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Filing date: **09/06/2023**

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	Wham-O Holding, Ltd.		
Entity	Limited Company	Incorporated or registered in	Hong Kong
Address	BLOCK F,6/F,WAH HING INDUSTRIAL MANSIONS 36 TAI YAU STREET SAN PO KONG, KOWLOON, 0 HONG KONG		

Attorney information	SARAH S. BROOKS VENABLE LLP 2049 CENTURY PARK EAST, SUITE 2300 LOS ANGELES, CA 90067 UNITED STATES Primary email: ssbrooks@venable.com Secondary email(s): hedmonds@venable.com, asharon@venable.com, alkol-sky@venable.com (310) 229-9900		
Docket no.	1		

### Applicant information

Application no.	79975717	Publication date	08/22/2023
Opposition filing date	09/06/2023	Opposition period ends	09/21/2023
International registration no.	1641979	International registration date	12/17/2021
Applicant	HULA-HOOP HOLDING 15 RUE ALSACE-LORRAINE F-69001 LYON FRANCE		

### Goods/services affected by opposition

Class 038. First Use: None First Use In Commerce: None

All goods and services in the class are opposed, namely: Telecommunications access services in the field of business communications; providing information relating to telecommunications, namely, in the field of business communications; communications by computer terminals or by fiber-optic networks; communications by radio or telephone; mobile radio telephony services in the field of business communications; providing user access to global computer networks; provision of Internet chat rooms; providing access to databases; electronic bulletin board services being telecommunication services; providing telecommunications connections to a global computer network in the field of business communications; news agency services, namely, the transmission of news items to news reporting organizations, all in the field of business communications; rental of telecommunication apparatus; broadcasting of radio or television programs; teleconferencing services; electronic messaging services; rental of access time to global computer networks

## 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. registration no.	0739307	Application date	06/19/1958
Register	Principal		
Registration date	10/16/1962	Foreign priority date	NONE
Word mark	HULA-HOOP		
Design mark			
Description of mark	NONE		
Goods/services	Class 022. First use: First Use: May 20, 1958 First Use In Commerce: May 21, 1958 PLASTIC TOY HOOPS		

Attachments	Notice of Opposition re HULAHOOP Stylized with Exs A-B.pdf(2506396 bytes )
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Signature	/Sarah S. Brooks/
Name	Sarah S. Brooks
Date	09/06/2023

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

**In the matter of Application Serial No. 79/975,717  
Published in the *Official Gazette* on August 22, 2023**

**Mark: HULAHOOP (Stylized) **

**WHAM-O HOLDING, LTD.,**

**Opposer,**


**v.**

**HULA-HOOP HOLDING,**

**Applicant.**

**Opposition No. \_\_\_\_\_**

**NOTICE OF OPPOSITION**

Wham-O Holding, Ltd., with a business address of Block F, 6/F, Wah Hing Industrial Mansions, 36 Tai Yau Street, San Po Kong, Kowloon, HONG KONG (“Wham-O” or “Opposer”) believes that it will be damaged by registration of the HULAHOOP stylized mark,  , shown in Application Serial No. 79/975,717 (“HULAHOOP Stylized Mark”), and hereby files the present notice of opposition under the provisions of 15 U.S.C. §§ 1051 *et seq.*, including specifically 15 U.S.C. § 1063. This Notice of Opposition has been timely filed. As grounds for its opposition, Opposer alleges as follows:

1. Opposer Wham-O is a toy company known for creating some of the most iconic and popular children’s toys for the past 70 years, including the HULA-HOOP®, FRISBEE®, SLIP ‘N SLIDE®, HACKY SACK®, and BOOGIE® Board.

2. Wham-O is the owner of U.S. Trademark Registration No. 0739307 (the “HULA-HOOP Mark”) for “plastic toy hoops” in International Class 28. Attached hereto as **Exhibit A** is a true and correct copy of the registration certificate for the HULA-HOOP Mark.

3. For over 60 years, since as early as 1958, Wham-O has continuously and pervasively used the HULA-HOOP Mark, and variations thereof, in commerce in the United States and in connection with high quality sports and games products that are used and enjoyed by people of all ages. Wham-O popularized the HULA-HOOP, which comes in a variety of materials, colors, and sizes, and provides users a fun way to get fit by forcing users to stay balanced and move ones hips backward and forward in a rhythmic fashion to make the hoop spin. Users can also perfect many ‘on body’ moves, like making the HULA-HOOP spin on their neck or arm, as well as ‘off-body’ moves. HULA-HOOP toys have also been incorporated into circuses and rhythmic gymnastic events, and numerous records in the *Guinness Book of World Records* have involved HULA-HOOP spinning. The HULA-HOOP has clearly established a firm place in the American way of life.

4. Upon information and belief, applicant is Hula-Hoop Holding, a corporate entity organized and existing under the laws of France with a business address of 15 rue Alsace-Lorraine, F-69001, Lyon, France (“Applicant”).

5. As illustrated in Application Serial No. 79/975,717, Applicant seeks to register the HULAHOOP Stylized Mark for “Telecommunications access services in the field of business communications; providing information relating to telecommunications, namely, in the field of business communications; communications by computer terminals or by fiber-optic networks; communications by radio or telephone; mobile radio telephony services in the field of business communications; providing user access to global computer networks; provision of Internet chat rooms; providing access to databases; electronic bulletin board services being telecommunication services; providing telecommunications connections to a global computer network in the field of business communications; news agency services, namely, the transmission of news items to news reporting organizations, all in the field of business communications; rental of telecommunication

apparatus; broadcasting of radio or television programs; teleconferencing services; electronic messaging services; rental of access time to global computer networks” in International Class 38.

### **LIKELIHOOD OF CONFUSION**

6. Wham-O restates Paragraphs 1-5 as if fully set forth herein.

7. Wham-O asserts, pursuant to 15 U.S.C. § 1052(d), that Applicant’s HULAHOOP Stylized Mark is so similar to Wham-O’s HULA-HOOP Mark, as to be likely, when used in connection with the services described in U.S. Trademark Application Serial No. 79/975,717 to cause confusion, or to cause mistake, or to deceive.

8. Wham-O’s HULA-HOOP Mark is a well-known and valuable mark in the sports and games industry. Moreover, due to national advertising and promotion of Wham-O’s HULA-HOOP Mark, consumers have come to recognize the HULA-HOOP Mark as symbolizing the goodwill inherent in the HULA-HOOP Mark, and further, associate the HULA-HOOP Mark solely with Wham-O and its high-quality toy plastic hoops.

9. The strength of Wham-O’s HULA-HOOP Mark is a factor that increases likelihood of confusion caused by Applicant’s Mark. Wham-O’s trademark is well known and famous.

10. Given the goodwill and public recognition arising from the association of the distinctive and famous HULA-HOOP Mark with Wham-O, consumers are likely to believe that Wham-O has licensed, approved or otherwise authorized Applicant’s use of the HULAHOOP Stylized Mark, when it has not.

11. Wham-O’s HULA-HOOP Mark is famous under the definition set forth in 15 U.S.C. § 1125(c)(2)(A).

12. No issue of priority exists between Wham-O’s date of first use of its HULA-HOOP Mark as set forth above and Applicant’s application. Wham-O has used its HULA-HOOP Mark in commerce in the United States in connection with plastic toy hoops since 1958. Conversely,

Applicant is seeking to register its HULAHOOP Stylized Mark on a 66(a) basis—*i.e.*, extension of protection of an international registration to the United States—where Applicant’s international registration (No. 1641979) has a registration date of December 17, 2021, **62 years** after Wham-O’s trademark application for HULA-HOOP issued. Thus, Wham-O’s rights are senior to those of Applicant.

