

TTAB

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

JENEIL BIOTECH, INC.
(a Wisconsin Corporation)

Opposer

v.

NATURE SOY, INC.
(a Pennsylvania Corporation)

Applicant

Opposition No.: 91152705

Trademark: NATURE'S SOY
Serial No. 76/154423



09-30-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #39

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

BOX TTAB
NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Applicant, NATURE SOY, INC., for its answer to the Notice of Opposition filed by Jeneil BioTech, Inc. against application for registration of Nature Soy, Inc.'s trademark NATURE'S SOY, Serial No. 76/154423, filed October 26, 2002 and published in the Official Gazette of July 23, 2002 pleads and avers as follows:

1. Answering paragraph 1 of the Notice of Opposition, Applicant has no knowledge or information sufficient to form a belief as to the allegations contained therein and accordingly denies the allegations.

2. Answering paragraph 2 of the Notice of Opposition, Applicant has no knowledge or

information sufficient to form a belief as to the allegations contained therein and accordingly denies the allegations.

3. Answering paragraph 3, sentence 1 of the Notice of Opposition, Applicant admits the filing of a federal trademark application for the mark NATURE'S SOY for use in connection with tofu, fried soy beans, soy milk, soy pudding, margarine, milk, cream, ice cream, yogurt, cheese, cottage cheese, and butter. Answering paragraph 3, sentence 2 of the Notice of Opposition, Applicant has no knowledge or information sufficient to form a belief as to the allegations contained therein and accordingly denies the allegations.

4. Answering paragraph 4 of the Notice of Opposition, Applicant has no knowledge or information sufficient to form a belief as to the allegations contained therein and accordingly denies the allegations.

5. Applicant respectfully acknowledges the Notice of Opposition as submitted by Opposer did not include paragraph 5.

6. Answering paragraph 6 of the Notice of Opposition, Applicant has no knowledge or information sufficient to form a belief as to the allegations contained therein and accordingly denies the allegations.

7. Answering paragraph 7 of the Notice of Opposition, Applicant has no knowledge or information sufficient to form a belief as to the allegations contained therein and accordingly denies the allegations.

8. Answering paragraph 8 of the Notice of Opposition, Applicant has no knowledge or information sufficient to form a belief as to the allegations contained therein and accordingly denies the allegations.

9. Answering paragraph 9 of the Notice of Opposition, Applicant has no knowledge or

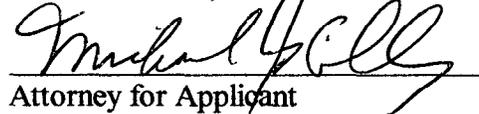
information sufficient to form a belief as to the allegations contained therein and accordingly denies the allegations.

10. Applicant further affirmatively alleges that as a result of its continuous substantial usage of its mark NATURE'S SOY since adoption, this mark is a valuable asset of Applicant and carries considerable goodwill and consumer acceptance of its product sold under the mark. Such goodwill and widespread usage has made the mark distinctive to the Applicant.

11. Applicant further affirmatively alleges the application for registration and use of NATURE'S SOY by the applicant is an extension of the unregistered mark NATURE SOY thereby predating Opposer's earliest first use. Applicant is a Pennsylvania Corporation having filed Articles of Incorporation on January 11, 1999. Applicant continues to sell soy-based goods under the unregistered mark NATURE SOY. NATURE SOY is the legal equivalent of or indistinguishable from NATURE'S SOY such that consumers' consider both the same mark.

12. Applicant denies the likelihood of confusion between Applicant's mark with goods as set forth in its application for registration and Opposer's mark used with soy-based products. Applicant is entitled to registration of its mark with a restricted identification reflecting the actual nature of its goods where the Trademark Trial and Appeal Board finds Opposer is entitled to judgment with respect to Applicant's broadly defined goods.

NATURE SOY, INC



Attorney for Applicant

Michael G. Crilly, Esq.

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Phone No. 215-672-6220

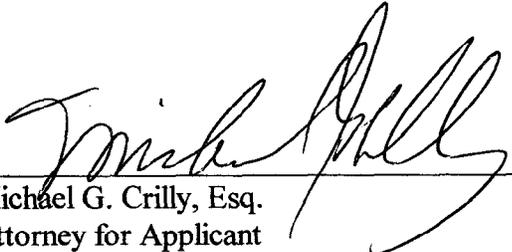
Fax No. 215-672-1639

Date:

Sept 30, 2002

CERTIFICATE OF MAILING

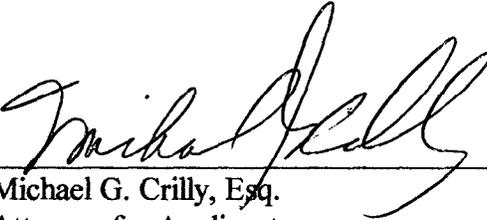
I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail No. EL957137938US in an envelope addressed to Assistant Commissioner of Trademarks, BOX TTAB, 2900 Crystal Drive, Arlington, VA 22202-3513, on September 30, 2002.



Michael G. Crilly, Esq.
Attorney for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION was mailed first-class mail, postage prepaid, to Kent A. Lee, Esq., REINHART BOERNER VAN DEUREN s.c., 1000 North Water Street, Suite 2100, Milwaukee, WI 53202, attorneys for Opposer, this 30th day of September, 2002.

A handwritten signature in black ink, appearing to read "Michael G. Crilly", is written over a horizontal line.

Michael G. Crilly, Esq.
Attorney for Applicant