

ESTTA Tracking number: **ESTTA972360**

Filing date: **05/08/2019**

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	Good Life Fitness Center, LLC
Granted to Date of previous extension	05/08/2019
Address	1405 SIDNEY BAKER ST KERRVILLE, TX 78028 UNITED STATES

Attorney information	WAYNE J COLTON WAYNE J COLTON INC 405 N SAINT MARYS ST STE 900 SAN ANTONIO, TX 78205-2326 UNITED STATES colton@wjci.com 210-222-8455
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Applicant Information

Application No	88082384	Publication date	01/08/2019
Opposition Filing Date	05/08/2019	Opposition Period Ends	05/08/2019
Applicant	Patchell Holdings Inc. 710 Proudfoot Lane London, Ontario, N6H5G5 CANADA		


Goods/Services Affected by Opposition

Class 041. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Providing fitness and exercise facilities, namely, providing fitness centers; Providing physical fitness, aerobics, free weights, and personal exercise training, classes and instruction featuring exercise bicycles, rowing machines and multi-station weight training equipment in a fitness center; Providing recreational facilities for aquatic activities in the nature of physical water exercises; Providing tennis court, racquet ball court and squash court recreational facilities; Education services, namely, conducting seminars, workshops and conferences in the fields of health care, fitness wellness and management and operation of health, fitness and wellness centers
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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. Application No.	88082695	Application Date	08/17/2018
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GOOD LIFE FITNESS CENTER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2017/01/01 First Use In Commerce: 2017/01/01 Conducting fitness classes; Providing fitness and exercise facilities		

U.S. Application No.	88082740	Application Date	08/17/2018
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	G GOOD LIFE FITNESS CENTER		
Design Mark			
Description of Mark	The mark consists of the lowercase letter G contained within a circular carrier, centered above the lowercase lettering GOOD LIFE, and smaller lowercase lettering FITNESS CENTER below the right half of the lettering GOOD LIFE.		
Goods/Services	Class 041. First use: First Use: 2017/01/01 First Use In Commerce: 2017/01/01 Conducting fitness classes; Providing fitness and exercise facilities		

Attachments	88082695#TMSN.png(bytes) 88082740#TMSN.png(bytes) Notice.pdf(130606 bytes)
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Signature	/Wayne J. Colton/
Name	WAYNE J COLTON
Date	05/08/2019

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

In re: Application Serial No. 88/082384

Filed: August 17, 2018

Mark: GOODLIFE FITNESS

	§	
Good Life Fitness Center, LLC,	§	
Opposer,	§	
	§	
vs.	§	Opposition No. _____
	§	
Patchell Holdings Inc.,	§	
Applicant.	§	
	§	

NOTICE OF OPPOSITION

Good Life Fitness Center, LLC (“Opposer”), a Texas limited liability company having a business address of 1405 Sidney Baker Street, Kerrville, Texas 78028, believes that it will be damaged by registration in the U.S. Patent and Trademark Office (the “Office”) of the mark GOODLIFE FITNESS (the “GOODLIFE FITNESS Mark”), as shown in U.S. trademark application Serial No. 88/082384 (the “GOODLIFE FITNESS Application”) filed August 17, 2018 by Patchell Holdings Inc. (“Applicant”) for use Int’l C. 041 in connection with: providing fitness and exercise facilities, namely, providing fitness centers; providing physical fitness, aerobics, free weights, and personal exercise training, classes and instruction featuring exercise bicycles, rowing machines and multi-station weight training equipment in a fitness center; providing recreational facilities for aquatic activities in the nature of physical water exercises; providing tennis court, racquet

ball court and squash court recreational facilities; and education services, namely, conducting seminars, workshops and conferences in the fields of health care, fitness wellness and management and operation of health, fitness and wellness centers (collectively, “Applicant’s Services”), and Opposer therefore hereby opposes the same.

As grounds for opposition, Opposer alleges that:

1. Opposer has used the mark GOOD LIFE FITNESS CENTER in various forms (collectively, the “GOOD LIFE FITNESS CENTER Marks”) in connection with conducting fitness classes, providing fitness and exercise facilities, and related services (collectively, “Opposer’s Services”), as such Opposer’s Services have been rendered in commerce, since at least as early as January 1, 2017, and Opposer continues to use the GOOD LIFE FITNESS CENTER Marks in commerce of Opposer’s Services.

2. Opposer has accumulated substantial goodwill associated with the provision of Opposer’s Services under the GOOD LIFE FITNESS CENTER Marks, which are recognized by the consuming public as indicators of the source of the quality services rendered by Opposer.

3. Opposer has now, and has since at least as early as January 1, 2017 had, protectable interests in the GOOD LIFE FITNESS CENTER Marks, under at least 15 U.S.C. § 1125(a) and the common laws of the State of Texas.

