

ESTTA Tracking number: **ESTTA983904**

Filing date: **06/27/2019**

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	Limitbreaker
Granted to Date of previous extension	06/29/2019
Address	72 MALAMUTE CRESCENT SCARBOROUGH, ON M1T2C7 CANADA

Attorney information	STEVEN A. ABREU SUNSTEIN KANN MURPHY & TIMBERS LLP 125 SUMMER STREET BOSTON, MA 02110 UNITED STATES sabreu@sunsteinlaw.com, ksoule@sunsteinlaw.com 6174439292
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Applicant Information

Application No	88236664	Publication date	04/30/2019
Opposition Filing Date	06/27/2019	Opposition Period Ends	06/29/2019
Applicant	Evolve Awareness Apparel, LLC 14855 South Van Dyke Road Plainfield, IL 60544 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Bottoms as clothing; Headbands for clothing; Headwear; Hoodies; Leggings; Sports bra; T-shirts; Tops as clothing

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.	88471791	Application Date	06/13/2019
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	LIMITBREAKER		

Design Mark	LIMITBREAKER
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2014/00/00 First Use In Commerce: 2014/00/00 Hats; Jackets; Shirts; Tank tops

Attachments	88471791#TMSN.png(bytes) Notice of Opposition.pdf(49627 bytes)
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Signature	/Steven Abreu/
Name	STEVEN A. ABREU
Date	06/27/2019

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

In the Matter of Application:

Serial No.: 88/236,664
Filed: December 20, 2018
Applicant: Evolve Awareness Apparel, LLC
Mark: LIMITBREAKER
For: Bottoms as clothing; Headbands for clothing; Headwear; Hoodies; Leggings; Sports bra;
T-shirts; Tops as clothing (International Class 25)
Published: April 30, 2019

LIMITBREAKER,

Opposer,

v.

EVOLVE AWARENESS APPAREL, LLC,

Applicant.

NOTICE OF OPPOSITION

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Sir or Madam:

Limitbreaker (“Opposer”), a sole proprietorship organized and existing under the laws of Canada, of and by its sole proprietor, Jane Wu, having a principal place of business at 72 Malamute Crescent, Scarborough, Canada M1T2C7, believes that it will be damaged by registration of the mark shown in Application Serial No. 88/236,664, filed on December 20, 2018, and thus hereby opposes said application on the grounds that:

1. Application Serial No. 88/236,664 (the “Application”), filed by Evolve Awareness Apparel, LLC on December 20, 2018, seeks registration of the mark LIMITBREAKER in connection with “Bottoms as

clothing; Headbands for clothing; Headwear; Hoodies; Leggings; Sports bra; T-shirts; Tops as clothing” in International Class 25.

2. Application Serial No. 88/236,664, filed by Evolve Awareness Apparel, LLC on December 20, 2018, is based on intent to use the mark in commerce.
3. Opposer sells apparel, headwear, and bracelets under the mark LIMITBREAKER to customers, which include fitness enthusiasts of all kinds, in the United States and Canada.
4. Opposer owns an application for the mark LIMITBREAKER for use in connection with “Hats; Jackets; Shirts; Tank tops” in International Class 25, filed on June 13, 2019, based on use in commerce since at least as early as 2014 and assigned Serial No. 88/471,791.
5. Opposer has used and continues to use its LIMITBREAKER mark in connection with apparel, headwear, and related products since at least as early as 2014.
6. The goods described in the Application are identical and/or closely similar to the goods that Opposer provides and plans to provide in connection with its LIMITBREAKER mark and are likely to be sold through related marketing channels to the same class of purchasers.
7. Through Opposer’s promotional and sales activities, Opposer’s LIMITBREAKER mark identifies Opposer as the source of the relevant goods to the relevant segment of purchasers and embodies goodwill and industry recognition.
8. Applicant’s LIMITBREAKER mark is confusingly similar to Opposer’s LIMITBREAKER mark.
9. Applicant’s use and/or registration of the LIMITBREAKER mark will cause purchasers, prospective purchasers, users and others to be confused, mistaken or deceived into the belief, contrary to fact, that Applicant’s goods emanate from or are sponsored or approved by Opposer or are related to Opposer’s goods, thereby damaging Opposer. Applicant’s LIMITBREAKER mark is thus unregistrable under §§ 2(d) and 13 of the Lanham Act, 15 U.S.C. §§ 1052(d) and 1063.

WHEREFORE, Opposer prays that the present opposition be sustained and registration of the LIMITBREAKER mark sought by Applicant be refused.

Dated: June 26, 2019

LIMITBREAKER

By its attorneys,



Steven A. Abreu
Katherine W. Soule
SUNSTEIN KANN MURPHY & TIMBERS LLP
125 Summer Street
Boston, Massachusetts 02110-1618
(617) 443-9292
sabreu@sunsteinlaw.com
ksoule@sunsteinlaw.com

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