion picture films and television shows featuring athletic competitions; digital media, namely, pre-recorded DVDs, CDs, high definition digital discs, video cassettes, digital video discs, digital versatile discs, downloadable audio and video files and high definition digital discs, all featuring audiovisual and multimedia entertainment content in the field of athletic competitions; motion picture films featuring athletic competitions; headphones; audio speakers; earbuds; batteries; media players; portable media players; computer peripheral equipment; glasses, namely, eyeglasses, sunglasses, reading glasses and cases therefor; accessories for mobile, portable and handheld devices, namely, battery chargers, headphones, speakers, cases, protective covers, protective display screen covers, wired and wireless ear buds, microphones and hands-free devices; gift cards, namely, magnetically encoded gift cards and encoded electronic chip gift cards; magnets; downloadable electronic publications, namely, informational sheets, informational flyers, leaflets, newsletters, periodicals, style guides, books and manuals, all featuring information relating to audiovisual and multimedia entertainment content; pre-recorded media, namely, DVDs, CDs, high definition digital discs, video cassettes, digital video discs, digital versatile discs, downloadable audio and video files, and high definition digital discs, all featuring audiovisual and multimedia entertainment content in the field of athletic competitions; blank flash drives; downloadable ringtones for mobile phones, portable and handheld devices; interactive computer game programs; downloadable computer screen saver software; downloadable image files containing artwork, text, audio, video, games and graphics relating to audiovisual and multimedia entertainment content; downloadable video recordings featuring audiovisual and multimedia movie clips, movie trailers, interviews, reviews, commentary, music videos, motion pictures and television shows in the field of athletic competitions; downloadable music files; 3-D glasses; protective carrying cases for portable media devices and mobile phones; computer application software for wearable technology devices; downloadable software for use with wearable technology devices; downloadable mobile applications featuring fitness content; downloadable application software featuring fitness content

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|-----------------------------|------------------------|------------------------------|------------|
| U.S. Application No. | 86852363 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852363#TMSN.png | | |

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|----------------------------|--|
| Description of Mark | NONE |
| Goods/Services | Class 005. First use: First Use: 0 First Use In Commerce: 0 Dietary and nutritional supplements |

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|-----------------------------|--|------------------------------|------------|
| U.S. Application No. | 86852465 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852465#TMSN.png | | |
| Description of Mark | The mark consists of the words AMERICANNINJA WARRIOR inside a stylized shield. | | |
| Goods/Services | Class 009. First use: First Use: 0 First Use In Commerce: 0 Multifunctional electronic devices for displaying, measuring, and uploading to the Internet information including time,date, heart rate, global positioning, direction, distance, altitude, speed, steps taken, calories burned, navigational information, changes in heart rate, activity level, hours slept, quality of sleep, and silent wake alarm; computer software for wireless data communication for receiving, processing, transmitting and displaying information relating to fitness, body fat, body mass index; computer software for managing information regarding tracking, compliance and motivation with a health and fitness program | | |

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|-----------------------------|--|------------------------------|------------|
| U.S. Application No. | 86852381 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852381#TMSN.png | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 007. First use: First Use: 0 First Use In Commerce: 0 Electric juicers; electric food processors; kitchen machines, namely, electric standing mixers; electric mixers; electric food blenders | | |

| | | | |
|-----------------------------|----------|------------------------------|------------|
| U.S. Application No. | 86852388 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |

| | |
|----------------------------|--|
| Word Mark | AMERICAN NINJA WARRIOR |
| Design Mark | 86852388#TMSN.png |
| Description of Mark | NONE |
| Goods/Services | Class 009. First use: First Use: 0 First Use In Commerce: 0 Computer application software for wearable technology devices; downloadable software for use with wearable technology devices; downloadable mobile applicationsfeaturing fitness content; downloadableapplication software featuring fitness content; headphones; audio speakers; earbuds; batteries; media players; portablemedia players; computer peripheral equipment; glasses, namely, eyeglasses, sunglasses, reading glasses and cases therefor; accessories for mobile, portable andhandheld devices, namely, battery chargers, headphones, speakers, cases, protective covers, protective display screen covers, wired and wireless ear buds, microphones and hands-free devices; gift cards, namely, magnetically encoded gift cards and encoded electronic chip gift cards; magnets; downloadable electronic publications, namely, informational sheets,informational flyers, leaflets, newsletters, periodicals, style guides, books and manuals, all featuring information relating to audiovisual and multimedia entertainment content; blank flash drives; downloadable ringtones for mobile phones, portable and handheld devices; interactive computer game programs; downloadable music files; 3-D glasses; protective carrying cases for portable media devicesand mobile phones |

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|-----------------------------|---|------------------------------|------------|
| U.S. Application No. | 86852397 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852397#TMSN.png | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 011. First use: First Use: 0 First Use In Commerce: 0 Electric cooking ovens, electric cooking pots, electric frypans, electric broilers, electric food warmers, electric toasters | | |

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|-----------------------------|------------------------|------------------------------|------------|
| U.S. Application No. | 86852401 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |

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| Design Mark | 86852401#TMSN.png |
| Description of Mark | NONE |
| Goods/Services | Class 009. First use: First Use: 0 First Use In Commerce: 0 Multifunctional electronic devices for displaying, measuring, and uploading to the Internet information including time,date, heart rate, global positioning, direction, distance, altitude, speed, steps taken, calories burned, navigational information, changes in heart rate, activity level, hours slept, quality of sleep, and silent wake alarm; computer software for wireless data communication for receiving, processing, transmitting and displaying information relating to fitness, body fat, body mass index; computer software for managing information regarding tracking, compliance and motivation with a health and fitness program |

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|-----------------------------|--|------------------------------|------------|
| U.S. Application No. | 86852403 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852403#TMSN.png | | |
| Description of Mark | NONE | | |
| | Class 016. First use: First Use: 0 First Use In Commerce: 0 Paper and cardboard products, namely, address labels, adhesive labels, adhesivenote paper, adhesive notepads, agendas,appointment books, art pictures, art prints, bathroom tissue, blank cards, blank note cards, blank notebooks, blank or partially printed paper labels, book covers, bookmarkers, book-cover paper, cardboard hang tags, children's wall stickers and murals, Christmas cards, children's arts and crafts paper kits, coasters made of paper, coasters of cardboard, craft paper, daily planners, decorative paper centerpieces, engagement books, envelopes, facial tissue, flags and pennants of paper, graphic prints and representations, hand towels of paper, holiday cards, illustrated notepads, letter paper, memo blocks, note cards, notepads, occasion cards, paper bags and sacks, paper banners, paper gift cards, paper gift tags, paper hang tags, paper note tablets, paper party bags, paper party decorations, paper cake decorations, paper cake toppers, paper serviettes, paper table linens, paper tissues, paper towels, party favor gift boxes sold empty, party goodiebags of paper, party ornaments of paper, picture books, picture postcards and printed paper signs; bookbinding material; photographs; stationery; adhesives forstationery or household purposes; artists' materials, namely, paint brushes, art pads, art paper, artists' pencils, artists' pens, arts and craft clay kits, arts and craft paint kits, chalk, chalk sticks, color pencils, colored pens, craftglue for stationery and household purposes, drawing pads, drawing paper, drawing pencils, drawing rulers, drawing tablets, | | |

