

ESTTA Tracking number: **ESTTA861176**

Filing date: **11/29/2017**

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	University of Georgia Athletic Association
Granted to Date of previous extension	11/29/2017
Address	Butts-Mehre Heritage Hall1 Selig Circle Athens, GA 30602 UNITED STATES

Attorney information	Richard J. Groos King & Spalding LLP 500 West 2nd Street Austin, TX 78701 UNITED STATES Email: aotrademark@kslaw.com, rgroos@kslaw.com, shunter@kslaw.com, kp-fertner@kslaw.com Phone: 5124572018
----------------------	---

Applicant Information

Application No	87351637	Publication date	08/01/2017
Opposition Filing Date	11/29/2017	Opposition Period Ends	11/29/2017
Applicant	Green, Jermaan 3090 Milford Chase SW Marietta, GA 30008 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Online sports recruiting services for high school student athletes

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1945116	Application Date	06/16/1994
Registration Date	01/02/1996	Foreign Priority Date	NONE

Word Mark	DAWGS
Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1976/00/00 First Use In Commerce: 1976/00/00 entertainment in the nature of footballgames

U.S. Registration No.	3075673	Application Date	04/27/2004
Registration Date	04/04/2006	Foreign Priority Date	NONE


Word Mark	DAWGS
Design Mark	

Description of Mark	NONE
Goods/Services	<p>Class 016. First use: First Use: 1976/12/31 First Use In Commerce: 1976/12/31 DECALS, NOTEPAPER, NOTEBOOKS, PAPER FOLDERS; PRINTED BOOKLETS, CATALOGS, NEWSLETTERS, AND BROCHURES ALL FEATURING COLLEGE FOOTBALL</p> <p>Class 021. First use: First Use: 1976/12/31 First Use In Commerce: 1976/12/31 Beverage glassware, earthenware, and plasticware, namely drinking glasses, mugs, coffee cups and shot glasses, coasters, and insulated beverage coolers</p> <p>Class 025. First use: First Use: 1976/12/31 First Use In Commerce: 1976/12/31 Clothing, namely boxer shorts, caps, coats, footwear, hats, infant wear, jackets, jerseys, pants, rainwear, shirts, shoes, shorts, sweatpants, sweatshirts, sweat suits, sweaters, T-shirts, ties, and visors</p> <p>Class 028. First use: First Use: 1976/12/31 First Use In Commerce: 1976/12/31 TOYS, GAMES, AND SPORTING GOODS, NAMELYBOARD GAMES, STUFFED TOY ANIMALS, FOOTBALLS, BASKETBALLS, SOCCER BALLS, BASEBALLS, GOLF BALLS, GOLF BAGS, AND GOLF ACCESSORIES, NAMELY GOLF CLUB COVERS, GOLF CLUB HEAD COVERS, DIVOT REPAIR TOOLS, GOLF ACCESSORY POUCHES, GOLF BAG COVERS, GOLF BAG TAGS, GOLF BALL MARKERS, GOLF BALL RETRIEVERS, GOLF BALL</p>

	SLEEVES, GOLF CLUB GRIPS, GOLF CLUB HEADS, GOLF CLUB INSERTS, GOLF CLUB SHAFTS, GOLF GLOVES, GOLF PUTTER COVERS, GOLF PUTTERS, GOLF TEE MARKERS, GOLF TEES, AND GOLF TOWEL CLIPS FOR ATTACHMENT TO GOLF BAGS; AND CHRISTMAS TREE ORNAMENTS
--	--

U.S. Registration No.	3044738	Application Date	04/30/2004
Registration Date	01/17/2006	Foreign Priority Date	NONE

Word Mark	HOW 'BOUT THEM DAWGS
-----------	----------------------

Design Mark	
-------------	--

Description of Mark	NONE
---------------------	------

Goods/Services	Class 025. First use: First Use: 1978/09/30 First Use In Commerce: 1978/09/30 Clothing, namely boxer shorts, caps, coats, footwear, hats, infant wear, jackets, jerseys, pants, rainwear, shirts, shoes, shorts, sweatpants, sweatshirts, sweat suits, sweaters, T-shirts, ties, and visors
----------------	---

