

ESTTA Tracking number: **ESTTA1349870**
Filing date: **04/02/2024**

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	The Pinata Factory, LLC		
Entity	limited liability company	Incorporated or registered in	Georgia
Address	2350 SPRING RD. SUITE 400 SMYRNA, GA 30080 UNITED STATES		
Attorney information	GREGORY T. OURADA HILL, KERTSCHER & WHARTON, LLP 3625 CUMBERLAND BLVD SE SUITE 1050 ATLANTA, GA 30339 UNITED STATES Primary email: go@hkw-law.com Secondary email(s): drk@hkw-law.com 678-384-7443		
Docket no.			

Applicant information

Application no.	97515768	Publication date	04/02/2024
Opposition filing date	04/02/2024	Opposition period ends	05/02/2024
Applicant	THE PINATA FACTORY STUDIO LLC 3826 SW 87TH PL, UNIT A MIAMI, FL 33165 UNITED STATES		

Goods/services affected by opposition

Class 028. First Use: Feb 28, 2017 First Use In Commerce: Feb 28, 2017 All goods and services in the class are opposed, namely: pinatas
Class 041. First Use: Feb 28, 2017 First Use In Commerce: Feb 28, 2017 All goods and services in the class are opposed, namely: custom creation of artwork in the nature of customized piñatas

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Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Mark cited by opposer as basis for opposition

U.S. application no.	97894110	Application date	04/18/2023
Registration date	NONE	Foreign priority date	NONE
Word mark	THE PIÑATA FACTORY LLC		
Design mark			
Description of mark	<p>The mark consists of a six pointed star with one point comprised of arcs colored shades of yellow and gold with a series of red circles descending from the point, a second point comprised of arcs colored shades of blue and indigo, a third point comprised of arcs colored shades of red, orange and yellow with a series of gold circles descending from the point, a fourth point comprised of arcs colored shades of purple with a series of green circles descending from the point, a fifth point comprised of arcs colored shades of red and pink with a series of blue circles descending from the point, and a sixth point comprised of arcs</p>		

	colored shades of green with a series of purple circles descending from the point; and a black circle from which each of the foregoing points emanates with the literal element "THE PINATA FACTORY LLC" in white lettering superimposed upon the black circle.
Goods/services	<p>Class 028. First use: First Use: Mar 16, 2023 First Use In Commerce: Mar 16, 2023 Pinatas</p> <p>Class 035. First use: First Use: Mar 16, 2023 First Use In Commerce: Mar 16, 2023 Retail store services featuring party supplies</p> <p>Class 042. First use: First Use: Mar 17, 2023 First Use In Commerce: Mar 17, 2023 Design and testing of new products, namely, pinatas, for others</p> <p>Class 043. First use: First Use: Mar 16, 2023 First Use In Commerce: Mar 16, 2023 Rental of chairs and tables</p>

Attachments	97894110#TMSN.png(bytes) Notice of Opposition - THE PINATA FACTORY 4-2-2024.pdf(2869006 bytes)
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Signature	/Gregory T Ourada/
Name	Gregory T. Ourada
Date	04/02/2024

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

The Piñata Factory, LLC

Opposer,

v.

The Piñata Factory Studio LLC

Applicant.

Opposition No. _____

Appl. Ser. Nos. 97/515,768 and 97/515,769



Mark: _____ and

THE PIÑATA FACTORY

Date Published: April 2, 2024

NOTICE OF OPPOSITION

The Piñata Factory, LLC, (“Opposer”) a Georgia limited liability company having an address of 2350 Spring Rd., Suite 400, Smyrna, GA 30080, and senior user of the asserted mark THE PIÑATA FACTORY & Design (Appl. Ser. No. 97/515,768) and THE PIÑATA FACTORY (Appl. Ser. No. 97/515,769) (“Applications”), owned by The Piñata Factory Studio LLC (“Applicant”), a Florida limited liability company, hereby respectfully submits this Notice of Opposition, for the reasons set forth below.

BACKGROUND

OPPOSER AND ITS USE OF THE PIÑATA FACTORY

1. The Pinata Factory, LLC was organized as a Georgia limited liability company on September 1, 2016.

2. Opposer began business operations in late 2016 using the trademark THE PINATA FACTORY (the “Senior Mark”) in conjunction with the six-pointed star logo shown below in Figure 1 for piñatas, retail store services featuring party supplies, design and testing of new products, namely, piñatas, for others, and rental of chairs and tables.



Figure 1

3. As a result of such use, Opposer acquired common law rights in the Senior Mark by virtue of its public use in commerce in the United States since 2016.
4. In approximately 2022, Opposer updated its six-pointed star logo to the form shown in Figure 2 below.



Figure 2

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