

ESTTA Tracking number: **ESTTA978554**

Filing date: **06/05/2019**

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

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| Name | WeWork Companies Inc. |
| Granted to Date of previous extension | 06/05/2019 |
| Address | 115 West 18th Street New York, NY 10011 UNITED STATES |

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| Attorney information | Laura Popp-Rosenberg Fross Zelnick Lehrman & Zissu, P.C. 151 West 42nd St., 17th Floor New York, NY 10036 UNITED STATES lpopp-rosenberg@fzlz.com, lkittay@fzlz.com, mgoldstein@fzlz.com 2128135900 |
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Applicant Information

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|------------------------|--|------------------------|------------|
| Application No | 881 18247 | Publication date | 02/05/2019 |
| Opposition Filing Date | 06/05/2019 | Opposition Period Ends | 06/05/2019 |
| Applicant | Alexandria Real Estate Equities, Inc. 385 S. Colorado Blvd., Suite 299 Pasadena, CA 91101 UNITED STATES | | |


Goods/Services Affected by Opposition

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| Class 036. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Real estate services, namely, real estate brokerage, acquisition, and management services; investment management services; property management services, namely, real estate management; financial services, namely, financial consultation, financial analysis, financial planning, financial management, financing services, providing working capital, namely, debt and equity capital, tangible and intangible asset financing, and financial portfolio management |
| Class 037. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Real estate development; building construction, maintenance and repair; real estate property maintenance services |
| Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Architectural design services |


Grounds for Opposition


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

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| U.S. Registration No. | 4453874 | Application Date | 03/22/2013 |
| Registration Date | 12/24/2013 | Foreign Priority Date | NONE |
| Word Mark | WEWORK | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | <p>Class 035. First use: First Use: 2010/02/00 First Use In Commerce: 2011/10/00 Providing co-working facilities equipped with private offices, office equipment, mailroom, printing center, receptionist, kitchen, meeting rooms, telecommunications equipment and other office amenities; Business information services; incubation services, namely, providing work space containing business equipment and other amenities to emerging, start-up and existing companies; Business development services, namely, providing start-up support for businesses of others; providing office support services; online business networking services; Administering group purchasing programs and other discount programs, namely negotiating with providers of insurance, banking, credit card processing, travel and transportation services, to enable participant members of a business community to obtain discounts on the purchase of those services from others; computer-assisted business information and research services; assistance and advice regarding business location; arranging and conducting special events, parties, camps, concerts and travel for business purposes</p> <p>Class 041. First use: First Use: 2010/02/00 First Use In Commerce: 2011/10/00 Entertainment and educational services, namely, organizing, conducting and arranging training, classes, seminars, workshops, conferences and exhibitions in the fields of business, technology and social networking; electronic publication of blogs, brochures, magazines, and newsletters on a wide variety of topics; arranging, organizing, conducting and hosting social entertainment events</p> <p>Class 042. First use: First Use: 2013/02/00 First Use In Commerce: 2013/03/22 Computer services, namely, creating an on-line community for registered users to participate in discussions, get feedback from their peers, form virtual communities, and engage in business and social networking; platforms for providing a web-based on-line portal for customers to participate in business and social networking, engage in virtual communities, manage membership in a co-working and private office facilities service, request and manage office assignments, reserve conference rooms, control employees' user access, order printing services, and sign up and pay for vendor services such as catering, benefits and health insurance; computer services, namely, hosting on-line web facilities for others for organizing and conducting online introductions, meetings, gatherings and interactive discussions; computer services, namely, interactive hosting services which allow the user to publish and share their own content and images, and in-</p> | | |

