

ESTTA Tracking number: **ESTTA1104028**

Filing date: **12/23/2020**

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                                  | ZION L WILLIAMSON  |
| Granted to Date of previous extension | 12/30/2020   |
| Address                               | 304 CYPRESS POINT CT.<br>SPARTANBURG, SC 29306<br>UNITED STATES  |
| Attorney information                  | SUSAN FREYA OLIVE<br>OLIVE & OLIVE, P.A.<br>500 MEMORIAL STREET<br>DURHAM, NC 27701<br>UNITED STATES<br>Primary Email: <a href="mailto:emailboxTTAB@oliveandolive.com">emailboxTTAB@oliveandolive.com</a><br>Secondary Email(s): <a href="mailto:bcrews@oliveandolive.com">bcrews@oliveandolive.com</a><br>No phone number provided. |
| Docket Number                         | WIZL9013   |

**Applicant Information**

|                        |   |                        |            |
|------------------------|---|------------------------|------------|
| Application No.        | 88890380  | Publication date       | 09/01/2020 |
| Opposition Filing Date | 12/23/2020  | Opposition Period Ends | 12/30/2020 |
| Applicant              | BG INTERNATIONAL INDUSTRY INC.<br>2447 FLOWERING BROOK LN SUGAR LAND TX<br>TEXAS, TX 77479<br>UNITED STATES |                        |            |

**Goods/Services Affected by Opposition**

|  |
|--|
| Class 011. First Use: 0 First Use In Commerce: 0<br>All goods and services in the class are opposed, namely: Air purifying apparatus and machines; Chimney blowers; Chimney flues; Discharge tubes, electric, for lighting; Dryers for the removal of water vapor from compressed air and gases; Drying apparatus for use in heating, ventilation systems, air conditioning systems and refrigeration systems; Electric air dryers; Electric clamps; Fans for air conditioning apparatus; Germicidal lamps for purifying air; Lamp mantles; Lampshade holders; LED (light emitting diode) lighting fixtures; Light bulbs; Lighting apparatus, namely, lighting installations; Luminous tubes for lighting; Ultraviolet ray lamps, not for medical purposes |
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**Grounds for Opposition**

|  |                            |
|--|----------------------------|
| Priority and likelihood of confusion           | Trademark Act Section 2(d) |
| False suggestion of a connection with persons, | Trademark Act Section 2(a) |

|   |                            |
|---|----------------------------|
| living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disrepute  |                            |
| Consists of or comprises a name, portrait, or signature of a living individual without written consent, or the name, portrait, or signature of a deceased president without the written consent of the surviving spouse | Trademark Act Section 2(c) |

### Marks Cited by Opposer as Basis for Opposition

|                                    |  |                  |      |
|------------------------------------|--|------------------|------|
| U.S. Application/ Registration No. | NONE   | Application Date | NONE |
| Registration Date                  | NONE   |                  |      |
| Word Mark                          | ZION WILLIAMSON  |                  |      |
| Goods/Services                     | Â# Goods in the nature of autographs (alone and affixed to other goods), sports cards and sports memorabilia, and promotional items<br>Â# Clothing and fanwear Â# Education and entertainment services. Such services include, by way of example, athletic services and personal appearances and signings by a professional athlete Â# Endorsement services. Promoting the goods and services of others, including, by way of example, beverages, cards, cars, video games, and charitable fundraising for the benefit of others |                  |      |

|                                    |   |                  |      |
|------------------------------------|---|------------------|------|
| U.S. Application/ Registration No. | NONE  | Application Date | NONE |
| Registration Date                  | NONE  |                  |      |
| Word Mark                          | ZION  |                  |      |
| Goods/Services                     | Â# Goods in the nature of autographs (alone and affixed to other goods), sports cards and sports memorabilia, and promotional items<br>Â# Clothing and fanwear Â# Education and entertainment services. Such services include, by way of example, athletic services and personal appearances and signings by a professional athlete Â# Endorsement services. Promoting the goods and services of others, including, by way of example, beverages, cards, cars, video games, and charitable fundraising for the benefit of others. |                  |      |

|             |                                      |
|-------------|--------------------------------------|
| Attachments | 20201223 ZIONS NOO.pdf(63716 bytes ) |
|-------------|--------------------------------------|

|           |                |
|-----------|----------------|
| Signature | /bjc/          |
| Name      | Brian J. Crews |
| Date      | 12/23/2020     |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
Before the Trademark Trial and Appeal Board**

IN THE MATTER OF Trademark Application of BG International Industry Inc.  
For Registration of ZION’S design, Serial No. 88890380  
Published for Opposition in the Official Gazette on September 1, 2020  
Goods/Services Opposed: All

|   |   |
|---|---|
| Zion L. Williamson,<br>Plaintiff-Opposer<br><br>vs.<br><br>BG International Industry Inc.,<br>Defendant-Applicant | <b>OPPOSITION<br/>TO<br/>REGISTRATION OF MARK</b> |
|---|---|

Attorney Reference: WIZL9013

Zion L. Williamson, an individual citizen of the United States, believes he will be damaged by the registration of the mark shown in the above-identified application (“Applicant’s Application”) and hereby opposes the same.

