

ESTTA Tracking number: **ESTTA1151101**

Filing date: **08/04/2021**

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	Admar International, Inc.
Granted to Date of previous extension	08/04/2021
Address	3030 AURORA AVENUE MONROE, LA 71201 UNITED STATES
Attorney information	ROBERT M. CHIAVIELLO, JR. NUBYLAW 3030 AURORA AVENUE MONROE, LA 71201 UNITED STATES Primary Email: bobc@nuby.com Secondary Email(s): carleyl@nuby.com 318-410-4012
Docket Number	

Applicant Information

Application No.	90233027	Publication date	04/06/2021
Opposition Filing Date	08/04/2021	Opposition Period Ends	08/04/2021
Applicant	Noobie, LLC 6802 GARDEN TERRACE ROAD COLUMBUS, OH 43229 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Online marketplace for college students to buy, sell and rent items to other students; Online marketplace for transactions of goods and services between college students; Online marketplace where college students can buy, rent, and sell items such as textbooks, apparel, and furniture

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration	2335700	Application Date	04/20/1999
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No.			
Registration Date	03/28/2000	Foreign Priority Date	NONE
Word Mark	NUBY		
Design Mark	NUBY		
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 1998/01/01 First Use In Commerce: 1998/01/01 Infant Pacifier(s)		

U.S. Application No.	90677181	Application Date	04/28/2021
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NUBY		
Design Mark	NUBY		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2008/12/05 First Use In Commerce: 2008/12/05 On-line retail store services featuring products for babies, children and care givers; The bringing together, for the benefit of others, of products for babies, children and care givers, excluding the transport thereof, enabling customers to conveniently view and purchase those goods by means of on-line retail stores		

Attachments	75687481#TMSN.png(bytes) 90677181#TMSN.png(bytes) Noobie - US Opposition- Reg No - Petition - Final.pdf(235041 bytes)
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Signature	/Robert M. Chiaviello, Jr./
Name	ROBERT M. CHIAVIELLO, JR.
Date	08/04/2021

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

In the Matter of Application No. 5,801,066

For the Mark: NOOBIE

ADMAR INTERNATIONAL, INC.,)	
)	Opposition No. _____
Petitioner,)	
)	
v.)	
)	
NOOBIE, LLC,)	
)	
)	
Respondent.)	
)	
)	
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Admar International, Inc., **Petitioner**, a corporation organized and existing under the laws of Delaware with a principal place of business at 3030 Aurora Avenue, Monroe, LA 71201, believes that it will be damaged by the issuance of U.S. Trademark Application No. 90/233,027 for the mark NOOBIE, and hereby opposes the NOOBE application pursuant to Section 14(1) of the Lanham Trademark Act of 1946 ("Lanham Act"), 15 U.S.C. § 1064(1).

As grounds for cancellation, Petitioner alleges as follows:

1. Petitioner is in the business of owning and licensing intellectual property.
2. Petitioner is the owner of the twelve U.S. Trademark Registrations and four U.S. Trademark Applications for the word mark NUBY in the various international classes and for the various goods and services as set out in the chart attached as Exhibit A.

3. Petitioner has licensed the NUBY word mark in interstate commerce in the United States to Luv n' care, Ltd., continuously since January 1, 1998 for use in connection with the sale and distribution of products that are sold online and in traditional bricks and mortar retail channels throughout the United States. All good will associated with the use of the NUBY mark accrues to the benefit of Petitioner.
4. As a result of the widespread, continuous, and exclusive use of the NUBY mark throughout the United States identifying Petitioner as their ultimate source, Petitioner owns valid and subsisting federal statutory and common law rights to the NUBY mark.
5. Petitioner's NUBY mark is distinctive to both the consuming public and Petitioner's trade.
6. Petitioner and Petitioner's licensee have expended substantial time, money and resources marketing and promoting products sold under the NUBY mark throughout the United States including the use of point of purchase materials, displays and social media.
7. The products Petitioner has licensed under the NUBY mark are of high quality encompassing attractive and unique product designs and are constructed of high-quality materials using state of the art manufacturing. Petitioner has at all times exercised control over the quality of the products licensed for use under the NUBY mark to insure that they are of the highest quality.
8. Upon information and belief, **Respondent**, Noobie, LLC, an Ohio limited liability company with an address of 6802 Garden Terrace Road, Columbus, Ohio, 43229, is the current listed owner of Application No. 90/233,027 for the mark NOOBIE in connection with Online marketplace for college students to buy, sell and rent items to other students; Online marketplace for transactions of goods and services between college students; Online marketplace where college students can buy, rent, and sell items such as textbooks, apparel,

and furniture in International Class 35. That trademark application was filed on August 31, 2017, was issued on October 2, 2020. The application was filed as an Intent-to-Use application.

9. Petitioner's NUBY mark has priority over Respondent's application because Petitioner's first-use date of the NUBY mark predates the filing date of Respondent's application or any other date on which the Respondent may rely for purposes of priority.
10. Respondent's mark when spoken or used verbally is so like Petitioner's NUBY mark as to be likely to cause confusion, mistake, or deceive consumers into believing that Respondent's goods and services originate from, are sponsored or endorsed by or are somehow associated with Petitioner.
11. The goods and services covered by Respondent's Application are used in connection with products identical to the products Petitioner offers under its NUBY mark and covered by Petitioner's trademark registrations and applications. The products Petitioner offers under its NUBY mark are sold within the same channels of trade as those covered by Respondent's Application.
12. Respondent's Trademark Application No. 90/233,027 is unrestricted as to consumers or trade channels. As such, it is presumed that Respondent's goods and services identified in the challenged application are sold to ordinary consumers of products identical to goods and services sold under Petitioner's mark and travel in all ordinary trade channels through which Petitioner's licensee sells its products under the NUBY mark.

**GROUND FOR OPPOSITION –
PRIORITY AND LIKELIHOOD OF CONFUSION**

13. Respondent's Application should be refused because Petitioner's dates of first use and first use in commerce are long before any date upon which Respondent can rely and it consists

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