

ESTTA Tracking number: **ESTTA856310**

Filing date: **11/03/2017**

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	RLP Ventures, LLC
Granted to Date of previous extension	11/04/2017
Address	Times Square StationPO Box 2605 New York, NY 10108-2605 UNITED STATES
Correspondence information	RLP Ventures, LLC Times Square StationPO Box 2605 New York, NY 10108-2605 UNITED STATES Email: rlpvllc@gmail.com

Applicant Information

Application No	87424553	Publication date	09/05/2017
Opposition Filing Date	11/03/2017	Opposition Period Ends	11/04/2017
Applicant	LaWana Harris 5012 Bartons Enclave Lave Raleigh, NC 27613 UNITED STATES		

Goods/Services Affected by Opposition

Class 016. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Books in the field of inclusion; Books in the field of leadership

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. Application No.	87226106	Application Date	11/04/2016
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MOSAEC		

Design Mark	<h1>MOSAEC</h1>
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1998/09/00 First Use In Commerce: 1998/09/00 Computer application software for desktop computers and mobile devices, namely, software for compilations, rankings, ratings, reviews, referrals and recommendations relating to entertainment, film, fine arts, museums, literature, culture, music, sports, fashion, theater, dance, restaurants, recreation and leisure activities; Computer application software for desktop computers and mobile devices, namely, software for entering, accessing and tracking data related to entertainment, film, fine arts, museums, literature, culture, music, sports, fashion, theater, dance, restaurants, recreation, leisure activities and social networking; Computer application software for desktop computers and mobile devices, namely, software for uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network; Computer application software for desktop computers and mobile devices, namely, software for displaying and sharing a user's location and finding, locating, and interacting with other users and places; Computer software to enhance the audio-visual capabilities of multimedia applications, namely, for the integration of text, audio, graphics, still images and moving pictures; Downloadable electronic newsletters in the field of entertainment, film, fine arts, museums, literature, culture, music, sports, fashion, theater, dance, restaurants, recreation and leisure activities; Downloadable mobile applications for entering, accessing and tracking data related to entertainment, film, fine arts, museums, literature, culture, music, sports, fashion, theater, dance, restaurants, recreation, leisure activities and social networking; Computer e-commerce software to allow users to perform electronic business transactions via a global computer network

U.S. Application No.	87670342	Application Date	
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services			

U.S. Application No.	86587316	Application Date	04/03/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MOSAEC		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1998/09/03 First Use In Commerce: 1998/09/03 Entertainment services, namely, providing information by means of a global computer network in the fields of celebrities, entertainment, and popular culture; Entertainment services, namely, providing on-line reviews of entertainment, film, fine arts, museums, literature, culture, music, sports, fashion, theater, and dance; Providing a website featuring entertainment information in the field(s) of entertainment, film, fine arts, museums, literature, culture, music, sports, fashion, theater, dance, and news; Providing a website featuring entertainment information in the field(s) of entertainment, film, fine arts, museums, literature, culture, music, sports, fashion, theater, dance, and news; Providing information, news and commentary in the field of entertainment; Providing information, news and commentary in the field of recreation and leisure activities; Provision of information relating to children's entertainment

U.S. Registration No.	5284032	Application Date	09/01/2016
Registration Date	09/12/2017	Foreign Priority Date	NONE
Word Mark	MOSAEC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1998/09/00 First Use In Commerce: 1998/09/00 Providing temporary use of a non-downloadable web application for posting, searching, accessing, sharing, and tracking reviews, ratings, referrals, recommendations, and other information as well as advertising, uploading photos, adding videos, finding, locating, and interacting with other users, related to entertainment, film, fine arts, museums, literature, culture, music, sports, fashion, theater, dance, restaurants, recreation and leisure activities		

Attachments	87226106#TMSN.png(bytes) 86587316#TMSN.png(bytes) 87159118#TMSN.png(bytes) Notice of Opposition re SN 87424553.pdf(190377 bytes)
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Signature	/Ramona Prioleau/
Name	RLP Ventures, LLC
Date	11/03/2017

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

RLP Ventures, LLC	Opposer,	Opposition No. _____
v.		
LaWana Harris	Applicant.	Mark: MOSAIC LEADERSHIP Serial No. 87/424,553 Filed: April 25, 2017

NOTICE OF OPPOSITION

RLP Ventures, LLC (“Opposer”), a New York limited liability company, having an address at Times Square Station, P.O. Box 2605, New York, New York 10108-2605, believes that it will be damaged by registration of the mark shown in the above-identified application for the goods in International Class 16, and hereby opposes the same.

