

ESTTA Tracking number: **ESTTA752366**

Filing date: **06/14/2016**

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	Your Speakeasy, LLC
Granted to Date of previous extension	06/15/2016
Address	508 Young Street Dallas, TX 75202 UNITED STATES
Attorney information	Darin M. Klemchuk Klemchuk LLP 8150 N. Central Expressway10th Floor Dallas, TX 75206 UNITED STATES darin.klemchuk@klemchuk.com, claudia.alvarado@klemchuk.com, ipdocketing@klemchuk.com, melissa.gray@klemchuk.com Phone:214.367.6000

Applicant Information

Application No	86713079	Publication date	02/16/2016
Opposition Filing Date	06/14/2016	Opposition Period Ends	06/15/2016
Applicant	The Speakeasy Agency 34K New York, NY 10036 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2015/07/17 First Use In Commerce: 2015/07/17 All goods and services in the class are opposed, namely: Advertising through all public communication means; Public relations

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
--------------------------------------	----------------------------

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	87028175	Application Date	05/06/2016
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SPEAKEASY		

Design Mark	SPEAKEASY
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2012/06/11 First Use In Commerce: 2012/06/11 Advertising and marketing services, namely, promoting the goods, services, and brands of others via social media, search engine marketing, Internet marketing, email and mobile marketing

Attachments	87028175#TMSN.png(bytes) Notice of Opposition_FINAL.pdf(271325 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	/Darin M. Klemchuk/
Name	Darin M. Klemchuk
Date	06/14/2016

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

In re Application of The Speakeasy Agency, LLC	§	
	§	
	§	
Serial No.: 86/713,079	§	
Mark: THE SPEAKEASY AGENCY	§	
Filed: August 3, 2015	§	Opposition No. _____
Published: February 16, 2016	§	
	§	
	§	
Your Speakeasy, LLC,	§	
Opposer,	§	
	§	
v.	§	
	§	
The Speakeasy Agency, LLC	§	
Applicant.	§	

NOTICE OF OPPOSITION

Your Speakeasy, LLC (“Opposer”), a limited liability company organized and existing under the laws of the State of Delaware, having its principal place of business at 508 Young Street, Dallas, TX 75202, believes that it will be damaged by registration of the following mark, filed in the name of The Speakeasy Agency, LLC, a limited liability company existing under the laws of the State of New York, having its principal place of business at 460 Park Avenue South, 12th Floor, New York, New York 10016 (“Applicant” or “TSA”), and hereby opposes the same under the provisions of 15 U.S.C. § 1063:

Mark: **THE SPEAKEASY AGENCY**
Serial No.: 86/713,079
Filed: August 3, 2015
Int’l Class: 35
Published: February 16, 2016

As grounds for opposition, Opposer asserts that:

1. Opposer is a leader in the advertising and marketing and works nationwide across numerous industries, including retail, auto, medical, hospitality, travel, and technology. In 2013, Opposer was named “Most Innovative New Profit Center” by the International Newspaper Management Association. In 2014, Local Media Insider named Opposer “Best High end Digital Agency” and “Best Agency Website.” In 2015, Opposer’s work for the American Home Shield won three AVA Digital Platinum Awards. Opposer was a finalist in the Content Marketing Institute’s “Best Client-Agency Relationship.” In 2016, Opposer won a Bronze Addy for “digital Publication for Flying Saucer.”

2. Opposer commenced use of the SPEAKEASY Mark for use in connection with advertising and marketing services, namely, promoting the goods, services, and brands of others via social media, search engine marketing, Internet marketing, email and mobile marketing at least as early as June 11, 2012, referred to herein as the “SPEAKEASY Mark.” Since that time, Opposer has continually used the SPEAKEASY Mark in commerce in connection with those services.

3. Opposer is the owner of pending U.S. Application Serial No. 87/028,175 for the SPEAKEASY Mark for “advertising and marketing services, namely, promoting the goods, services, and brands of others via social media, search engine marketing, Internet marketing, email and mobile marketing” in International Class 35, filed on May 6, 2016 as a use-based application, claiming first use in commerce since at least as early as June 11, 2012 (the “Pending Application”).