U.S. Registration No.	3044695	Application Date	04/21/2004
Registration Date	01/17/2006	Foreign Priority Date	NONE

Word Mark	HAIRY DAWG
-----------	------------

Design Mark	<h1>HAIRY DAWG</h1>
Description of Mark	NONE
Goods/Services	<p>Class 025. First use: First Use: 1988/12/31 First Use In Commerce: 1988/12/31 ((Clothing, namely, boxer shorts, caps, coats, footwear, hats, infant wear, jackets, jerseys, pants, rainwear, shirts,shoes, shorts, sweatpants, sweat-shirts,sweat suits, sweaters, T-shirts, ties, and visors))</p> <p>Class 041. First use: First Use: 1988/12/31 First Use In Commerce: 1988/12/31 Education services, namely providing instruction at the college level, and entertainment services, namely organizing and conducting collegiate sporting events</p>

Attachments	<p>78409055#TMSN.png(bytes) 78411054#TMSN.png(bytes) 78405825#TMSN.png(bytes) Notice of Opposition.pdf(17747 bytes) Exhibit A.pdf(121273 bytes)</p>
-------------	---

Signature	/Richard J. Groos/
Name	Richard J. Groos
Date	11/29/2017

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

In the matter of Application Serial No. 87/351,637

By Green, Jermaan for the Mark: TOP DAWG RECRUITING

Filed on February 27, 2017, Published in the *Official Gazette* on August 1, 2017

UNIVERSITY OF GEORGIA ATHLETIC
ASSOCIATION, INC.,
Opposer,

v.

GREEN, JERMAAN,
Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

University of Georgia Athletic Association, Inc. (“Opposer”), a Georgia corporation having a principal place of business at Butts-Mehre Heritage Hall, 1 Selig Circle, Athens, Georgia 30602, believes that it will be damaged by registration of the mark “TOP DAWG RECRUITING” as shown in Application Serial No. 87/351,637 (the “Application”) filed by Jermaan Green for the services “Online sports recruiting services for high school student athletes” in International Classes 35 (“Applicant’s Services”) and hereby opposes the same.

As the grounds of Opposition, Opposer alleges that:

1. Opposer is the athletic association of The University of Georgia (the “University”), which offers one of the top athletic programs in the nation.

2. Since long prior to the filing of Applicant’s Application, Opposer, its predecessors and affiliates, including the University, and its licensees (collectively, “Opposer’s Affiliates and Licensees”) have used in interstate commerce several marks that include the terms

“DAWG,” “DAWGS,” and “DOGS” for and in connection with the University’s athletic department, educational services, and related goods and services (collectively, these marks are referred to herein as the “DAWG Marks”).

3. Opposer is the owner of, among others, incontestable registrations for the trademarks “DAWGS” (United States Registration No. 1,945,116) covering “Entertainment in the nature of football games” in International Class 41; “DAWGS” (United States Registration No. 3,075,673) for “Decals, notepaper, notebooks, paper folders; printed booklets, catalogs, newsletters, and brochures all featuring college football” in International Class 16, “Beverage glassware, earthenware, and plasticware, namely drinking glasses, mugs, coffee cups and shot glasses, coasters, and insulated beverage coolers” in International Class 21, “Clothing, namely boxer shorts, caps, coats, footwear, hats, infant wear, jackets, jerseys, pants, rainwear, shirts, shoes, shorts, sweatpants, sweatshirts, sweat suits, sweaters, T-shirts, ties, and visors” in International Class 25, and “Toys, games, and sporting goods, namely board games, stuffed toy animals, footballs, basketballs, soccer balls, baseballs, golf balls, golf bags, and golf accessories, namely golf club covers, golf club head covers, divot repair tools, golf accessory pouches, golf bag covers, golf bag tags, golf ball markers, golf ball retrievers, golf ball sleeves, golf club grips, golf club heads, golf club inserts, golf club shafts, golf gloves, golf putter covers, golf putters, golf tee markers, golf tees, and golf towel clips for attachment to golf bags; and Christmas tree ornaments” in International Class 28; “HOW 'BOUT THEM DAWGS” (United States Registration No. 3,044,738) for “Clothing, namely boxer shorts, caps, coats, footwear, hats, infant wear, jackets, jerseys, pants, rainwear, shirts, shoes, shorts, sweatpants, sweatshirts, sweat suits, sweaters, T-shirts, ties, and visors” in International Class 25; and “HAIRY DAWG” (United States Registration No. 3,044,695) for “Education services,