The grounds for opposition are as follows:

Background on the Parties

A. The Opposer and the Origins of the Opposer’s Mark

1. The Opposer is the owner and operator of an entity that uses the trademark “MOSAEC” (“Opposer’s Mark”). The MOSAEC platform is a commerce, content, entertainment, advertising, technology and social media ecosystem that spotlights film, music, art, theater, dance, literature, fashion, sports and locales. In addition, via the MOSAEC platform, the Opposer distributes consumer goods, buys and sells advertising, and seeks funding from individuals, corporations and governments. It has also been used to advance personal, educational, and career goals.
2. The MOSAEC ecosystem is targeted to people from diverse cultures and countries and encourages them to use its goods and services, including goods and services related to books in the fields of inclusion and leadership.
3. The use of the Opposer’s Mark commenced as early as September 1998. The concept for the MOSAEC platform was developed during calendar years 1996 – 1998. The MOSAEC-branded service was initially conceptualized in paper form and later transitioned to a digital format. Aspects of the business plan and source code for the MOSAEC platform were developed by the Opposer during calendar years 1996 – 1999 during courses the Opposer’s owner took at New York University and other schools.

4. The MOSAEC platform was released first in a “beta” form during the fall of 1998. The beta version of the website was used, in part, to recruit talent, seek funding, and sell ads. The “gamma” version of the platform was launched in the spring of 1999. Since its 1999 launch, the MOSAEC platform has been accessible throughout the United States (including, without limitation, in North Carolina – the apparent base of operations for the Applicant) and internationally, with users engaging with the platform’s content and purchasing its consumer goods. Contributors to the MOSAEC platform have resided throughout the United States. Through the use of the MOSAEC platform, consumer goods have been distributed to its users and contractors (throughout the United States, including in North Carolina).

5. The Opposer built the MOSAEC platform from the ground up, investing substantial amounts of time and money, including promoting the MOSAEC platform via national and international advertising channels. With great effort, the Opposer has continued to operate the MOSAEC platform through market downturns (2001 and 2009).

6. Since the adoption of the Opposer’s Mark, the MOSAEC platform has been used and accessed by a notable number of users. For example, since 2008, there have been over 740,000 YouTube views of videos incorporating the MOSAEC brand in connection with the Opposer’s services. Since 2009, there have been over 146,000 likes recorded in connection with the Facebook presence associated with the MOSAEC platform. On Twitter, since 2009, the MOSAEC platform’s page has garnered over 10,000 followers. Branded tweets have been retweeted by Tribeca Film Festival (@TribecaFilm), which has over 208,000 followers; tweeted by Michael Skolnik (@MichaelSkolnik), who has over 209,000 followers; and retweeted by Brad Gilbert (@bgtennisnation), who has over 136,000 followers. The LinkedIn presence for the MOSAEC platform has been in existence since 2009 and an Instagram presence has been recently added. Within the Google environment, the term “MOSAEC” has been a part of over 2,000 search results.

B. Applicant’s Mark

7. LaWana Harris (“Applicant”) filed an intent-to-use (Section 1(b)) application to register the mark MOSAIC LEADERSHIP (“Applicant’s Mark”), Serial No. 87/424,553 on the Principal Register of the United States Patent and Trademark Office on April 25, 2017 and published for opposition on September 5, 2017, covering the following goods (“Applicant’s Goods”): “Books in the field of inclusion; Books in the field of leadership” in Class 16.

8. Upon information and belief, the Applicant has not commenced use in interstate commerce of the Applicant’s Mark in connection with any of its covered goods in International Class 16.