4. Opposer’s use of the SPEAKEASY Mark and resulting sales of services in connection with its SPEAKEASY Mark have been nationwide, significant, and continuous. Opposer therefore has accrued common law rights throughout the United States in the SPEAKEASY Mark in connection with advertising and marketing services, namely, promoting the

goods, services, and brands of others via social media, search engine marketing, Internet marketing, email and mobile marketing services.

5. Opposer has expended vast resources to promote its SPEAKEASY Mark.

6. As a result of Opposer's long usage and extensive promotion, Opposer has developed valuable goodwill and strong common law rights in its SPEAKEASY Mark. Moreover, the SPEAKEASY Mark has become widely recognized to consumers.

7. On or about August 3, 2015, Applicant filed an application with the U.S. Patent and Trademark Office, Application Serial No. 86/713,079 ("Applicant's Application"), seeking registration on the Principal Register of the mark THE SPEAKEASY AGENCY ("Applicant's Mark"). Applicant's Application covers "Advertising through all public communication means; Public relations" in International Class 35 as evidenced by publication of said mark in the February 16, 2016 edition of the Official Gazette. Applicant's Application is based on use in commerce, claiming first use in commerce at least as early as July 17, 2015.

8. Commencing prior to both the filing date and the dates of first use identified in Applicant's Application, and continuing to the present, Opposer has priority over Applicant based on the prior use of the SPEAKEASY Mark. Therefore, there is no issue of priority.

9. Opposer will be damaged if the Applicant's Application matures to registration because the mark identified in the Applicant's Applications is so similar to Opposer's SPEAKEASY Mark in sight, sound, and meaning, and because Applicant's Application identifies services so closely related to those services for which Opposer's SPEAKEASY Mark is used and the likely overlap in channels of trade, and customers, that contemporaneous use and registration will

create a likelihood of consumer confusion and lead to deception as to source or sponsorship. Therefore, registration of Applicant's Application should be refused under 15 U.S.C. § 1052(d).

10. Upon learning of services offered under Applicant's Mark, the general public and others familiar with Opposer's SPEAKEASY Mark will likely believe that such services originate from Opposer or are offered in association or affiliation with, or under authorization by, Opposer. Thus, Applicant's Mark, as used with the services identified in the Application, will lead persons to believe that Applicant's services are offered by, associated with, or sponsored by Opposer.

11. If Applicant is permitted to register Applicant's Mark, such use and registration will result in confusion in the trade due to similarity with the SPEAKEASY Mark, thereby damaging and injuring Opposer. Furthermore, any defect, objection, or fault found with Applicant's services may reflect upon and injure the reputation that Opposer has established for its goods and services in association with its SPEAKEASY Mark.

12. On or about March 8, 2016, Opposer learned about TSA and Applicant's Application after receipt of a complaint about social media work being done by TSA that the complainant mistakenly believed was being done by Opposer. Therefore, actual confusion exists already.

13. Opposer will be damaged if Applicant's Application matures to registration because such registration would purport to give Applicant *prima facie* evidence of the exclusive right to use Applicant's Mark in connection with the services identified, which would be inconsistent with Opposer's long use of and right to use its SPEAKEASY Mark in connection with the services offered by Opposer and identified in the Pending Application.

Wherefore, Opposer respectfully prays that its Opposition be sustained and the application for registration, Application Serial No. 86/713,079 be rejected, and that registration of Applicant's Mark be refused.

Date: June 14, 2016

A handwritten signature in black ink, appearing to read "Darin M. Klemchuk", with a long horizontal flourish extending to the right.

Darin M. Klemchuk
Klemchuk LLP
8150 N. Central Expressway, 10th Floor
Dallas, Texas 75206
214-367-6000 Tel
214-367-6001 Fax

Attorney for Opposer

Certificate of Service

I hereby certify that a service copy of the foregoing Notice of Opposition was sent via First Class Mail Return Receipt Requested, postage pre-paid, upon Applicant's attorney of record at the address below on June 14, 2016:

John L. Krieger
Dickinson Wright PLLC
8363 West Sunset Road, Suite 200
Las Vegas, NV 89113

Danielle Frisa
Shahla PC
3701 Kirby Dr #1090
Houston, TX 77098



Claudia S. Alvarado

Certificate of Transmission

I hereby certify that the foregoing Notice of Opposition is being filed electronically through <http://estta.uspto.gov> via the Trademark Trial and Appeal Board Electronic Filing System on June 14, 2016.



Claudia S. Alvarado