Opposer brings claims pursuant to Trademark Act Section 2(d), 15 U.S.C. § 1052(d); Trademark Act Section 2(c), 15 U.S.C. § 1052(c); and Trademark Act Section 2(a), 15 U.S.C. § 1052(a). The grounds for opposition are more particularly set out as follows. Headings are interposed for convenience and are not substantive. All allegations are deemed incorporated into each ground for opposition, as though realleged for each.

**GENERAL ALLEGATIONS**

***Opposer and Opposer’s Marks***

1. Opposer is a nationally renowned American basketball player.
2. Currently a player for the New Orleans Pelicans of the National Basketball Association (NBA), Opposer previously was a student-athlete at Duke University from 2018-2019. While a student at Duke, Opposer was ranked first amongst collegiate basketball players and was the first pick in the NBA draft of 2019.

3. Prior to his successful time at Duke, Opposer was a renowned high school basketball player whose name already was famous nationwide, who was ranked among the top high school basketball players in the nation, and who led his high school team to three consecutive state championships in 2016, 2017, and 2018. Videos of his high school basketball performance frequently “went viral” during his high school years, adding to his fame. Even as early as 2013, Opposer was known for guiding his middle school basketball team to statewide victory.
4. Opposer’s renown prior to the dates relevant to the current proceeding is indicated not only by his consistent top rankings but also is confirmed—by way of example—by social media followings and by the results of Internet searches. For example, USA TODAY reported that in January 2017, Opposer was “the most popular high school basketball player in the country, regardless of class,” and had “added over 167,000 followers on Instagram” in the last five months alone. *See, <https://usatodayhss.com/2017/zion-williamsons-newfound-fame-has-grown-his-social-media-following-substantially>* (accessed Nov. 20, 2020). That fame has continued and increased. By September 2019, Opposer had 4.2 million Instagram followers. A search on Google for “Zion Williamson” conducted on November 20, 2020, produced over 18.3 million hits, and all of those reviewed did indeed pertain to Opposer.
5. ZION is the first name of Opposer and both it and the name ZION WILLIAMSON are unmistakably associated with Opposer, and with his identity, persona, and marks.
6. Opposer is commonly referred to by his first name alone—“Zion”—whether in sports broadcasts, news reports, promotional material, or printed on goods; and consumers who encounter the term ZION identify Opposer with that term. SPORTS ILLUSTRATED, in an article published in August 2018, pointed out the value of his one-name recognition, saying “LeBron, Kobe, Kyrie, Odell, Serena, Shaq, Ronaldo, Neymar, Messi... most marketable stars have unique, one-name

recognition. Zion has the same effect in the media already.”

7. Opposer has built substantial goodwill in himself and his brand and is not only ranked as one of the top basketball players in the world but also ranked as one of the most popular and famous. As but one example of Opposer’s fame, an article published in August 2020 by Fox News reported that the popularity of Opposer has driven demand for basketball playing cards in general, with a bounty being offered of \$500,000 for a single rare card featuring Opposer. Fox News reported that “Right now, Williamson’s stock is as high as ever. To some, he’s already crowned as the next face of the NBA, hence the outrageous bounty for his ultra-rare rookie card.” *See, <https://www.foxbusiness.com/sports/zion-williamson-rookie-card-bounty-500g>* (viewed on Nov. 17, 2020). Perhaps even more telling, Nike’s stock lost over \$1 billion in value after a widely-publicized incident in February 2019 when a Nike shoe worn by Opposer failed during a basketball game. Former United States President Obama, who had attended the game in order to watch Opposer play, was reported as sending best wishes for a speedy recovery. *See, e.g., <https://www.cbsnews.com/news/nike-stock-drop-zion-williamson-shoe-incident-and-injury-costs-1-1-billion-in-stock-value/>* (viewed on Nov. 20, 2020).
8. Opposer is the owner of the common law marks ZION and ZION WILLIAMSON, both of which are in use by Opposer in commerce in connection with, among other things, his basketball services, and for goods sold in the general retail consumer marketplace ranging from playing cards to clothing, as well as for the endorsement of beverages and other goods and services.
9. Opposer’s name and brand ZION and ZION WILLIAMSON are of such value that reports of licensing deals in which he has permitted others to use his name and brand for clothing are of intense public interest. Reports that Opposer had signed a \$75 million licensing deal with Nike-owned Jordan Brands in July 2019, for instance, made national headlines, and the deal was