13. When comparing the similarity of the marks, Applicant’s HULAHOOP Stylized Mark is virtually identical to Wham-O’s HULA-HOOP mark, differing only by a single hyphen and a stylized element. However, the stylization in Applicant’s HULAHOOP stylized Mark does not meaningfully distinguish the marks. When evaluating a composite mark consisting of words and a design, the word portion is normally accorded greater weight because it is likely to make a greater impression upon purchasers, be remembered by them, and be used by them to refer to or request the goods and/or services. *See In re Aquitaine Wine USA, LLC*, 126 USPQ2d 1181, 1184 (TTAB 2018) (citing *In re Viterro Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012)); TMEP §1207.01(c)(ii). Thus, given that the word portion is often considered the dominant feature in a mark, and because the word elements here are virtually identical and only differ by a single hyphen, Applicant’s Mark is likely to cause confusion with Wham-O’s HULA-HOOP Mark.

14. Even though Applicant’s Mark covers services in a different class than Wham-O, Wham-O’s HULA-HOOP mark is famous and entitled to a broader scope of protection.

15. Because Wham-O’s HULA-HOOP Mark does not contain limitations restricting the channels of trade, it is presumed to encompass the same channels of trade as Applicant’s HULAHOOP Stylized Mark. *See In re Viterro Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)).

16. Notably, in response to a related application that Applicant filed for an identical HULAHOOP Stylized mark (App. No. 79/332,447)—the only difference between the applications being the goods and services covered—the Examining Attorney issued a 2(d) refusal of Applicant’s mark based on Wham-O’s HULA-HOOP mark. More specifically, the Examining Attorney found a likelihood of confusion between Applicant’s HULAHOOP Stylized mark and Wham-O’s HULA-HOOP mark based on the similarity of the marks, similarity and nature of the goods, and similarity of the trade channels of the goods. Attached hereto as **Exhibit B** is a true and correct copy of the Examining Attorney’s September 26, 2022 Office Action in connection with Applicant’s related application for the HULAHOOP Stylized mark (App. No. 79/332,447).<sup>1</sup>

17. Upon information and belief, Applicant knew or should have known of Wham-O and its prior and senior rights in and to the HULA-HOOP Mark and Applicant intentionally invoked the good will and reputation of HULA-HOOP in connection with its services, and to intentionally create confusion with Wham-O’s HULA-HOOP Mark.

18. The maturation of Applicant’s application into registration will cause a likelihood of confusion, mistake or deception with respect to the source or origin of Applicant’s services. Consumers will erroneously believe that Applicant’s services are sponsored, approved, or endorsed by Wham-O.

19. Pursuant to 15 U.S.C. § 1063(a), Wham-O will be damaged by registration of Applicant’s proposed mark. Such registration would grant Applicant a *prima facie* exclusive right to use the proposed mark despite Wham-O’s priority over Applicant and despite the likelihood of confusion, dilution, and injury to Wham-O’s goodwill that will be caused by Applicant’s mark.

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<sup>1</sup> Applicant’s related application (App. No. 79/332,447) is currently suspended pending the outcome of a cancellation proceeding brought against Wham-O’s HULA-HOOP mark (Cancellation Proceeding No. 92082174). However, that proceeding was recently terminated in Wham-O’s favor on July 26, 2023. Therefore, the basis for the Examining Attorney’s Section 2(d) refusal of Applicant’s related HULAHOOP Stylized mark will be maintained/continued. And as set forth above, Wham-O believes the same grounds for refusal are also applicable to Applicant’s HULAHOOP Stylized Mark (App. No. 79/975,717) that is the subject of this opposition.

20. In sum, at least for the reason that purchasers of Applicant's services sold under Applicant's Mark would be very likely to believe that Applicant's services originate from the same source as the goods sold by Wham-O under Wham-O's HULA-HOOP Mark, Wham-O opposes Application Serial No. 79/975,717.

WHEREFORE, Wham-O prays that this Notice of Opposition be granted, that judgement be entered against Applicant, and that U.S. Application Serial No. 79/975,717 for the services identified in International Class 38 be denied.

Dated: September 6, 2023

Respectfully submitted,

VENABLE LLP

/s/ Sarah S. Brooks

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Attorneys for Opposer Wham-O Holdings, Ltd.

# EXHIBIT A

# United States Patent Office

739,307  
Registered Oct. 16, 1962

## PRINCIPAL REGISTER Trademark

Ser. No. 53,914, filed June 19, 1958

### HULA-HOOP

Wham-O Mfg. Co. (California corporation)  
835 E. El Monte St.  
San Gabriel, Calif.

For: PLASTIC TOY HOOPS, in CLASS 22.  
First use May 20, 1958; in commerce May 21, 1958.

# EXHIBIT B

**United States Patent and Trademark Office (USPTO)  
Office Action (Official Letter) About Applicant's Trademark Application**

**U.S. Application Serial No.** 79332447

**Mark:** HULAHOOOP

**Correspondence Address:**

Cabinet BENECH,  
Monsieur Alexandre JACQUET  
15 rue d'Astorg  
F-75008 Paris FRANCE

**Applicant:** HULA-HOOP HOLDING

**Reference/Docket No.** N/A

**Correspondence Email Address:**

**NONFINAL OFFICE ACTION  
Notice of Provisional Full Refusal**

**International Registration No.** 1641979

**Deadline for responding.** The USPTO must receive applicant's response **within six months of the "date on which the notification was sent to WIPO (mailing date)"** located on the WIPO cover letter, or the U.S. application will be abandoned (see <https://www.uspto.gov/trademarks-application-process/abandoned-applications> for information on abandonment). To confirm the mailing date, go to the USPTO's Trademark Status and Document Retrieval (TSDR) database at <https://tsdr.uspto.gov/>, select "US Serial, Registration, or Reference No.," enter the U.S. application serial number in the blank text box, and click on "Documents." The mailing date used to calculate the response deadline is the "Create/Mail Date" of the "IB-1rst Refusal Note."

Respond to this Office action using the USPTO's Trademark Electronic Application System (TEAS). A link to the appropriate TEAS response form appears at the end of this Office action.

**Discussion of provisional full refusal.** This is a provisional full refusal of the request for extension of protection to the United States of the international registration, known in the United States as a U.S. application based on Trademark Act Section 66(a). *See* 15 U.S.C. §§1141f(a), 1141h(c).

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

## **SUMMARY OF ISSUES:**

- Prior-Filed Application
- Section 2(d) Refusal -- Likelihood of Confusion -- Partial Refusal
- Identification of Goods and Services Requirement
- Request for Information
- Color Claim and Mark Description Requirement
- Applicant's Email Address and U.S.-Licensed Attorney Required

### **Prior-Filed Application**

The filing date of pending U.S. Application Serial No(s). 97068798 precede(s) applicant's filing date. See attached referenced application(s). If the mark(s) in the referenced application(s) register(s), applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application(s).

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark(s) in the referenced application(s). Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue(s) later if a refusal under Section 2(d) issues.

Upon receipt of applicant's response resolving the following refusal(s) and/or requirement(s), action on this application will be suspended pending the disposition of the prior-filed application(s). 37 C.F.R. §2.83(c); TMEP §§716.02(c), 1208.02(c).

