

ESTTA Tracking number: **ESTTA571184**

Filing date: **11/15/2013**

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

Proceeding	85256203
Applicant	Sun Chlorella Corp.
Applied for Mark	EXCLUSIVE PULVERIZED CHLORELLA
Correspondence Address	MARK HARRISON VENABLE LLP PO BOX 34385 WASHINGTON, DC 20043-4385 UNITED STATES mbharrison@venable.com, mehall@venable.com, pjwyles@venable.com, trademarkdocket@venable.com
Submission	Applicants Request for Remand and Amendment
Attachments	Request for Remand.pdf(164170 bytes)
Filer's Name	Michael E. Hall
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Signature	/Michael E. Hall/
Date	11/15/2013

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

Mark: **EXCLUSIVE PULVERIZED CHLORELLA**
Applicant: Sun Chlorella Corp.
Serial No.: 85/256,203
Examining Attorney: Allison Schrody, Law Office 115
Att. Ref.: 87570-299111

Applicant's Request for Remand

On November 5, 2013, the Board granted Applicant an extension of time to file its brief because Applicant anticipated that it would be able to request a remand for the purpose of submitting to the Examining Attorney (i) an Amendment to Allege Use, and (ii) an amendment to the Supplemental Register. Applicant now respectfully submits those two items (see attached) and requests that the Board remand the application to the Examining Attorney to consider them. If the Examining Attorney accepts both, this appeal will become moot.

Applicant respectfully submits that good cause for remand has been shown. *See* T.B.M.P. § 1205.01 (“Good cause [for remand] will generally be found, for example, . . . when the amendment will obviate a ground for refusal, such as an amendment to the Supplemental Register . . .”).

Respectfully submitted,

Date: November 15, 2013

/Michael E. Hall/

Michael E. Hall
Venable LLP
P.O. Box 34385
Washington, D.C. 20043-4385
202-344-4533
Applicant's Attorney

Applicant's Proposed Amendments

First, Applicant submits herewith an Amendment to Allege Use (see below). **The USPTO is hereby authorized to deduct all fees associated with the AAU from Deposit Account No. 22-0261.**

Second, Applicant amends the application to seek registration on the Supplemental Register.

Third, Applicant submits the following disclaimer:

No claim is made to the exclusive right to use "CHLORELLA" apart from the mark as shown.

Respectfully submitted,

Date: November 15, 2013

/Michael E. Hall/

Michael E. Hall
Venable LLP
P.O. Box 34385
Washington, D.C. 20043-9998
202-344-4533
Applicant's Attorney

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mark: **EXCLUSIVE PULVERIZED CHLORELLA**
Serial No.: 85/256,203
Applicant: Sun Chlorella Corp.
Att. Ref.: 87570-299111

Amendment to Allege Use

Applicant, Sun Chlorella Corp., or Applicant's related company or licensee, is using the mark in commerce on or in connection with all of the goods identified in the application, i.e.:

Class 5

Dietary supplements and nutritional supplements containing chlorella

Applicant, or Applicant's related company, licensee, or predecessor-in-interest, first used the mark anywhere at least as early as July 26, 2013, and first used the mark in U.S. commerce at least as early as October 21, 2013.

Submitted herewith is one specimen of use showing the mark as used in commerce on or in connection with the goods.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this Amendment to Allege Use on behalf of Applicant; he/she believes Applicant to be the owner of the trademark/service mark sought to be registered; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Sun Chlorella Corp.

