

ESTTA Tracking number: **ESTTA794279**

Filing date: **01/11/2017**

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 parties oppose registration of the indicated application.

**Opposers Information**

Name	YogaGlo, Inc.
Granted to Date of previous extension	01/11/2017
Address	2118 Wilshire Blvd, Suite 800 Santa Monica, CA 90403 UNITED STATES

Name	FitnessGlo, Inc.
Granted to Date of previous extension	01/11/2017
Address	2118 Wilshire Blvd, Suite 800 Santa Monica, CA 90403 UNITED STATES

Attorney information	REBECCA LIEBOWITZ VENABLE LLP P.O. Box 34385 WASHINGTON, DC 20043 UNITED STATES rliebowitz@venable.com,trademarkdocket@venable.com Phone:202.344.4976
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**Applicant Information**

Application No	86782657	Publication date	09/13/2016
Opposition Filing Date	01/11/2017	Opposition Period Ends	01/11/2017
Applicant	U RUN LLC 21002 N. 19TH AVENUE PHOENIX, AZ 85027 UNITED STATES		


**Goods/Services Affected by Opposition**

Class 041. First Use: 2013/06/12 First Use In Commerce: 2013/06/12 All goods and services in the class are opposed, namely: organizing, arranging, hosting and conducting running events; providing a website featuring information relating to the sport of running and running events; and providing online and non-downloadable electronic newsletters regarding running and running events
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**Grounds for Opposition**

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

U.S. Registration No.	4298658	Application Date	01/03/2011
Registration Date	03/05/2013	Foreign Priority Date	NONE
Word Mark	FITNESSGLO		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 038. First use: First Use: 2010/04/00 First Use In Commerce: 2010/04/00            Broadcasting and streaming of audio-visual media content in the fields of fitness, exercise and health-related matters via a global computer network; webcasting services; Providing access to online forums for transmission of messages and blogs over the Internet; Providing onlineelectronic bulletin boards for transmission of messages among users in the field of general interest; Providing on-linechat rooms for social networking; Web messaging services; Video-on demand transmission services via the internet; Providing online forums for transmission of messages featuring fitness, exercise, music and health-related matters; Electronic transmission and streaming of digital media content for others via global and local computer networks; Streaming of audio, visual and audio-visual material viaa global computer network; Communications services, namely, transmitting streamed sound and audio-visual recordings viathe Internet; Streaming of video and audio material on the Internet; Providing access to computer databases; Electronictransmission of instant messages and data</p> <p>Class 041. First use: First Use: 2010/04/00 First Use In Commerce: 2010/04/00            Educational and entertainment services,namely, providing a web site featuring informational, non-downloadable audio and visual presentations in the field of exercise, fitness and music; Providing online information via a global computer network on the subjects of exercise, fitness and music; Electronic publishing services, namely, publication of text, graphics, photographs, images, and audio-visual works of others online featuring exercise, fitness, music and health; Providing a web site featuring blogs and non-downloadable publications in the nature of an online journal featuring exercise, fitness and music; Providing a web site featuring audio-visual content, specifically, motion pictures, videos, music videos, music, video clips, audio clips, music clips, film clips, and photographs, in the fields of exercise, fitness and music; Consulting services in the fields of exercise and fitness; Physical fitness instruction; Physical fitness trainingservices; Providing a web site featuring information on exercise and fitness; Providing information in the fields of fitness and exercise; Electronic publishing services, namely, publication of text,graphic, video and audio works of others online featuring exercise, fitness, music and health; Providing on-line journals and web logs, namely, blogs featuringuser-created content in the field of exercise, fitness, music and health; Providing a web site that gives computer users the ability to upload, exchange and share photos, videos and video logs</p> <p>Class 044. First use: First Use: 2010/04/00 First Use In Commerce: 2010/04/00</p>		

	Consulting services in the field of health; Providing health information; Providing a website featuring information about health
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U.S. Registration No.	4257758	Application Date	06/11/2012
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Registration Date	12/11/2012	Foreign Priority Date	NONE
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Word Mark	CLICK & GLO
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Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class 009. First use: First Use: 2010/04/00 First Use In Commerce: 2010/04/00  Downloadable physical fitness and exercise instructional video and audio recordings with or without pre-recorded music via the internet and wireless devices; Digital media, namely, pre-recorded videocassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, DVDs, and high definition digital discs featuring fitness, exercise, music and health-related issues; Downloadable multimedia file containing artwork, text, audio, video, and Internet Web links relating to fitness, exercise, music and health-related matters; Downloadable electronic publications in the form of brochures, leaflets, and workbooks featuring fitness, exercise, music and health-related issues</p> <p>Class 038. First use: First Use: 2010/04/00 First Use In Commerce: 2010/04/00  Broadcasting and streaming of audio-visual media content in the fields of fitness, exercise and health-related matters via a global computer network; webcasting services; Providing access to online forums for transmission of messages and blogs over the Internet; Providing online electronic bulletin boards for transmission of messages among users in the field of general interest; Providing online chat rooms for social networking; Web messaging services; Video-on demand transmission services via the internet; Providing online forums for transmission of messages featuring fitness, exercise, music and health-related matters; Electronic transmission and streaming of digital media content for others via global and local computer networks; Streaming of audio, visual and audio-visual material via a global computer network; Communications services, namely, transmitting streamed sound and audio-visual recordings via the Internet; Streaming of video and audio material on the Internet; Providing access to computer databases; Electronic transmission of instant messages and data</p> <p>Class 041. First use: First Use: 2010/04/00 First Use In Commerce: 2010/04/00  Education and entertainment services, namely, online instruction in the fields of exercise, fitness, music and health-related matters; Providing online information via a global computer network on the subjects of exercise, fitness and music; Electronic publishing services, namely, publication of text, graphics, photographs, images, and audio-visual works for others online for streaming featuring exercise, fitness, music, and health-related matters; Providing blogs in the nature of an online journal over the Internet featuring exercise, fitness, music, and health-related matters; Providing a website featuring non-downloadable audio-visual content, specifically, motion pictures, videos, music videos, music,</p>
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videoclips, audio clips, music clips, film clips, and photographs, in the fields of exercise, fitness, and music; Consulting services in the fields of exercise and fitness; Physical fitness instruction; Physical fitness training services; Providing a web site featuring information on exercise and fitness; Providing information in the field of fitness and exercise; Electronic publishing services, namely, publishing of online works of others featuring user-created text, audio, video, and graphics; Providing on-line journals and web logs featuring user-created content  
 Class 044. First use: First Use: 2010/04/00 First Use In Commerce: 2010/04/00  
 Providing a website featuring informational, non-downloadable audio-visual content, specifically, photographic, audio and video presentations in the fields of health-related matters, namely, health, wellness, and nutrition; Consulting services in the fields of health-related matters, namely, health, wellness, and nutrition; Providing information in the fields of health-related matters, namely, health, wellness, and nutrition