### **Section 2(d) Refusal -- Likelihood of Confusion -- Partial Refusal**

*The stated refusal refers to the goods and services specified below only. It does not bar registration for the other goods and/or services. Please note that the refusal may be narrowed or broadened based on applicant's subsequent amendment to the identification of goods and services.*

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark(s) in U.S. Registration No(s). 0739307. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the attached registration(s).

Trademark Act Section 2(d) bars registration of an applied-for mark that is so similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the goods and/or services of the parties. *See* 15 U.S.C. §1052(d). Likelihood of confusion is determined on a case-by-case basis by applying the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) (called the "du Pont factors"). *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322, 123 USPQ2d 1744, 1747 (Fed. Cir. 2017). Any evidence of record related to those factors need be considered; however, "not all of the *DuPont* factors are relevant or of similar weight in every case." *In re Guild Mortg. Co.*, 912 F.3d 1376, 1379, 129 USPQ2d 1160, 1162 (Fed. Cir. 2019) (quoting *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1406, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997)).

Although not all *du Pont* factors may be relevant, there are generally two key considerations in any likelihood of confusion analysis: (1) the similarities between the compared marks and (2) the

relatedness of the compared goods and/or services. *See In re i.am.symbolic, llc*, 866 F.3d at 1322, 123 USPQ2d at 1747 (quoting *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002)); *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976) (“The fundamental inquiry mandated by [Section] 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods [or services] and differences in the marks.”); TMEP §1207.01.

### Comparison of the Marks

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Inn at St. John’s, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)), *aff’d per curiam*, 777 F. App’x 516, 2019 BL 343921 (Fed. Cir. 2019); TMEP §1207.01(b).

Applicant’s mark is HULAHOOB in stylized form.

Registrant’s mark is HULA-HOOP in standard character form.

Applicant’s mark and registrant’s marks share the virtually identical wording HULAHOOB and HULA-HOOP, and marks may be confusingly similar in appearance where similar terms or phrases or similar parts of terms or phrases appear in the compared marks and create a similar overall commercial impression. *See Crocker Nat’l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689, 690-91 (TTAB 1986), *aff’d sub nom. Canadian Imperial Bank of Commerce v. Wells Fargo Bank, Nat’l Ass’n*, 811 F.2d 1490, 1495, 1 USPQ2d 1813, 1817 (Fed. Cir. 1987) (finding COMMCASH and COMMUNICASH confusingly similar); *In re Corning Glass Works*, 229 USPQ 65, 66 (TTAB 1985) (finding CONFIRM and CONFIRMCELLS confusingly similar); *In re Pellerin Milnor Corp.*, 221 USPQ 558, 560 (TTAB 1983); *Seaguard Corp. v. Seaward Int’l, Inc.*, 223 USPQ 48, 51 (TTAB 1984) (“[T]he marks ‘SEAGUARD’ and ‘SEA GUARD’ are, in contemplation of law, identical [internal citation omitted].”); TMEP §1207.01(b)(ii)-(iii).

Additionally, because the marks share this virtually identical wording, they are likely to engender the same connotation and overall commercial impression when considered in connection with applicant’s and registrant’s respective goods and/or services. *Id.*

Finally, the stylization in applicant’s mark does not meaningfully distinguish the marks. When evaluating a composite mark consisting of words and a design, the word portion is normally accorded greater weight because it is likely to make a greater impression upon purchasers, be remembered by them, and be used by them to refer to or request the goods and/or services. *In re Aquitaine Wine USA, LLC*, 126 USPQ2d 1181, 1184 (TTAB 2018) (citing *In re Vitterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012)); TMEP §1207.01(c)(ii). Thus, although marks must be compared in their entireties, the word portion is often considered the dominant feature and is accorded greater weight in determining whether marks are confusingly similar, even where the word portion has been disclaimed. *In re Vitterra Inc.*, 671 F.3d at 1366-67, 101 USPQ2d at 1911 (citing *Giant Food, Inc. v. Nation’s Foodservice, Inc.*, 710 F.2d 1565, 1570-71, 218 USPQ2d 390, 395 (Fed. Cir. 1983)).

Accordingly, applicant's mark and registrant's mark are confusingly similar.

#### Comparison of the Goods and/or Services

The goods and/or services are compared to determine whether they are similar, commercially related, or travel in the same trade channels. *See Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §§1207.01, 1207.01(a)(vi).

Applicant identifies the following goods and services of relevance to this refusal:

Class 16: ... instructional or teaching material (except apparatus); ... books; ... pamphlets; ....

Class 35: presentation of goods on all communication media, for retail purposes; ....

Class 41: Education; training; entertainment; sporting and cultural activities; information relating to entertainment or education; ... providing recreational facilities... organization of competitions (education or entertainment); organization and conducting of colloquiums, conferences or congresses; organization of exhibitions for cultural or educational purposes; booking of seats for shows; game services provided online from a computer network ....

Class 42: ... styling (industrial design)

Registrant identifies the following goods:

Class 28: PLASTIC TOY HOOPS.

When analyzing an applicant's and registrant's goods and/or services for similarity and relatedness, that determination is based on the description of the goods and/or services in the application and registration at issue, not on extrinsic evidence of actual use. *See Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1323, 110 USPQ2d 1157, 1162 (Fed. Cir. 2014) (quoting *Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990)).

Additionally, the goods and/or services of the parties have no restrictions as to nature, type, channels of trade, or classes of purchasers and are "presumed to travel in the same channels of trade to the same class of purchasers." *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)).

The compared goods and/or services need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000); TMEP §1207.01(a)(i). They need only be "related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source." *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i).

Further, consumers are likely to be confused by the use of similar marks on or in connection with goods

and with services featuring or related to those goods. TMEP §1207.01(a)(ii); see *In re Detroit Athletic Co.*, 903 F.3d 1297, 1307, 128 USPQ2d 1047, 1051 (Fed. Cir. 2018) (finding retail shops featuring sports team related clothing and apparel related to various clothing items, including athletic uniforms); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir. 1988) (finding retail grocery and general merchandise store services related to furniture); *In re United Serv. Distribs., Inc.*, 229 USPQ 237 (TTAB 1986) (finding distributorship services in the field of health and beauty aids related to skin cream); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (finding various items of men's, boys', girls' and women's clothing related to restaurant services and towels); *Steelcase Inc. v. Steelcare Inc.*, 219 USPQ 433 (TTAB 1983) (finding refinishing of furniture, office furniture, and machinery related to office furniture and accessories); *Mack Trucks, Inc. v. Huskie Freightways, Inc.*, 177 USPQ 32 (TTAB 1972) (finding trucking services related to motor trucks and buses).

In this case, the attached evidence from the USPTO's X-Search database, consisting of a number of third-party marks registered for use in connection with the same or similar goods and/or services as those in the application and registration(s), shows that applicant's and the mark(s) in the registration(s) goods and/or services are of a kind that may emanate from a single source under a single mark. See *In re I-Coat Co.*, 126 USPQ2d 1730, 1737 (TTAB 2018) (citing *In re Infinity Broad. Corp.*, 60 USPQ2d 1214, 1217-18 (TTAB 2001); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); *In re Mucky Duck Mustard Co.*, 6 USPQ2d 1467, 1470 n.6 (TTAB 1988)); TMEP §1207.01(d)(iii).

Finally, it is well established that where the marks of the respective parties are identical or virtually identical, as in this case, the degree of similarity or relatedness between the goods and/or services needed to support a finding of likelihood of confusion declines. See *In re Country Oven, Inc.*, 2019 USPQ2d 443903, at \*5 (TTAB 2019) (citing *In re i.am.symbolic, llc*, 116 USPQ2d 1406, 1411 (TTAB 2015), *aff'd*, 866 F.3d 1315, 123 USPQ2d 1744 (Fed. Cir. 2017)); TMEP §1207.01(a); see also *In re Shell Oil Co.*, 992 F.2d 1204, 1207, 26 USPQ2d 1687, 1689 (Fed. Cir. 1993).