reported to be among the highest-value licensing deals in history for a rookie professional basketball player. Likewise, Opposer also made national headlines after signing multi-year endorsement deals for beverage goods with Gatorade (reported publicly in September 2019) and Mountain Dew (reported publicly in October 2019).

10. Opposer is well-known for his charitable activities and excellent reputation. His devotion to helping others is so well-known and appreciated that in October 2019, one of Opposer's licensees, Mountain Dew, celebrated its affiliation with Opposer by refurbishing basketball courts (complete with a mural depicting Opposer) in his hometown of Spartanburg, South Carolina. More recently, when the COVID epidemic caused NBA games to be canceled, Opposer's decision to pay the salaries of the workers at the Pelicans' Smoothie King Stadium for 30 days so that they would not suffer a loss during the shut-down was widely and favorably reported.

11. Opposer's marks that are asserted for purposes of this proceeding (referred to herein as "Opposer's Marks") are listed on Exhibit 1 attached hereto and are incorporated herein by reference. To be clear, "Opposer's Marks" includes the listed terms used as marks, and also used as Opposer's name and to identify Opposer.

12. Opposer has built substantial goodwill in Opposer's Marks, including his name and mark ZION and his identity as ZION, which inures to the benefit of Opposer.

13. Opposer's Marks are used in a wide variety of fonts and colors, and are not in general limited by appearance, although appearance may be an additional feature of certain marks.

***Applicant and Applicant's Mark***

14. Applicant is a Texas corporation whose name does not include ZION or ZION'S as all or any part of its name.

15. Applicant seeks to register the stylized mark ZION'S—a mark that is substantially identical to Opposer's ZION mark and name, and substantially similar to Opposer's ZION WILLIAMSON mark and name.
16. Applicant's mark includes little more than a stylized font of the word ZION'S that is underlined. The addition of a design within the "O" of ZION'S does not create a significant distinction with Opposer's Marks and in some instances may not even be visible to consumers.
17. Applicant seeks registration of its mark pursuant to Section 1(b) of the Trademark Act (15 U.S.C. § 1051(b)) in International Class 011 for use in connection with the following goods:
  - Air purifying apparatus and machines; Chimney blowers; Chimney flues;
  - Discharge tubes, electric, for lighting; Dryers for the removal of water vapor from compressed air and gases; Drying apparatus for use in heating, ventilation systems, air conditioning systems and refrigeration systems; Electric air dryers;
  - Electric lamps; Fans for air conditioning apparatus; Germicidal lamps for purifying air; Lamp mantles; Lampshade holders; LED (light emitting diode) lighting fixtures; Light bulbs; Lighting apparatus, namely, lighting installations;
  - Luminous tubes for lighting; Ultraviolet ray lamps, not for medical purposes.
18. On information and belief based upon investigation, Applicant does not possess the longstanding experience and expertise in the consumer field associated with an entity that typically would qualify as one of Opposer's licensees. Applicant corporation has only existed for two years and has demonstrated no significant business experience or expertise in either an industry pertinent to the identified goods, or in supervising and maintaining quality control over the production and sale of the goods identified in the application.

19. Many of the goods identified in Applicant's Application are frequently offered as "fan" goods—i.e., offered for sale under sports brands and celebrity names to fans of the teams and celebrities. Some of the goods (such as "germicidal lamps for purifying air") are the types of products that, during the current COVID pandemic, have been associated with scams perpetrated on vulnerable and unsuspecting consumers.

***Opposer's Priority of Use and Fame***

20. Applicant filed its Application on April 28, 2020, on an intent-to-use basis, and has not claimed any priority earlier than the filing date with respect to the goods identified in the Application.

