

ESTTA Tracking number: **ESTTA1172793**

Filing date: **11/16/2021**

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	LOVEVERY, INC.
Granted to Date of previous extension	11/17/2021
Address	918 W IDAHO ST., STE. 220 BOISE, ID 83702 UNITED STATES

Attorney information	MONICA GUTIERREZ PERKINS COIE LLP 131 S DEARBORN ST. STE 1700 CHICAGO, IL 60603 UNITED STATES Primary Email: PCTrademarks@perkinscoie.com Secondary Email(s): SDanielson@perkinscoie.com, AJAGarcia@perkinscoie.com, LKoenig@perkinscoie.com, JoshuaSmith@perkinscoie.com, mgutierrez@perkinscoie.com 312.324.8698
Docket Number	117538-7006

Applicant Information

Application No.	90400807	Publication date	07/20/2021
Opposition Filing Date	11/16/2021	Opposition Period Ends	11/17/2021
Applicant	Zhang Chaoxian 302, BUILDING C1, HUAQIAO NEW VILLAGE, RONGHUA ROAD, LONGGANG DISTRICT, SHENZHEN, GUANGDONG, 518000 CHINA		

Goods/Services Affected by Opposition


Class 020. First Use: 2020/12/11 First Use In Commerce: 2020/12/11 All goods and services in the class are opposed, namely: Pillows; Camping furniture; Coat hangers; Fitted furniture covers; Furniture for children; Indoor window shades; Inflatable furniture; Jewelry organizer displays; Office furniture; Party ornaments of plastic; Picture frames; Plastic boxes; Shoe racks; Television stands; Wind chimes; Bean bag beds
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Grounds for Opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
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No use of mark in commerce before application or amendment to allege use was filed	Trademark Act Sections 1(a) and (c)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	6113852	Application Date	12/13/2016
Registration Date	07/28/2020	Foreign Priority Date	NONE
Word Mark	LOVEVERY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2019/10/00 First Use In Commerce: 2019/10/00 Children's educational toys for developing numbers, counting and alphabet skills; children's educational toys for teaching match principles, namely, manipulative blocks for displaying patterns and groupings		

U.S. Registration No.	6113853	Application Date	12/13/2016
Registration Date	07/28/2020	Foreign Priority Date	NONE
Word Mark	LOVEVERY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2019/03/00 First Use In Commerce: 2019/03/00 Providing on-line non-downloadable brochures, articles, booklets, and blogs in the field of early childhood educational development, learning, and education to provide assistance on ways to maximize a child's early years of development, learning and education; educational services, namely, providing on-line non-downloadable brochures, articles, booklets, and blogs in the fields of pregnancy, parenting, children, and early childhood development; providing on-line non-downloadable publications, namely, brochures, articles, booklets, and blogs in		

	the fields of pregnancy, parenting, children, and early childhood development		
U.S. Registration No.	5425351	Application Date	12/13/2016
Registration Date	03/13/2018	Foreign Priority Date	NONE
Word Mark	LOVEVERY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2017/11/06 First Use In Commerce: 2017/11/06 Educational publications, namely, books, hand-outs, playbooks, and cards in the field of early childhood development		

U.S. Registration No.	5425349	Application Date	12/13/2016
Registration Date	03/13/2018	Foreign Priority Date	NONE
Word Mark	LOVEVERY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2017/11/06 First Use In Commerce: 2017/11/06 Children's educational toys for developing fine motor skills, oral language, and colors		

U.S. Registration No.	5747435	Application Date	12/13/2016
Registration Date	05/07/2019	Foreign Priority Date	NONE
Word Mark	LOVEVERY		

Design Mark	LOVEVERY
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2018/07/00 First Use In Commerce: 2018/07/00 Providing a website featuring information on research in the fields of parenting concerning education of children, early childhood education development Class 044. First use: First Use: 2018/07/00 First Use In Commerce: 2018/07/00 Providing a website featuring information on research in the fields of parenting concerning the health of children, early childhood health development

U.S. Application No.	90145527	Application Date	08/28/2020
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	LOVEVERY
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Design Mark	LOVEVERY
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Description of Mark	NONE
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Goods/Services	Class 042. First use: First Use: 0 First Use In Commerce: 0 Software as a Service (SaaS) services featuring children's educational software; platform as a service (PaaS) services featuring children's educational computer software platforms; providing online non-downloadable children's educational software; computer services, namely, providing a search platform that allows users to access information, resources, and referrals in the fields of pregnancy, parenting, children, and early childhood development
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U.S. Application No.	90007052	Application Date	06/17/2020
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	LOVEVERY
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Design Mark	<h1>LOVEVERY</h1>
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 0 First Use In Commerce: 0 Downloadable mobile application for providing information in the field of earlychildhood development Class 016. First use: First Use: 0 First Use In Commerce: 0 Educational publications, namely, workbooks, journals, and worksheets in the field of early childhood development

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	LOVEVERY		
Goods/Services	children's stage-based play products, educational information and services, and related offerings		

Attachments	87266728#TMSN.png(bytes) 87266729#TMSN.png(bytes) 87976753#TMSN.png(bytes) 87976747#TMSN.png(bytes) 87980371#TMSN.png(bytes) 90145527#TMSN.png(bytes) 90007052#TMSN.png(bytes) Notice of Opposition. LOEVEVRY.pdf(145025 bytes)
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Signature	/Monica Gutierrez/
Name	MONICA GUTIERREZ
Date	11/16/2021

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

LOVEVERY, INC.,

Opposer,

v.