U.S. Registration No.	4166507	Application Date	01/03/2011
Registration Date	07/03/2012	Foreign Priority Date	NONE
Word Mark	YOGAGLO		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2008/07/23 First Use In Commerce: 2008/10/18          Downloadable physical fitness and exercise instructional video and audio recordings with or without pre-recorded music via the internet and wireless devices; Digital media, namely, pre-recorded videocassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, DVDs, and high definition digital discs featuring fitness, exercise, music and health-related issues; Downloadable multimedia file containing artwork, text, audio, video, and Internet Web links relating to fitness, exercise, music and health-related matters; Downloadable electronic publications in the form of brochures, leaflets, and workbooks featuring fitness, exercise, music and health-related issues</p> <p>Class 038. First use: First Use: 2008/07/23 First Use In Commerce: 2008/10/18          Broadcasting and streaming of audio-visual media content in the fields of fitness, exercise and health-related matters via a global computer network; webcasting services; Providing access to online forums for transmission of messages and blogs over the Internet; Providing online electronic bulletin boards for transmission of messages among users in the field of general interest; Providing on-line chat rooms for social networking; Web messaging services; Video-on demand transmission services via the internet; Providing online forums for transmission of messages featuring fitness, exercise, music and health-related matters; Electronic transmission and streaming of digital media content for others via global and local computer networks; Streaming of audio, visual and audio-visual material via a global computer network; Communications services, namely, transmitting streamed sound and audio-visual recordings via the Inter-</p>		

	<p>net; Streaming of video and audio material on the Internet; Providing access to computer databases; Electronic transmission of instant messages and data</p> <p>Class 041. First use: First Use: 2008/07/23 First Use In Commerce: 2008/10/18  Education and entertainment services, namely, online instruction in the fields of exercise, fitness, music and health-related matters; Providing online information via a global computer network on the subjects of exercise, fitness, music, and health-related matters; Electronic publishing services, namely, publication of text, graphics, photographs, images, and audio-visual works of others online for streaming featuring exercise, fitness, music, and health-related matters; Providing blogs in the nature of an online journal over the Internet featuring exercise, fitness, music, and health-related matters; Providing a website featuring non-downloadable audio-visual content, specifically, motion pictures, videos, music videos, music, video clips, audio clips, music clips, film clips, and photographs, in the fields of exercise, fitness, and music; Consulting services in the fields of exercise and fitness; Physical fitness instruction; Physical fitness training services; Providing a website featuring information on exercise and fitness; Providing information in the field of fitness and exercise; Electronic publishing services, namely, publishing of online works of others featuring user-created text, audio, video, and graphics; Providing on-line journals and web logs featuring user-created content</p> <p>Class 044. First use: First Use: 2008/07/23 First Use In Commerce: 2008/10/18  Providing a website featuring informational, non-downloadable audio-visual content, specifically, photographic, audio and video presentations in the fields of health-related matters, namely, health, wellness, and nutrition; Consulting services in the fields of health-related matters, namely, health, wellness, and nutrition; Providing information in the fields of health-related matters, namely, health, wellness, and nutrition</p>
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U.S. Registration No.	3764227	Application Date	06/25/2008
Registration Date	03/23/2010	Foreign Priority Date	NONE
Word Mark	YOGAGLO		
Design Mark			
Description of Mark	The mark consists of the letters "YOGA" in gray and the letters "GLO" in orange.		
Goods/Services	<p>Class 009. First use: First Use: 2008/07/23 First Use In Commerce: 2008/10/18  Downloadable video recordings featuring yoga and meditation instruction with audio instruction and with or without music; Downloadable yoga and meditation instruction with audio instruction and with or without music via the internet and wireless devices</p> <p>Class 038. First use: First Use: 2008/07/23 First Use In Commerce: 2008/10/18  Audio and video broadcasting services over the Internet; Communications services, namely, transmitting streamed sound and audiovisual recordings via the Internet; Streaming of video material on the Internet; Video-on-demand transmission services via the Internet</p>		

	Class 041. First use: First Use: 2008/07/23 First Use In Commerce: 2008/10/18 Media production services, namely, video and film production; Yoga instruction Class 045. First use: First Use: 2008/07/23 First Use In Commerce: 2008/10/18 [On-line social networking services]
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U.S. Registration No.	4993684	Application Date	12/26/2012
Registration Date	07/05/2016	Foreign Priority Date	NONE