namely providing instruction at the college level, and entertainment services, namely organizing and conducting collegiate sporting events” in International Class 41. Printouts of the TSDR database information for these registrations are attached as **Exhibit A**.

4. Opposer also has valuable common law rights in its DAWG Marks.

5. Applicant filed the Application on February 27, 2017, on the basis of Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b). The Application is therefore based on Applicant’s intent to use Applicant’s alleged mark in commerce and does not claim a date of first use.

6. Upon information and belief, Applicant has not used his alleged mark prior to the filing date of the Application, namely February 27, 2017.

7. Opposer and Opposer’s Affiliates and Licensees have used Opposer’s DAWG Marks for and in connection with various goods and services in interstate commerce in and throughout the United States continuously and extensively since at least as early as December 31, 1929.

8. By virtue of its promotional and advertising activities and the excellence of its goods and services, Opposer has gained a valuable reputation for its DAWG Marks and has created, in the minds of the relevant public, an exclusive association between the DAWG Marks and Opposer’s goods and services. As a result, Opposer’s DAWG Marks are of great value to Opposer, the University, and Opposer’s Affiliates and Licensees in connection with the offering of Opposer’s goods and services.

9. Since at least as early as 1988, Opposer has used and licensed the use of the DAWG Marks for and in connection with a wide variety of goods and services, including without limitation recruiting services.

10. The University is one of the top athletic programs in the country, and as such extensively uses its DAWG Marks in connection with the recruitment of athletes and students to its campuses and programs.

11. As a result of long, widespread, and extensive use by Opposer and Opposer's Affiliates and Licensees of Opposer's DAWG Marks, including without limitation Opposer's marks "DAWG," "DAWGS," "HOW 'BOUT THEM DAWGS," and "HAIRY DAWG," in and throughout the United States, Opposer's DAWG Marks have acquired a significant degree of fame among members of the general public and have become famous marks, as that term is used in Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c). Upon information and belief, Opposer's DAWG Marks became famous marks long before the filing date of Applicant's Application.

12. The trademark proposed for registration by Applicant, namely, "TOP DAWG RECRUITING," is likely to cause dilution by blurring of Opposer's DAWG Marks, and also reduces the capacity of the famous DAWG Marks to identify the goods of Opposer.

13. Applicant's alleged mark "TOP DAWG RECRUITING" is confusingly similar to Opposer's DAWG Marks in appearance, sound, connotation, and commercial impression. Upon information and belief, Applicant's proposed mark is intended to be used in connection with athletic recruiting services that are identical, similar and/or related to or within the zone of natural expansion as compared with the services in connection with which Opposer has used its DAWG Marks and which are targeted to substantially the same class of consumers.

14. Upon information and belief, Applicant is unable to establish, with respect to Opposer's use of its DAWG Marks, priority of use or priority of rights in the United States in connection with Applicant's alleged mark.

15. Upon information and belief, Applicant's alleged mark, when used in connection with Applicant's Services, would so resemble Opposer's DAWG Marks as to be likely to cause confusion or mistake, or to deceive with respect to the source or origin of Applicant's Services.