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| | <p>teract with others, on-line; computer services, namely, cloud hosting provider services; computer services, namely, on-site and remote management of IT systems; installation [, updating and maintenance] of computer software; [rental of web servers;]server hosting; technical support services, namely, troubleshooting of computersoftware problems; technical support services, namely, troubleshooting in the nature of diagnosing computer hardware and software problems</p> <p>Class 045. First use: First Use: 2013/02/00 First Use In Commerce: 2013/03/22 Online social networking services; social networking services in the field of business provided via a website</p> |
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| U.S. Registration No. | 4015942 | Application Date | 02/01/2011 |
| Registration Date | 08/23/2011 | Foreign Priority Date | NONE |
| Word Mark | WEWORK | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 036. First use: First Use: 2009/06/13 First Use In Commerce: 2009/09/12 Leasing of office space; Leasing of real estate; Rental of office space | | |

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| U.S. Registration No. | 5504982 | Application Date | 04/19/2016 |
| Registration Date | 06/26/2018 | Foreign Priority Date | NONE |
| Word Mark | WEWORK | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 042. First use: First Use: 2017/05/00 First Use In Commerce: 2017/05/00 Architectural design; interior design services; design of specialty interior and exterior environment settings | | |

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| U.S. Registration No. | 4818504 | Application Date | 10/10/2013 |
| Registration Date | 09/22/2015 | Foreign Priority Date | NONE |
| Word Mark | WEWORK LABS | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | <p>Class 035. First use: First Use: 2011/04/01 First Use In Commerce: 2011/04/01 Providing co-working facilities equipped with private offices, office equipment, receptionist, meeting rooms and also featuring a mailroom, printing center, kitchen, telecommunications equipment and other office amenities, all for business purposes; incubation services, namely, providing work space containing business equipment and other amenities to emerging, start-up and existing companies; business development services, namely, providing start-up support for businesses of others; providing office support staff services; online business networking services; administering group purchasing programs and other discount programs, namely, negotiating with providers of insurance, banking, credit card processing, travel and transportation services, to enable participant members of a business community to obtain discounts on the purchase of those services from others</p> <p>Class 036. First use: First Use: 2011/04/01 First Use In Commerce: 2011/04/01 Leasing of office space; leasing of real estate; rental of office space</p> <p>Class 041. First use: First Use: 2011/04/01 First Use In Commerce: 2011/04/01 Educational services, namely, organizing and arranging training, classes, seminars, workshops in the fields of business, technology and social networking</p> | | |

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| U.S. Application No. | 86631398 | Application Date | 05/15/2015 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | WE | | |
| Design Mark |  | | |

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| Description of Mark | NONE |
| Goods/Services | <p>Class 009. First use: First Use: 0 First Use In Commerce: 0 Computer application software for use with mobile phones and handheld computers for users to manage membership in a coworking facilities service, request and manage office assignments, reserve conference rooms, and control employees' user access</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0 Providing co-working facilities equipped with office equipment; incubation services, namely, providing work space containing business equipment and other amenities to emerging, start-up and existing companies; providing co-working, temporary and shared work spaces, offices, business event spaces, business meeting facilities and office equipment; business operation of commercial real estate, offices and office space, namely, shared office venues with conference facilities</p> <p>Class 036. First use: First Use: 0 First Use In Commerce: 0 Real estate services, namely, leasing of real property and apartments; management of apartments and buildings; lease of real estate; leasing of office space; leasing of real estate; leasing or renting of buildings; rental of office space</p> <p>Class 042. First use: First Use: 0 First Use In Commerce: 0 Platform as a service (PAAS) featuring online, non-downloadable, web-based computer software for providing a web-based on-line portal for customers to manage membership in a co-working and private office facilities service, request and manage office assignments, reserve conference rooms, and control employees' user access</p> |

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| U.S. Application No. | 87979850 | Application Date | 10/12/2017 |
| Registration Date | NONE | Foreign Priority Date | NONE |

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| Word Mark | WE |
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| Description of Mark | The mark consists of the letters "WE" inside of a circle. |
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Goods/Services