ZHANG CHAOXIAN, INDIVIDUAL,

Applicant.

Opposition No.:

Mark: LOEVEVRY

App. Ser. No.: 90/400,807

NOTICE OF OPPOSITION

Lovevery, Inc. (“Lovevery” or “Opposer”), through its attorneys Perkins Coie LLP, hereby files a Notice of Opposition against Zhang Chaoxian’s (“Applicant”) U.S. Application Serial No. 90/400,807 (the “Application”) for the mark LOEVEVRY (“Applicant’s Mark”), as Lovevery will be damaged by the registration of Applicant’s Mark. Lovevery therefore opposes registration of Applicant’s Mark on the grounds of likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and the failure by Applicant to use Applicant’s Mark, in commerce, in connection with all of the goods set forth in U.S. Application Serial No. 90/400,807.

PARTIES

1. Lovevery is a Delaware corporation with a place of business at 918 W Idaho St., Ste. 220, Boise, Idaho 83702.

2. On information and belief, Zhang Chaoxian is a citizen of China with an address of 302, Building C1, Huaqiao New Village, Ronghua Road, Longgang District, Shenzhen, Guangdong CN 518000.

LOVEVERY & LOVEVERY’S MARKS

3. Lovevery reasserts and incorporates Paragraphs 1 and 2 above as if fully set forth herein.

4. Since its initial launch of its goods and services in 2017, Lovevery has continuously used and currently uses the LOVEVERY mark in connection with children’s stage-based play products, educational information and services, and related offerings (the “LOVEVERY Common Law Mark”).

5. Lovevery owns trademark filings for marks consisting of or incorporating LOVEVERY on the Principal Register of the United States Patent and Trademark Office, including the applications and registrations set forth below (the “LOVEVERY Applications and Registrations”):

Mark	Status/Dates	Reg./App. No.	Goods and Services
LOVEVERY	REGISTERED Reg. Date: 7/28/2020	6113852	Cl. 28: Children's educational toys for developing numbers, counting and alphabet skills; children's educational toys for teaching math principles, namely, manipulative blocks for displaying patterns and groupings
LOVEVERY	REGISTERED Reg. Date: 7/28/2020	6113853	Cl. 41: Providing on-line non-downloadable brochures, articles, booklets, and blogs in the field of early childhood educational development, learning, and education to provide assistance on ways to maximize a child's early years of development, learning and education; educational services, namely, providing on-line non-downloadable brochures, articles, booklets, and blogs in the fields of pregnancy, parenting, children, and early childhood development; providing on-line non-downloadable publications, namely, brochures, articles, booklets, and blogs in the fields of pregnancy, parenting, children, and early childhood development
LOVEVERY	REGISTERED Reg. Date: 3/13/2018	5425351	Cl. 16: Educational publications, namely, books, handouts, playbooks, and cards in the field of early childhood development
LOVEVERY	REGISTERED Reg. Date: 3/13/2018	5425349	Cl. 28: Children's educational toys for developing fine motor skills, oral language, and colors
LOVEVERY	REGISTERED Reg. Date: 5/7/2019	5747435	Cl. 41: Providing a website featuring information on research in the fields of parenting concerning education of children, early childhood education development Cl. 44: Providing a website featuring information on research in the fields of parenting concerning the health of children, early childhood health development

LOVEEVERY	PENDING Appl. Date: 8/28/2020	90145527	Cl. 42: Software as a Service (SaaS) services featuring children's educational software; platform as a service (PaaS) services featuring children's educational computer software platforms; providing online non-downloadable children's educational software; computer services, namely, providing a search platform that allows users to access information, resources, and referrals in the fields of pregnancy, parenting, children, and early childhood development
LOVEEVERY	PENDING Appl. Date: 6/17/2020	90007052	Cl. 9: Downloadable mobile application for providing information in the field of early childhood development Cl. 16: Educational publications, namely, workbooks, journals, and worksheets in the field of early childhood development

6. The trademarks set forth in the LOVEEVERY Applications and Registrations and the LOVEEVERY Common Law Mark are collectively referred to as the “LOVEEVERY Marks.”

7. Loveevery’s goods and services used in connection with the LOVEEVERY Common Law Mark and covered under the LOVEEVERY registrations set forth in Paragraph 5 are collectively referred to as the “Loveevery Goods and Services.”