21. Opposer's above-described use of Opposer's Marks in connection with his basketball services, Opposer's personal recognition and fame acquired in connection with those services, and Opposer's use in commerce of Opposer's Marks (including his marks and personal names ZION and ZION WILLIAMSON), directly and through licensees, precedes February 4, 2020, and any other priority date to which Applicant is entitled. Likewise, the identification and association of Opposer's Marks with Opposer, including the identification and association of Opposer's mark and name ZION with Opposer, commenced prior to any priority date on which Applicant can rely (whether based upon the filing date of Applicant's Application, any alleged actual use date, or any other relevant priority date to which Applicant might be entitled), and is continuing to the present time.

***Lack of Consent from Opposer***

22. Applicant's use of the term ZION appropriates one of Opposer's Marks, and his personal name, for Applicant's use, without Opposer's consent.

23. Despite Applicant's claim of right to use a mark that is identical and/or similar to Opposer's Marks, and identical to Applicant's name, Applicant is not affiliated with, licensed by, or



otherwise associated with Opposer. Opposer is not connected with and has not sponsored, licensed, or endorsed any goods that Applicant claims to provide, offers, or intends to offer under the mark for which Applicant seeks registration.

24. Opposer has not consented or agreed in any way to Applicant's Application, to the registration sought in the Application, or to Applicant's use of Opposer's name and mark. Opposer expressly objects to all of these activities undertaken or proposed to be undertaken by Applicant, including Applicant's registration of Opposer's name ZION as sought in the Application.

**PRIORITY AND LIKELIHOOD OF CONFUSION  
IN VIOLATION OF  
TRADEMARK ACT SECTION 2(d), 15 U.S.C. § 1052(d)**

25. Opposer, directly and through licensees, has used and continues to use Opposer's Marks in commerce in connection with consumer goods that are sold in many of the same channels of commerce as the goods identified in Applicant's Application, and to the same market of consumers as that which is expected for Applicant's goods.

26. By reason of his prior use of Opposer's Marks, which commenced well prior to the date of Applicant's Application and any date of use on which Applicant is entitled to rely, Opposer has priority with respect to use of Opposer's Marks over Applicant and over Applicant's use and intended use of the mark that is the subject of Applicant's Application.

27. If registered as currently proposed, Applicant would presumptively be entitled to use and advertise the mark sought to be registered in ways that would emphasize the similarities and connections to Opposer and Opposer's Marks. For example, Applicant could:

- a. Use the mark in the colors of teams with which Opposer is or has been associated, to emphasize the link between the brand and Opposer; and/or

- b. Depict and/or advertise the mark in association with themes and images associated with Opposer, such as basketball imagery.

28. Because Applicant has not incorporated into its Application any limitations on channels of trade or on markets, it must be presumed that the market and channels of trade for goods bearing Applicant's mark will overlap those used for goods bearing Opposer's Marks. Such overlapping market and trade channels further enhances the likelihood of confusion. By way of non-exclusive example, Applicant's goods marketed under Applicant's mark could be identified as "licensed" (without specification as to the licensor) and offered in commerce to fans of Opposer who understand full well that Opposer has multiple licensees who are authorized to use Opposer's Marks; could be advertised or offered in and adjacent to arenas where Opposer plays professional basketball and could be advertised or offered at sports bars where Opposer's games are featured on television.

29. In view of the identities and close similarities between Opposer's prior-used and not abandoned Opposer's Marks to Applicant's applied-for mark, the related nature of the goods and services offered by Opposer and Opposer's licensees, and the reasonable and predictable zone of expansion of Opposer-affiliated goods and services, to the uses identified in Applicant's Application, it is alleged that Applicant's Mark, as currently sought to be registered, so resembles Opposer's Marks as to be likely to cause confusion and to cause mistake.

**FALSE SUGGESTION OF A CONNECTION  
IN VIOLATION OF  
TRADEMARK ACT SECTION 2(a), U.S.C. § 1052(a)**

30. Opposer's name and mark ZION serve to identify and as an identity of Opposer. Opposer's name and mark ZION WILLIAMSON likewise serve to identify and as an identity of Opposer.