Date: November 14, 2013

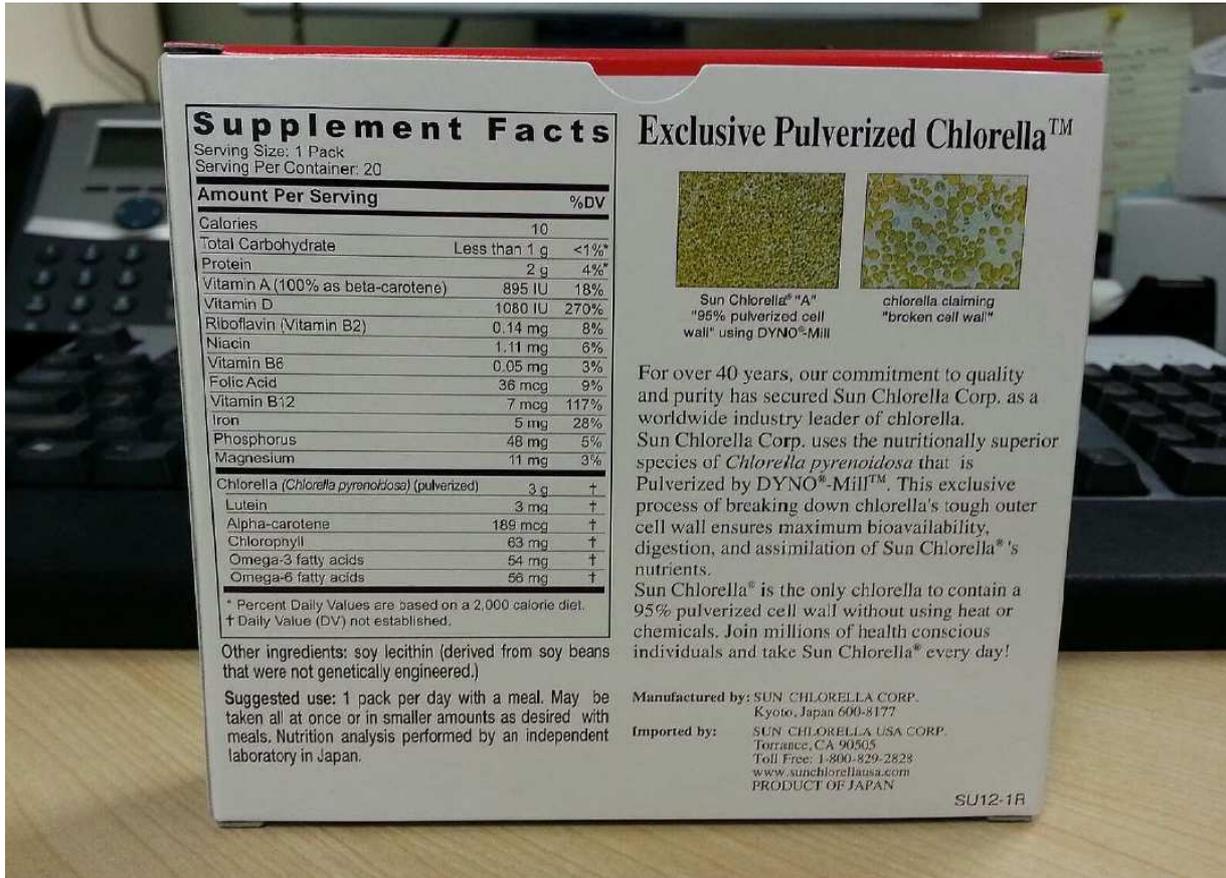
By: 

Futoshi Nakayama
(please print name)

Managing Director
(title/position)

Specimen of Use

Applicant's specimen of use is shown below, and consists of a photograph of the mark used on packaging for the goods.



Supplement Facts

Serving Size: 1 Pack
Serving Per Container: 20

Amount Per Serving	%DV
Calories	10
Total Carbohydrate	Less than 1 g <1%*
Protein	2 g 4%*
Vitamin A (100% as beta-carotene)	895 IU 18%
Vitamin D	1080 IU 270%
Riboflavin (Vitamin B2)	0.14 mg 8%
Niacin	1.11 mg 6%
Vitamin B6	0.05 mg 3%
Folic Acid	36 mcg 9%
Vitamin B12	7 mcg 117%
Iron	5 mg 28%
Phosphorus	48 mg 5%
Magnesium	11 mg 3%
Chlorella (<i>Chlorella pyrenoidosa</i>) (pulverized)	3 g †
Lutein	3 mcg †
Alpha-carotene	189 mcg †
Chlorophyll	63 mg †
Omega-3 fatty acids	54 mg †
Omega-6 fatty acids	56 mg †

* Percent Daily Values are based on a 2,000 calorie diet.
† Daily Value (DV) not established.

Other ingredients: soy lecithin (derived from soy beans that were not genetically engineered.)

Suggested use: 1 pack per day with a meal. May be taken all at once or in smaller amounts as desired with meals. Nutrition analysis performed by an independent laboratory in Japan.

Exclusive Pulverized Chlorella™



Sun Chlorella® "A"
"95% pulverized cell
wall" using DYNOMILL



chlorella claiming
"broken cell wall"

For over 40 years, our commitment to quality and purity has secured Sun Chlorella Corp. as a worldwide industry leader of chlorella. Sun Chlorella Corp. uses the nutritionally superior species of *Chlorella pyrenoidosa* that is Pulverized by DYNOMILL™. This exclusive process of breaking down chlorella's tough outer cell wall ensures maximum bioavailability, digestion, and assimilation of Sun Chlorella®'s nutrients.

Sun Chlorella® is the only chlorella to contain a 95% pulverized cell wall without using heat or chemicals. Join millions of health conscious individuals and take Sun Chlorella® every day!

Manufactured by: SUN CHLORELLA CORP.
Kyoto, Japan 600-8177

Imported by: SUN CHLORELLA USA CORP.
Torrance, CA 90505
Toll Free: 1-800-829-2828
www.sunchlorellausa.com
PRODUCT OF JAPAN

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