Word Mark	GLO
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Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class 009. First use: First Use: 2014/12/00 First Use In Commerce: 2014/12/00 Downloadable physical fitness and exercise instructional video and audio recordings with or without pre-recorded music via the Internet and wireless devices; digital media, namely, downloadable audio and video recordings, featuring fitness, exercise, music and health-related issues; downloadable multimedia file containing artwork, text, audio, video, and Internet web links relating to fitness, exercise, music and health-related matters; downloadable electronic publications in the form of brochures, leaflets, and workbooks featuring fitness, exercise, music and health-related issues</p> <p>Class 038. First use: First Use: 2014/12/00 First Use In Commerce: 2014/12/00 Broadcasting and streaming of audio-visual media content in the fields of fitness, exercise and health-related matters via a global computer network; webcasting services related to fitness, exercise, wellness, nutrition and health-related issues; providing access to online forums for transmission of messages and blogs-related to fitness, exercise, wellness, nutrition and health-related issues over the Internet; providing online electronic bulletin boards for transmission of messages among users related to fitness, exercise, wellness, nutrition and health-related issues; providing on-line chatrooms related to fitness, exercise, wellness, nutrition and health-related issues for social networking; web messaging services related to fitness, exercise, wellness, nutrition and health-related issues; video-on-demand transmission services related to fitness, exercise, wellness, nutrition and health-related issues via the Internet; providing online forums for transmission of messages featuring fitness, exercise, music and health-related matters; electronic transmission and streaming of digital media content related to fitness, exercise, wellness, nutrition and health-related issues for others via global and local computer networks; streaming of audio, visual and audiovisual material via a global computer network related to fitness, exercise, wellness, nutrition and health-related issues; communications services, namely, transmitting streamed sound and audio-visual recordings related to fitness, exercise, wellness, nutrition and health-related issues via the Internet; streaming of video and audio material related to fitness, exercise, wellness, nutrition and health-related issues on the Internet; providing access to computer databases related to fitness, exercise,</p>
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	<p>wellness, nutrition and health-related issues; electronic transmission of instant messages and data related to fitness, exercise, wellness, nutrition and health-related issues</p> <p>Class 041. First use: First Use: 2014/12/00 First Use In Commerce: 2014/12/00  Education and entertainment services, namely, online instruction in the fields of exercise, fitness, music and health-related matters; providing online information via a global computer network on the subjects of exercise, fitness and music; electronic publishing services, namely, publication of text, graphics, photographs, images, and audio-visual works of others online for streaming featuring exercise, fitness, music, and health-related matters; providing blogs in the nature of an online journal over the Internet featuring exercise, fitness, music, and health-related matters; providing a website featuring non-downloadable audio-visual content, specifically, motion pictures, videos, music videos, music, videoclips, audio clips, music clips, film clips, and photographs, in the fields of exercise, fitness, and music; consulting services in the fields of exercise and fitness; physical fitness instruction; physical fitness training services; providing a web site featuring information on exercise and fitness; providing information in the field of fitness and exercise; electronic publishing services, namely, publishing of online works of others featuring user-created text, audio, video, and graphics related to fitness, exercise, wellness, nutrition and health-related issues</p> <p>Class 044. First use: First Use: 2014/12/00 First Use In Commerce: 2014/12/00  Providing a website featuring informational, non-downloadable audio-visual content, specifically, photographic, audio and video presentations in the fields of health-related matters, namely, health, wellness, and nutrition; consulting services in the fields of health-related matters, namely, health, wellness, and nutrition; providing information in the fields of health-related matters, namely, health, wellness, and nutrition</p>
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Attachments	85209598#TMSN.png( bytes ) 85649019#TMSN.png( bytes ) 85209595#TMSN.png( bytes ) 77507529#TMSN.png( bytes ) 85810776#TMSN.png( bytes ) FOAM GLOW Opposition.pdf(997866 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	/rebecca liebowitz/
Name	REBECCA LIEBOWITZ
Date	01/11/2017

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

_____	)	
YogaGlo, Inc. and FitnessGlo, Inc.	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	Serial No. 86/782657
U RUN, LLC	)	Mark: <b>FOAM GLOW</b>
	)	
Applicant.	)	
_____	)	

NOTICE OF OPPOSITION

The application for registration of the trademark **FOAM GLOW** filed by U RUN, LLC, a limited liability company organized under the laws of Delaware (“Applicant”), Application Serial No. 86/782,657, covers the following services: “organizing, arranging, hosting and conducting running events; providing a website featuring information relating to the sport of running and running events; and providing online and non-downloadable electronic newsletters regarding running and running events” in International Class 41 (“FOAM GLOW Mark”). The application was published for opposition in the *Official Gazette* on September 13, 2016. YogaGlo, Inc., a Delaware corporation and FitnessGlo, Inc. a Delaware corporation (collectively “Opposer”), believes that it will be damaged by registration of the mark shown in said Application Serial No. 86/782,657 and hereby oppose the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the following U.S. Registrations and Applications for the word marks **YOGAGLO** (U.S. Trademark Registration Nos. 3,764,227 and 4,166,507), **CLICK**



& **GLO** (U.S. Trademark Registration No. 4,257,758), **GLO** (U.S. Trademark Registration No. 4,993,684), and **FITNESSGLO** (U.S. Reg. Nos. 4,530,587 and 4,298,658), as well as additional marks used by Opposer for which it has registrations and to which it has common law rights (hereinafter, collectively, the “**GLO** Marks”):

2. Opposer owns applications and registrations for the **GLO** Marks (see listing below) which specifically cover International Class 41, namely:

