

ESTTA Tracking number: **ESTTA916190**

Filing date: **08/16/2018**

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	Carolina Mery		
Entity	Individual	Citizenship	UNITED STATES
Address	3047 University Avenue Suite 209 San Diego, CA 92104 UNITED STATES		

Attorney information	Samuel A Mazzeo Wilkinson Mazzeo PC 705 16th St. Suite 200B San Diego, CA 92101 UNITED STATES sam@wilkinsonmazzeo.com 6192898566		
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Applicant Information

Application No	87704538	Publication date	08/14/2018
Opposition Filing Date	08/16/2018	Opposition Period Ends	09/13/2018
Applicant	The Spanish Institute C 2745 Jefferson Street Carlsbad, CA 92008 UNITED STATES		


Goods/Services Affected by Opposition

Class 041. First Use: 2007/06/01 First Use In Commerce: 2008/02/10 All goods and services in the class are opposed, namely: Continuing education services, namely, providing live and on-line continuing professional education seminars in the field of Spanish language; Education services, namely, providing immersion classes, tutoring, lessons, seminars, and workshops in the field of Spanish language; Providing facilities for educational immersion classes, tutoring, seminars, lessons, and workshops to adults, teenagers and children
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Applicant not rightful owner of mark for identified goods or services	Trademark Act Section 1
Fraud on the USPTO	In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	87916365	Application Date	05/10/2018
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	Â· PURA BUENA ONDA Â· IMMERSER YOURSELF		
Design Mark			
Description of Mark	The mark consists of a wave crashing in a circle surrounded by the words pura buena onda immerse yourself all enclosed by a black line circle.		
Goods/Services	Class 041. First use: First Use: 2017/11/06 First Use In Commerce: 2017/11/06 Continuing education services, namely, providing live and on-line continuing professional education seminars in the field of Spanish language; Education services, namely, providing tutoring, classes, workshops, and seminars in the fields of Spanish language		

Attachments	87916365#TMSN.png(bytes) PBO Notice of Opposition TSI.pdf(166467 bytes)
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Signature	/Samuel Mazzeo/
Name	Samuel A Mazzeo
Date	08/16/2018

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

**In the Matter of Application Serial No. 87704538 for the stylized mark THE SPANISH
INSTITUTE · IMMERSE YOURSELF**

CAROLINA MERY,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
THE SPANISH INSTITUTE, INC.,)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Opposer Carolina Mery, an individual residing in California (“Opposer”), believes she will be damaged by registration of the stylized/design mark THE SPANISH INSTITUTE · IMMERSE YOURSELF shown in Application Serial No. 87704538 filed by Applicant The Spanish Institute, Inc. (“Applicant”), and hereby opposes the same.

As grounds in support of its opposition, Opposer alleges:

1. Opposer is engaged in the business of providing continuing education services, namely, providing live and on-line continuing professional education seminars in the field of Spanish language; Education services, namely, providing tutoring, classes, workshops, and seminars in the fields of Spanish language under the PURA BUENA ONDA · IMMERSE YOURSELF stylized mark shown in pending U.S. Application Serial No. 87916365, which mark is shown below:



2. Since at least as early as November 6, 2017, and long prior to the filing date of the application opposed herein and any date of first use upon which Applicant can accurately rely, Opposer has used the PURA BUENA ONDA · IMMERSE YOURSELF mark to identify its services. Opposer has developed substantial goodwill and value in PURA BUENA ONDA · IMMERSE YOURSELF stylized mark.

3. On December 1, 2017, Applicant filed the application opposed, Application Ser. No. 87704538, to register the THE SPANISH INSTITUTE · IMMERSE YOURSELF mark for: “Continuing education services, namely, providing live and on-line continuing professional education seminars in the field of Spanish language; Education services, namely, providing immersion classes, tutoring, lessons, seminars, and workshops in the field of Spanish language; Providing facilities for educational immersion classes, tutoring, seminars, lessons, and workshops to adults, teenagers and children”

4. Applicant claimed in the application opposed that June 1, 2007 is the date of first use anywhere and in commerce for the THE SPANISH INSTITUTE · IMMERSE YOURSELF mark. Upon information and belief, neither Applicant nor any predecessor or related company of Applicant made actual use of the mark prior to the date of filing the application, December 1, 2017. Applicant must either misunderstand the definition of first date of use or intends to defraud the United States Patent and Trademark Office by alleging a first date of use nearly ten (10) years before use of the THE SPANISH INSTITUTE · IMMERSE YOURSELF mark.

5. Opposer’s rights in PURA BUENA ONDA · IMMERSE YOURSELF stylized mark were established well prior to any date on which Applicant can rely. Thus, priority is not an issue.

6. Applicant is in no way authorized, sponsored, or licensed by, or in any other way legitimately connected with Opposer.

7. Applicant's use and registration of the THE SPANISH INSTITUTE · IMMERSE YOURSELF mark is without Opposer's consent or permission.

8. The THE SPANISH INSTITUTE · IMMERSE YOURSELF mark, when used for the services recited in Application Serial No. 87704538, so resembles Opposer's PURA BUENA ONDA · IMMERSE YOURSELF stylized mark as to be likely to cause confusion, mistake, and/or deception within the meaning of Section 2(d) of the Trademark Act, to the consequent damage of Opposer.

9. Because Opposer possesses prior rights in PURA BUENA ONDA · IMMERSE YOURSELF stylized mark, the registration sought by Applicant and the presumptions that would flow to Applicant from any registration issued to Applicant on the THE SPANISH INSTITUTE · IMMERSE YOURSELF mark are inconsistent with Opposer's rights in and to PURA BUENA ONDA · IMMERSE YOURSELF stylized mark and registration of PURA BUENA ONDA · IMMERSE YOURSELF stylized mark.

10. By reason of the foregoing, Opposer would be damaged by Applicant's registration of the THE SPANISH INSTITUTE · IMMERSE YOURSELF mark as sought in Application Serial No. 87704538.

11. Because Opposer possesses prior rights in PURA BUENA ONDA · IMMERSE YOURSELF stylized mark, Applicant's application to register the THE SPANISH INSTITUTE · IMMERSE YOURSELF mark should be denied based on Opposer's prior rights in PURA BUENA ONDA · IMMERSE YOURSELF stylized mark.

WHEREFORE, Opposer Carolina Mery, respectfully requests that this opposition be sustained and the registration sought by Applicant in Application Serial No. 87704538 for the

THE SPANISH INSTITUTE · IMMERSE YOURSELF mark be denied.

Respectfully submitted,

Carolina Mery, Opposer

Dated: August 16, 2018

/s/ Samuel Mazzeo, Esq.

Attorney of Opposer

Samuel Mazzeo, Esq.
Wilkinson Mazzeo PC
705 16th St., Suite 200B
San Diego, CA 92101
(619) 289-8566

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has caused the foregoing **Notice of Opposition** to be served upon Applicant in these proceedings by depositing a true copy of the same with the United States Postal Service as first class mail in a sealed envelope, postage prepaid, addressed to:

The Spanish Institute
C
2745 Jefferson Street
Carlsbad, CALIFORNIA, 92008

on this 16th day of August, 2018.

/s/Samuel Mazzeo, Esq
Counsel for Opposer Carolina Mery