Goods/Services

easel pads, felt marking pens, felt pens, felt tip markers, felt writing pens, felt-tip pens, highlighter pens and markers, ink pens, modeling clay, nail stencils, iron-on transfers, pencils for painting and drawing, sketch books and sketch pads; books, namely, a series of fiction books, comic books, and graphic books in the field of in the field of animation, cartoons, drama, action, adventure, science-fiction, romance and suspense; children's activity books; puzzle books, brain game books, word game books, children's storybooks; children's books; address books; coloring books; comic books; poster books; notebooks; diaries; blank writing journals; bookmarks; magazines in the field of animation, cartoons, drama, action, adventure, science-fiction, romance and suspense; posters; calendars; albums for scrapbooks, stickers, sketchbooks, and photographs; crayons; arts and crafts paint kits; markers; pens; erasers; pencils; pencil cases; decorative pencil top ornaments; activity kits consisting of stickers and toy stamps; decals and plastic transfers; stickers; markers; pens; erasers; pencils; pencil sharpeners; school supply kits containing various combinations of selected school supplies, namely, writing instruments, pens, pencils, mechanical pencils, erasers, markers, crayons, highlighter pens, folders, notebooks, paper, paper clips, pencil sharpeners, writing grips, glue for stationery purpose; folders; binders as stationery; office requisites, namely, paper staplers, staple removers; slate boards for writing; stencils; rubber stamps other than hand tools or parts of machines and stamp pads; adhesives for stationery or household purposes; paper pennants; paper party supplies, namely, paper napkins, paper placemats, paper gift wrap and paper gift wrapping ribbons, paper table cloths and paper party bags; gift bags; printed invitations; postcards; trading cards; greeting cards; writing paper; envelopes as stationery; memo pads; and lunch bags of paper

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| U.S. Application No. | 86852407 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852407#TMSN.png | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 018. First use: First Use: 0 First Use In Commerce: 0 Bags, namely, all-purpose carrying bags, all-purpose sport bags, athletic bags, backpacks, beach bags, belt bags, book bags, duffel bags, gym bags, messenger bags, overnight bags, shoulder bags, totebags, handbags, travel bags, diaper bags; travel cases; luggage; luggage tags; suitcases; knapsacks; satchels; fanny packs; purses; calling card cases; change purses; coin purses; pocketbooks; wallets; umbrellas; articles made from leather and imitations of leather, namely, calling card cases, change purses, coin purses, fanny packs, luggage, luggage tags, key cases, key chains, | | |

satchels, duffel bags, backpacks, and wallets

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| U.S. Application No. | 86852411 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852411#TMSN.png | | |
| Description of Mark | NONE | | |
| Goods/Services | <p>Class 028. First use: First Use: 0 First Use In Commerce: 0 Toys, games and playthings, namely, action target games; action-type target games; aero-dynamic disk for use in playing catching games; air mattress swimming floats for recreational use; airsoft guns for recreational purposes; amusement game machines; amusement products, namely, inflatable balls; bath toys; beach balls; bean bags; children's toy bicycles other than for transport; decorative wind spinners; dice games; Easter egg coloring kits; electric action toys; electric toy vehicles; electronically operated toy motor vehicles; equipment sold as a unit for playing action type target games; floats for bathing and swimming; inflatable bop bags; inflatable inner tubes for aquatic recreational use; inflatable swimming pools; inflatable toys; inflatable toys showing decorative pictures; non-electric toy vehicles; paper face masks; paper party favors; paper streamers; party favor hats; play balls; play figures; plush dolls; sandbox toys; swim fins; swimming flippers; tossing disc toys; toy and novelty face masks; toy artificial fingernails; toy boxes; toy candy dispensers; toy construction blocks; toy construction sets; toy masks; toys, namely, a disc to toss in playing a game wherein other discs are flipped and collected; toys, namely, children's dress-up accessories; vinyl toy figures; water wing swim aids for recreational use; action figures and accessories therefor; playsets for action figures; battery operated action toys; toy pistols; toy miniature car models; toy airplanes and helicopters; battery operated remote controlled toy vehicles, namely, cars, trains, airplanes, boats, helicopters, motorcycles and hover crafts; flying disks; toy model train sets; balls for games; toy model hobby craft kits for constructing two- and three-dimensional positionable toy figures; toy rubber stamps; sporting articles, namely, skateboards, roller-skates, target sets comprised of targets and stands for targets for sporting use, balls for sports, inflatable punching bags, athletic protective elbow pads for skateboarding, athletic protective knee pads for skateboarding, bowling bags, bowling ball covers, bowling gloves, elbow guards for athletic use and elbow pads for athletic use; kites; yo-yos; snow globes; pinball machines and arcade game machines; hand held units for playing electronic games; swim floats for recreational use; collectable toy figures; balloons; toy building blocks; playing cards; board games, card games; memory games; action skill games; parlor games; party games; role</p> | | |

playing games; children's educational toys for developing cognitive skills; stress relief balls for hand exercise; puzzles; marbles for games; play tents; drawing toys; musical toys; plush toys; pull toys; sand toys; squeeze toys; stuffed toys; talking toys; water toys; toy figures; wind-up toys; hand puppets; sit-in and ride-on toy vehicles; toy banks; bubble-making wand and solution sets; egg decorating kits; piñatas; party favors in the nature of small toys and toy noisemakers; bobble head dolls; dolls and accessories therefor; playsets for dolls; dollclothing; doll houses; clothing for stuffed and plush toys; children's toy cosmetics; pet toys; Christmas tree ornaments and decorations, excluding confectionery and illumination articles; toy snow globes; amusement park rides