<u>Mark/Name</u>	<u>International Class 41</u>	<u>Serial No. or Registration No.</u>
<b>FITNESSGLO</b>	Educational and entertainment services, namely, providing a web site featuring informational, non-downloadable audio and visual presentations in the field of exercise, fitness and music; providing online information via a global computer network on the subjects of exercise, fitness and music; electronic publishing services, namely, publication of text, graphics, photographs, images, and audio-visual works of others online featuring exercise, fitness, music and health; providing a web site featuring blogs and non-downloadable publications in the nature of an online journal featuring exercise, fitness and music; providing a web site featuring audio-visual content, specifically, motion pictures, videos, music videos, music, video clips, audio clips, music clips, film clips, and photographs, in the fields of exercise, fitness and music; consulting services in the fields of exercise and fitness; physical fitness instruction; physical fitness training services; providing a web site featuring information on exercise and fitness; providing information in the fields of fitness and exercise; electronic publishing services, namely, publication of text, graphic, video and audio works of others online featuring exercise, fitness, music and health; providing on-line journals and web logs, namely, blogs featuring user-created content in the field of exercise, fitness, music and health; providing a web site that gives computer users the ability to upload, exchange and share photos, videos and video logs	Ser. No.: 85/209598 Reg. No.: 4,298,658
<b>CLICK &amp; GLO</b>	Education and entertainment services, namely, online instruction in the fields of exercise, fitness, music and health-related matters; providing online information via a global computer network on the subjects of exercise, fitness and music; electronic publishing services, namely, publication of text, graphics, photographs, images, and audio-visual works of others online for streaming featuring exercise, fitness, music, and health-related matters; providing blogs in the nature of an online journal over the internet featuring exercise, fitness, music, and health-related matters; providing a website featuring non-downloadable audio-visual content, specifically, motion pictures, videos, music videos, music, video clips, audio clips, music clips, film clips, and photographs, in the fields of exercise, fitness, and music; consulting services in the fields of exercise and fitness; physical fitness instruction; physical	Ser. No.:85/649019 Reg. No.:4,257,758

<u>Mark/Name</u>	<u>International Class 41</u>	<u>Serial No. or Registration No.</u>
	fitness training services; providing a web site featuring information on exercise and fitness; providing information in the field of fitness and exercise; electronic publishing services, namely, publishing of online works of others featuring user-created text, audio, video, and graphics; providing on-line journals and web logs featuring user-created content	
<b>YOGAGLO</b>	Education and entertainment services, namely, online instruction in the fields of exercise, fitness, music and health-related matters; providing online information via a global computer network on the subjects of exercise, fitness, music, and health-related matters; electronic publishing services, namely, publication of text, graphics, photographs, images, and audio-visual works of others online for streaming featuring exercise, fitness, music, and health-related matters; providing blogs in the nature of an online journal over the internet featuring exercise, fitness, music, and health-related matters; providing a website featuring non-downloadable audio-visual content, specifically, motion pictures, videos, music videos, music, video clips, audio clips, music clips, film clips, and photographs, in the fields of exercise, fitness, and music; consulting services in the fields of exercise and fitness; physical fitness instruction; physical fitness training services; providing a web site featuring information on exercise and fitness; providing information in the field of fitness and exercise; electronic publishing services, namely, publishing of online works of others featuring user-created text, audio, video, and graphics; providing on-line journals and web logs featuring user-created content	Ser. No.:85/209595 Reg. No.:4,166,507
<b>YOGAGLO (Stylized)</b>	Media production services, namely, video and film production; yoga instruction	Ser. No.:77/507529 Reg.No.:3,764,227
<b>GLO</b>	Education and entertainment services, namely, online instruction in the fields of exercise, fitness, music and health-related matters; providing online information via a global computer network on the subjects of exercise, fitness and music; electronic publishing services, namely, publication of text, graphics, photographs, images, and audio-visual works of others online for streaming featuring exercise, fitness, music, and health-related matters; providing blogs in the nature of an online journal over the Internet featuring exercise, fitness, music, and health-related matters; providing a website featuring non-downloadable audio-visual content, specifically, motion pictures, videos, music videos, music, video clips, audio clips, music clips, film clips, and photographs, in the fields of exercise, fitness, and music; consulting services in the fields of exercise and fitness; physical fitness instruction; physical fitness training services; providing a web site featuring information on exercise and fitness; providing information in the field of fitness and exercise; electronic publishing services, namely, publishing of online works of others featuring user-created text, audio, video, and graphics related to fitness, exercise, wellness, nutrition and health-related issues	Ser. No.:85/810776 Reg. No.: 4,993,684

3. Opposer filed Registration Number 4,298,658 on January 3, 2011.
4. Opposer's Registration Number 4,298,658 was in use by June 2011.
5. Opposer filed Registration Number 4,257,758 on June 11, 2012.
6. Opposer's Registration Number 4,257,758 was in use by April 2010.
7. Opposer filed Registration Number 4,166,507 on January 3, 2011.
8. Opposer's Registration Number 4,166,507 was in use by July 23, 2008.
9. Opposer filed Registration Number 3,764,227 on June 25, 2008.
10. Opposer's Registration Number 3,764,227 was in use by July 23, 2008.
11. Opposer filed Registration Number 4,993,684 on December 26, 2012.
12. Opposer's Registration Number 4,993,684 was in use by December 2014.
13. Applicant filed the FOAM GLOW Mark on October 8, 2015 based upon a first use date of June 12, 2013 under Section 1(a) of the Lanham Act.

14. Opposer's first use and/or filing date for the Registrations listed above predates Applicant's October 8, 2015 filing date, and predates the earliest use date on which Applicant can rely, and thus Opposer's rights are senior to those of Applicant.