16. Upon information and belief, Applicant's alleged mark, when used in connection with Applicant's Services, is likely to falsely suggest a connection, affiliation, endorsement, sponsorship or association with Opposer, the University, and/or Opposer's Affiliates and Licensees.

17. Intended or current use by Applicant of the alleged mark "TOP DAWG RECRUITING" would be and/or is without Opposer's consent or permission.

18. Furthermore, any defect, objection or fault found with Applicant's Services offered under Applicant's alleged mark would be likely to reflect upon and seriously injure the reputation that Opposer has established for its goods and services offered under its DAWG Marks. Registration therefore should be refused under 15 U.S.C. § 1052(d).

19. If Applicant is granted the registration herein opposed, he would thereby obtain at least a *prima facie* exclusive right to the use of his alleged mark. Such registration would be inconsistent with and detrimental to Opposer's prior, established, and superior rights in Opposer's DAWG Marks and would be a source of damage and injury to Opposer.

WHEREFORE, University of Georgia Athletic Association, Inc., prays that Application Serial No. 87/351,637 be rejected, and that registration of the mark therein be refused and that the opposition be sustained in favor of Opposer.

Respectfully submitted,

Dated: November 29, 2017

By: /s/Sheri M. Hunter

Richard J. Groos

Sheri M. Hunter

KING & SPALDING LLP

500 West 2nd Street, Suite 1800

Austin, TX 78701

T: +1 512 457 2000

F: +1 512 457 2100

ATTORNEYS FOR OPPOSER

EXHIBIT A

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

United States Patent and Trademark Office

Reg. No. 1,945,116

Registered Jan. 2, 1996

**SERVICE MARK
PRINCIPAL REGISTER**

DAWGS

UNIVERSITY OF GEORGIA ATHLETIC ASSO-
CIATION, INC., THE (GEORGIA CORPORA-
TION)
100 PINECREST STREET, ROOM 330
ATHENS, GA 30602

FIRST USE 0-0-1976; IN COMMERCE
0-0-1976.

SER. NO. 74-538,321, FILED 6-16-1994.

FOR: ENTERTAINMENT IN THE NATURE
OF FOOTBALL GAMES, IN CLASS 41 (U.S.
CLS. 100, 101 AND 107).

PATRICIA HORRALL, EXAMINING ATTOR-
NEY

Int. Cls.: 25 and 41

Prior U.S. Cls.: 22, 39, 100, 101 and 107

Reg. No. 3,044,695

United States Patent and Trademark Office

Registered Jan. 17, 2006

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

HAIRY DAWG

UNIVERSITY OF GEORGIA ATHLETIC ASSOCIATION, INC. (GEORGIA NON-PROFIT CORPORATION)

BUTTS/MEHRE HERITAGE HALL

1 SELIG CIRCLE

ATHENS, GA 30602

FOR: CLOTHING, NAMELY BOXER SHORTS, CAPS, COATS, FOOTWEAR, HATS, INFANT WEAR, JACKETS, JERSEYS, PANTS, RAINWEAR, SHIRTS, SHOES, SHORTS, SWEATPANTS, SWEATSHIRTS, SWEAT SUITS, SWEATERS, T-SHIRTS, TIES, AND VISORS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 12-31-1988; IN COMMERCE 12-31-1988.

FOR: EDUCATION SERVICES, NAMELY PROVIDING INSTRUCTION AT THE COLLEGE LEVEL, AND ENTERTAINMENT SERVICES, NAMELY ORGANIZING AND CONDUCTING COLLEGIATE SPORTING EVENTS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 12-31-1988; IN COMMERCE 12-31-1988.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 78-405,825, FILED 4-21-2004.