Class 009. First use: First Use: 0 First Use In Commerce: 0

Downloadable computer software platform for monitoring, analyzing and controlling temperature and air purity and for use by devices in the nature of sensors for controlling temperature, pressure, air quality and lighting within a building, facility, and grounds of designated spatial area, and for reporting temperature and air purity data with the goal of maximizing business productivity and ensuring a high physical space utilization rate; downloadable computer software platform for facilities management, namely, for controlling building temperature, pressure, air quality and lighting, building access, and building security systems; downloadable computer software platform for spatial mapping of floor plans and fixtures; downloadable computer software platform for the purposes of management of spatial information for the purpose of space optimization within a building or other facility; downloadable computer software platform for the purposes of visualization, animation and analytics of spatial data; computer software for providing an on-line database in the field of transaction processing to upload transactional data, provide statistical analysis, and produce notifications and reports; downloadable software platform for administering leases, tracking lease negotiations and tracking lease documentation; downloadable software platform for administering and managing shared office facilities; downloadable visitor registration computer software that records entry and exit of visitors and collects visitor information; downloadable visitor registration computer software that enables preparation and distribution of signed electronic visitor registration documents; downloadable visitor registration computer software that enables the printing of visitor badges with photos; downloadable visitor registration computer software that notifies others of the arrival of a visitor; downloadable visitor registration computer software that prepares reports of visitors; computer software for members of a residential community for social networking, interacting within a virtual community, managing community membership accounts, making rent payments, and signing up for and managing use of residential building amenities in the nature of library facilities, media rooms, theaters, gyms, concierge services, restaurants, cafes, and kitchens; computer software for making restaurant reservations, placing orders for delivery of food to residences, and for organizing parties and events; computer software for signing up for classes at fitness and health clubs and exercise facilities and for making appointments for treatments at health spas; computer application software for managing membership in a shared office space facility, reserving conference rooms in a shared office space facility, business and social networking, interacting within virtual communities, searching job listings, and signing up and paying for vendor services such as catering, benefits and health insurance, requesting and managing office assignments, and controlling employees' user access

Class 035. First use: First Use: 0 First Use In Commerce: 0

Incubation services, namely, providing shared office space facilities equipped with office equipment, receptionist services, meeting rooms, printing center, kitchen space and kitchen equipment, telecommunications equipment, and mail-room facilities; conducting and administering a program that enables program participants to obtain access to a variety of goods, services and benefits offered within the community by affiliated providers exclusively as a benefit to those that are part of the membership program community; wellness services, namely, promoting awareness of the benefits of making health, wellness and nutritional changes in daily living to enable businesses to increase productivity and lower health care costs

Class 036. First use: First Use: 0 First Use In Commerce: 0

Real estate services, namely, leasing of real property and apartments; leasing of office space; leasing or renting of buildings; rental of office space; rental of temporary and shared office spaces and offices; charitable fundraising services; charitable services, namely, granting funds to not-for-profit entities and individuals

Class 041. First use: First Use: 0 First Use In Commerce: 0

Educational services, namely, conducting seminars, workshops, lectures and classes in the fields of science, engineering, mathematics, popular culture, civics and public advocacy, publishing, psychology, exercise and fitness; educational and entertainment services, namely, providing motivational and educational speakers; educational services, namely, providing kindergarten through 12th grade classroom instruction; arranging, organizing, conducting and hosting social entertainment events; health club services, namely, providing instruction and equipment in the field of physical exercise; providing fitness and exercise facilities; conducting fitness classes; providing swimming pools; sporting and cultural activities, namely, organizing community sporting and cultural events