8. The LOVEEVERY Marks have achieved consumer recognition in association with the Loveevery Goods and Services due to Loveevery’s continuous use of the LOVEEVERY Marks in connection with the Loveevery Goods and Services and as a result of the significant publicity associated with Loveevery and the Loveevery Goods and Services.

9. The LOVEEVERY Marks are distinctive of the Loveevery Goods and Services, generating valuable goodwill that is associated exclusively with Loveevery.

10. Loveevery generated such goodwill long before Applicant’s filing date for Applicant’s Mark on December 22, 2020 and Applicant’s alleged first use and first use in commerce dates of Applicant’s Mark of December 11, 2020.

APPLICANT AND APPLICANT’S MARK

11. Loveevery reasserts and incorporates Paragraphs 1 through 10 above as if fully set forth herein.

12. On December 22, 2020, Applicant filed Application Serial No. 90/400,807 seeking registration of Applicant's Mark and alleging first use and first use in commerce of Applicant's Mark as of December 11, 2020.

13. On July 20, 2021, a Notice of Publication issued for the Application covering the following goods in Class 20:

Pillows; Camping furniture; Coat hangers; Fitted furniture covers; Furniture for children; Indoor window shades; Inflatable furniture; Jewelry organizer displays; Office furniture; Party ornaments of plastic; Picture frames; Plastic boxes; Shoe racks; Television stands; Wind chimes; Bean bag beds

(hereinafter "Applicant's Goods").

14. On August 19, 2021 and September 16, 2021, Lovevery filed extensions of time to oppose the Application.

15. The U.S. Trademark Trial and Appeal Board granted Lovevery's extension requests, extending the deadline to oppose the Application to November 17, 2021.

PRIORITY

16. Lovevery reasserts and incorporates by reference Paragraphs 1 through 15 above as if fully set forth herein.

17. As set forth herein, Lovevery owns prior rights in the LOVEVERY Marks.

18. Lovevery's filing dates for the LOVEVERY Applications and Registrations, as well as Lovevery's first and continuous use of its LOVEVERY Marks in connection with the Lovevery Goods and Services, predate the filing date of the Application on December 22, 2020, and alleged first use in commerce of Applicant's Mark on December 11, 2020, and on information and belief, any other priority dates upon which Applicant may rely in connection with Applicant's Mark.

COUNT I: LIKELIHOOD OF CONFUSION

19. Lovevery reasserts and incorporates by reference Paragraphs 1 through 18 above as if fully set forth herein.

20. Applicant's Mark is highly similar in appearance and pronunciation to the LOVEVERY Marks.

21. Applicant's Mark conveys a similar commercial impression to the LOVEVERY Marks.

22. Applicant's Goods are related to the Lovevery Goods and Services.

23. Applicant's Mark, when used in connection with Applicant's Goods, is likely to cause confusion, mistake, or deception that Applicant's Goods are those of Lovevery or are otherwise endorsed, sponsored, or approved by Lovevery, or cause confusion, mistake, or deception as to the affiliation, connection, or association between Applicant and Lovevery.

24. Registration of Applicant's Mark will damage Lovevery because such registration would grant statutory, exclusive rights to Applicant in violation of Lovevery's prior and superior rights, and the registration of Applicant's Mark would unduly narrow the scope of protection afforded to the LOVEVERY Marks.

25. Accordingly, Applicant's Application Serial No. 90/400,807 to register Applicant's Mark in connection with Applicant's Goods should be refused registration under Section 2(d) of the Lanham Act.

COUNT II: NONUSE OF THE MARK

26. Lovevery reasserts and incorporates by reference Paragraphs 1 through 25 above as if fully set forth herein

27. The Application was filed on the basis of Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a).

28. When filing the Application, Applicant declared that Applicant's Mark had been used, in commerce, on or in connection with all of Applicant's Goods.

29. When filing the Application, Applicant declared that Applicant's Mark had been used, in commerce, on or in connection with all of Applicant's Goods since at least as early as December 11, 2020.

30. On information and belief, as of the filing date of the Application, December 22, 2020, Applicant was not using Applicant's Mark, in commerce, on or in connection with all of Applicant's Goods.

31. On information and belief, Applicant's Mark has not been used, in commerce, on or in connection with all of Applicant's Goods.

32. As Applicant has not used Applicant's Mark, in commerce, on or in connection with all of Applicant's Goods, the Application should be refused as to Applicant's Goods which were not in use, in commerce, as of December 22, 2020, the Application's filing date.

REQUEST FOR RELIEF

WHEREFORE, Opposer believes that it will be damaged by registration of Application Serial No. 90/400,807 and respectfully requests that the opposition be sustained and that registration to Applicant be refused.

DATED: November 16, 2021

Respectfully submitted,

PERKINS COIE LLP

By: /s/ Monica Gutierrez
MONICA GUTIERREZ
ALEXANDER GARCIA
PERKINS COIE LLP
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**ATTORNEYS FOR OPPOSER
LOVEVERY, INC.**