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| U.S. Application No. | 86852412 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852412#TMSN.png | | |
| Description of Mark | NONE | | |
| Goods/Services | <p>Class 029. First use: First Use: 0 First Use In Commerce: 0 Applesauce; bagged garden salads; butter; canned beans with meat and canned beans without meat; canned fruits and bottled fruits; canned processed olives; canned soups; canned vegetables; cheese; cheese and cracker combinations; chicken nuggets; condensed and evaporated milk; cooking oils; cottage cheese; cream cheese; dehydrated fruits; dips, excluding salsa and other sauces used as dips; dried beans; dried fruits; eggs; flaked coconut; French fries; frozen French fries; frozen fruit; frozen vegetables; frozen appetizers consisting primarily of cheese; frozen appetizers consisting primarily of chicken; frozen appetizers consisting primarily of jalapeno peppers; frozen appetizers consisting primarily of meat; frozen appetizers consisting primarily of seafood; frozen appetizers consisting primarily of vegetables; frozen entrees consisting primarily of fish; frozen entrees consisting primarily of meat; frozen entrees consisting primarily of poultry; frozen entrees consisting primarily of vegetables; fruit based pie filling for cakes and pies; fruit based snack foods; fruit preserves; half and half, namely, milk and cream mixture; instant potatoes; jellies; jerky; margarine; meat, fish, poultry and game, not live; milk and milk products excluding ice cream, ice milk and frozen yogurt; non-dairy whipped topping; packaged meal combinations consisting primarily of meat or cheese; peanut butter; pickles; potato based snackfoods; potato salad; prepared potatoes and processed potatoes; processed luncheon meats; processed, prepared and roasted nuts; sausages; seafood, not live; shortening, nondairy creamer; snack mix consisting primarily of processed fruits, processed nuts and/or raisins; soup mixes; sour cream; vegetable oils; whipped cream</p> | | |

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| U.S. Application No. | 86852415 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852415#TMSN.png | | |
| Description of Mark | NONE | | |
| Goods/Services | <p>Class 030. First use: First Use: 0 First Use In Commerce: 0 Bagel chips; bakery desserts; bakery goods; biscuits; bread, pastry and confectionery made of sugar; bubble gum; cake decorations made of candy; cake mixes; cakes; candy; cereal bars; cereal based snack foods; cereal based energy bars; cheeseburger sandwiches; chewing gum; chocolate; chocolate bars; chocolate candies;chocolate confections; cocoa mixes; coffee; cones for ice cream; confectionery chips for baking; cookies; corn chips; cotton candy; crackers; cupcakes; dessertmixes for making brownies, cookies, andcakes; dessert puddings; dietetic food and beverages (not for medical or veterinary use); doughnuts; edible decorationsfor cakes and desserts; flavored and sweetened gelatin; French toast; frozen confections; frozen yogurt; granola; granola-based snack bars; hamburger sandwiches; hot chocolate mixes; ice cream; ice cream bars; ice cream drinks; ice cream sandwiches; ice milk; ketchup; licorice; macaroni and cheese; marshmallows; mixesfor making instant dessert pudding; muffins; oatmeal; pancakes; pasta; pastries; pita chips; pizza; popcorn; popped popcorn; flour; prepared meals consisting primarily of pasta or rice; prepared foodmixes, namely, prepared food composed of pasta or rice or breads; pretzel chips; pretzels; processed cereals; ready-to-eat cereal; salad dressings; sandwiches;sherbets; snack cakes; spices; table syrups; taffy; tea; toaster pastries; tortilla chips; waffles</p> | | |

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| U.S. Application No. | 86852419 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852419#TMSN.png | | |
| Description of Mark | NONE | | |
| Goods/Services | <p>Class 041. First use: First Use: 0 First Use In Commerce: 0 Entertainment services, namely, entertainment in the nature of a themed area inan amusement park and amusement park rides; arranging and conducting athletic competitions; entertainment in the natureof obstacle</p> | | |

courses; providing obstaclecourse training gym facilities; health club services; non-downloadable, digitalaudiovisual content in the field of fitness content

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| U.S. Application No. | 86852423 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852423#TMSN.png | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 044. First use: First Use: 0 First Use In Commerce: 0 Providing a website featuring information and advice in the fields of fitness, diet, weight loss, diet planning, and lifestyle wellness | | |

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| U.S. Application No. | 86852425 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852425#TMSN.png | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 021. First use: First Use: 2015/05/25 First Use In Commerce: 2015/05/25 (Based on Use in Commerce) plastic water bottles sold empty; water bottles soldempty; (Based on Intent to Use) Batterypowered toothbrushes; beverageaware; bottle openers; bowls; cake molds; cookie cutters; cookie jars; crystal, ceramic, glass and porcelain figurines; crystal, ceramic, glass and porcelain sculptures; cupcake molds; cups and mugs; dental care kits comprising toothbrushes and floss; dental floss; dinnerware; dishes; drinking straws; hair brushes; hair combs; ice cube molds; insulating sleeve holdersfor beverage cans; lunch boxes; pet brushes; pet feeding and drinking bowls; piggy banks; plastic coasters; plastic squeeze bottles sold empty; plates; salt and pepper shakers; serving trays; soap dispensers; soap holders; teapots not madeof precious metal; thermal insulated containers for food or beverages; toothbrush holders; toothbrushes; wastepaper baskets | | |

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| U.S. | 86852431 | Application | 12/17/2015 |
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| Application No. | | Date | |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852431#TMSN.png | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 024. First use: First Use: 2015/05/25 First Use In Commerce: 2015/05/25 (Based on Use in Commerce) towels; (Based on Intent to Use) Bed sheets, washcloths, bed skirts; bed spreads; bed blankets, hand towels; pillow covers; blanket throws; children's blankets; comforters;curtains; quilts; hooded towels; household linens; textile table napkins; textile place mats; textile tablecloths; throws; cloth pennants; cloth flags | | |

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|-----------------------------|--|------------------------------|------------|
| U.S. Application No. | 86852436 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852436#TMSN.png | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 035. First use: First Use: 2015/05/25 First Use In Commerce: 2015/05/25 Retail store and online retail store services connected with the sale of multimedia goods, multimedia content, and electronic media, namely, videos, DVDs, CDs,movies, pictures, images, text, photos,games, audio content and audio recordings; retail store and online retail storeservices featuring fitness products, health foods, dietary supplements, nutritional supplements, sports nutrition products, clothing, apparel, clothing accessories, fitness accessories, towels, athletic equipment, sports bags, and physicalfitness equipment | | |

