

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

BD Health Partners LLC)	
)	
)	
Opposer,)	
)	Opposition No. _____
v.)	Serial No. 85/841222
)	Mark: JACKED IN A BOX
Weider Publications, LLC)	
)	
Applicant.)	

Attorney's Reference: 127094-359569		

NOTICE OF OPPOSITION

In the matter of the application for registration of the trademark JACKED IN A BOX filed by Weider Publications, LLC ("Applicant"), as shown in Application Serial No. 85/841222 published for opposition in the *Official Gazette* of June 25, 2013.

BD Health Partners LLC ("Opposer"), a Delaware limited liability company with its address at 12100 Wilshire Blvd., Suite 800, Los Angeles, California 90025, believes that it will be damaged by registration of the mark shown in said Application Serial No. 85/841222 and hereby opposes the same.

As grounds for opposition it is alleged that:

1. Opposer is now, and for several years has been in the business of operating a subscription service in the field of sports and nutritional supplements.
2. Opposer is now using and has since April 1, 2012 used the trademark JackedPack to identify its subscription service in the field of sports and nutritional

supplements.

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3. Application Serial No. 85/841222 was filed on February 5, 2013 under Section 1(b) of the Trademark Act, based upon the Applicant's intent to use the mark JACKED IN A BOX in connection with "On-line ordering services featuring a subscription service enabling customers to sample dietary supplements."
4. On information and belief, Applicant did not use the trademark JACKED IN A BOX in commerce in the United States for the services described in its application prior to February 5, 2013.
5. On information and belief, Applicant did not use the trademark JACKED IN A BOX in commerce in the United States for the services described in its application prior to April 1, 2012.
6. On information and belief, Applicant has subsequently commenced use of the trademark JACKED IN A BOX in commerce in the United States for the services described in its application.
7. Applicant's services and Opposer's services are substantially identical.
8. Applicant and Opposer are competitors.
9. Applicant previously used the designation "Muscle and Fitness Sample Box" in connection with the offering of its "On-line ordering services featuring a subscription service enabling customers to sample dietary supplements."

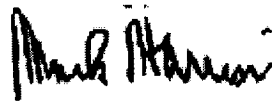
10. The mark JACKED IN A BOX is so similar to Opposer's mark JackedPack that Applicant's use and registration of its trademark to identify its services is likely to cause confusion and lead to deception as to the source of origin and/or the sponsorship of Applicant's services and/or Opposer's services.
11. The Applicant's use of the mark JACKED IN A BOX has already caused confusion among consumers with respect to Opposer and Opposer's mark JackedPack and as to the source of origin and/or the sponsorship of Applicant's services and/or Opposer's services.
12. If the Applicant were permitted to use and register its mark for its services, confusion among consumers resulting in damage and injury to Opposer would be caused by virtue of the similarity between Applicant's trademark and Opposer's trademark, and the substantially identical nature of the services covered by those marks. Any defect, objection or fault found with Applicant's services would seriously injure the Opposer.

WHEREFORE, Opposer prays that Application Serial No. 85/841222 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of the Opposer.

This Notice of Opposition is being filed in duplicate. Please deduct the statutory filing fee of \$300.00 (Class 35) and any additional fees from deposit Account No. 22-0261 and notify the undersigned accordingly.

Opposer appoints Mark B. Harrison, Rebecca Liebowitz, Jacqueline Patt, Michael Hall, Halle Markus and Jeremy Klass along with the law firm of Venable LLP, P.O. Box 34385, Washington, D.C. 20043-9998 to transact all business on its behalf in connection with this Opposition.

Respectfully submitted,



By: _____

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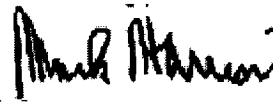
Date: December 18, 2013

Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NOTICE OF OPPOSITION was served by U.S. Mail, first class, postage prepaid, on this 18th day of December, 2013, on the Applicant's attorney of record at the address listed in the current U.S. Trademark Office Records as follows:

LO-MAE LAI
AMERICAN MEDIA, INC.
1000 AMERICAN MEDIA WAY
BOCA RATON, FLORIDA 33464-1000



Mark Harrison