Accordingly, the goods and services in the application and registration(s) related under Section 2(d) of the Trademark Act.

### Conclusion

The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. See *In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); see *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1026 (Fed. Cir. 1988).

For the reasons discussed above, registration is refused under Section 2(d) of the Trademark Act.

The stated refusal refers to the services specified above only. It does not bar registration for the other goods and/or services.

Applicant may respond to the stated refusal by submitting evidence and arguments against the refusal. In addition, applicant may respond by doing one of the following:

(1) Deleting the goods and/or services to which the refusal pertains; or

(2) Filing a [Request to Divide Application form](#) (form #3) to divide out the goods and/or services that have not been refused registration, so that the mark may proceed toward registration for those goods or services to which the refusal does not pertain. *See* 37 C.F.R. §2.87. *See generally* TMEP §§1110 *et seq.* (regarding the requirements for filing a request to divide). If applicant files a request to divide, then to avoid abandonment, applicant must also file a timely response to all outstanding issues in this Office action, including the refusal. 37 C.F.R. §2.87(e).

However, if applicant responds to the refusal(s), applicant must also respond to the refusal(s) and/or requirement(s) set forth below.

### **Identification of Goods and Services Requirement**

The identification of goods and services must be clarified because it is indefinite and overbroad. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. For the problematic wording noted below, applicant must amend the identification to specify the common commercial or generic name of the goods and services in the international class originally identified. *See* TMEP §1402.01. If the goods and services have no common commercial or generic name, applicant must further describe the nature of the product or service, its main purpose, and its intended uses in clear and succinct language in the international class originally identified. *See id.*

In addition, the identification contains parentheses; however, an applicant should *not* use parentheses and brackets, including curly brackets, in identifications in order to avoid confusion with the USPTO's practice of using parentheses and brackets in registrations to indicate (1) goods and/or services that have been deleted from registrations, (2) goods and/or services not claimed in an affidavit of incontestability, or (3) guidance to users of the USPTO's [U.S. Acceptable Identification of Goods and Services Manual](#) to draft an acceptable identification. *See* TMEP §§1402.04, 1402.12. The only exception for including parenthetical information in identifications is if it serves to explain or translate the matter immediately preceding the parenthetical phrase in such a way that it does not affect the clarity or scope of the identification, e.g., "fried tofu pieces (abura-age)." *See* TMEP §1402.12.

Therefore, applicant must remove the parentheses from the identification and, if appropriate, incorporate any parenthetical or bracketed information into the description of the goods and/or services.

Applicant may amend the identification to clarify or limit the goods and/or services, but may not broaden or expand the goods and/or services beyond those in the original application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted goods and/or services may not later be reinserted. *See* TMEP §1402.07(e). Additionally, for applications filed under Trademark Act Section 66(a), the scope of the identification for purposes of permissible amendments is limited by the international class assigned by the International Bureau of the World Intellectual Property Organization (International Bureau); and the classification of goods and/or services may not be changed from that assigned by the International Bureau. 37 C.F.R. §2.85(d); TMEP §§1401.03(d), 1904.02(b). Further, in a multiple-class Section 66(a) application, classes may not be added or goods and/or services transferred from one existing class to another. 37 C.F.R. §2.85(d); TMEP §1401.03(d).

Applicant may adopt the following identification, if accurate:

Class 16: Printing products, **namely, {specify common commercial name of goods in Class 16 and/or further specify nature and/or purpose of goods in Class 16, e.g., menu boards}(printed matter);** bookbinding material, **namely, {specify common commercial name of goods in Class 16 and/or further specify nature and/or purpose of goods in Class 16, e.g., bookbinding cords}; {specify common commercial name of goods in Class 16 and/or further specify nature and/or purpose of goods in Class 16, e.g., printed}** photographs; stationery; adhesives for stationery or household purposes; artists' materials, **namely, {specify common commercial name of goods in Class 16 and/or further specify nature and/or purpose of goods in Class 16, e.g., molds for modeling clays};** paintbrushes; typewriters and office requisites, **namely, {specify common commercial name of goods in Class 16 and/or further specify nature and/or purpose of goods in Class 16, e.g., staplers}, none of the foregoing including furniture (except furniture); {specify common commercial name of goods in Class 16 and/or further specify nature and/or purpose of goods in Class 16, e.g., printed}** instructional and teaching material in the field of **{specify subject matter, e.g., advertising}, not including apparatus (except apparatus);** printing type; printing blocks; paper; cardboard; boxes of cardboard or paper; **{specify common commercial name of goods in Class 16 and/or further specify nature and/or purpose of goods in Class 16, e.g., printed}** posters; **{specify common commercial name of goods in Class 16 and/or further specify nature and/or purpose of goods in Class 16, e.g., photo}** albums; **{specify common commercial name of goods in Class 16 and/or further specify nature and/or purpose of goods in Class 16, e.g., printed greeting}** cards; **{specify common commercial name of goods in Class 16 and/or further specify nature and/or purpose of goods in Class 16, e.g., printed}** books in the field of **{specify subject matter, e.g., business management}; {specify common commercial name of goods in Class 16 and/or further specify nature and/or purpose of goods in Class 16, e.g., printed}** newspapers; **{specify common commercial name of goods in Class 16 and/or further specify nature and/or purpose of goods in Class 16, e.g., printed pamphlets being}** prospectuses in the field of **{specify subject matter, e.g., financial trading}; {specify common commercial name of goods in Class 16 and/or further specify nature and/or purpose of goods in Class 16, e.g., printed}** pamphlets in the field of **{specify subject matter, e.g., financial trading}; {specify common commercial name of goods in Class 16 and/or further specify nature and/or purpose of goods in Class 16, e.g., printed}** calendars; writing instruments; engravings or lithographic works of art; **pictures in the nature of paintings (pictures),** framed or unframed; aquarelles; **{specify common commercial name of goods in Class 16 and/or further specify nature and/or purpose of goods in Class 16, e.g., printed}** patterns for dressmaking; drawings; drawing instruments; handkerchiefs of paper; face towels of paper; table linen of paper; toilet paper; bags and small bags **in the nature of envelopes and pouches, all of paper or plastic for packaging; garbage bags of paper or of plastics**

Class 35: Advertising **{specify common commercial name of services in Class 35 and/or further specify nature and/or purpose of services in Class 35, e.g., services};** commercial business management; commercial administration **{specify common commercial name of services in Class 35 and/or further specify nature and/or purpose of services in Class 35, e.g., of the licensing of goods and services for others};** providing office functions; dissemination of advertising material **being leaflets, prospectuses, printed matter, samples;** newspaper subscription services **for third parties; {specify common commercial name of services in Class 35 and/or further specify nature and/or purpose of services in Class 35, e.g., providing television home shopping services in the field of general consumer merchandise} arranging subscriptions to telecommunication services for others; presentation of goods on all communication media for retail purposes;** business management and organization consultancy; accounting **{specify common commercial name of services in Class 35 and/or further specify nature and/or purpose of services in Class 35, e.g., services};** document reproduction **{specify common commercial name of services in Class 35 and/or**