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|-----------------------------|-------------------|------------------------------|------------|
| U.S. Application No. | 86852438 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | ANW | | |
| Design Mark | 86852438#TMSN.png | | |

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| Description of Mark | NONE |
| Goods/Services | Class 025. First use: First Use: 0 First Use In Commerce: 0 Clothing, namely, shirts, T-shirts, blouses, tank tops, skirts, trousers, jeans, pants, shorts, skorts, overalls, jumpers, rompers, dresses, sweaters, jackets, blazers, coats, ponchos, scarves, stoles, shawls, socks, tights, leotards, stockings, leggings, leg warmers, slipper socks, ties, bow ties, pocket squares, suspenders, belts, aprons, undershirts, underpants, underwear, snow suits, snow pants, ear muffs; mittens, gloves, cloth bibs, plastic baby bibs, infantwear; sweatshirts, sweatpants, jogging suits, masquerade and Halloween costumes and masks sold in connection therewith; sleepwear; loungewear; swimwear; rainwear; footwear; headwear; Halloween costumes |

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|-----------------------------|--|------------------------------|------------|
| U.S. Application No. | 86852450 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852450#TMSN.png | | |
| Description of Mark | The mark consists of the words AMERICANNINJA WARRIOR inside a stylized shield. | | |
| Goods/Services | Class 005. First use: First Use: 0 First Use In Commerce: 0 Dietary and nutritional supplements | | |

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|-----------------------------|--|------------------------------|------------|
| U.S. Application No. | 86852454 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852454#TMSN.png | | |
| Description of Mark | The mark consists of the words AMERICANNINJA WARRIOR inside a stylized shield. | | |
| Goods/Services | Class 007. First use: First Use: 0 First Use In Commerce: 0 Electric juicers; electric food processors; kitchen machines, namely, electric standing mixers; electric mixers; electric food blenders | | |

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|-----------------------------|----------|-------------------------|------------|
| U.S. Application No. | 86852463 | Application Date | 12/17/2015 |
| Registration | NONE | Foreign | NONE |

| Date | Priority Date |
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| Word Mark | AMERICAN NINJA WARRIOR |
| Design Mark | 86852463#TMSN.png |
| Description of Mark | The mark consists of the words AMERICANNINJA WARRIOR inside a stylized shield. |
| Goods/Services | Class 011. First use: First Use: 0 First Use In Commerce: 0 Electric cooking ovens, electric cooking pots, electric frypans, electric broilers, electric food warmers, electric toasters |

| U.S. Application No. | 86852469 | Application Date | 12/17/2015 |
|----------------------------|--|-----------------------|------------|
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852469#TMSN.png | | |
| Description of Mark | The mark consists of the words AMERICANNINJA WARRIOR inside a stylized shield. | | |
| Goods/Services | Class 016. First use: First Use: 0 First Use In Commerce: 0 Paper and cardboard products, namely, address labels, adhesive labels, adhesivenote paper, adhesive notepads, agendas, appointment books, art pictures, art prints, bathroom tissue, blank cards, blank note cards, blank notebooks, blank or partially printed paper labels, book covers, bookmarkers, book-cover paper, cardboard hang tags, children's wall stickers and murals, Christmas cards, children's arts and crafts paper kits, coasters made of paper, coasters of cardboard, craft paper, daily planners, decorative paper centerpieces, engagement books, envelopes, facial tissue, flags and pennants of paper, graphic prints and representations, hand towels of paper, holiday cards, illustrated notepads, letter paper, memo blocks, note cards, notepads, occasion cards, paper bags and sacks, paper banners, paper gift cards, paper gift tags, paper hang tags, paper note tablets, paper party bags, paper party decorations, paper cake decorations, paper cake toppers, paper serviettes, paper table linens, paper tissues, paper towels, party favor gift boxes sold empty, party goodiebags of paper, party ornaments of paper, picture books, picture postcards and printed paper signs; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials, namely, paint brushes, art pads, art paper, artists' pencils, artists' pens, arts and craft clay kits, arts and craft paint kits, chalk, chalk sticks, color pencils, colored pens, craftglue for stationery and household purposes, drawing pads, drawing paper, drawing pencils, drawing rulers, drawing tablets, easel pads, felt marking pens, felt pens, felt tip markers, felt writing pens, felt-tip pens, highlighter pens and markers, ink pens, modeling clay, nail stencils, iron-on transfers, pencils for painting and drawing, sketch books and sketch pads; books, namely, a series of fiction books, comic books, | | |

and graphic books in the field of in the field of animation, cartoons, drama, action, adventure, science-fiction, romance and suspense; children's activity books; puzzle books, brain game books, word game books, children's storybooks; children's books; address books; coloring books; comic books; poster books; notebooks; diaries; blank writing journals; bookmarks; magazines in the field of animation, cartoons, drama, action, adventure, science-fiction, romance and suspense; posters; calendars; albums for scrapbooks, stickers, sketchbooks, and photographs; crayons; markers; pens; erasers; pencils; pencil cases; decorative pencil top ornaments; activity kits consisting of stickers and toystamps; decals and plastic transfers; stickers; pencil sharpeners; school supply kits containing various combinations of selected school supplies, namely, writing instruments, pens, pencils, mechanical pencils, erasers, markers, crayons, highlighter pens, folders, notebooks, paper, paper clips, pencil sharpeners, writing grips, glue for stationery purpose; folders; binders as stationery; office requisites, namely, paper staplers, staple removers; slate boards for writing; stencils; rubber stamps other than hand tools or parts of machines and stamp pads; paper pennants; paper party supplies, namely, paper napkins, paper placemats, paper gift wrap and paper gift wrapping ribbons, paper table cloths and paper party bags; gift bags; printed invitations; postcards; trading cards; greeting cards; writing paper; envelopes as stationery; memo pads; and lunch bags of paper

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| U.S. Application No. | 86852470 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852470#TMSN.png | | |
| Description of Mark | The mark consists of the words AMERICANNINJA WARRIOR inside a stylized shield. | | |
| Goods/Services | Class 018. First use: First Use: 0 First Use In Commerce: 0 Bags, namely, all-purpose carrying bags, all-purpose sport bags, athletic bags, backpacks, beach bags, belt bags, book bags, duffel bags, gym bags, messenger bags, overnight bags, shoulder bags, totebags, handbags, travel bags, diaper bags; travel cases; luggage; luggage tags; suitcases; knapsacks; satchels; fanny packs; purses; calling card cases; change purses; coin purses; pocketbooks; wallets; umbrellas; articles made from leather and imitations of leather, namely, calling card cases, change purses, coin purses, fanny packs, luggage, luggage tags, key cases, key chains, satchels, duffel bags, backpacks, and wallets | | |