Class 042. First use: First Use: 0 First Use In Commerce: 0

Online non-downloadable computer software platform for monitoring, analyzing and controlling temperature and air purity and for use by devices in the nature of sensors for controlling temperature, pressure, air quality and lighting within a building, facility, and grounds of designated spatial area, and for reporting temperature and air purity data with the goal of maximizing business productivity and ensuring a high physical space utilization rate; online non-downloadable computer software platform for facilities management, namely, for controlling building temperature, pressure, air quality and lighting, building access, and building security systems; online non-downloadable computer software platform for spatial mapping of floor plans and fixtures; online non-downloadable computer software platform and software-as-a-service services for managing ongoing real estate transactions and for managing the purchase and sale of the assets of others; online non-downloadable software platform and software as a service (saas) services featuring software for administering leases, tracking lease negotiations and tracking lease documentation; online non-downloadable software platform and software as a service (saas) services featuring software for remotely viewing, monitoring, programming, operating and controlling electrical systems and security systems in offices; online non-downloadable visitor registration computer software that records entry and exit of visitors and collects visitor information; online non-downloadable visitor registration computer software that enables preparation and distribution of signed electronic visitor registration documents; online non-downloadable visitor registration computer software that enables the printing of visitor badges with photos; online non-downloadable visitor registration computer software that notifies others of the arrival of a visitor; online non-downloadable visitor registration computer software that prepares reports of visitors; online non-downloadable computer software for members of a residential community for social networking, interacting within a virtual community, managing community membership accounts, making rent payments, and signing up for and managing use of residential building amenities in the nature of library facilities, media rooms, theaters, gyms, concierge services, restaurants, cafes, and kitchens; online non-downloadable computer software for making restaurant reservations, placing orders for delivery of food to residences, and for organizing parties and events; online non-downloadable computer software for signing up for classes at fitness and health clubs and exercise facilities and for making appointments for treatments at health spas; online non-downloadable computer software for managing membership in a shared office space facility, reserving conference rooms in a shared office space facility, business and social networking, interacting within virtual communities, searching job listings, and signing up and paying for vendor services such as catering, benefits and health insurance, requesting and managing office assignments, and controlling employees' user access

Class 043. First use: First Use: 0 First Use In Commerce: 0

Providing temporary accommodations; providing temporary housing accommodations; hotel services; online booking and reservation services for temporary lodging; providing conference, exhibition and meeting facilities; cafe, bar and restaurant services; coffee bar services

Class 044. First use: First Use: 0 First Use In Commerce: 0

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| | <p>Health care services, namely, wellness programs; providing information in the fields of health and wellness; providing a website featuring information regarding healthy living and lifestyle wellness; wellness and health-related consulting service; health spa services for health and wellness of the body and spirit offered at a health club facility</p> <p>Class 045. First use: First Use: 0 First Use In Commerce: 0</p> <p>Online social networking services</p> |
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| U.S. Application No. | 87643900 | Application Date | 10/12/2017 |
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| Registration Date | NONE | Foreign Priority Date | NONE |
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| Word Mark | WE |
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| Design Mark |  |
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| Description of Mark | The mark consists of the letters "WE" inside of a circle. |
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| Goods/Services | <p>Class 035. First use: First Use: 0 First Use In Commerce: 0</p> <p>Incubation services, namely, business development services for others; incubation services, namely, providing start-up support for businesses of others; incubation services, namely, providing business networking events; providing facilities for business meetings; business operation of offices and office space</p> |
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| U.S. Application No. | 87597679 | Application Date | 09/06/2017 |
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| Registration Date | NONE | Foreign Priority Date | NONE |
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| Word Mark | POWERED BY WE |
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| Design Mark | <p style="text-align: center;">POWERED BY WE</p> |
| Description of Mark | NONE |
| Goods/Services | <p>Class 009. First use: First Use: 0 First Use In Commerce: 0 Downloadable computer software platform for monitoring, analyzing and controlling temperature and air purity and for use by devices in the nature of sensors for controlling temperature, pressure, air quality and lighting within a building, facility, and grounds of designated spatial area, and for reporting temperature and air purity data with the goal of maximizing business productivity and ensuring a high physical space utilization rate; downloadable computer software platform for facilities management, namely, for controlling building temperature, pressure, air quality and lighting, building access, and building security systems; downloadable computer software platform for spatial mapping of floor plans and fixtures; downloadable visitor registration computer software that records entry and exit of visitors and collects visitor information; downloadable visitor registration computer software that enables preparation and distribution of signed electronic visitor registration documents; downloadable visitor registration computer software that enables the printing of visitor badges with photos; downloadable visitor registration computer software that notifies others of the arrival of a visitor; downloadable visitor registration computer software that prepares reports of visitors</p> <p>Class 020. First use: First Use: 0 First Use In Commerce: 0 Furniture</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0 business operation of offices and office space; advisory services relating to business management and business operations; business advisory services, consultancy and information; business management and organization consultancy; real estate marketing analysis; providing electronic tracking of real estate assets to others for business purposes; providing office support staff services; Business management consulting services, namely advising businesses and organizations on how to best manage, arrange, utilize and operate commercial spaces to optimize business process efficiency and facilitate decision-making; computer-aided optimization and management services, namely, managing logistics of making physical space available in a way that maximizes business productivity and employee collaboration and that ensures a high physical space utilization rate; promoting awareness of the benefits of making health, wellness and nutritional changes in daily living to enable businesses to increase productivity and lower health care costs</p> <p>Class 036. First use: First Use: 0 First Use In Commerce: 0 real estate management services; assessment and management of real estate; financial valuation of real estate; financial analysis, namely, compiling and analyzing statistics, data and other sources of information for financial purposes</p> <p>Class 037. First use: First Use: 0 First Use In Commerce: 0 planning and development of real estate construction projects for third parties; building construction; building repair and maintenance; installation services, namely, installation of lighting apparatus, security systems, doors, HVAC,</p> |