Prior Communications between the Parties

9. On or about June 1, 2017, the Opposer sent the attorney of record for the Applicant’s application a cease and desist letter.

Prosecution in the United States Patent and Trademark Office

10. The Opposer has priority based on its prior use of the Opposer’s Mark in commerce in connection with the Opposer’s Goods and Services (defined below). The Opposer used the

Opposer's Mark in commerce in connection with the Opposer's Goods and Services before the filing date of U.S. Trademark Application No. 87/424,553. Furthermore, the Opposer has used the Opposer's Mark in commerce before any date of first use that the Applicant may establish in connection with the Applicant's Mark.

11. The Opposer has filed use-based (Section 1(a)) applications for the registration of the Opposer's Mark, covering goods and services in connection with which the Opposer's Mark is used. Notable in the list of goods and services are the following:

Opposer's Mark	Registration or US Serial No.	Good/Services (collectively, the "Opposer's Goods and Services")	Registration or Application Date
MOSAEC	87/226,106	<i>"Computer application software for desktop computers and mobile devices, namely, software for compilations, rankings, ratings, reviews, referrals and recommendations relating to entertainment, film, fine arts, museums, literature, culture, music, sports, fashion, theater, dance, restaurants, recreation and leisure activities; Computer application software for desktop computers and mobile devices, namely, software for entering, accessing and tracking data related to entertainment, film, fine arts, museums, literature, culture, music, sports, fashion, theater, dance, restaurants, recreation, leisure activities and social networking; Computer application software for desktop computers and mobile devices, namely, software for uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network; Computer application software for desktop computers and mobile devices, namely, software for displaying and sharing a user's location and finding, locating, and interacting with other users and places; Computer software to enhance the audio-visual capabilities of multimedia applications, namely, for the integration of text, audio, graphics, still images and moving pictures; Downloadable electronic newsletters in the field of entertainment, film, fine arts, museums, literature, culture, music, sports, fashion, theater, dance, restaurants, recreation and leisure activities; Downloadable mobile</i>	November 4, 2016

		<i>applications for entering, accessing and tracking data related to entertainment, film, fine arts, museums, literature, culture, music, sports, fashion, theater, dance, restaurants, recreation, leisure activities and social networking; Computer e-commerce software to allow users to perform electronic business transactions via a global computer network;” in Class 009.</i>	
MOSAEC	87/670,342	<i>“Printed instructional, educational, and teaching materials in the field of foreign languages and cross-cultural communication; Fiction books on a variety of topics; Non-fiction books on a variety of topics” in Class 016.</i>	November 2, 2017
MOSAEC	86/587,316	<i>“Entertainment services, namely, providing information by means of a global computer network in the fields of celebrities, entertainment, and popular culture; Entertainment services, namely, providing on-line reviews of entertainment, film, fine arts, museums, literature, culture, music, sports, fashion, theater, and dance; Providing a website featuring entertainment information in the field(s) of entertainment, film, fine arts, museums, literature, culture, music, sports, fashion, theater, dance, and news; Providing information, news and commentary in the field of entertainment; Providing information, news and commentary in the field of recreation and leisure activities; Provision of information relating to children's entertainment” in Class 041.</i>	April 3, 2015
MOSAEC	5,284,032	<i>“Providing temporary use of a non-downloadable web application for posting, searching, accessing, sharing, and tracking reviews, ratings, referrals, recommendations, and other information as well as advertising, uploading photos, adding videos, finding, locating, and interacting with other users, related to entertainment, film, fine arts, museums, literature, culture, music, sports, fashion, theater, dance, restaurants, recreation and leisure activities” in Class 042.</i>	September 12, 2017

The dates of first use given are as early as September 1998.