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|-----------------------------|----------|-------------------------|------------|
| U.S. Application No. | 86852472 | Application Date | 12/17/2015 |
| Registration | NONE | Foreign | NONE |

| Date | Priority Date |
|----------------------------|--|
| Word Mark | AMERICAN NINJA WARRIOR |
| Design Mark | 86852472#TMSN.png |
| Description of Mark | The mark consists of the words AMERICANNINJA WARRIOR inside a stylized shield. |
| Goods/Services | <p>Class 028. First use: First Use: 0 First Use In Commerce: 0 Toys, games and playthings, namely, action target games; action-type target games; aero-dynamic disk for use in playing catching games; air mattress swimming floats for recreational use; airsoft guns for recreational purposes; amusement game machines; amusement products, namely, inflatable balls; bath toys; beach balls; bean bags; children's toy bicycles other than for transport; decorative wind spinners; dice games; Easter egg coloring kits; electric action toys; electric toy vehicles; electronically operated toy motor vehicles; equipment sold as a unit for playing action type target games; floats for bathing and swimming; inflatable bop bags; inflatable inner tubes for aquatic recreational use; inflatable swimming pools; inflatable toys; inflatable toys showing decorative pictures; non-electric toy vehicles; paper face masks; paper party favors; paper streamers; party favor hats; play balls; play figures; plush dolls; sandbox toys; swim fins; swimming flippers; tossing disc toys; toy and novelty face masks; toy artificial fingernails; toy boxes; toy candy dispensers; toy construction blocks; toy construction sets; toy masks; toys, namely, a disc to toss in playing a game wherein other discs are flipped and collected; toys, namely, children's dress-up accessories; vinyl toy figures; water wing swim aids for recreational use; action figures and accessories therefor; playsets for action figures; battery operated action toys; toy pistols; toy miniature car models; toy airplanes and helicopters; battery operated remote controlled toy vehicles, namely, cars, trains, airplanes, boats, helicopters, motorcycles and hover crafts; flying disks; toy model train sets; balls for games; toy model hobby craft kits for constructing two- and three-dimensional positionable toy figures; toy rubber stamps; sporting articles, namely, skateboards, roller-skates, target sets comprised of targets and stands for targets for sporting use, balls for sports, inflatable punching bags, athletic protective elbow pads for skateboarding, athletic protective knee pads for skateboarding, bowling bags, bowling ball covers, bowling gloves, elbow guards for athletic use and elbow pads for athletic use; kites; yo-yos; snow globes; pinball machines and arcade game machines; hand held units for playing electronic games; swim floats for recreational use; collectable toy figures; balloons; toy building blocks; playing cards; board games, card games; memory games; action skill games; parlor games; party games; role playing games; children's educational toys for developing cognitive skills; stress relief balls for hand exercise; puzzles; marbles for games; play tents; drawing toys; musical toys; plush toys; pull toys; sand toys; squeeze toys; stuffed toys; talking toys; water toys; toy figures; wind-up toys; hand puppets; sit-in and ride-on toy vehicles; toy banks; bubble-making wand and solution sets; egg decorating kits; piñatas; party favors in the nature of small toys and toy noisemakers; bobble head dolls; dolls and</p> |

accessories therefor; playsets for dolls; dollclothing; doll houses; clothing for stuffed and plush toys; children's toy cosmetics; pet toys; Christmas tree ornaments and decorations, excluding confectionery and illumination articles; toy snow globes; amusement park rides

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| U.S. Application No. | 86852475 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852475#TMSN.png | | |
| Description of Mark | The mark consists of the words AMERICANNINJA WARRIOR inside a stylized shield. | | |
| Goods/Services | <p>Class 029. First use: First Use: 0 First Use In Commerce: 0 Applesauce; bagged garden salads; butter; canned beans with meat and canned beans without meat; canned fruits and bottled fruits; canned processed olives; canned soups; canned vegetables; cheese; cheese and cracker combinations; chicken nuggets; condensed and evaporated milk; cooking oils; cottage cheese; cream cheese; dehydrated fruits; dips, excluding salsa and other sauces used as dips; dried beans; dried fruits; eggs; flaked coconut; French fries; frozen French fries; frozen fruit; frozen vegetables; frozen appetizers consisting primarily of cheese; frozen appetizers consisting primarily of chicken; frozen appetizers consisting primarily of jalapeno peppers; frozen appetizers consisting primarily of meat; frozen appetizers consisting primarily of seafood; frozen appetizers consisting primarily of vegetables; frozen entrees consisting primarily of fish; frozen entrees consisting primarily of meat; frozen entrees consisting primarily of poultry; frozen entrees consisting primarily of vegetables; fruit based pie filling for cakes and pies; fruit based snack foods; fruit preserves; half and half, namely, milk and cream mixture; instant potatoes; jellies; jerky; margarine; meat, fish, poultry and game, not live; milk and milk products excluding ice cream, ice milk and frozen yogurt; non-dairy whipped topping; packaged meal combinations consisting primarily of meat or cheese; peanut butter; pickles; potato based snackfoods; potato salad; prepared potatoes and processed potatoes; processed luncheon meats; processed, prepared and roasted nuts; sausages; seafood, not live; shortening, nondairy creamer; snack mix consisting primarily of processed fruits, processed nuts and/or raisins; soup mixes; sour cream; vegetable oils; whipped cream</p> | | |

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| U.S. Application No. | 86852480 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |

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| Word Mark | AMERICAN NINJA WARRIOR |
| Design Mark | 86852480#TMSN.png |
| Description of Mark | The mark consists of the words AMERICANNINJA WARRIOR inside a stylized shield. |
| Goods/Services | Class 030. First use: First Use: 0 First Use In Commerce: 0 Bagel chips; bakery desserts; bakery goods; biscuits; bread, pastry and confectionery made of sugar; bubble gum; cake decorations made of candy; cake mixes; cakes; candy; cereal bars; cereal based snack foods; cereal based energy bars; cheeseburger sandwiches; chewing gum; chocolate; chocolate bars; chocolate candies; chocolate confections; cocoa mixes; coffee; cones for ice cream; confectionery chips for baking; cookies; corn chips; cotton candy; crackers; cupcakes; dessertmixes for making brownies, cookies, andcakes; dessert puddings; dietetic food and beverages (not for medical or veterinary use); doughnuts; edible decorationsfor cakes and desserts; flavored and sweetened gelatin; French toast; frozen confections; frozen yogurt; granola; granola-based snack bars; hamburger sandwiches; hot chocolate mixes; ice cream; ice cream bars; ice cream drinks; ice cream sandwiches; ice milk; ketchup; licorice; macaroni and cheese; marshmallows; mixesfor making instant dessert pudding; muffins; oatmeal; pancakes; pasta; pastries; pita chips; pizza; popcorn; popped popcorn; flour; prepared meals consisting primarily of pasta or rice; prepared foodmixes, namely, prepared food composed of pasta or rice or breads; pretzel chips; pretzels; processed cereals; ready-to-eat cereal; salad dressings; sandwiches;sherbets; snack cakes; spices; table syrups; taffy; tea; toaster pastries; tortilla chips; waffles |

