

ESTTA Tracking number: **ESTTA846183**

Filing date: **09/15/2017**

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 party opposes registration of the indicated application.

Opposer Information

Name	Only What You Need, Inc.
Granted to Date of previous extension	09/17/2017
Address	100 Passaic Ave., Ste 100 Fairfield, NJ 07004 UNITED STATES

Attorney information	Douglas A. Rettew Finnegan Henderson Farabow Garrett & Dunner, LLP 901 New York Avenue, NW Washington, DC 20001 UNITED STATES Email: docketing@finnegan.com, doug.rettew@finnegan.com, samuel.eichner@finnegan.com, TTAB-Legal-Assistants@finnegan.com Phone: 2024084000
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Applicant Information

Application No	87063501	Publication date	03/21/2017
Opposition Filing Date	09/15/2017	Opposition Period Ends	09/17/2017
Applicant	Ewyn Studios International Incorporated PO Box 698 446 Lyndoch Street Corunna, Ontario, N0N1G0 CANADA		

Goods/Services Affected by Opposition

Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Dietary and nutritional supplements; Vitamin and mineral supplements; Herbal supplements
Class 044. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Providing weight loss, weight management, and nutrition counselling, consultation, and planning services; providing facilities for weight loss, weight management, and nutrition counselling; providing a web site featuring information on weight loss, weight management, and nutrition

Applicant Information

Application No	87063537	Publication date	03/21/2017
Opposition Filing Date	09/15/2017	Opposition Period Ends	

Applicant	Ewyn Studios International Incorporated PO Box 698 446 Lyndoch Street Corunna, Ontario, N0N1G0 CANADA
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Goods/Services Affected by Opposition

Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Dietary and nutritional supplements; Vitamin and mineral supplements; Herbal supplements
Class 044. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Providing weight loss, weight management, and nutrition counselling, consultation, and planning services; providing facilities for weight loss, weight management, and nutrition counselling; providing a web site featuring information on weight loss, weight management, and nutrition

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. Application No.	86859931	Application Date	12/29/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OWYN ONLY WHAT YOU NEED		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 0 First Use In Commerce: 0 Nutritional supplements; dietary supplements; protein enriched beverages, namely, protein supplement shakes; nutritional supplement protein bars; nutritional supplements in the form of protein powders		


Attachments	86859931#TMSN.png(bytes) 9-15-17 Notice of Opposition EWYN 87063501 and 87063537.pdf(123272 bytes)
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Signature	/Douglas A. Rettew/
Name	Douglas A. Rettew
Date	09/15/2017

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

<p>ONLY WHAT YOU NEED, INC.,</p> <p style="text-align: center;">Opposer,</p> <p style="text-align: center;">v.</p> <p>EWYN STUDIOS INTERNATIONAL INCORPORATED,</p> <p style="text-align: center;">Applicant.</p>	<p>Consolidated Opposition No. _____</p> <p>Mark: EWYN Serial No.: 87063501 Filing Date: June 7, 2016</p> <p style="text-align: center;"></p> <p>Mark: Serial No. 87063537 Filing Date: June 7, 2016</p>
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CONSOLIDATED NOTICE OF OPPOSITION

Opposer, Only What You Need, Inc. (“OWYN”), believes that it will be damaged by the registration of Application Serial No. 87063501 for the mark EWYN and Application Serial No. 87063537 for the mark —each for “Dietary and nutritional supplements; Vitamin and mineral supplements; Herbal supplements” in Class 5 and “Providing weight loss, weight management, and nutrition counselling, consultation, and planning services; providing facilities for weight loss, weight management, and nutrition counselling; providing a web site featuring information on weight loss, weight management, and nutrition” in Class 44 (collectively the “EWYN Marks”), and opposes them. As grounds for its opposition, OWYN alleges the following, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to other matters:

OWYN, Its Products and Services, and Its Trademark


1. Opposer, OWYN, is a Delaware corporation with an address at 100 Passaic Ave., Ste 100, Fairfield, New Jersey 07004.

2. On December 29, 2015, OWYN filed U.S. Trademark Application Serial No. 86859931 for the mark OWYN ONLY WHAT YOU NEED for “Nutritional supplements; dietary supplements; protein enriched beverages, namely, protein supplement shakes; nutritional supplement protein bars; nutritional supplements in the form of protein powders” in International Class 5. That application published for opposition on June 28, 2016. A Notice of Allowance issued on August 23, 2016.

Applicant and Its Marks

3. Ewyn Studios International Incorporated is a Canada corporation with an address of PO Box 698, 446 Lyndoch Street, Corunna, Ontario, Canada N0N1G0.

4. On June 7, 2016, Applicant filed intent-to-use Application Serial No. 87063501 for the mark EWYN for “Dietary and nutritional supplements; Vitamin and mineral supplements; Herbal supplements” in Class 5 and “Providing weight loss, weight management, and nutrition counselling, consultation, and planning services; providing facilities for weight loss, weight management, and nutrition counselling; providing a web site featuring information on weight loss, weight management, and nutrition” in Class 44 (as amended).

5. On June 7, 2016, Applicant filed intent-to-use Application Serial No. 87063537 for the mark  for “Dietary and nutritional supplements; Vitamin and mineral supplements; Herbal supplements” in Class 5 and “Providing weight loss, weight management, and nutrition counselling, consultation, and planning services; providing facilities for weight loss, weight management, and nutrition counselling; providing a web site featuring information on weight loss, weight management, and nutrition” in Class 44 (as amended).

Count One
Likelihood of Confusion, 15 U.S.C. § 1052(d)

6. OWYN repeats and realleges each and every allegation set forth in each of the preceding paragraphs.

7. Applicant's EWYN Marks are so similar to OWYN's prior-filed OWYN ONLY WHAT YOU NEED mark, and the goods covered by OWYN'S OWYN ONLY WHAT YOU NEED and Applicant's EWYN Marks are related in such a way that it is likely that a potential consumer would be confused or mistaken or deceived as to the source of the parties' respective goods under Section 2(d) of the Lanham Act, as amended, 15 U.S.C. § 1052(d).

WHEREFORE, OWYN believes that it will be damaged by the registration of the EWYN Marks shown in Application Serial Nos. 87063501 and 87063537, and respectfully requests that this consolidated opposition be sustained and that registration to Applicant be refused.

A filing fee has been submitted electronically. If the filing fee is found to be insufficient for any reason, please charge such deficiency to Deposit Account No. 06-0916.

Respectfully submitted,

Dated: September 15, 2017

By: /Douglas A. Rettew/

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