

ESTTA Tracking number: **ESTTA1229548**

Filing date: **08/16/2022**

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

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| Name | Zulily, LLC |
| Granted to date of previous extension | 09/14/2022 |
| Address | 2601 ELLIOT AVE. FLOOR 2 SEATTLE, WA 98121 UNITED STATES |

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| Correspondence information | DAVID J. BYER K&L GATES LLP ONE LINCOLN STREET BOSTON, MA 02111 UNITED STATES Primary email: BOTrademarks@klgates.com Secondary email(s): alice.schermer@klgates.com, david.byer@klgates.com, rikaleigh.johnson@klgates.com 617.261.3115 |
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Applicant information

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|------------------------|--|------------------------|------------|
| Application no. | 90828662 | Publication date | 05/17/2022 |
| Opposition filing date | 08/16/2022 | Opposition period ends | 09/14/2022 |
| Applicant | ZULLYHAIRSKINCARE, LLC 90-25 138TH PLACE, C5 NEW YORK, NY 11435 UNITED STATES | | |

Goods/services affected by opposition


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| <p>Class 035. First Use: Oct 2, 2020 First Use In Commerce: Oct 2, 2020 All goods and services in the class are opposed, namely: On-line retail store services featuring Natural cosmetics, Non medicated skin toners, Non-foaming cosmetic preparations for skin, face, body, Non-medicated cosmetic soap, Non-medicated cosmetics, Non-medicated facial and eye serum containing antioxidants, Non-medicated skin care preparations, Non-medicated skin care preparations, namely, creams, lotions, gels, toners, cleaners and peels, Non-medicated skin care preparations, namely, creams, lotions, gels, toners, cleaners and peels, Non-medicated skin creams, Non-medicated skin serums; On-line retail store services featuring Non-medicated skin toners, Non-medicated cleansers for personal use, namely, creams, lotions, gels, toners, cleaners and peels, Non-medicated cleansers, namely, skin cleansers, facial cleansers, Non-medicated cosmetic skin care preparations consisting of organic coconut virgin oil, Non-medicated exfoliating preparations for skin, face, body, Non-medicated lotions for skin, face, body, Non-medicated preparations all for the care of skin, hair and scalp, Non-medicated serums for use on skin, face, body, Non-medicated skin,</p> |
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face, bodycare preparations, Oils for cosmetic purposes, Organic cosmetics, Skin and bodytopical lotions, creams and oils for cosmetic use, Skin moisturizers used as cosmetics; On-line retail store services featuring Hair products, namely, shampoo, gel, shampoo, conditioner, deep conditioner, hair oil, hair serum, scalp oil, hair mask; On-line retail store services featuring Hair accessories, combs, blow-dryer, brushes, bonnet, hair pins, satin scarf, bonnet, satin bonnet; On-line retail store services featuring Anti-acne face cleanser, beard oil, organic conditioner, express hair growth oil, ginger and moringa hair tonic, growth lash serum, intimate scrub, intimate soap, rejuvenating rose face oil, turmeric and ginger scrub

Grounds for opposition

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| Priority and likelihood of confusion | Trademark Act Section 2(d) |
| Other | Common-law Rights |

Marks cited by opposer as basis for opposition

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|-----------------------|---|-----------------------|------------|
| U.S. registration no. | 3868643 | Application date | 12/21/2009 |
| Register | Principal | | |
| Registration date | 10/26/2010 | Foreign priority date | NONE |
| Word mark | ZULILY | | |
| Design mark |  | | |
| Description of mark | NONE | | |
| Goods/services | Class 035. First use: First Use: Jan 27, 2010 First Use In Commerce: Jan 27, 2010 On-line retail store services featuring a wide variety of consumer goods of others | | |

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| U.S. registration no. | 5800608 | Application date | 10/15/2015 |
| Register | Principal | | |
| Registration date | 07/09/2019 | Foreign priority date | NONE |
| Word mark | ZULILY | | |