*further specify nature and/or purpose of services in Class 35, e.g., in the nature of photocopying services*}; employment agencies; computer file management; organization of exhibitions for commercial or advertising purposes; online advertising on a computer network; rental of advertising time on all communication media; publication of advertising texts, **namely, {specify common commercial name of services in Class 35 and/or further specify nature and/or purpose of services in Class 35, e.g., publication of publicity materials}**}; rental of advertising space; dissemination of advertisements; public relations

Class 38: Telecommunications *{specify common commercial name of services in Class 38 and/or further specify nature and/or purpose of services in Class 38, e.g., access services}*; information relating to telecommunications, **namely, {specify common commercial name of services in Class 38 and/or further specify nature and/or purpose of services in Class 38, e.g., providing information in the field of telecommunications}**}; communications by computer terminals or by fiber-optic networks; communications by radio or telephone; mobile radio telephony services, **namely, {specify common commercial name of services in Class 38 and/or further specify nature and/or purpose of services in Class 38, e.g., mobile telephony services}**}; providing user access to global computer networks; provision of Internet chat rooms; providing access to databases; electronic bulletin board services **being telecommunication services**; connection by telecommunications to a global computer network, **namely, {specify common commercial name of services in Class 38 and/or further specify nature and/or purpose of services in Class 38, e.g., providing electronic telecommunication connections}**}; *{specify common commercial name of services in Class 38 and/or further specify nature and/or purpose of services in Class 38, e.g., news agency services for electronic transmission}* ~~news or information agencies~~; rental of telecommunication apparatus; **broadcasting of radio or television programs (broadcasts)**; teleconferencing services; electronic messaging services; rental of access time to global computer networks

Class 41: *{specify common commercial name of services in Class 41 and/or further specify nature and/or purpose of services in Class 41, e.g., Physical}* education; training *{specify common commercial name of services in Class and/or further specify nature and/or purpose of services in Class 41, e.g., in the field of physical education}*}; entertainment *{specify common commercial name of services in Class and/or further specify nature and/or purpose of services in Class 41, e.g., information}*}; *{specify common commercial name of services in Class 41 and/or further specify nature and/or purpose of services in Class 41, e.g., organizing community sporting and cultural events}* ~~sporting and cultural activities~~; information relating to entertainment and education, **namely, {specify common commercial name of services in Class 41 and/or further specify nature and/or purpose of services in Class 41, e.g., providing information about entertainment and education}**}; vocational retraining services in the field of *{indicate specific field, e.g., mechanics, computers, etc.}*; providing recreational facilities *{specify common commercial name of services in Class 41 and/or further specify nature and/or purpose of services in Class 41, e.g., in the nature of play areas for children}*}; publication of books; book lending, **namely, {specify common commercial name of services in Class 41 and/or further specify nature and/or purpose of services in Class 41, e.g., lending of books}**}; videotape film production; rental of motion pictures; rental of sound recordings; rental of video cassette recorders or of radio and television sets; rental of show scenery; videotape editing; photography services; organization of *{specify common commercial name of services in Class 41 and/or further specify nature and/or purpose of services in Class 41, e.g., e-sports}* competitions ~~(education or entertainment)~~; organization and conducting of colloquiums, conferences or congresses, **all in the field of {indicate, e.g., telecommunications technology, economics, fashion, intellectual property law, etc.}**}; organization of exhibitions for cultural or educational purposes; booking of seats for shows; game services provided online from a computer network, **namely, {specify**

*common commercial name of services in Class 41 and/or further specify nature and/or purpose of services in Class 41, e.g., providing online computer games*}; gambling services; electronic publication of books and journals online; electronic desktop publishing

Class 42: Graphic design services; **indusial design, namely, {specify common commercial name of services in Class and/or further specify nature and/or purpose of services in Class , e.g., interior}** styling services for commercial buildings (~~industrial design~~)

Finally, again please note that applicant may amend the identification to clarify or limit the goods and/or services, but may not broaden or expand the goods and/or services beyond those in the original application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted goods and/or services may not later be reinserted. *See* TMEP §1402.07(e). Additionally, for applications filed under Trademark Act Section 66(a), the scope of the identification for purposes of permissible amendments is limited by the international class assigned by the International Bureau of the World Intellectual Property Organization (International Bureau); and the classification of goods and/or services may not be changed from that assigned by the International Bureau. 37 C.F.R. §2.85(d); TMEP §§1401.03(d), 1904.02(b). Further, in a multiple-class Section 66(a) application, classes may not be added or goods and/or services transferred from one existing class to another. 37 C.F.R. §2.85(d); TMEP §1401.03(d).

### **Request for Information**

To permit proper examination of the application, applicant must submit additional information about applicant's goods and services. *See* 37 C.F.R. §2.61(b); TMEP §814. The required information should include fact sheets, instruction manuals, brochures, and/or advertisements. If these materials are unavailable, applicant should submit similar documentation for goods and services of the same type, explaining how its own product or services will differ. If the goods and services feature new technology and no information regarding competing goods and services is available, applicant must provide a detailed factual description of the goods and services.

Factual information about the goods must clearly indicate how they operate, their salient features, and their prospective customers and channels of trade. Factual information about the services must clearly indicate what the services are and how they are rendered, their salient features, and their prospective customers and channels of trade. Conclusory statements will not satisfy this requirement for information.

**In addition, applicant must please explain whether any of its goods or services involve plastic toy hoops.**

If applicant submits webpage evidence to satisfy this requirement, applicant must provide (1) an image of the webpage, (2) the date it was accessed or printed, and (3) the complete URL address. *In re ADCO Indus.-Techs., L.P.*, 2020 USPQ2d 53786, at \*2 (TTAB 2020) (citing *In re I-Coat Co.*, 126 USPQ2d 1730, 1733 (TTAB 2018)); TMEP §710.01(b). Providing only a website address or hyperlink to the webpage is not sufficient to make the materials of record. *In re ADCO Indus.-Techs., L.P.*, 2020 USPQ2d 53786, at \*2 (citing *In re Olin Corp.*, 124 USPQ2d 1327, 1331 n.15 (TTAB 2017); *In re HSB Solomon Assocs., LLC*, 102 USPQ2d 1269, 1274 (TTAB 2012); TBMP §1208.03); TMEP §814.

Applicant has a duty to respond directly and completely to this requirement for information. *See In re Ocean Tech., Inc.*, 2019 USPQ2d 450686, at \*2 (TTAB 2019) (citing *In re AOP LLC*, 107 USPQ2d

1644, 1651 (TTAB 2013)); TMEP §814. Failure to comply with a requirement for information is an independent ground for refusing registration. *In re SICPA Holding SA*, 2021 USPQ2d 613, at \*6 (TTAB 2021) (citing *In re Cheezwhse.com, Inc.*, 85 USPQ2d 1917, 1919 (TTAB 2008); *In re DTI P'ship LLP*, 67 USPQ2d 1699, 1701-02 (TTAB 2003); TMEP §814).

### **Color Claim and Mark Description Requirement**

Applicant must clarify whether color is a feature of the mark because, although the drawing shows the mark in color, the application does not explicitly state whether color is being used in the mark. 37 C.F.R. §§2.37, 2.52(b)(1), 2.61(b); *see* TMEP §807.07(a)-(b). Applications for marks depicted in color must include a color drawing and a statement (1) listing all the colors claimed as a feature of the mark and (2) describing where each color appears in the literal and design elements in the mark. 37 C.F.R. §§2.37, 2.52(b)(1); *see* TMEP §807.07(a)-(b). Because the application does not include an explicit statement about color, the record is not clear as to whether it is a feature of the mark.