ERNEST SHOSHO, EXAMINING ATTORNEY

Int. Cls.: 16, 21, 25 and 28

**Prior U.S. Cls.: 2, 5, 13, 22, 23, 29, 30, 33, 37, 38, 39, 40
and 50**

Reg. No. 3,075,673

United States Patent and Trademark Office

Registered Apr. 4, 2006

**TRADEMARK
PRINCIPAL REGISTER**

DAWGS

UNIVERSITY OF GEORGIA ATHLETIC ASSOCIATION, INC. (GEORGIA NON-PROFIT CORPORATION)
BUTTS/MEHRE HERITAGE HALL
1 SELIG CIRCLE
ATHENS, GA 30602

FOR: DECALS, NOTEPAPER, NOTEBOOKS, PAPER FOLDERS; PRINTED BOOKLETS, CATALOGS, NEWSLETTERS, AND BROCHURES ALL FEATURING COLLEGE FOOTBALL, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 12-31-1976; IN COMMERCE 12-31-1976.

FOR: BEVERAGE GLASSWARE, EARTHENWARE, AND PLASTICWARE, NAMELY DRINKING GLASSES, MUGS, COFFEE CUPS AND SHOT GLASSES, COASTERS, AND INSULATED BEVERAGE COOLERS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 12-31-1976; IN COMMERCE 12-31-1976.

FOR: CLOTHING, NAMELY BOXER SHORTS, CAPS, COATS, FOOTWEAR, HATS, INFANT WEAR, JACKETS, JERSEYS, PANTS, RAINWEAR, SHIRTS, SHOES, SHORTS, SWEATPANTS, SWEATSHIRTS, SWEAT SUITS, SWEATERS, T-SHIRTS, TIES, AND VISORS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 12-31-1976; IN COMMERCE 12-31-1976.

FOR: TOYS, GAMES, AND SPORTING GOODS, NAMELY BOARD GAMES, STUFFED TOY ANIMALS, FOOTBALLS, BASKETBALLS, SOCCER BALLS, BASEBALLS, GOLF BALLS, GOLF BAGS, AND GOLF ACCESSORIES, NAMELY GOLF CLUB COVERS, GOLF CLUB HEAD COVERS, DIVOT REPAIR TOOLS, GOLF ACCESSORY POUCHES, GOLF BAG COVERS, GOLF BAG TAGS, GOLF BALL MARKERS, GOLF BALL RETRIEVERS, GOLF BALL SLEEVES, GOLF CLUB GRIPS, GOLF CLUB HEADS, GOLF CLUB INSERTS, GOLF CLUB SHAFTS, GOLF GLOVES, GOLF PUTTER COVERS, GOLF PUTTERS, GOLF TEE MARKERS, GOLF TEES, AND GOLF TOWEL CLIPS FOR ATTACHMENT TO GOLF BAGS; AND CHRISTMAS TREE ORNAMENTS, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 12-31-1976; IN COMMERCE 12-31-1976.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 1,945,116.

SER. NO. 78-409,055, FILED 4-27-2004.

ERNEST SHOSHO, EXAMINING ATTORNEY

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,044,738

Registered Jan. 17, 2006

**TRADEMARK
PRINCIPAL REGISTER**

**HOW 'BOUT THEM
DAWGS**

UNIVERSITY OF GEORGIA ATHLETIC ASSO-
CIATION, INC. (GEORGIA NON-PROFIT
CORPORATION)
BUTTS/MEHRE HERITAGE HALL
1 SELIG CIRCLE
ATHENS, GA 30602

FOR: CLOTHING, NAMELY BOXER SHORTS,
CAPS, COATS, FOOTWEAR, HATS, INFANT WEAR,
JACKETS, JERSEYS, PANTS, RAINWEAR, SHIRTS,
SHOES, SHORTS, SWEATPANTS, SWEATSHIRTS,
SWEAT SUITS, SWEATERS, T-SHIRTS, TIES, AND
VISORS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 9-30-1978; IN COMMERCE 9-30-1978.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,249,346 AND
1,945,116.

SER. NO. 78-411,054, FILED 4-30-2004.

ERNEST SHOSHO, EXAMINING ATTORNEY