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| Design mark | <h1>ZULILY</h1> | | |
| Description of mark | NONE | | |
| Goods/services | Class 035. First use: First Use: Jan 27, 2010 First Use In Commerce: Jan 27, 2010 Retail store services available through computer communications featuring general merchandise; and online retail store services in the field of general merchandise available through internet, mobile phone and portable and hand-held digital and electronic devices | | |


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| U.S. registration no. | 4557281 | Application date | 06/10/2013 |
| Register | Principal | | |
| Registration date | 06/24/2014 | Foreign priority date | NONE |


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| Word mark | ZULILY | | |
| Design mark | <h1>ZULILY</h1> | | |
| Description of mark | NONE | | |
| Goods/services | Class 025. First use: First Use: Jan 27, 2010 First Use In Commerce: Jan 27, 2010 Clothing, namely, coats, jackets, dresses, skirts, shorts, pants, bottoms, rompers, overalls, pajamas, swimsuits, tops, sweaters, sweatshirts, shirts, belts, socks, gloves, mittens and scarves; footwear; headgear, namely, hats, visors and caps; none of the aforesaid goods being bridalwear, wedding dresses, bridesmaid dresses and clothing being specially designed, adapted and immediately recognizable as such for wear at religious events Class 042. First use: First Use: Jan 27, 2010 First Use In Commerce: Jan 27, 2010 Hosting of digital content, namely, on-line blogs; providing a web site featuring temporary use of non-downloadable software for the viewing, uploading, sharing and presenting of information relating to merchandise for babies, infants, children, mothers to be and parents; hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive discus- | | |

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| | sions in the field of pregnancy, birth, parenting and childcare; provision of customized web pages featuring user-defined information and personal profiles |
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| U.S. registration no. | 4704515 | Application date | 06/10/2013 |
| Register | Principal | | |
| Registration date | 03/17/2015 | Foreign priority date | NONE |
| Word mark | ZULILY | | |
| Design mark |  | | |
| Description of mark | The mark consists of the stylized word "ZULILY"; a half circle comprised of flower petals surrounds the letters "ZU". | | |
| Goods/services | Class 025. First use: First Use: Jan 27, 2010 First Use In Commerce: Jan 27, 2010 Clothing, namely, dresses; bottoms; pants; shorts, skirts; tops; shirts; sweaters; sweatshirts; rompers; overalls; pajamas; swimsuits; jackets; coats; scarves; mittens; gloves; socks; belts; footwear and headgear, namely, hats; caps; visors; none of the aforesaid goods being bridalwear, wedding dresses, bridesmaid dresses and clothing being specially designed, adapted and immediately recognizable as such for wear at religious events | | |

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| U.S. registration no. | 6456654 | Application date | 12/20/2019 |
| Register | Principal | | |
| Registration date | 08/17/2021 | Foreign priority date | NONE |
| Word mark | ZULILY | | |

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| Design mark |  |
| Description of mark | The mark consists of the word "zulily" in a stylized script. |
| Goods/services | Class 025. First use: First Use: Mar 1, 2021 First Use In Commerce: Mar 1, 2021 Clothing, namely, coats, jackets, dresses, skirts, shorts, pants, bottoms, rompers, overalls, pajamas, swimsuits, tops, sweaters, sweatshirts, shirts, belts, socks, gloves, mittens and scarves; footwear; headgear, namely, hats, visors and caps; none of the aforesaid goods being bridalwear, wedding dresses, bridesmaid dresses and clothing being specially designed, adapted and immediately recognizable as such for wear at religious events |

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| U.S. registration no. | 6278858 | Application date | 12/20/2019 |
| Register | Principal | | |
| Registration date | 02/23/2021 | Foreign priority date | NONE |
| Word mark | ZULILY | | |
| Design mark |  | | |
| Description of mark | The mark consists of the word "zulily" in a stylized script. | | |
| Goods/services | Class 035. First use: First Use: Feb 11, 2019 First Use In Commerce: Feb 11, 2019 On-line retail store services featuring a wide variety of consumer goods of others; retail store services available through computer communications featuring general merchandise; and online retail store services in the field of general mer- | | |

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