To clarify whether color is claimed as a feature of the mark, applicant must satisfy one of the following:

(1) If **color is not a feature of the mark**, applicant must submit (a) a new black-and-white drawing of the mark to replace the color drawing in the record, (b) a statement that no claim of color is made in the international registration, and (c) a description of the literal and design elements in the mark omitting any reference to color. 37 C.F.R. §2.37; TMEP §§807.07(b), 807.12(c); *see* TMEP §808 *et seq.*

The following description is suggested, if accurate:

**The mark consists of a stylized wording "HULAHOOP".**

(2) If **color is a feature of the mark**, applicant must submit a statement (a) listing all the colors claimed as a feature of the mark and (b) describing where the colors appear in the literal and design elements in the mark. 37 C.F.R. §§2.37, 2.52(b)(1); TMEP §§807.07(b), 807.12(c). Generic color names must be used to describe the colors in the mark, e.g., red, yellow, blue. TMEP §807.07(a)(i)-(ii). If black, white, and/or gray represent background, outlining, shading, and/or transparent areas and are not part of the mark, applicant must include a statement indicating that in the description. *See* TMEP §807.07(d), (d)(iii).

The following color claim and description are suggested, if accurate:

Color claim:

**The color red is are claimed as a feature of the mark.**

Description:

**The mark consists of a stylized wording "HULAHOOP" in red letters.**

### **Applicant's Email Address and U.S.-Licensed Attorney Required**

**Email address required.** Applicant must provide applicant’s email address, which is a requirement for a complete application. See 37 C.F.R. §2.32(a)(2); [Mandatory Electronic Filing & Specimen Requirements](#), Examination Guide 1-20, at III.A. (Rev. Feb. 2020). Applicant’s email address cannot be identical to the listed primary correspondence email address of any attorney retained to represent applicant in this application. See Examination Guide 1-20, at III.A.

**Applicant must be represented by a U.S.-licensed attorney to respond to or appeal the provisional refusal.** An applicant whose domicile is located outside of the United States or its territories is foreign-domiciled and must be represented by an attorney who is an active member in good standing of the bar of the highest court of a U.S. state or territory. 37 C.F.R. §§2.11(a), 11.14; Requirement of U.S.-Licensed Attorney for Foreign-Domiciled Trademark Applicants & Registrants, Examination Guide 4-19, at I.A. (Rev. Sept. 2019). An individual applicant’s domicile is the place a person resides and intends to be the person’s principal home. 37 C.F.R. §2.2(o); Examination Guide 4-19, at I.A. A juristic entity’s domicile is the principal place of business; i.e., headquarters, where a juristic entity applicant’s senior executives or officers ordinarily direct and control the entity’s activities. 37 C.F.R. §2.2(o); Examination Guide 4-19, at I.A. Because applicant is foreign-domiciled, applicant must appoint such a U.S.-licensed attorney qualified to practice under 37 C.F.R. §11.14 as its representative before the application may proceed to registration. 37 C.F.R. §2.11(a). See Hiring a U.S.-licensed trademark attorney at <https://www.uspto.gov/trademarks-getting-started/why-hire-private-trademark-attorney> for more information.

Only a U.S.-licensed attorney can take action on an application on behalf of a foreign-domiciled applicant. 37 C.F.R. §2.11(a). Accordingly, the USPTO will not communicate further with applicant about the application beyond this Office action or permit applicant to make future submissions in this application. And applicant is not authorized to make amendments to the application.

**To appoint or designate a U.S.-licensed attorney.** To appoint an attorney, applicant should submit a completed Trademark Electronic Application System (TEAS) Change Address or Representation form at <https://teas.uspto.gov/wna/ccr/car>. The newly-appointed attorney must submit a TEAS Response to Examining Attorney Office Action form at <https://teas.uspto.gov/office/roa/> indicating that an appointment of attorney has been made and address all other refusals or requirements in this action, if any. Alternatively, if applicant retains an attorney before filing the response, the attorney can respond to this Office action by using the appropriate TEAS response form and provide his or her attorney information in the form and sign it as applicant’s attorney. See 37 C.F.R. §2.17(b)(1)(ii).

\* \* \* \* \*

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusal(s) and/or requirement(s) in this Office action. See TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. See 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

**How to respond.** [Click to file a response to this nonfinal Office action.](#)

/Matthew Tully/  
Matthew Tully  
(571) 270-5943  
matthew.tully@uspto.gov

## RESPONSE GUIDANCE

- **Missing the response deadline to this letter will cause the application to [abandon](#).** The response must be received by the USPTO before midnight **Eastern Time** of the last day of the response period. TEAS maintenance or [unforeseen circumstances](#) could affect an applicant's ability to timely respond.
- **[Responses signed by an unauthorized party](#)** are not accepted and can **cause the application to [abandon](#)**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.

Print: Mon Sep 26 2022

97068798

(4) STANDARD CHARACTER MARK

Crystalline Hula Hoop

Mark Punctuated  
CRYSTALLINE HULA HOOP

Translation

Goods/Services

- IC 041. US 100 101 107.G & S: Professional coaching services in the field of personal and professional self development utilizing self-realization methods, namely, conducting online training workshops in the field of personal self-awareness, self-realization and self-improvement and distribution of course material in connection therewith; one-on-one personal and professional mentoring services in the field of personal self-awareness and self-improvement based on mindset coaching, energy healing, spiritual principles and self-realization methodologies

Mark Drawing Code  
(4) STANDARD CHARACTER MARK

Design Code

Serial Number  
97068798

Filing Date  
20211011

Current Filing Basis  
1B

Original Filing Basis  
1B

Publication for Opposition Date  
20220927

Registration Number

Date Registered

Owner  
(APPLICANT) Purify Your Life Inc CORPORATION FLORIDA 8646 Tourmaline Blvd Boynton Beach  
FLORIDA 33472

Priority Date

Disclaimer Statement

Description of Mark

Type of Mark  
SERVICE MARK

Register  
PRINCIPAL

Live Dead Indicator  
LIVE

Attorney of Record

Print: Mon Sep 26 2022

72053914

(1) TYPED DRAWING

# HULA-HOOP

Mark Punctuated

HULA-HOOP

Translation

Goods/Services

- IC 028. US 022.G & S: PLASTIC TOY HOOPS. FIRST USE: 19580520. FIRST USE IN COMMERCE: 19580521

Mark Drawing Code

(1) TYPED DRAWING

Design Code

Serial Number

72053914

Filing Date

19580619

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

Registration Number

0739307

Date Registered

19621016

Owner

(REGISTRANT) WHAM-O MFG. CO. CORPORATION CALIFORNIA 835 E. EL MONTE ST. SAN GABRIEL CALIFORNIA (LAST LISTED OWNER) WHAM-O HOLDING, LTD. COMPANY HONG KONG 36 Tai Yau Street Block F, 6/F Wah Hing Industrial Mansion San Po Kong, Kowloon HONG KONG

Priority Date

Disclaimer Statement

Description of Mark

Type of Mark

TRADEMARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record  
Sarah S. Brooks

Print: Mon Sep 26 2022

75892664

(1) TYPED DRAWING

# EAGLE PLAY STRUCTURES

Mark Punctuated

EAGLE PLAY STRUCTURES

Translation

Goods/Services

- **IC 028**. US 022 023 038 050. G & S: PLAYGROUND EQUIPMENT, NAMELY, SWINGS, SWING SETS; CLIMBING UNITS WITH AND WITHOUT FORTS, AND SLIDES, SOLD AS MODULES OR TOGETHER AS A UNIT; FITNESS COURSE STRUCTURES COMPRISING **HOOPS**, BARS, ROPES, HURDLES, ARCHES AND CONDUITS. FIRST USE: 19900000. FIRST USE IN COMMERCE: 19900000 **IC 042**. US 100 101. G & S: PLAYGROUND **DESIGN**. FIRST USE: 19900000. FIRST USE IN COMMERCE: 19900000