Specific Grounds Alleged For Opposition - Likelihood of Confusion

12. The Opposer asserts that the Opposer's Mark and the Applicant's Mark are confusingly similar in sound, appearance and commercial impression. Applicant's Mark incorporates MOSAIC which is confusingly similar in sound, appearance and commercial impression to the Opposer's Mark. Note that the only difference in the Applicant's use of the word MOSAIC is the "I" in the MOSAIC portion of Applicant's Mark. Furthermore, the addition of the phrase "LEADERSHIP" is unlikely to dispel confusion because the dominant feature of the Applicant's Mark is MOSAIC because it is the first term in the mark. Also, the addition of the phrase "LEADERSHIP" will likely heighten confusion, as many consumers are apt to believe that MOSAIC LEADERSHIP is a good offered by the Opposer in connection with its use of Opposer's Mark for non-fiction books as well as use of the MOSAEC platform to advance personal, educational, and career goals.

13. Applicant's Mark is confusingly similar to the Opposer's Mark, and will be used on and in connection with goods that are similar or related to goods and services for which Opposer has used its trademark. Opposer has used its services to provide an engagement platform that targets members from different cultures and countries. Opposer's Mark has also been used to advance personal, educational, and career goals as well as for non-fiction books related to inclusion and leadership. Applicant's intent to use of the mark MOSAIC LEADERSHIP is likely to cause consumers to mistakenly believe that Applicant's Goods are somehow related to Opposer or the Opposer's Mark, or that such goods originate from, or are sponsored or approved by, Opposer (or vice versa). Such confusion and mistake are likely to cause injury to Opposer.

14. As the result of the foregoing, the Opposer holds rights in the term MOSAEC and variations thereof which are superior to any alleged rights of Applicant with respect to Applicant's Goods.

15. On information and belief, Applicant's Mark will be used in connection with goods for users that are within the same group targeted by Opposer.

16. The Opposer asserts that the goods to be offered by Applicant in connection with the Applicant's Mark are related to some of the goods and services offered by Opposer in connection with which Opposer's Mark is used prior to the use of the Applicant's Mark. Upon information and belief, the goods will be offered through overlapping channels to overlapping classes of customers in conditions that do not demand lengthy examination, strict scrutiny and a long period of deliberation. Moreover, to the extent that Applicant's and Opposer's goods and services do not already overlap, Applicant's Goods are within Opposer's zone of natural expansion.

17. Applicant's Mark is likely to cause consumer confusion, mistake or deception with consequent injury to Opposer and the public. Use of such mark will likely lead to the mistaken belief that Applicant's Goods originate with, are affiliated with, or are sponsored or approved by Opposer. Members of the relevant public upon seeing Applicant's Mark for Applicant's Goods would reasonably assume in error that there is a relationship between Applicant and Opposer as to the source of the goods.

18. If Applicant is granted a registration for Applicant's Mark, it would obtain, thereby, at least a prima facie exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer.

19. If Applicant is permitted to continue its registration of Applicant's Mark in International Class 16, confusion of the relevant trade and public is likely to result, which deprives Opposer of control over its own reputation and is likely to damage and injure Opposer.

20. Accordingly, Applicant's Mark so resembles Opposer's prior used mark as to be likely to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, as amended, 15 U.S.C. § 1052(d), when used on or in connection with Applicant's Goods.

21. Under the circumstances, registration of Applicant's Mark will injure Opposer by causing the trade and/or purchasing public to be confused, and/or deceived into believing that Applicant's Goods are those of Opposer, or are sponsored by Opposer, to Opposer's damage and will place a cloud over Opposer's title to Opposer's Mark, in violation of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

22. Registration should be refused pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d) on the grounds that Applicant's Mark so resembles Opposer's Mark as to cause confusion, mistake and/or deception, all to the damage of Opposer.

WHEREFORE, the Opposer prays that this Opposition be sustained and that the Applicant's Application opposed herein be denied in International Class 16.

Dated: November 3, 2017

Respectfully submitted,

By: 

Ramona Prioleau
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OPPOSER

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the attached Notice of Opposition was served on the Attorney for the Applicant on the date listed below via email:

A. Justin Eldreth
Klish and Eldreth, PLLC
115 S Saint Marys St Ste C
Raleigh, North Carolina 27603
justin@klisheldreth.com

Dated: November 3, 2017

By:



Ramona Prioleau