

ESTTA Tracking number: **ESTTA136719**

Filing date: **04/20/2007**

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	Bodyonics, Ltd.		
Entity	Corporation	Citizenship	Delaware
Address	200 Adams Boulevard Farmingdale, NY 11735 UNITED STATES		

Attorney information	Jay H. Geller West Tower, Suite 4000 2425 W. Olympic Bl. Santa Monica, CA 90404 UNITED STATES jhgeller@aol.com Phone:310-449-1399
----------------------	---

### Applicant Information

Application No	78862294	Publication date	04/03/2007
Opposition Filing Date	04/20/2007	Opposition Period Ends	05/03/2007
Applicants	Kaplan, Jeffrey, Lee POB 11106 Ft Lauderdale, FL 33339 UNITED STATES  Ionescu, Ilie POB 11106 Ft Lauderdale, FL 33339 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: ENERGY BOOSTING NASAL SPRAY PREPARATIONS
---

Attachments	EnergyPoppersOpp.pdf ( 1 page )(234098 bytes ) EnergyPoppersOpp2.pdf ( 1 page )(205052 bytes )
-------------	---

Signature	/jhgeller/
Name	Jay H. Geller
Date	04/20/2007

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

Bodyonics, Ltd.

Opposer,

v.

Jeffrey Lee Kaplan and Ilie  
Ionescu,

Applicants.

NOTICE OF OPPOSITION

Serial No. 78862294  
ENERGY POPPERS

Bodyonics, Ltd., Farmingdale, NY hereby opposes registration of the trademark, ENERGY POPPERS, published in the Official Gazette of April 3, 2007. The following allegations are submitted in support of this Notice of Opposition:

1. Opposer is a Delaware corporation, with its principal place of business in Farmingdale, NY.

2. Applicant, Jeffrey Lee Kaplan is, upon information and belief, a United States citizen residing in Fort Lauderdale, FL. Applicant, Ilie Ionescu is, upon information and belief, a Romanian citizen residing in Ft. Lauderdale, FL.

3. Applicant has applied for serial number 78862294 for the trademark ENERGY POPPERS on April 15, 2006 in International Class 5 claiming a bona fide intent to use for energy boosting nasal spray preparations.

4. Opposer has at least since 1999 used the trademark POPPERS in interstate commerce in the United States with respect to goods in International Classes 5, particularly dietary and nutritional supplements. Opposer is the owner of United States trademark registration 2447342 for POPPERS which registration has

become incontestable. Opposer is also the owner of Serial Number 78775704 for the trademark MUSCLE POPPERS for dietary supplements which is the subject of a Notice of Allowance issued on November 21, 2006 and has not been abandoned.

5. Applicant's mark wholly incorporates Opposer's trademark POPPERS, and the marks are virtually identical with the exception that the word "ENERGY" is disclaimed as descriptive.

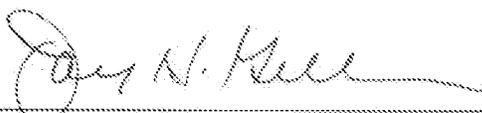
6. The goods upon which applicant intends to use its mark ENERGY POPPERS are closely related to those goods upon which Opposer uses its mark POPPERS.

7. The likelihood of confusion in the marketplace exists between Opposer's trademark when applied to the goods of the respective parties, and applicant's trademark.

8. Registration of applicant's trademark will result in damage to Opposer's trademark and Opposer's business.

Wherefore, Opposer requests that this Opposition be sustained and that the registration to the Applicant be refused.

Dated: April 20, 2007

  
-----  
Jay H. Geller  
Jay H. Geller, A  
Professional Corporation  
West Tower, Suite 4000  
2425 West Olympic Boulevard  
Santa Monica, CA 90404  
  
Telephone: 310-449-1399  
Facsimile: 310-449-1394  
Email: JHGELLER@aol.com