15. Applicant's FOAM GLOW Mark is confusingly similar to Opposer's GLO Marks. As such, consumers will undoubtedly associate these services with Opposer's services offered under the GLO mark.

16. Opposer's GLO Marks and Applicant's FOAM GLOW Mark are highly similar in appearance, sound, connotation, and commercial impression.

17. Opposer's GLO Marks and Applicant's FOAM GLOW Mark share the identical letterstring "GLO".

18. The letterstring "GLO" is a dominant portion of Opposer's GLO Marks.

19. The letterstring “GLOW” is a dominant portion of Applicant’s FOAM GLOW Mark.

20. “GLOW” and “GLO” are phonetic equivalents.

21. Opposer’s services and Applicant’s services are substantially related, if not identical.

22. Opposer’s services and Applicant’s services encompass health and fitness services.

23. Opposer believes and alleges that Applicant’s FOAM GLOW Mark, when applied to the services listed in Application Serial No. 86/782,657, is likely to cause confusion or mistake or to deceive and mislead the trade and purchasing public into believing that Opposer is (a) the source of the Applicant’s services; (b) that Opposer sponsors, approves or endorses Applicant’s services; (c) that Applicant is authorized, licensed to and/or controlled by Opposer; or (d) that Applicant is a division or subsidiary of, or in someway related to Opposer.

24. Applicant’s FOAM GLOW Mark “so resembles a mark registered in the Patent and Trademark Office, or a mark...previously used in the United States and not abandoned, as to be likely, when applied to the goods of the applicant, to cause confusion, or to cause mistake or to deceive.” 15 U.S.C §1052(d).

25. For the reasons set forth in the foregoing paragraphs, Applicant is not entitled to register its FOAM GLOW Mark and the application should be denied in accordance with Section 2(d) of the Lanham Act, 15 U.S.C §1052(d).

26. If Applicant is granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its FOAM GLOW Mark. Such registration

would be a source of further damage and injury to Opposer.

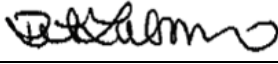
WHEREFORE, Opposer prays that Application Serial No. 86/782,657 be rejected, and that registration of Applicant's FOAM GLOW Mark shown and specified therein be refused and denied, and that this Opposition be sustained in favor of Opposer.

This Notice of Opposition is submitted together with the statutory filing fee of \$600.00 (on behalf of two opposers). Should any additional fee be required, please charge the same to our Account No. 22-0261 and notify the undersigned accordingly.

Opposer appoints Rebecca Liebowitz 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,

Date: January 11, 2017

By:   
\_\_\_\_\_  
Rebecca Liebowitz, Esq.  
Venable LLP  
P.O. Box 34385  
Washington, D.C. 20043  
Telephone: (202) 344-4000  
Facsimile (202) 344-8300  
Attorneys for Opposer

**CERTIFICATE OF SERVICE**

The undersigned, attorney for Opposer, hereby certifies that a true and complete copy of foregoing Notice of Opposition has been served on this 11<sup>th</sup> day of January, 2017 via first-class mail, postage prepaid to attorney of record for Applicant:

DANIEL D. MAYNARD

Maynard Cronin Erickson Curran & Reiter Plc

3200 N Central Ave Ste 1800

Phoenix, ARIZONA UNITED STATES 85012-2438



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Rebecca Liebowitz



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# FitnessGlo

**Word Mark** FITNESSGLO

**Goods and Services** IC 038. US 100 101 104. G & S: Broadcasting and streaming of audio-visual media content in the fields of fitness, exercise and health-related matters via a global computer network; webcasting services; Providing access to online forums for transmission of messages and blogs over the Internet; Providing online electronic bulletin boards for transmission of messages among users in the field of general interest; Providing on-line chat rooms for social networking; Web messaging services; Video-on demand transmission services via the internet; Providing online forums for transmission of messages featuring fitness, exercise, music and health-related matters; Electronic transmission and streaming of digital media content for others via global and local computer networks; Streaming of audio, visual and audiovisual material via a global computer network; Communications services, namely, transmitting streamed sound and audio-visual recordings via the Internet; Streaming of video and audio material on the Internet; Providing access to computer databases; Electronic transmission of instant messages and data. FIRST USE: 20100400. FIRST USE IN COMMERCE: 20100400

IC 041. US 100 101 107. G & S: Educational and entertainment services, namely, providing a web site featuring informational, non-downloadable audio and visual presentations in the field of exercise, fitness and music; Providing online information via a global computer network on the subjects of exercise, fitness and music; Electronic publishing services, namely, publication of text, graphics, photographs, images, and audio-visual works of others online featuring exercise, fitness, music and health; Providing a web site featuring blogs and non-downloadable publications in the nature of an online journal featuring exercise, fitness and music; Providing a web site featuring audio-visual content, specifically, motion pictures, videos, music videos, music, video clips, audio clips, music clips, film clips, and photographs, in the fields of exercise, fitness and music; Consulting services in the fields of exercise and fitness; Physical fitness instruction; Physical fitness training services; Providing a web site featuring information on exercise and fitness; Providing information in the fields of fitness and

exercise; Electronic publishing services, namely, publication of text, graphic, video and audio works of others online featuring exercise, fitness, music and health; Providing on-line journals and web logs, namely, blogs featuring user-created content in the field of exercise, fitness, music and health; Providing a web site that gives computer users the ability to upload, exchange and share photos, videos and video logs. FIRST USE: 20100400. FIRST USE IN COMMERCE: 20100400