flooring, wiring, machinery and audiovisual equipment; construction planning and supervision; construction project management services

Class 041. First use: First Use: 0 First Use In Commerce: 0

educational services, namely, organizing, conducting and arranging training, classes, seminars, workshops, conferences and exhibitions in the fields of business, technology and entrepreneurship; arranging, organizing, conducting and hosting social entertainment events; health club services, namely, providing instruction and equipment in the field of physical exercise; providing fitness and exercise facilities; conducting fitness classes; providing swimming pools; libraries; movie theaters; providing facilities for entertainment purposes, namely, providing media room facilities featuring audio-visual equipment; sporting and cultural activities, namely, organizing community sporting and cultural events; rental services for audio and video equipment; educational and entertainment services, namely, providing motivational and educational speakers; educational services, namely, conducting seminars, workshops, lectures and classes in the fields of media, science, engineering, mathematics, entrepreneurship, popular culture, civics and public advocacy, publishing, psychology, exercise, fitness, and professional advancement

Class 042. First use: First Use: 0 First Use In Commerce: 0

Architectural design; interior design services; design of specialty interior and exterior environment settings; graphic design services; industrial design services; engineering services for building and property condition assessment, facility management, repair and restoration and building instrumentation; business consulting services in the fields of spatial layout and infrastructure architecture and interior design consultancy; planning and layout design services for interior space of business establishments; information and data analysis for planning and laying out design for the interior space and fixtures of buildings and offices; planning of buildings and infrastructure systems for buildings; online non-downloadable computer software platform for monitoring, analyzing and controlling temperature and air purity and by use of devices in the nature of sensors for controlling temperature, pressure, air quality and lighting within a building, facility, and grounds of designated spatial area, and for reporting temperature and air purity data with the goal of maximizing business productivity and ensuring a high physical space utilization rate; online non-downloadable computer software platform for facilities management, namely, for controlling building temperature, pressure, air quality and lighting, building access, and building security systems; online non-downloadable computer software platform for spatial mapping of floor plans and fixtures; online non-downloadable software platform and software as a service (saas) featuring software for administering leases, tracking lease negotiations and tracking lease documentation; online non-downloadable software platform and software as a service (saas) featuring software for remotely viewing, monitoring, programming, operating and controlling electrical systems and security systems in offices; online non-downloadable visitor registration computer software that records entry and exit of visitors and collects visitor information; online non-downloadable visitor registration computer software that enables preparation and distribution of signed electronic visitor registration documents; online non-downloadable visitor registration computer software that enables the printing of visitor badges with photos; online non-downloadable visitor registration computer software that notifies others of the arrival of a visitor; online non-downloadable visitor registration computer software that prepares reports of visitors