4. Opposer is the owner of presently pending U.S. trademark application Serial No. 88/082695 (the “GOOD LIFE FITNESS CENTER Standard Character Application”), seeking registration of the mark GOOD LIFE FITNESS CENTER, in

standard characters, (the “GOOD LIFE FITNESS CENTER Standard Character Mark”) for use in Int’l Cl. 041 in connection with conducting fitness classes; and providing fitness and exercise facilities.

5. Through a Suspension Notice issued December 6, 2018, action by the Office on Opposer’s GOOD LIFE FITNESS CENTER Standard Character Application has been suspended pending disposal of Applicant’s GOODLIFE FITNESS Application.

6. The suspension of action by the Office as described in paragraph 5 hereof is grounded in a preliminary determination by the Office that concurrent use of Opposer’s GOOD LIFE FITNESS CENTER Standard Character Mark and Applicant’s GOODLIFE FITNESS Mark would create a likelihood of confusion, and therefore may merit refusal under 35 U.S.C. § 1052(d).

7. Opposer is the owner of presently pending U.S. trademark application Serial No. 88/082740 (the “GOOD LIFE FITNESS CENTER Stylized Application”), seeking registration of the mark G GOOD LIFE FITNESS CENTER, in stylized form, (the “GOOD LIFE FITNESS CENTER Stylized Mark”) for use in Int’l Cl. 041 in connection with conducting fitness classes; and providing fitness and exercise facilities.

8. Through a Suspension Notice issued December 6, 2018, action by the Office on Opposer’s GOOD LIFE FITNESS CENTER Stylized Application has been suspended pending disposal of Applicant’s GOODLIFE FITNESS Application.

9. The suspension of action by the Office as described in paragraph 8 hereof is grounded in a preliminary determination by the Office that concurrent use of Opposer’s

GOOD LIFE FITNESS CENTER Stylized Mark and Applicant's GOODLIFE FITNESS Mark would create a likelihood of confusion, and therefore may merit refusal under 35 U.S.C. § 1052(d).

10. The continued pendency of Applicant's GOODLIFE FITNESS Application is interfering with registration by Opposer of the GOOD LIFE FITNESS CENTER Marks, and causing damage to Opposer.

11. Registration by Applicant of the GOODLIFE FITNESS Mark will interfere with use and/or registration by Opposer of the GOOD LIFE FITNESS CENTER Marks, and thereby cause damage to Opposer.

12. On information and belief, Applicant has made no actual use within the United States, its possessions or its territories, of the GOODLIFE FITNESS Mark, or any mark or device similar thereto, on or in connection with any of Applicant's Services, or any companion or related good or service.

13. On information and belief, Applicant has made no actual use within the United States, its possessions or its territories, of the GOODLIFE FITNESS Mark, or any mark or device similar thereto, on or in connection with any of Applicant's Services, or any companion or related good or service, prior to actual use in commerce by Opposer of one or more of the GOOD LIFE FITNESS CENTER Marks in connection with one or more of Opposer's Services.

14. Applicant has no claim to any constructive use within the United States, its possessions or its territories, of the GOODLIFE FITNESS Mark, or any mark or device

similar thereto, on or in connection with any of Applicant's Services, or any companion or related good or service, prior to actual use in commerce by Opposer of one or more of the GOOD LIFE FITNESS CENTER Marks in connection with one or more of Opposer's Services.

15. Use by Applicant of the GOODLIFE FITNESS Mark as required for registration by Applicant of the GOODLIFE FITNESS Mark will constitute infringement by Applicant of Opposer's existing rights in, to and/or under the GOOD LIFE FITNESS CENTER Marks, contrary to the provisions of 15 U.S.C. § 1125(a), and thereby cause damage to Opposer.

16. The GOODLIFE FITNESS Mark so resembles the GOOD LIFE FITNESS CENTER Marks that use by Applicant of the GOODLIFE FITNESS Mark as required for registration by Applicant of the GOODLIFE FITNESS Mark is likely to cause confusion, or to cause mistake, or to deceive, contrary to 15 U.S.C. § 1052(d), and thereby cause damage to Opposer.

17. Opposer has used the trade name Good Life Fitness Center, LLC in the United States since at least as early as October 6, 2016, and has not abandoned use of the trade name Good Life Fitness Center, LLC.

18. The GOODLIFE FITNESS Mark so resembles Opposer's trade name Good Life Fitness Center, LLC that use by Applicant of the GOODLIFE FITNESS Mark as required for registration by Applicant of the GOODLIFE FITNESS Mark is likely to

cause confusion, or to cause mistake, or to deceive, contrary to 15 U.S.C. § 1052(d), and thereby cause damage to Opposer.

WHEREFORE, Opposer respectfully requests that the Trademark Trial and Appeal Board refuse registration of the GOODLIFE FITNESS mark as shown in the GOODLIFE FITNESS Application.

Dated: May 8, 2019

Respectfully submitted,



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