IC 044. US 100 101. G & S: Consulting services in the field of health; Providing health information; Providing a website featuring information about health. FIRST USE: 20100400. FIRST USE IN COMMERCE: 20100400

**Standard  
Characters  
Claimed**

**Mark  
Drawing  
Code**

(4) STANDARD CHARACTER MARK

**Serial  
Number**

85209598

**Filing Date**

January 3, 2011

**Current  
Basis**

1A

**Original  
Filing Basis**

1B

**Published  
for  
Opposition**

December 13, 2011

**Change In  
Registration**

CHANGE IN REGISTRATION HAS OCCURRED

**Registration  
Number**

**4298658**

**Registration  
Date**

March 5, 2013

**Owner**

(REGISTRANT) FITNESSGLO, INC. CORPORATION DELAWARE 2118 Wilshire Blvd. Suite 800  
Santa Monica CALIFORNIA 90403

**Attorney of  
Record**

Rebecca Liebowitz

**Type of Mark**

SERVICE MARK

**Register**

PRINCIPAL

**Live/Dead  
Indicator**

LIVE

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# CLICK & GLO

**Word Mark** CLICK & GLO  
**Goods and Services**

IC 009. US 021 023 026 036 038. G & S: Downloadable physical fitness and exercise instructional video and audio recordings with or without pre-recorded music via the internet and wireless devices; Digital media, namely, pre-recorded video cassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, DVDs, and high definition digital discs featuring fitness, exercise, music and health-related issues; Downloadable multimedia file containing artwork, text, audio, video, and Internet Web links relating to fitness, exercise, music and health-related matters; Downloadable electronic publications in the form of brochures, leaflets, and workbooks featuring fitness, exercise, music and health-related issues. FIRST USE: 20100400. FIRST USE IN COMMERCE: 20100400

IC 038. US 100 101 104. G & S: Broadcasting and streaming of audio-visual media content in the fields of fitness, exercise and health-related matters via a global computer network; webcasting services; Providing access to online forums for transmission of messages and blogs over the Internet; Providing online electronic bulletin boards for transmission of messages among users in the field of general interest; Providing on-line chat rooms for social networking; Web messaging services; Video-on demand transmission services via the internet; Providing online forums for transmission of messages featuring fitness, exercise, music and health-related matters; Electronic transmission and streaming of digital media content for others via global and local computer networks; Streaming of audio, visual and audiovisual material via a global computer network; Communications services, namely, transmitting streamed sound and audio-visual recordings via the Internet; Streaming of video and audio material on the Internet; Providing access to computer databases; Electronic transmission of instant messages and data. FIRST USE: 20100400. FIRST USE IN COMMERCE: 20100400

IC 041. US 100 101 107. G & S: Education and entertainment services, namely, online instruction in the fields of exercise, fitness, music and health-related matters; Providing online information via a global computer network on the subjects of exercise, fitness and music; Electronic publishing services, namely, publication of text, graphics, photographs, images, and audio-visual works of others online for streaming featuring exercise, fitness, music, and health-related matters; Providing blogs in the nature of an online journal over the Internet featuring exercise, fitness, music, and health-related matters; Providing a website featuring non-downloadable audio-visual content, specifically, motion pictures, videos, music videos, music, video clips, audio clips, music clips, film clips, and photographs, in the fields of exercise, fitness, and music; Consulting services in the fields of exercise and fitness; Physical fitness instruction; Physical fitness training services; Providing a web site featuring information on exercise and fitness; Providing information in the field of fitness and exercise; Electronic publishing services, namely, publishing of online works of others featuring user-created text, audio, video, and graphics; Providing on-line journals and web logs featuring user-created content. FIRST USE: 20100400. FIRST USE IN COMMERCE: 20100400

IC 044. US 100 101. G & S: Providing a website featuring informational, non-downloadable audio-visual content, specifically, photographic, audio and video presentations in the fields of health-related matters, namely, health, wellness, and nutrition; Consulting services in the fields of health-related matters, namely, health, wellness, and nutrition; Providing information in the fields of health-related matters, namely, health, wellness, and nutrition. FIRST USE: 20100400. FIRST USE IN COMMERCE: 20100400

**Standard Characters Claimed**

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Serial Number**

85649019

**Filing Date**

June 11, 2012

**Current Basis**

1A

**Original Filing Basis**

1A

**Published for Opposition**

September 25, 2012

**Registration Number**

**4257758**

**Registration Date**

December 11, 2012

**Owner**

(REGISTRANT) Yogaglo, Inc. CORPORATION DELAWARE 2118 Wilshire Blvd Suite 800 Santa Monica CALIFORNIA 90403

**Attorney of Record**

Rebecca Liebowitz

**Type of Mark**

TRADEMARK. SERVICE MARK

**Register**

PRINCIPAL

**Live/Dead Indicator**

LIVE

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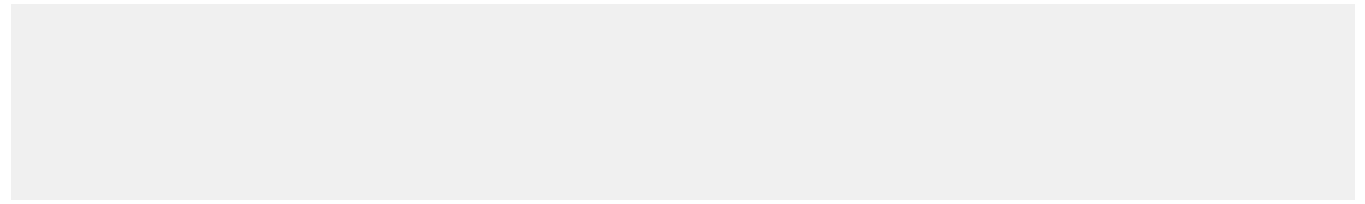
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# YogaGlo