Mark Drawing Code

(1) TYPED DRAWING

Design Code

Serial Number

75892664

Filing Date

20000107

Current Filing Basis

**1A**

Original Filing Basis

1A

Publication for Opposition Date

20010821

Registration Number

2505917

Date Registered

20011113

Owner

(REGISTRANT) (AAA) Sport Systems, Inc. CORPORATION MARYLAND 8045 Snouffer School Road Gaithersburg MARYLAND 20879 (LAST LISTED OWNER) PLAYMARK, INC. CORPORATION MARYLAND 10078 TYLER PLACE IJAMSVILLE MARYLAND 21754

Priority Date

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PLAY STRUCTURES" APART FROM THE MARK AS SHOWN

Description of Mark

Type of Mark

TRADEMARK. SERVICE MARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

David R. Schaffer

(1) TYPED DRAWING

# CATCH

Mark Punctuated  
CATCH

Translation

Goods/Services

- IC 016. US 002 005 022 023 029 037 038 050. G & S: EDUCATIONAL BOOKS, WORKBOOKS, GUIDE BOOKS AND CARDS, NAMELY, EDUCATIONAL BOOKS, WORKBOOKS GUIDE BOOKS AND CARDS CONTAINING TRAINING AND INSTRUCTIONAL INFORMATION IN THE FIELD OF HEALTH, PHYSICAL ACTIVITIES, NUTRITION AND RECREATION FOR CHILDREN; PENS; REWARD STICKERS, POSTERS, SIGNS AND BANNERS. FIRST USE: 19880000. FIRST USE IN COMMERCE: 19880000 **IC 028**. US 022 023 038 050. G & S: SPORTS AND ATHLETIC EQUIPMENT, NAMELY, FOAM BALLS, VOLLEYBALLS, SOFTBALLS, SOCCER BALLS, BASKETBALLS, TENNIS BALLS, PLAYGROUND BALLS, FOOTBALLS; BALLOONS; JUGGLING EQUIPMENT; AERODYNAMIC DISKS FOR USE IN PLAYING CATCHING GAMES; EXERCISE EQUIPMENT, NAMELY, PERSONAL EXERCISE MATS AND STEPS; JUMP ROPES; BASEBALL AND SOFTBALL EQUIPMENT, NAMELY, BATS, BALLS, BASES, BATTING TEES; GYMNASTICS BALANCE BEAMS; BEAN BAGS; SPORT CONES AND MARKERS; PLAY PARACHUTES; RACKETS; **HOOPS**; RHYTHMIC ACTIVITY EQUIPMENT, NAMELY, RIBBON WANDS, ROPES. FIRST USE: 19980000. FIRST USE IN COMMERCE: 19980000 **IC 041**. US 100 101 107. G & S: EDUCATIONAL SERVICES, NAMELY, CONDUCTING CLASSES, CONFERENCES, WORKSHOPS AND PERSONAL TRAINING IN THE FIELD OF HEALTH, PHYSICAL **EDUCATION**, NUTRITION, AND RECREATION FOR CHILDREN. FIRST USE: 19880000. FIRST USE IN COMMERCE: 19880000

Mark Drawing Code  
(1) TYPED DRAWING

Design Code

Serial Number  
76448473

Filing Date  
20020911

Current Filing Basis  
**1A**

Original Filing Basis  
1A

Publication for Opposition Date  
20031111

Registration Number  
2809979

Date Registered

20040203

Owner

(REGISTRANT) The Regents of The University of California CORPORATION CALIFORNIA 300 Lakeside Drive Oakland CALIFORNIA 946123550

Priority Date

Disclaimer Statement

Description of Mark

Type of Mark

TRADEMARK. SERVICE MARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

Christina D. Yates

(4) STANDARD CHARACTER MARK

HOME OF POI

Mark Punctuated  
HOME OF POI

Translation

Goods/Services

- **IC 028**. US 022 023 038 050.G & S: Games and playthings, namely, glow sticks, LED headbands and armbands for use as playthings; balls and tennis balls; gymnastic and sporting articles, namely, instruments used for juggling such as devil sticks, diabolo, juggling balls, juggling clubs, juggling knives, glow in the dark juggling balls, glow in the dark flying discs, glow in the dark twirling batons, glow in the dark twirling staffs and/or poles, twirling flags, fire wands, fire fans, twirling ribbons, juggling footbags, rope darts, fire rope darts, fire orbs, sliding fire orbs; martial arts training equipment, namely body protectors and weapons used in sport; skipping ropes, fire skipping ropes; hula hoops, fire hula hoops; poi, cone poi, sock poi, poi cords, fire poi, fire poi-snakes, talied poi, glow in the dark poi, all being poi for use in dancing or fire dancing. FIRST USE: 19991026. FIRST USE IN COMMERCE: 19991026
- IC 035. US 100 101 102.G & S: Retail and wholesale store services featuring games and play-things, gymnastic and sporting articles, poi parts and fittings for poi, DVDs, books, printed matter, teaching and instructional materials, New Zealand Maori jade, wood and bone carvings and pendants, carry cases for games,playthings, gymnastic and sporting articles and poi; providing advertising and promotional services; compilation of advertisements for use as web pages on the Internet; compilation of directories for publishing on the Internet; provision of space on websites for advertising goods and services; auctioneering provided on the Internet; business administration services for the processing of sales made on the Internet. FIRST USE: 19991026. FIRST USE IN COMMERCE: 19991026 **IC 041**. US 100 101 107. G & S: Educational services, namely, providing training, classes and seminars in martial arts, dancing and fire dancing; sporting and cultural activities, namely, martial arts, dancing and fire dancing; advisory, consultancy and information services in relation to entertainment, namely, martial arts tournaments and demonstrations, dancing and fire dancing, and in relation to education, namely, teaching and demonstrating cultural activities, martial arts, dancing and fire dancing. FIRST USE: 19991026. FIRST USE IN COMMERCE: 19991026

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Design Code

Serial Number

77335359

Filing Date

20071121

Current Filing Basis

**1A**

Original Filing Basis

1A

Publication for Opposition Date

20081028

Registration Number

3559769

Date Registered

20090113

Owner

(REGISTRANT) Home of Poi Ltd COMPANY NEW ZEALAND 36A Sonter Road Christchurch NEW ZEALAND 8442

Priority Date

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "POI" APART FROM THE MARK AS SHOWN