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|-----------------------------|--|------------------------------|------------|
| U.S. Application No. | 86852487 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852487#TMSN.png | | |
| Description of Mark | The mark consists of the words AMERICANNINJA WARRIOR inside a stylized shield. | | |
| | Class 041. First use: First Use: 0 First Use In Commerce: 0 Entertainment services, namely, providing online video games, providing online computer games, providing online electronic games, providing temporary use of non-downloadable video games, providing temporary use of non-downloadable computergames, providing temporary use of non-downloadable interactive games, providingtemporary use of non-downloadable electronic games, providing temporary use of non-downloadable video games via an on-demand service and providing temporary use of non-downloadable computer games viaan on-demand service; entertainment services in the nature of ongoing television series | | |

Goods/Services

in the field of athletic competitions; entertainment services, namely, production of television programs; entertainment services, namely, production and distribution of motion pictures, videos in the field of athletic competitions; entertainment services, namely, providing information, news and commentary in the field of athletic competitions; entertainment services in the nature of development and production of multimedia entertainment content; providing a website featuring non-downloadable videos and images in the field of athletic competitions provided via global computer networks, wireless communication networks and portable device applications; entertainmentservices in the nature of development, production and distribution of audio visual television programs in the field of athletic competitions; electronic publishing services, namely, publication of text and graphic works of others online featuring entertainment and athletic competitions, novelizations, scripts, comic books, strategy guides, photographs, commentary and interviews; multimedia publishing of movie trailers and film clips; presentation of live show performances; fan clubs; amusement parks; theme parks; entertainment in the nature of a themed area in an amusement park and amusement park rides; arranging and conducting athletic competitions; entertainment in the nature of obstacle courses; providing obstacle course training gym facilities; health club services; non-downloadable, digital audiovisual content in the field of fitness content

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| U.S. Application No. | 86852488 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852488#TMSN.png | | |
| Description of Mark | The mark consists of the words AMERICANNINJA WARRIOR inside a stylized shield. | | |
| Goods/Services | Class 044. First use: First Use: 0 First Use In Commerce: 0 Providing a website featuring information and advice in the fields of fitness, diet, weight loss, diet planning, and lifestyle wellness | | |

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|-----------------------------|--|------------------------------|------------|
| U.S. Application No. | 86852491 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852491#TMSN.png | | |
| Description of Mark | The mark consists of the words AMERICANNINJA WARRIOR inside a stylized shield. | | |

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| Goods/Services | <p>Class 021. First use: First Use: 2015/05/25 First Use In Commerce: 2015/05/25 (Based on Use in Commerce) plastic water bottles sold empty; water bottles sold empty; (Based on Intent to Use) Battery powered toothbrushes; beverage ware; bottle openers; bowls; cake molds; cookie cutters; cookie jars; crystal, ceramic, glass and porcelain figurines; crystal, ceramic, glass and porcelain sculptures; cupcake molds; cups and mugs; dental care kits comprising toothbrushes and floss; dental floss; dinnerware; dishes; drinking straws; hair brushes; hair combs; ice cube molds; insulating sleeve holders for beverage cans; lunch boxes; pet brushes; pet feeding and drinking bowls; piggy banks; plastic coasters; plastic squeeze bottles sold empty; plates; salt and pepper shakers; serving trays; soap dispensers; soap holders; teapots not made of precious metal; thermal insulated containers for food or beverages; toothbrush holders; toothbrushes; wastepaper baskets</p> |
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|-----------------------------|--|------------------------------|------------|
| U.S. Application No. | 86852496 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852496#TMSN.png | | |
| Description of Mark | The mark consists of the words AMERICAN NINJA WARRIOR inside a stylized shield. | | |
| Goods/Services | <p>Class 024. First use: First Use: 2015/05/25 First Use In Commerce: 2015/05/25 (Based on Use) towels; (Based on Intent to Use) Bed sheets, washcloths, bed skirts; bed spreads; bed blankets, hand towels; pillow covers; blanket throws; children's blankets; comforters; curtains; quilts; hooded towels; household linens; textile napkins; textile place mats; textile tablecloths; throws; cloth pennants; cloth flags</p> | | |

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|-----------------------------|--|------------------------------|------------|
| U.S. Application No. | 86852528 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852528#TMSN.png | | |
| Description of Mark | The mark consists of the words "AMERICAN NINJA WARRIOR" inside a stylized shield. | | |
| Goods/Services | <p>Class 025. First use: First Use: 2015/05/25 First Use In Commerce: 2015/05/25</p> | | |

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| Goods/Services | (Based on Use in Commerce) Clothing, namely, shirts, T-shirts, sweatshirts, bandanas, caps; (Based on Intent to Use) Clothing, namely, blouses, tank tops, skirts, trousers, jeans, pants, shorts, skorts, overalls, jumpers, rompers, dresses, sweaters, jackets, blazers, coats, ponchos, scarves, stoles, shawls, socks, tights, leotards, stockings, leggings, leg warmers, slipper socks, ties, bow ties, pocket squares, suspenders, belts, aprons, undershirts, underpants, underwear, snow suits, snow pants, ear muffs; mittens, gloves, cloth bibs, plastic baby bibs, infantwear; sweatpants, jogging suits, masquerade and Halloween costumes and masks sold in connection therewith; sleepwear; loungewear; swimwear; rainwear; footwear; headwear; Halloween costumes |
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|-----------------------------|--|------------------------------|------------|
| U.S. Application No. | 86852529 | Application Date | 12/17/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | AMERICAN NINJA WARRIOR | | |
| Design Mark | 86852529#TMSN.png | | |
| Description of Mark | The mark consists of the words AMERICANNINJA WARRIOR inside a stylized shield. | | |
| Goods/Services | Class 035. First use: First Use: 2015/05/25 First Use In Commerce: 2015/05/25 Retail store and online retail store services connected with the sale of multimedia goods, multimedia content, and electronic media, namely, videos, DVDs, CDs, movies, pictures, images, text, photos, games, audio content and audio recordings; retail store and online retail store services featuring fitness products, health foods, dietary supplements, nutritional supplements, sports nutrition products, clothing, apparel, clothing accessories, fitness accessories, towels, athletic equipment, sports bags, and physical fitness equipment | | |