**Word Mark** YOGAGLO  
**Goods and Services**

IC 009. US 021 023 026 036 038. G & S: Downloadable physical fitness and exercise instructional video and audio recordings with or without pre-recorded music via the internet and wireless devices; Digital media, namely, pre-recorded video cassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, DVDs, and high definition digital discs featuring fitness, exercise, music and health-related issues; Downloadable multimedia file containing artwork, text, audio, video, and Internet Web links relating to fitness, exercise, music and health-related matters; Downloadable electronic publications in the form of brochures, leaflets, and workbooks featuring fitness, exercise, music and health-related issues. FIRST USE: 20080723. FIRST USE IN COMMERCE: 20081018

IC 038. US 100 101 104. G & S: Broadcasting and streaming of audio-visual media content in the fields of fitness, exercise and health-related matters via a global computer network; webcasting services; Providing access to online forums for transmission of messages and blogs over the Internet; Providing online electronic bulletin boards for transmission of messages among users in the field of general interest; Providing on-line chat rooms for social networking; Web messaging services; Video-on demand transmission services via the internet; Providing online forums for transmission of messages featuring fitness, exercise, music and health-related matters; Electronic transmission and streaming of digital media content for others via global and local computer networks; Streaming of audio, visual and audiovisual material via a global computer network; Communications services, namely, transmitting streamed sound and audio-visual recordings via the Internet; Streaming of video and audio material on the Internet; Providing access to computer databases; Electronic transmission of instant messages and data. FIRST USE: 20080723. FIRST USE IN COMMERCE: 20081018

IC 041. US 100 101 107. G & S: Education and entertainment services, namely, online instruction in the fields of exercise, fitness, music and health-related matters; Providing online information via a global computer network on the subjects of exercise, fitness, music, and health-related matters; Electronic publishing services, namely, publication of text, graphics, photographs, images, and audio-visual works of others online for streaming featuring exercise, fitness, music, and health-related matters; Providing blogs in the nature of an online journal over the Internet featuring exercise, fitness, music, and health-related matters; Providing a website featuring non-downloadable audio-visual content, specifically, motion pictures, videos, music videos, music, video clips, audio clips, music clips, film clips, and photographs, in the fields of exercise, fitness, and music; Consulting services in the fields of exercise and fitness; Physical fitness instruction; Physical fitness training services; Providing a web site featuring information on exercise and fitness; Providing information in the field of fitness and exercise; Electronic publishing services, namely, publishing of online works of others featuring user-created text, audio, video, and graphics; Providing on-line journals and web logs featuring user-created content. FIRST USE: 20080723. FIRST USE IN COMMERCE: 20081018

IC 044. US 100 101. G & S: Providing a website featuring informational, non-downloadable audio-visual content, specifically, photographic, audio and video presentations in the fields of health-related matters, namely, health, wellness, and nutrition; Consulting services in the fields of health-related matters, namely, health, wellness, and nutrition; Providing information in the fields of health-related matters, namely, health, wellness, and nutrition. FIRST USE: 20080723. FIRST USE IN COMMERCE: 20081018

**Standard  
Characters  
Claimed**

**Mark Drawing  
Code** (4) STANDARD CHARACTER MARK

**Serial Number** 85209595

**Filing Date** January 3, 2011

**Current Basis** 1A

**Original Filing  
Basis** 1A

**Published for  
Opposition** April 17, 2012

**Registration  
Number** 4166507

**Registration  
Date** July 3, 2012

**Owner** (REGISTRANT) YOGAGLO, LLC LIMITED LIABILITY COMPANY CALIFORNIA 113 27TH ST B  
MANHATTAN BEACH CALIFORNIA 90266

(LAST LISTED OWNER) YOGAGLO, INC. CORPORATION DELAWARE 2118 Wilshire Blvd Suite  
800 Santa Monica CALIFORNIA 90403

**Assignment  
Recorded** ASSIGNMENT RECORDED

**Attorney of  
Record** Rebecca Liebowitz

**Prior  
Registrations** 3764227

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL

**Live/Dead  
Indicator** LIVE

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# yogaglo

<b>Word Mark</b>	YOGAGLO
<b>Goods and Services</b>	<p>IC 009. US 021 023 026 036 038. G &amp; S: Downloadable video recordings featuring yoga and meditation instruction with audio instruction and with or without music; Downloadable yoga and meditation instruction with audio instruction and with or without music via the internet and wireless devices. FIRST USE: 20080723. FIRST USE IN COMMERCE: 20081018</p> <p>IC 038. US 100 101 104. G &amp; S: Audio and video broadcasting services over the Internet; Communications services, namely, transmitting streamed sound and audiovisual recordings via the Internet; Streaming of video material on the Internet; Video-on-demand transmission services via the Internet. FIRST USE: 20080723. FIRST USE IN COMMERCE: 20081018</p> <p>IC 041. US 100 101 107. G &amp; S: Media production services, namely, video and film production; Yoga instruction. FIRST USE: 20080723. FIRST USE IN COMMERCE: 20081018</p> <p>(CANCELLED) IC 045. US 100 101. G &amp; S: [On-line social networking services]. FIRST USE: 20080723. FIRST USE IN COMMERCE: 20081018</p>
<b>Mark Drawing Code</b>	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
<b>Trademark Search Facility Classification Code</b>	LETTER-3-OR-MORE GLO Combination of three or more letters as part of the mark SHAPES-COLORS-2 Design listing or lined for two colors
<b>Serial Number</b>	77507529