Description of Mark

Type of Mark

TRADEMARK. SERVICE MARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

Devasena Reddy

(4) STANDARD CHARACTER MARK

PAC-MAN AND THE GHOSTLY  
ADVENTURES

Mark Punctuated

PAC-MAN AND THE GHOSTLY ADVENTURES

Translation

Goods/Services

- IC 009. US 021 023 026 036 038.G & S: Computer game programs; computer game software; Interactive multimedia computer game programs; downloadable computer game software used and played on mobile and cellular telephones, handheld computers, handheld consoles, home consoles, personal computers and personal digital assistants; and video game software; downloadable computer game programs; downloadable computer game software via a global computer network and wireless devices; video game software. FIRST USE: 20131101. FIRST USE IN COMMERCE: 20131101
- IC 016. US 002 005 022 023 029 037 038 050.G & S: Printed matters, namely, posters, books about games, stories in illustrated form and illustrations; photos; stationery, namely, notebooks, erasers, pens, pencils, mechanical pens, markers, crayons and felt pens; office supplies, namely, paper expanding files, office binders, report covers, containers for office supplies made of paper, cardboard, or corrugated board; desk calendars; books featuring action and adventure stories; comic books; decals. FIRST USE: 20130614. FIRST USE IN COMMERCE: 20130614
- IC 025. US 022 039.G & S: T-shirts, boxer shorts, sleepwear, pajamas, and masquerade and Halloween costumes. FIRST USE: 20140524. FIRST USE IN COMMERCE: 20140524 IC 028. US 022 023 038 050. G & S: game cards; playing cards; trading card games; dolls; plush toys; toy figures; toy vehicles, metal toys, namely, toy clocks and watches, toy brooches, toy whistles, and lever action toys; plush toys, namely, stuffed toys; plastic toys, namely, plastic dolls and action figures, plastic toy hoops, plastic spinning tops, plastic yo-yos, plastic toy clocks, plastic construction trucks, and plastic toy boxes; rubber toys, namely, rubber balls, inflatable thin rubber toys, rubber dolls, and rubber squeeze toys for infants; toy sets, namely, toy construction sets, board games; card games; playground balls; puzzles, including, without limitation, jigsaw and manipulative puzzles; bubble making wand and solution sets; clay play articles, namely, clay action figures; glass beads being play articles; toy figures. FIRST USE: 20141104. FIRST USE IN COMMERCE: 20141104
- IC 030. US 046.G & S: Candy, gummy candy; chewing gum. FIRST USE: 20130723. FIRST USE IN COMMERCE: 20130723

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Design Code

Serial Number

86005618

Filing Date

20130709

Current Filing Basis

1A

Original Filing Basis

1B

Publication for Opposition Date

20140617

Registration Number

5296599

Date Registered

20170926

Owner

(REGISTRANT) BANDAI NAMCO ENTERTAINMENT INC. CORPORATION JAPAN 5-37-8 SHIBA,  
MINATO-KU TOKYO JAPAN 108-0014

Priority Date

Disclaimer Statement

Description of Mark

Color is not claimed as a feature of the mark.

Type of Mark

TRADEMARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

David L. May

(4) STANDARD CHARACTER MARK

## Hulala Girls

Mark Punctuated  
HULALA GIRLS

Translation

Goods/Services

- **IC 028**. US 022 023 038 050. G & S: Beach Balls; children's multiple activity toys; children's multiple activity toys sold as a unit with printed books; Doll accessories; Doll cases; Doll clothing; doll costumes; doll furniture; doll house furnishings; doll houses; dolls; dolls and accessories therefor; dolls and dolls clothes; dolls' houses; dolls' rooms; electronic learning toys; jigsaw and manipulative puzzles; music box toys; paddle surfboards; party games; plastic character toys; plastic toy **hoops**; play houses; play houses and toy accessories therefor; Playsets for dolls; plush dolls; plush toys; puzzles; rag dolls; squeezable squeaking toys; stand alone video output game machines; stand-up surf paddles; stuffed and plush toys; stuffed dolls and animals; stuffed toy animals; surfboards; talking dolls; talking electronic press-down toys; talking toys; teddy bears; wind-up walking toys; yo-yos. FIRST USE: 20070301. FIRST USE IN COMMERCE: 20070601 **IC 041**. US 100 101 107. G & S: Entertainment services, namely, providing on-line computer games; Providing a website featuring information in the field of **education** and entertainment for children; Entertainment services, namely, providing on-line, non-downloadable virtual gifts, fashion accessories, shoes, and sporting gear for use in virtual environments created for entertainment purposes; Entertainment services in the nature of development, creation, production and post-production services of multimedia entertainment content; Entertainment and **education** services in the nature of a series of short shows featuring action, adventure and comedy for children distributed to mobile handsets, which may include video, text, photos, illustration or hypertext. FIRST USE: 20070301. FIRST USE IN COMMERCE: 20070601

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Design Code

Serial Number

87698246

Filing Date

20171127

Current Filing Basis

**1A**

Original Filing Basis

1A

Publication for Opposition Date

20180327

Registration Number

5492219

Date Registered  
20180612

Owner  
(REGISTRANT) Hulala Girls Inc. CORPORATION DELAWARE 2207 Concord Pike #718 Wilmington  
DELAWARE 19803

Priority Date

Disclaimer Statement  
NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GIRLS" APART FROM THE MARK AS  
SHOWN

Description of Mark

Type of Mark  
TRADEMARK. SERVICE MARK

Register  
PRINCIPAL

Live Dead Indicator  
LIVE

Attorney of Record

(2) DESIGN ONLY



Mark Punctuated

Translation

Goods/Services

- IC 016. US 002 005 022 023 029 037 038 050. G & S: EDUCATIONAL BOOKS, PUBLICATIONS AND CARDS, NAMELY, TRAINING AND INSTRUCTIONAL INFORMATION IN THE FIELD OF HEALTH, PHYSICAL ACTIVITIES, NUTRITION AND RECREATION FOR PEOPLE; VIDEO, COMPUTER SOFTWARE AND DVD'S FEATURING TRAINING AND INSTRUCTIONAL INFORMATION IN THE FIELD OF HEALTH, PHYSICAL ACTIVITIES, NUTRITION, AND RECREATION FOR PEOPLE; PENS; REWARD STICKERS, POSTERS, SIGNS AND BANNERS; COMPACT DISKS AND CASSETTES FEATURING MUSIC; AND MUGS. FIRST USE: 19900000. FIRST USE IN COMMERCE: 19900000 IC 028. US 022 023 038 050. G & S: SPORTS AND ATHLETIC EQUIPMENT, NAMELY, BALLS OF ALL KINDS; BALLOONS; JUGGLING EQUIPMENT; AERODYNAMIC DISKS FOR USE IN PLAYING CATCHING GAMES; EXERCISE EQUIPMENT, NAMELY, MATS AND STEPS; JUMP ROPES; BASEBALL AND SOFTBALL EQUIPMENT, NAMELY, BATS, BALLS, BASES, BATTING TEES; GYMNASTICS BALANCE BEAMS; BEAN BAGS; SPORT CONES AND MARKERS; PLAY PARACHUTES; RACKETS; PINNIES; HOOPS; RHYTHMIC ACTIVITY EQUIPMENT, NAMELY, RIBBON WANDS, ROPES, MUSICAL INSTRUMENTS. FIRST USE: 19990000. FIRST USE IN COMMERCE: 19990000
- IC 041. US 100 101 107. G & S: TRAINING INSTRUCTIONAL SERVICES IN THE FIELD OF HEALTH, PHYSICAL ACTIVITIES, NUTRITION, AND RECREATION FOR PEOPLE. FIRST USE: 20000000. FIRST USE IN COMMERCE: 20000000

Mark Drawing Code

(2) DESIGN ONLY

Design Code

020133 020905 040703 070104 241525 260115 260121 261521 261709

Serial Number

76514949

Filing Date

20030516

Current Filing Basis

1A

Original Filing Basis

1A

Publication for Opposition Date

20040817

Registration Number

2901242

Date Registered

20041109

Owner

(REGISTRANT) The Regents of The University of California CORPORATION CALIFORNIA 1111 Franklin Street 5th Floor Oakland CALIFORNIA 946075200

Priority Date

Disclaimer Statement

Description of Mark

Color is not claimed as a feature of the mark.

Type of Mark

TRADEMARK. SERVICE MARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

Christina D. Yates