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| | 77109965#TMSN.png(bytes) 77894610#TMSN.png(bytes) 85800909#TMSN.png(bytes) 86393966#TMSN.png(bytes) 85086615#TMSN.png(bytes) 86646068#TMSN.png(bytes) 86852460#TMSN.png(bytes) 86852363#TMSN.png(bytes) 86852465#TMSN.png(bytes) 86852381#TMSN.png(bytes) 86852388#TMSN.png(bytes) 86852397#TMSN.png(bytes) 86852401#TMSN.png(bytes) |
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| Attachments | 86852403#TMSN.png(bytes) |
| | 86852407#TMSN.png(bytes) |
| | 86852411#TMSN.png(bytes) |
| | 86852412#TMSN.png(bytes) |
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| | 86852480#TMSN.png(bytes) |
| | 86852487#TMSN.png(bytes) |
| | 86852488#TMSN.png(bytes) |
| 86852491#TMSN.png(bytes) | |
| 86852496#TMSN.png(bytes) | |
| 86852528#TMSN.png(bytes) | |
| 86852529#TMSN.png(bytes) | |
| TOKYO NINJA NOTICE OF OPPOSITION.pdf(2391298 bytes) | |

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 | /J. Alison Grabell/ |
| Name | J. Alison Grabell, Esq. |
| Date | 04/13/2016 |

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EXHIBIT E

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Mailed: April 18, 2016

Opposition No. 91227392
Serial No. 86626274

MATTHEW H. SWYERS
The Trademark Company
344 Maple Ave W PMB 151
Vienna, VA 22180-5612

Tokyo Broadcasting System Television, Inc.

v.

Ninja Lounge

J. Alison Grabell, Esq.
BRUTZKUS GUBNER ROZANSKY SEROR WEBER LLP
21650 Oxnard Street Suite 500
Woodland Hills, CA 91367

ESTTA740591

The opposer (plaintiff) identified above has filed a notice of opposition to the registration sought by the above-identified application filed by applicant (defendant). Opposer has certified that it served a copy of the notice of opposition on applicant, or its attorney or domestic representative of record, as required by Trademark Rule 2.101(a). The electronic version of the notice of opposition, and of the entire proceeding, is viewable on the Board's web page via the TTABVUE link: <http://ttabvue.uspto.gov/ttabvue/v?qs=91227392>.

APPLICANT MUST FILE AND SERVE ANSWER

As required in the schedule set forth below, **applicant must file an answer within forty (40) days from the mailing date of this order.** (For guidance regarding when a deadline falls on a Saturday, Sunday or federal holiday, see Trademark Rule 2.196.) Applicant's answer must comply with Fed. R. Civ. P. 8(b), must contain admissions or denials of the allegations in the notice of opposition, and may include available defenses and counterclaims. For guidance regarding the form and content of an answer, see Trademark Rule 2.106(b), and TBMP §§ 311.01

and 311.02. Failure to file a timely answer may result in entry of default judgment and the abandonment of the application.

SERVICE OF ANSWER AND OF ALL FILINGS

The answer, and **all** other filings in this proceeding, **must** be served in a manner specified in Trademark Rule 2.119(b), and **must** include proof of service. For guidance regarding the service and signing of all filings, *see* TBMP §§ 113-113.04. As noted in TBMP § 113.03, proof of service should be in the following certificate of service form:

I hereby certify that a true and complete copy of the foregoing (insert title of submission) has been served on (insert name of opposing counsel or party) by mailing said copy on (insert date of mailing), via First Class Mail, postage prepaid (or insert other appropriate method of delivery) to: (set out name and address of opposing counsel or party).

Signature _____

Date _____

The parties may agree to forward service copies by electronic transmission, *e.g.*, e-mail. *See* Trademark Rule 2.119(b)(6) and TBMP §113.04. Pursuant to Trademark Rule 2.119(c), however, five additional days are afforded only to actions taken in response to papers served by first-class mail, "Express Mail," or overnight courier, not by electronic transmission.

LEGAL RESOURCES AVAILABLE AT WEB PAGE

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. These rules, as well as amendments thereto, the Manual of Procedure (TBMP), information on Accelerated Case Resolution (ACR) and Alternative Dispute Resolution (ADR), and many Frequently Asked Questions, are available on the Board's web page, at: <http://www.uspto.gov/trademarks/process/appeal/index.jsp>. For a general description of Board proceedings, *see* TBMP §102.03.

FILING PAPERS ONLINE

The link to the Board's electronic filing system, ESTTA (Electronic System for Trademark Trials and Appeals), is at the Board's web page, at: <http://estta.uspto.gov/>. The Board **strongly encourages parties to use ESTTA** for all filings. ESTTA provides various electronic filing forms; some may be used as is, and others may require attachments. For technical difficulties with ESTTA, parties may call 571-272-8500. Due to potential technical issues, parties should not wait until the last date of a deadline for filing papers. The Board may decline to consider any untimely filing.

OPPOSER'S OBLIGATION IF SERVICE IS INEFFECTIVE

If a service copy of the notice of opposition is returned to opposer as undeliverable or opposer otherwise becomes aware that service has been ineffective, opposer must notify the Board in writing within ten (10) days of the date on which opposer learns that service has been ineffective. Notification to the Board may be provided by any means available for filing papers with the Board, but preferably should be provided **by written notice filed through ESTTA**. For guidance regarding notice of ineffective service, *see* Trademark Rule 2.101(b) and TBMP § 309.02(c)(1).

While opposer is under no obligation to search for current correspondence address information for, or investigate the whereabouts of, any applicant opposer is unable to serve, if opposer knows of any new address information for the applicant, opposer must report the address to the Board. If an opposer notifies the Board that a service copy sent to an applicant was returned or not delivered, including any case in which the notification includes a new address for the applicant discovered by or reported to opposer, the Board will give notice under Trademark Rule 2.118.

