

ESTTA Tracking number: **ESTTA773728**

Filing date: **09/29/2016**

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	Sushil Sadh		
Entity	Individual	Citizenship	UNITED STATES
Address	20306 39th Avenue Bayside, NY 11361 UNITED STATES		

Attorney information	Roberto Ledesma Lewis & Lin, LLC 45 Main St. Suite 608 Brooklyn, NY 11201 UNITED STATES roberto@ilawco.com Phone:7182439323		
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Applicant Information

Application No	86777620	Publication date	08/30/2016
Opposition Filing Date	09/29/2016	Opposition Period Ends	09/29/2016
Applicant	Heitzman, Keith Edward 14716 57th Place West Edmonds, WA 98026 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2015/10/04 First Use In Commerce: 2015/10/04 All goods and services in the class are opposed, namely: Income tax consultation; Income tax preparation; Tax advisory services; Tax assessment; Tax consultation; Tax filing services; Tax preparation

Grounds for Opposition

Other	see attached correspondence
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Attachments	Notice of Opposition My Tax Whisperer.pdf(77328 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	/Roberto Ledesma/
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Name	Roberto Ledesma
Date	09/29/2016

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

Sushil Sadh,
Opposer,

v.

Keith Edward Heitzman,
Applicant.

Opposition No.

Application Ser. No. 86777620

Mark: MY TAX WHISPERER

NOTICE OF OPPOSITION

Sushil Sadh (“Opposer”) believes he will be damaged by registration of the mark MY TAX WHISPERER, Application Serial No. 86777620 (the “Application”), filed by Keith Edward Heitzman (“Applicant”), an individual, and hereby opposes same.

The grounds for the opposition are as follows:

1. Opposer, a U.S. individual, has a real interest in the proceeding and a reasonable basis for his belief that he will be damaged, as well as a direct and personal stake in the outcome of this proceeding, as stated herein, due to the fact that he is the owner and prior user of the mark MYTAXES for tax services.
2. For a continuous and extended period of time, and prior to any date upon which Applicant can rely, Opposer has used the wording “My Taxes” in connection with a variety of tax services in the United States and is continuing to do so.
3. Opposer has invested a substantial amount of time, effort and money in promoting his MY TAXES names and marks. As a result, the mark has become closely and uniquely identified and associated with Opposer and has come to represent enormous goodwill for Opposer.
4. Opposer is the owner of U.S. Reg. No. 4771097 for the mark MAKEMYTAXES.COM, and approved Application Nos. 86905161 and 86894942 for the marks MAKEMYTAXES and MYTAXES, all covering “Income tax consultation; Income tax preparation; Tax assessment; Tax consultation; Tax filing services; Tax preparation” in Class 35.
5. On October 5, 2015, Applicant filed the Application to register the mark MY TAX WHISPERER for “Income tax consultation; Income tax preparation; Tax advisory services; Tax assessment; Tax consultation; Tax filing services; Tax preparation” in Class 35, based on alleged use in U.S. commerce since October 4, 2015.

6. The services proposed by Applicant under the Application are identical to the services offered by Opposer under Opposer's MY TAXES marks, and are or may be offered to the same class of consumers.

7. Opposer's application for the mark MY TAX, Application No. 86905156, was placed in suspension pending disposition of the Application based on its earlier effective filing date. As such, Opposer will be damaged in that it will not be permitted to register its mark.

8. Applicant's MY TAX WHISPERER mark so resembles Opposer's MY TAXES marks as to be likely, when used in connection with Applicant's services, to cause confusion, to cause mistake and to deceive the trade and public, who are likely to believe that Applicant's services have their origin with Opposer and/or that such services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer.

9. On information and belief, Applicant has not used Applicant's mark in U.S. commerce prior to Applicant's October 4, 2015 alleged date of first use.

10. On information and belief, Applicant's mark was not in use in the U.S. at the time of filing its use-based Application, which is therefore *void ab initio*.

11. Opposer would be injured by the granting to Applicant of a registration for Applicant's mark for the services recited in the Application because such mark so resembles Opposer's MY TAXES marks as to be likely, when used in connection with Applicant's services, (a) to cause confusion, or to cause mistake, or to deceive; (b) to falsely suggest a connection with Opposer; (c) to damage Opposer's valuable goodwill in his MY TAXES marks; and (d) to interfere with Opposer's own use and registration of his MY TAX and MY TAXES marks.

WHEREFORE, Opposer request that the registration sought by Applicant in the Application be refused and that this Notice of Opposition be sustained.

SUSHIL SADH

By: /Roberto Ledesma/

Roberto Ledesma
Brett E. Lewis
Lewis & Lin, LLC
45 Main St. Suite 608
Brooklyn, NY 11201
718-243-9323
Attorneys for Opposer

Date: September 29, 2016

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon Applicant this 29th day of September 2016, by mailing a copy thereof via first-class mail, postage pre-paid, to Keith Edward Heitzman, 14716 57th Place West, Edmonds, WASHINGTON 98026.

/Roberto Ledesma/
Roberto Ledesma