31. Applicant's mark is substantially identical to Opposer's previously used name and identity ZION, and Applicant's mark is also a close approximation of Opposer's previously used name and identity ZION WILLIAMSON.
32. As explained hereinabove in further detail, Opposer is a famous athlete and celebrity, well known to the public by the single name ZION. His prowess in the field of basketball and his services provided in that field, his general public appearances and good deeds, and the offering and promotion of goods and services endorsed by Opposer, all have added to his fame and to the recognition and identification of the name and identity ZION with Opposer—recognition that precedes any priority date to which Applicant is entitled.
33. The tendency of the public to associate Opposer's name and identity with goods bearing his name is emphasized by the large sums paid by companies in order to obtain Opposer's endorsement of their products—contracts entered well before Applicant's earliest priority date.
34. Moreover, the public is, in general, quite familiar with the fact that sports celebrities endorse all types of consumer goods and services, and is thus led to believe that a famous celebrity's name, used on and in connection with consumer goods, indicates an association between the celebrity and the goods. This is particularly true where a celebrity is as famous as is Opposer.
35. Consumers seeking to obtain goods identified with Opposer know that his name is ZION; associate the name ZION (or substantially similar variants) with Opposer; know that third parties are licensed to use Opposer's Marks, including Opposer's name; assume that products bearing Opposer's Marks, including his name, are endorsed by or duly authorized for sale by Opposer or otherwise connected with Opposer; and rely on their presumption that a connection exists between Opposer and his licensees, and other sources of goods and services branded

with Opposer's Marks, and particularly those featuring his name ZION, to inform their purchasing decisions.

36. When Opposer's name and identity, ZION, are used on Applicant's goods as proposed in Applicant's Application, purchasers considering purchasing Applicant's goods are likely to make a connection between Opposer and Applicant's products—a connection that does not, in fact, exist. That is, despite Applicant's lack of any association with Opposer, Opposer's name ZION, as well as his name ZION WILLIAMSON, are of sufficient fame or reputation that when Applicant's mark is used on or in connection with the goods identified in Applicant's Application, a connection with Opposer would be presumed and Applicant's mark would be recognized as connected with Opposer, uniquely and unmistakably pointing to Opposer.
37. Applicant's use of Opposer's name in the possessive form, ZION'S, increases the likelihood that Applicant's mark will be associated with Opposer, as the possessive form creates the false impression that the goods are endorsed by or affiliated with Opposer.
38. Consumers are likely to be deceived as to the connection, which does not in fact exist, and to make purchasing decisions based on the false suggestion of a connection created by Applicant and his mark.
39. Registration and/or use of Applicant's mark as sought in Applicant's Application is likely to interfere with Opposer's right to use and exploit his own name and identity and to falsely suggest a connection with Opposer.

**APPLIED-FOR MARK COMPRISES A NAME OF  
A PARTICULAR LIVING INDIVIDUAL WITHOUT WRITTEN CONSENT  
IN VIOLATION OF  
TRADEMARK ACT SECTION 2(d), 15 U.S.C. § 1052(c)**

40. Applicant's Mark includes as its primary feature the stylized word "ZION'S."

41. The “ZION’S” term of Applicant’s Mark comprises Opposer’s name ZION and will be understood by the public as comprising Opposer’s name as a result of the facts set out in this pleading, including the widespread publicity and fame Opposer has achieved, his huge fan base, and the strong connection between the name ZION and Opposer that has arisen in the minds of the public.
42. Opposer is a living individual and is entitled to control the privacy and publicity associated with the designation ZION that identifies him.
43. Opposer was not asked to consent, and did not consent, to use or registration of his name and mark by Applicant, and in particular did not consent to use or registration of the mark Applicant seeks to register.
44. Applicant is not affiliated with Opposer in any way and is not entitled to claim or suggest any connection or affiliation of any kind with Opposer or any endorsement of Applicant’s goods by Opposer, and is not entitled to register Opposer’s name as Applicant’s mark.

### **CONCLUSION**

45. In view of the foregoing, and the similarity of Opposer’s prior-used and not abandoned Opposer’s Marks to Applicant's applied-for mark, the similarities between the use made by Opposer and his licensees, and the intended uses of Applicant's mark as identified in Applicant's Application, it is alleged that Applicant's mark as currently applied for, identified, and described, so resembles Opposer’s Marks as to be likely to cause confusion and to cause mistake. Moreover, registration and/or use of Applicant's mark as sought in Applicant’s Application is likely to interfere with Opposer’s use and exploitation of Opposer’s Marks, to deceptively and falsely suggest a connection with Opposer’s name and identity, and the distinctive quality thereof and the goodwill

associated therewith which presently inures to the benefit of Opposer. In addition, the application seeks registration of Opposer's personal name without his consent, and if granted, would wrongfully deprive Opposer of his right to control the publicity and privacy associated with use of his name and to control its exploitation.

WHEREFORE, Opposer requests that Applicant's Application be denied.

### **AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT**

The Office is authorized to charge any additional or otherwise unpaid fees associated with the filing of this Notice of Opposition to our deposit account 15-0490.

This the \_\_\_<sup>th</sup> day of December 2020.

**OLIVE & OLIVE, P.A.**  
Attorneys for Opposer

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