

ESTTA Tracking number: **ESTTA768695**

Filing date: **09/06/2016**

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	Zenith Optimedia Group Limited
Granted to Date of previous extension	09/04/2016
Address	299 West Houston Street New York, NY 10014 UNITED STATES

Attorney information	Natalie S. Richer Lerner, David, Littenberg, Krumholz & Mentlik 600 South Avenue West Westfield, NJ 07090 UNITED STATES nricher@lerner david.com, litigation@lerner david.com Phone:908 654-5000
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Applicant Information

Application No	86748015	Publication date	03/08/2016
Opposition Filing Date	09/06/2016	Opposition Period Ends	09/04/2016
Applicant	MOXIE SOZO, LLC 1140 Pearl Street Boulder, CO 80302 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2000/12/22 First Use In Commerce: 2000/12/22 All goods and services in the class are opposed, namely: Advertising agencies

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4564356	Application Date	02/14/2008
Registration Date	07/08/2014	Foreign Priority Date	10/19/2007
Word Mark	MOXIE		

Design Mark	<h1 data-bbox="613 268 1172 394">MOXIE</h1>
Description of Mark	NONE
Goods/Services	<p data-bbox="483 583 1433 1602"> Class 035. First use: First Use: 2003/11/18 First Use In Commerce: 2003/11/18 Advertising and marketing services; advertising and promotional services; brand consultancy and brand creation services; brand evaluation services; brand positioning; brand evaluation services, namely, brand testing; marketing and branding services, namely, performing consumer insight and brand strategy of company logos; marketing and advertising media management services; media buying services, namely, purchasing time and space for the delivery of advertising messages through broadcast time, print space, indoor space, outdoor space or other media such as CDs and DVDs or website space/time; sponsorship consultancy services related to promoting the goods and services of others by arranging for sponsors to affiliate their goods with others; market research; compilation, processing and analysis of market research statistics; production of advertisements for radio, video, film, computers, Internet web sites, television and mobile devices; all the aforesaid services also provided on-line via computer websites or through wireless transmissions; compilation of direct mailing lists; compilation of mailing lists; direct mail advertising; marketing by mail; preparation of mailing lists; preparation of mailing lists for direct mail advertising services; direct marketing, database marketing, namely, compiling and systemization of information into consumer specific databases for marketing purposes; telemarketing; statistical analysis and reporting for business purposes; database management; business consulting services in the field of electronic commerce; advertising and marketing management agency services, namely, the creation, development and dissemination of advertising and promotional materials via direct mail, newspaper, radio, television, mobile devices, a global computer network and other interactive media; research services and information services relating to advertising, marketing, brand management, media buying, and media management; design of publicity and advertising materials; creation, research, development and implementation of brand names, slogans, lettering and logos; mobile advertisements and direct mail advertisements; computer services, namely, design of internet advertising, namely, designing and implementing banner advertisements; providing websites that promote the goods and services of others; providing an interactive website in the field of marketing, advertising, advertising media, and politics; information, consultancy and advisory services, in the field of marketing and advertising </p> <p data-bbox="483 1612 1433 1707"> Class 040. First use: First Use: 2003/11/18 First Use In Commerce: 2003/11/18 Printing services, namely, digital photo printing services, digital printing services of books and other documents </p> <p data-bbox="483 1717 1433 1927"> Class 041. First use: First Use: 2003/11/18 First Use In Commerce: 2003/11/18 Sound and video recording production and post production services to the advertising, motion picture, video, broadcast, satellite, cable and television industries; video post-production, adding visual effects and graphics to video tape, audio tape, digital media and film; consultation services related to sound, video and ancillary production and post production in the field of music, video, and film; film and animation production services; providing an interactive website </p>

	inthe field of entertainment, photography, music, sports, and education Class 042. First use: First Use: 2003/11/18 First Use In Commerce: 2003/11/18 hosting online web facilities for others for organizing and conducting interactive discussions
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Attachments	77397129#TMSN.png(bytes) 4674997_1.pdf(12149 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Natalie S. Richer/
Name	Natalie S. Richer
Date	09/06/2016

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

Zenith Optimedia Group Limited,	:	Serial No. 86748015
	:	
Opposer,	:	Filed: September 4, 2015
	:	
v.	:	For: MOXIE SOZO
	:	
Moxie Sozo, LLC	:	Published: March 8, 2016
	:	
	:	
Applicant.	:	
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Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Zenith Optimedia Group Limited, a limited liability company under the laws of the United Kingdom, and having a place of business at 299 West Houston Street, New York, New York 10014, believes it will be damaged by the registration of the mark shown in application Serial No. 86/748015 (the "Application") and hereby opposes registration of such mark. The specific grounds for such opposition are as follows:

1. Opposer owns and uses through its licensed affiliated company the mark MOXIE in connection with services offered in interstate commerce in the United States.

2. Opposer has been using the mark MOXIE since at least as early as 2003, long before Applicants filed for the Application for registration of the mark MOXIE SOZO on September 4, 2015.

3. Opposer is the owner of United States Trademark Registration No. 4,564,356 for the mark MOXIE covering various advertising and marketing services

including services in connection with websites in Class 35, printing services in Class 40, production and post-production services including providing of an internet interactive website in Class 41, and hosting online web facilities for others for organizing and conducting interactive discussions in Class 42.

4. Applicants' mark MOXIE SOZO so resembles Opposer's mark MOXIE as to result in a likelihood of confusion.

5. Applicants' mark MOXIE SOZO is used for, or will be used for, related and confusingly similar services such that the marks are likely to be confused.

6. Opposer will suffer harm as a result of the confusion likely to arise from the registration of the Application and from Opposer's prior and ongoing use of the MOXIE SOZO mark.

7. This opposition is timely in accordance with TBMP § 209.02 given that the original publication date of the Application is March 8, 2015, extensions of time to oppose were granted to Sunday, September 4, 2016, and Monday, September 5, 2016 was a federal holiday.

WHEREFORE, Opposer prays that its opposition be sustained, and the Board refuse registration of Application Serial No. 86/748015.

Please charge the fee of \$300.00 for a Notice of Opposition to our Deposit Account No. 12-1095. The undersigned is authorized to make charges to said deposit account.

Respectfully submitted,

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
*Attorneys for Opposer, Zenith Optimedia
Group Limited*
600 South Avenue West
Westfield, NJ 07090
Tel: 908.654.5000
Fax: 908.654.7866

Dated: September 6, 2016

By s/ Natalie S. Richer
Natalie S. Richer

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the within NOTICE OF OPPOSITION was served upon the following this 6th day of September, 2016, as follows:

VIA FIRST-CLASS MAIL

Steven H. Weigler
EmergeCounsel, LLC
1550 Wewatta Street, Second Floor
Denver, CO 80202

MOXIE SOZO, LLC
1140 Pearl Street
Boulder, CO 80302

s/ Natalie S. Richer
Natalie S. Richer