

ESTTA Tracking number: **ESTTA1307686**
Filing date: **09/01/2023**

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	Sparked LLC
Granted to date of previous extension	09/02/2023
Address	104 SUGAR CANE COURT GREER, SC 29650 UNITED STATES
Attorney information	NATALIE J. DEAN REICHEL STOHR DEAN LLP 525 S. MERIDIAN STREET SUITE 1A2 INDIANAPOLIS, IN 46225 UNITED STATES Primary email: natalie@rsindy.com Secondary email(s): docket@rsindy.com 317-341-0641
Docket no.	D2023-25-US

Applicant information

Application no.	97546427	Publication date	07/04/2023
Opposition filing date	09/01/2023	Opposition period ends	09/02/2023
Applicant	Jillian Beaver SUITE 100 1800 21ST STREET SACRAMENTO, CA 95811 UNITED STATES		

Goods/services affected by opposition

Class 014. First Use: Apr 24, 2022 First Use In Commerce: Apr 26, 2022
All goods and services in the class are opposed, namely: Jewelry


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. application no.	98108574	Application date	07/30/2023
Registration date	NONE	Foreign priority date	NONE

Word mark	SPARKED
Design mark	
Description of mark	NONE
Goods/services	Class 035. First use: First Use: Apr 9, 2022 First Use In Commerce: Apr 9, 2022 Mobile retail store services featuring permanent jewelry; retail store services featuring custom affixed permanent jewelry

U.S. application/ registration no.	NONE	Application date	NONE
Register	NONE		
Registration date	NONE		
Mark			
Goods/services	Mobile retail store services featuring permanent jewelry; retail store services featuring custom affixed permanent jewelry.		

Attachments	Notice of Opposition re GET SPARKED Trademark Application f01SEPT2023.pdf(137565 bytes) Sparked and Design.jpg
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Signature	/nd/
Name	NATALIE J. DEAN
Date	09/01/2023

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

In the matter of Trademark App. Ser. No. 97546427
For the mark GET SPARKED

Sparked, LLC)	
)	
Opposer,)	
)	
v.)	Opposition No.: _____
)	
Ms. Jillian Beaver)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Sparked, LLC (“Opposer”) hereby opposes the above-referenced application to register the GET SPARKED mark filed by Ms. Jillian Beaver (“Applicant”). The grounds for opposition are as follows:

THE PARTIES

1. Opposer is a South Carolina limited liability company with a principal place of business at 104 Sugar Cane Court, Greer, South Carolina 29650.
2. Applicant is an individual with an address at 1800 21st Street, Suite 100, Sacramento, California 95811.

OPPOSER AND ITS USE OF THE SPARKED MARKS

3. Commencing prior to Applicant’s filing date, Opposer has engaged, and continues to be engaged, in the business of providing permanent jewelry services including mobile retail store services featuring permanent jewelry and custom affixed permanent jewelry.
4. Commencing prior to Applicant’s filing date, Opposer has used, and continues to use, the SPARKED word mark to promote Opposer’s permanent jewelry-related services. At least as early as April 2022, Opposer has also used, and continues to use, the logo shown below in

connection with the same services. As used herein, the SPARKED word mark and the below logo are collectively referred to as the “SPARKED Marks” and Opposer is the owner of substantial common law trademark rights in the SPARKED Marks.



5. Since at least April 9, 2022, Opposer has extensively used, advertised, promoted, and offered Opposer’s permanent jewelry-related services under the SPARKED Marks to consumers in the United States.

6. On August 12, 2022, Opposer filed an application for registration of the GET SPARKED word mark for jewelry in International Class 14. Said application was assigned Serial No. 97/546,427 (the “GET SPARKED Application”).

7. As a result of Opposer’s promotional and advertising efforts and sales, Opposer’s customers and the public in general have come to know and recognize Opposer’s SPARKED Marks and associate the same with Opposer and/or the services sold by Opposer.

8. Since Opposer began using the SPARKED Marks, it has established valuable goodwill in the SPARKED Marks.

9. As a result of Opposer’s extensive use of the SPARKED Marks, the SPARKED Marks have become valuable property of Opposer.

APPLICANT AND ITS TRADEMARK APPLICATION

10. On August 12, 2022, Applicant filed an application on a use basis for registration of the proposed GET SPARKED trademark for “jewelry” in International Class 14. Said application was assigned Serial No. 97/546,427 (the “GET SPARKED Application”) and published for Opposition in the Official Gazette of July 4, 2023.

GROUND FOR REJECTING THE GET SPARKED APPLICATION

11. Opposer’s actual, continuous, and continuing use of the SPARKED Marks in commerce began before the earliest priority date for Applicant’s GET SPARKED Application and/or before Applicant began using the GET SPARKED Mark.

12. Applicant’s use of and attempt to register the GET SPARKED Mark for the products listed in the GET SPARKED Application is likely to cause confusion, mistake, and/or lead to deception as to the origin of Applicant’s products in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

13. The likelihood of confusion is apparent in this instance because the Applicant’s GET SPARKED Mark is nearly identical to Opposer’s SPARKED Marks and the GET SPARKED Application covers products that will be encountered by the same type of consumers and that would emanate from the same source as the services Opposer provides under the SPARKED Marks.

14. Applicant’s use and registration of the GET SPARKED Mark is likely to result in confusion and substantial damage and injury to Opposer. Persons familiar with Opposer’s SPARKED Marks are likely to believe that Applicant’s goods originate with, or are licensed, sponsored or approved by Opposer. Any such confusion would inevitably result in loss of sales to

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