**Filing Date** June 25, 2008  
**Current Basis** 1A  
**Original Filing Basis** 1B  
**Published for Opposition** November 25, 2008  
**Change In Registration** CHANGE IN REGISTRATION HAS OCCURRED  
**Registration Number** **3764227**  
**Registration Date** March 23, 2010  
**Owner** (REGISTRANT) YOGAGLO, LLC LIMITED LIABILITY COMPANY CALIFORNIA 113 27th st, Unit B  
 Manhattan Beach CALIFORNIA 90266  
  
 (LAST LISTED OWNER) YOGAGLO, INC. CORPORATION DELAWARE 2118 Wilshire Blvd Suite  
 800 Santa Monica CALIFORNIA 90403  
**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** Rebecca A. Liebowitz  
**Description of Mark** The color(s) gray and orange is/are claimed as a feature of the mark. The mark consists of the  
 letters "YOGA" in gray and the letters "GLO" in orange.  
**Type of Mark** TRADEMARK. SERVICE MARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. PARTIAL SECT 8 (6-YR).  
**Live/Dead Indicator** LIVE

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# GLO

**Word Mark**  
**Goods and Services**

GLO

IC 009. US 021 023 026 036 038. G & S: Downloadable physical fitness and exercise instructional video and audio recordings with or without pre-recorded music via the Internet and wireless devices; digital media, namely, downloadable audio and video recordings, featuring fitness, exercise, music and health-related issues; downloadable multimedia file containing artwork, text, audio, video, and Internet web links relating to fitness, exercise, music and health-related matters; downloadable electronic publications in the form of brochures, leaflets, and workbooks featuring fitness, exercise, music and health-related issues. FIRST USE: 20141200. FIRST USE IN COMMERCE: 20141200

IC 038. US 100 101 104. G & S: Broadcasting and streaming of audio-visual media content in the fields of fitness, exercise and health-related matters via a global computer network; webcasting services related to fitness, exercise, wellness, nutrition and health-related issues; providing access to online forums for transmission of messages and blogs related to fitness, exercise, wellness, nutrition and health-related issues over the Internet; providing online electronic bulletin boards for transmission of messages among users related to fitness, exercise, wellness, nutrition and health-related issues; providing on-line chat rooms related to fitness, exercise, wellness, nutrition and health-related issues for social networking; web messaging services related to fitness, exercise, wellness, nutrition and health-related issues; video-on demand transmission services related to fitness, exercise, wellness, nutrition and health-related issues via the Internet; providing online forums for transmission of messages featuring fitness, exercise, music and health-related matters; electronic transmission and streaming of digital media content related to fitness, exercise, wellness, nutrition and health-related issues for others via global and local computer networks; streaming of audio, visual and audiovisual material via a global computer network related to fitness, exercise, wellness, nutrition and health-related issues; communications services, namely, transmitting streamed sound and audio-visual recordings related to fitness, exercise, wellness, nutrition and health-related issues via the Internet;

streaming of video and audio material related to fitness, exercise, wellness, nutrition and health-related issues on the Internet; providing access to computer databases related to fitness, exercise, wellness, nutrition and health-related issues; electronic transmission of instant messages and data related to fitness, exercise, wellness, nutrition and health-related issues. FIRST USE: 20141200. FIRST USE IN COMMERCE: 20141200

IC 041. US 100 101 107. G & S: Education and entertainment services, namely, online instruction in the fields of exercise, fitness, music and health-related matters; providing online information via a global computer network on the subjects of exercise, fitness and music; electronic publishing services, namely, publication of text, graphics, photographs, images, and audio-visual works of others online for streaming featuring exercise, fitness, music, and health-related matters; providing blogs in the nature of an online journal over the Internet featuring exercise, fitness, music, and health-related matters; providing a website featuring non-downloadable audio-visual content, specifically, motion pictures, videos, music videos, music, video clips, audio clips, music clips, film clips, and photographs, in the fields of exercise, fitness, and music; consulting services in the fields of exercise and fitness; physical fitness instruction; physical fitness training services; providing a web site featuring information on exercise and fitness; providing information in the field of fitness and exercise; electronic publishing services, namely, publishing of online works of others featuring user-created text, audio, video, and graphics related to fitness, exercise, wellness, nutrition and health-related issues. FIRST USE: 20141200. FIRST USE IN COMMERCE: 20141200

IC 044. US 100 101. G & S: Providing a website featuring informational, non-downloadable audio-visual content, specifically, photographic, audio and video presentations in the fields of health-related matters, namely, health, wellness, and nutrition; consulting services in the fields of health-related matters, namely, health, wellness, and nutrition; providing information in the fields of health-related matters, namely, health, wellness, and nutrition. FIRST USE: 20141200. FIRST USE IN COMMERCE: 20141200

**Standard  
Characters  
Claimed**

**Mark Drawing  
Code** (4) STANDARD CHARACTER MARK

**Serial  
Number** 85810776

**Filing Date** December 26, 2012

**Current Basis** 1A

**Original  
Filing Basis** 1B

**Published for  
Opposition** January 28, 2014

**Registration  
Number** 4993684

**Registration  
Date** July 5, 2016

**Owner** (REGISTRANT) YogaGlo, Inc. CORPORATION DELAWARE 2118 Wilshire Blvd Suite 800 Santa Monica CALIFORNIA 90403

**Attorney of  
Record** Rebecca A. Liebowitz

**Prior  
Registrations** 3764227;4166507;4257758

**Type of Mark** TRADEMARK. SERVICE MARK

**Register** PRINCIPAL

**Live/Dead  
Indicator** LIVE

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