Class 043. First use: First Use: 0 First Use In Commerce: 0

providing conference, exhibition and meeting facilities; cafe, bar and restaurant services; coffee bar services; cafeteria services; providing of food and drink; providing conference, and meeting facilities; providing community centers for social gatherings and meetings; rental of social function facilities for social events, namely, events at which people gather to celebrate a special occasion or participate in a special event; catering services

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| | <p>Class 044. First use: First Use: 0 First Use In Commerce: 0 medical, hygienic and beauty care services; health care services, namely, well-ness programs; providing information in the fields of health and wellness; providing a website featuring information regarding healthy living and lifestyle well-ness; nutrition counseling; providing information in the field of nutrition; wellness and health-related consulting services; health spa services for health and well-ness of the body and spirit offered at a health club facility</p> <p>Class 045. First use: First Use: 0 First Use In Commerce: 0 online social networking services; personal concierge services for others comprising making requested personal arrangements and reservations and providing customer-specific information to meet individual needs</p> |
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| Attachments | 85883629#TMSN.png(bytes) 85231506#TMSN.png(bytes) 87977502#TMSN.png(bytes) 86088019#TMSN.png(bytes) 86631398#TMSN.png(bytes) 87979850#TMSN.png(bytes) 87643900#TMSN.png(bytes) 87597679#TMSN.png(bytes) F3076923.pdf(22919 bytes) |
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| Signature | /Laura Popp-Rosenberg/ |
| Name | Laura Popp-Rosenberg |
| Date | 06/05/2019 |

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

WEWORK COMPANIES INC.,

Opposer,

v.

ALEXANDRIA REAL ESTATE EQUITIES,
INC.,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

WeWork Companies Inc. (“Opposer”) believes that it would be damaged by the issuance of a registration for the trademark WEARELABS by Alexandria Real Estate Equities, Inc. (“Applicant”), as applied for in Application Serial No. 88/118,247 (the “Application”), and therefore opposes the same. As grounds for this opposition, Opposer, by its counsel, Fross Zelnick Lehrman & Zissu, P.C., states as follows:

1. Opposer is a Delaware corporation with an address of 115 West 18th Street, New York, New York, 10011.

2. Opposer, the acknowledged leader in the shared office space industry in the United States, has provided businesses and individuals with workspace, real estate, community, and related goods and services beginning at least as early as 2010 under the marks WE, WEWORK, WEWORK LABS, and POWERED BY WE (collectively, “Opposer’s Marks”), among many other WE-inclusive marks.

3. Among Opposer’s myriad offerings are real estate services (including leasing of office space, leasing of real estate, leasing or rental of buildings), architectural design (including

interior design and exterior settings), management of apartments and buildings, and coworking facilities (including private offices, meeting rooms, office support staff, office equipment and other office amenities), all of which are promoted and offered under Opposer's Marks.

4. As a result of Opposer's reputation, substantial sales success, inestimable popularity, and significant investment in advertising and promotion, Opposer's Marks have become well-known throughout the United States and the world, and consumers have come to recognize Opposer's Marks as exclusively denoting Opposer's goods and services. As such, Opposer is the owner of all right, title, and interest in and to Opposer's Marks in connection with this wide array of goods and services, and Opposer's Marks represent enormous goodwill and are extremely valuable assets to Opposer.

5. Since prior to any date upon which Applicant can rely, Opposer's Marks both separately and together have become uniquely identified with Opposer and have come to identify the services and products of Opposer exclusively.