FORMAT FOR ALL FILINGS

Trademark Rule 2.126 sets forth the required form and format for all filings. The Board may **decline to consider** any filing that does not comply with this rule, including, but not limited to motions, briefs, exhibits and deposition transcripts.

CONFERENCE, DISCOVERY, DISCLOSURE AND TRIAL SCHEDULE

| | |
|---|------------|
| Time to Answer | 5/28/2016 |
| Deadline for Discovery Conference | 6/27/2016 |
| Discovery Opens | 6/27/2016 |
| Initial Disclosures Due | 7/27/2016 |
| Expert Disclosures Due | 11/24/2016 |
| Discovery Closes | 12/24/2016 |
| Plaintiff's Pretrial Disclosures | 2/7/2017 |
| Plaintiff's 30-day Trial Period Ends | 3/24/2017 |
| Defendant's Pretrial Disclosures | 4/8/2017 |
| Defendant's 30-day Trial Period Ends | 5/23/2017 |
| Plaintiff's Rebuttal Disclosures | 6/7/2017 |
| Plaintiff's 15-day Rebuttal Period Ends | 7/7/2017 |

PARTIES ARE REQUIRED TO HOLD DISCOVERY CONFERENCE

As noted in the schedule above, the parties are required to schedule and to participate with each other in a discovery conference by the deadline in the schedule. For guidance, *see* Fed. R. Civ. P. 26(f), Trademark Rule 2.120(a)(2), and TBMP § 401.01. In the conference, the parties are required to discuss (1) the nature of and basis for their respective claims and defenses, (2) the possibility of settling or

at least narrowing the scope of claims or defenses, and (3) arrangements for disclosures, discovery and introduction of evidence at trial, if the parties are unable to settle at this time.

Discussion of amendments of otherwise prescribed procedures can include limitations on disclosures and/or discovery, willingness to stipulate to facts, and willingness to stipulate to more efficient options for introducing at trial information or materials obtained through disclosures or discovery.

The parties must hold the conference in person, by telephone, or by any means on which they agree. A Board interlocutory attorney or administrative trademark judge will participate in the conference, upon request of any party, provided that such request is made no later than ten (10) days prior to the conference deadline. *See* Trademark Rule 2.120(a)(2). A request for Board participation must be made either through an ESTTA filing, or by telephone call to the assigned interlocutory attorney whose name is on the TTABVue record for this proceeding. A party should request Board participation only after the parties have agreed on possible dates and times for the conference. A conference with the participation of a Board attorney will be by telephone, and the parties shall place the call at the agreed date and time, in the absence of other arrangements made with the Board attorney.

PROTECTIVE ORDER FOR CONFIDENTIAL INFORMATION

The Board's Standard Protective Order is applicable, and is available at: <http://www.uspto.gov/trademarks/process/appeal/guidelines/stndagmnt.jsp>. During their conference, the parties should discuss whether they agree to supplement or amend the standard order, or substitute a protective agreement of their choosing, subject to approval by the Board. *See* Trademark Rule 2.116(g) and TBMP § 412. The standard order does not automatically protect a party's confidential information and its provisions for the designation of confidential information must be utilized as needed by the parties.

ACCELERATED CASE RESOLUTION

During their conference, the parties should discuss whether they wish to seek mediation or arbitration, and whether they can stipulate to follow the Board's Accelerated Case Resolution (ACR) process for a more efficient and economical means of obtaining the Board's determination of the proceeding. For guidance regarding ACR, *see* TBMP § 528. Detailed information on ACR, and examples of ACR cases and suggestions, are available at the Board's webpage, at: <http://www.uspto.gov/trademarks/process/appeal/index.jsp>.

DISCOVERY AND INTERLOCUTORY PROCEDURES

For guidance regarding discovery, *see* Trademark Rule 2.120 and TBMP Chapter 400, regarding the deadline for and contents of initial disclosures, *see* Trademark Rule 2.120(a)(2) and TBMP § 401.02, and regarding the discoverability of various

matters, *see* TBMP § 414. Certain provisions of Fed. R. Civ. P. 26 are applicable in modified form. The interlocutory attorney has discretion to require the parties, or to grant a request made by one or both parties, to resolve matters of concern to the Board, or a contested motion, by telephone conference. *See* Trademark Rule 2.120(i)(1) and TBMP § 502.06(a).

TRIAL

For guidance regarding trial and testimony procedures, *see* Trademark Rules 2.121, 2.123 and 2.125, as well as TBMP Chapter 700. The parties should review authorities regarding the introduction of evidence during the trial phase, including by notice of reliance and by taking testimony from witnesses. For instance, any notice of reliance must be filed during the filing party's assigned testimony period, with a copy served on all other parties, and any testimony of a witness must be both noticed and taken during the party's testimony period. A party that has taken testimony must serve on each adverse party a copy of the transcript of such testimony, together with copies of any exhibits introduced during the testimony, within thirty (30) days after completion of the testimony deposition.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing is not required, but will be scheduled upon request of any party, pursuant to Trademark Rule 2.129. For guidance regarding briefing and an oral hearing, *see* TBMP §§ 801-802.

PARTIES NOT REPRESENTED BY COUNSEL

This proceeding is similar to a civil action in a federal district court. The Board **strongly** advises all parties to secure the services of an attorney who is familiar with trademark law and Board procedure. Strict compliance with the Trademark Rules of Practice and, where applicable, the Federal Rules of Civil Procedure, is required of all parties, whether or not they are represented by counsel. Parties not represented by such an attorney are directed to read the Frequently Asked Questions, available at the Board's web page: <http://www.uspto.gov/trademarks/process/appeal/index.jsp>.

PARTIES MUST NOTIFY BOARD OF OTHER PENDING ACTIONS

If the parties are, or during the pendency of this proceeding become, parties in another Board proceeding or a civil action involving the same or related marks, or involving any issues of law or fact which are also in this proceeding, they shall notify the Board immediately, so the Board can consider whether consolidation and/or suspension of proceedings is appropriate. *See* TBMP § 511.

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of April, 2016, the foregoing **DECLARATION OF SHERI L. BROFFMAN IN SUPPORT OF FILING EXHIBITS TO NOTICE OF OPPOSITION** was served upon counsel for Applicant by United States first-class mail, postage prepaid, with a courtesy copy via email, as follows:

Matthew H. Swyers, Esq.
The Trademark Company
344 Maple Avenue W, PMB 151
Vienna, Virginia 22180-5612

Email: mswyers@thetrademarkcompany.com

Dated: April 20, 2016



Sheri Lee Broffman