

ESTTA Tracking number: **ESTTA90403**

Filing date: **07/18/2006**

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	Gakic US Trademark Ltd.		
Entity	Corporation	Citizenship	Canada
Address	5100 Spectrum Way Mississauga, Ontario, L4W 5S2 CANADA		

Attorney information	Howard J. Shire, Esq. Kenyon & Kenyon One Broadway New York, NY 10004 UNITED STATES tmdocketny@kenyon.com Phone:212-425-7200		
----------------------	---	--	--

Applicant Information

Application No	78728625	Publication date	06/20/2006
Opposition Filing Date	07/18/2006	Opposition Period Ends	07/20/2006
Applicant	Advanced Nutritional Biosystems, Inc. Suite 401 8034 Sunport Drive Orlando, FL 32809 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Vitamins and nutritional supplements

Attachments	gkick.pdf (4 pages)(802358 bytes)
-------------	--------------------------------------

Signature	/Howard J. Shire/
Name	Howard J. Shire, Esq.
Date	07/18/2006

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

GAKIC US TRADEMARK LTD.,

Opposer,

v.

ADVANCED NUTRITIONAL
BIOSYSTEMS, INC.,

Applicant.

Opposition No. _____

Application Serial No. 78/728,625

Mark: G-KICK

Filed on October 7, 2005

Published in the Official Gazette
June 20, 2005

Box TTAB
FEE

Commissioner of Trademarks
2900 Crystal Drive
Arlington, Virginia 22202

NOTICE OF OPPOSITION

Opposers, Gakic US Trademark Ltd. (a Canadian corporation), located at 5100 Spectrum Way, Mississauga, Ontario, Canada L4W 5S2, believing that it will be damaged by registration of the mark G-KICK, shown in Application Serial No. 78/728,625 for goods in International Class 5, hereby oppose the same.

As grounds for opposition, Opposer alleges as follows:

1. Applicant, Advanced Nutritional Biosystems, Inc. (hereinafter "Applicant"), seeks registration of the mark G-KICK in International Class 5 for use in connection with "vitamins and nutritional supplements" (the "Subject Goods").

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

GAKIC US TRADEMARK LTD.,

Opposer,

v.

ADVANCED NUTRITIONAL
BIOSYSTEMS, INC.,

Applicant.

Opposition No. _____

Application Serial No. 78/728,625

Mark: G-KICK

Filed on October 7, 2005

Published in the Official Gazette
June 20, 2005

Box TTAB
FEE

Commissioner of Trademarks
2900 Crystal Drive
Arlington, Virginia 22202

NOTICE OF OPPOSITION

Opposers, Gakic US Trademark Ltd. (a Canadian corporation), located at 5100 Spectrum Way, Mississauga, Ontario, Canada L4W 5S2, believing that it will be damaged by registration of the mark G-KICK, shown in Application Serial No. 78/728,625 for goods in International Class 5, hereby oppose the same.

As grounds for opposition, Opposer alleges as follows:

1. Applicant, Advanced Nutritional Biosystems, Inc. (hereinafter "Applicant"), seeks registration of the mark G-KICK in International Class 5 for use in connection with "vitamins and nutritional supplements" (the "Subject Goods").

2. Since at least as early as August 12, 2005 and continuing to date, Opposer has used the mark GAKIC in connection with dietary and nutritional supplements.
3. Gakic US Trademark Ltd. is the owner of Reg. No. 3,006,154 for the mark GAKIC. The application which matured into this registration was filed on November 14, 2001. The goods specified in this registration are "dietic substances, namely dietary and nutritional supplements enhancing muscle performance and recovery from fatigue in humans and animals; oral and intravenous dietary and nutritional supplement, namely pills and liquid substances".
4. Applicant filed its application at issue on October 7, 2005, based on an alleged intent to use the G-KICK trademark.
5. On information and belief, Applicant had made no use of the G-KICK trademarks as of October 7, 2005.
6. Opposer's GAKIC registration has priority over Applicant's G-KICK application.
7. Considerable time, effort and money has been spent advertising and promoting the GAKIC mark, which has become a very successful product and very well known among consumers.
8. Upon information and belief, Applicant will sell its goods under the mark G-KICK to customers who are likely to be familiar with, or actual purchasers of, Opposer's GAKIC products.
9. Applicant's mark, as proposed for use for the Subject Goods, so resembles the GAKIC mark, as to be likely to cause confusion, or to cause mistake, or to deceive.

10. Accordingly, registration for the mark applied for under Serial No. 78/728,625 should be refused under the provisions of § 2(d) of the Lanham Act.

WHEREFORE, Opposers pray that Application Serial No. 78/728,625 be rejected, that no registration be issued to Applicant, and that this opposition be sustained in favor of Opposers.

This Notice of Opposition is being filed in duplicate, pursuant to 37 C.F.R. Section 2.104(a). Please charge the filing fee of \$300.00, and any other fees associated with this proceeding to Deposit Account 11-0600.

Respectfully submitted,
GAKIC US TRADEMARK LTD.
Opposer

Dated: July 18, 2006

By:


Howard J. Shite
KENYON & KENYON
One Broadway
New York, NY 10004

Counsel for Opposer