6. In addition to its common law trademark rights in Opposer's Marks developed through many years of use and promotion, Opposer owns federal trademark registrations for Opposer's Marks, including but not limited to:

| <u>Mark</u> | <u>Reg. No.</u> | <u>International Classes</u> |
|-------------|-----------------|------------------------------|
| WEWORK | 4453874 | 35, 41, 42 and 45 |
| WEWORK | 4015942 | 36 |
| WEWORK | 5504982 | 42 |
| WEWORK LABS | 4818504 | 35, 36, and 41 |

All of the foregoing registrations for Opposer's Marks are valid, subsisting and in full effect and therefore serve as prima facie evidence of the validity of the marks and of Opposer's exclusive

right to use the marks in connection with the goods and services identified therein, pursuant to Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(a). In addition, Registration No. 4,015,942 has become incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065, and therefore serves as conclusive proof of Opposer’s exclusive right to use the WEWORK mark in connection with the services identified therein, as provided by Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b).

7. Opposer also owns the following pending trademark applications:

| <u>Mark</u> | <u>App. S.N.</u> | <u>International Classes</u> |
|--|------------------|---|
| WE | 86/631,398 | 9, 35, 36, and 42 |
|  | 87/979,850 | 9, 35, 36, 41, 42, 43, 44, and 45 |
|  | 87/643,900 | 35 |
| POWERED BY WE | 87/597,679 | 9, 20, 35, 36, 37, 41, 42, 43, 44, and 45 |

8. According to the online records of the United States Patent and Trademark Office (“USPTO”), Applicant is a Maryland corporation with an address of 385 S. Colorado Blvd., Suite 299, Pasadena, California 91101.

9. According to the online records of the USPTO, on September 14, 2018, Applicant filed U.S. Application Serial No. 88/118,247 for the mark WEARELABS in connection with “Real estate services, namely, real estate brokerage, acquisition, and management services; investment management services; property management services, namely, real estate management; financial services, namely, financial consultation, financial analysis, financial planning, financial management, financing services, providing working capital, namely, debt and

equity capital, tangible and intangible asset financing, and financial portfolio management” in International Class 36; “Real estate development; building construction, maintenance and repair; real estate property maintenance services” in International Class 37; and “Architectural design services” in International Class 42, all based on an intent to use the mark pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b).

10. Upon information and belief, Opposer’s rights in Opposer’s Marks are prior and superior to any rights Applicant may claim in the WEARELABS mark.

11. The WEARELABS mark is highly similar to Opposer’s Marks in appearance, sound, and commercial impression.

12. The services identified in the Application are identical and/or related to the goods and services offered by Opposer under one or more of Opposer’s Marks and/or for which Opposer has registered one or more of Opposer’s Marks.

13. Given the strength of Opposer’s Marks and the similarities in the parties’ respective marks and services, among other factors, use by Applicant of the WEARELABS mark for the services identified in the Application is likely to create the erroneous impression that Applicant’s services originate with, are sponsored or approved by, or are otherwise connected with Opposer, Opposer’s Marks, or goods and services provided by Opposer. Any use of the WEARELABS mark by Applicant is, therefore, likely to cause confusion, cause mistake or to deceive the public, in violation of 15 U.S.C. § 1052(d).

14. As a result of the foregoing, registration to Applicant of the WEARELABS mark would be inconsistent with Opposer’s prior exclusive rights in Opposer’s Marks and would threaten to destroy Opposer’s investment and goodwill in Opposer’s Marks. Opposer therefore will be injured by registration of the WEARELABS mark.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that registration of the WEARELABS mark as applied for in the Application in all respects be denied. Opposer authorizes the Board to withdraw from USPTO debit account no. 230825 any additional fees as may be required for this Opposition.

Dated: New York, NY
June 5, 2019

Respectfully submitted,

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: /Laura Popp-Rosenberg/
Laura Popp-Rosenberg
Leo Kittay
Melissa Goldstein
151 West 42nd Street, 17th Floor
Telephone: (212) 813-5900
Email: lpopp-rosenberg@fzlz.com
lkittay@fzlz.com
mgoldstein@fzlz.com

Attorneys for Opposer