

ESTTA Tracking number: **ESTTA225979**

Filing date: **07/23/2008**

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	CBS Broadcasting Inc.
Granted to Date of previous extension	07/23/2008
Address	51 West 52nd Street New York, NY 10019 UNITED STATES

Attorney information	Rebecca Borden CBS 51 West 52nd Street New York, NY 10019 UNITED STATES elena.vetere@cbs.com, trademarks@cbs.com Phone:212 975-3609
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Applicant Information

Application No	77299999	Publication date	03/25/2008
Opposition Filing Date	07/23/2008	Opposition Period Ends	07/23/2008
Applicant	MAHJOBI, JAMIE 18034 Ventura Blvd #195 Encino, CA 91316 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Dietary and nutritional supplements; Mineral nutritional supplements; Nutritional additives for medical purposes for use in foods and dietary supplements for human consumption; Nutritional drink mix for use as a meal replacement; Liquid dietary and nutritional supplements; Nutritional energy bars for use as a meal substitute; Nutritional supplements; Nutritive substances for microorganisms for medical purposes; Powdered nutritional supplement drink mix; Soy protein for use as a nutritional ingredient in various powdered and ready-to-drink beverages; Amino acids for nutritional purposes; Meal replacement bars; Nutritional shakes for use as a meal substitute; Nutritive substances for micro-organisms for medical use; Vitamin and mineral formed and packaged as bars

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application/	NONE	Application Date	NONE
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Registration No.			
Registration Date	NONE		
Word Mark	VITAMEATAVEGAMIN		
Goods/Services	Dietary and nutritional supplements; Mineral nutritional supplements; Nutritional additives for medical purposes for use in foods and dietary supplements for human consumption; Nutritional drink mix for use as a meal replacement; Liquid dietary and nutritional supplements; Nutritional energy bars for use as a meal substitute; Nutritional supplements; Nutritive substances for microorganisms for medical purposes; Powdered nutritional supplement drink mix; Soy protein for use as a nutritional ingredient in various powdered and ready-to-drink beverages; Amino acids for nutritional purposes; Meal replacement bars; Nutritional shakes for use as a meal substitute; Nutritive substances for micro-organisms for medical use; Vitamin and mineral formed and packaged as bars		

Attachments	Vita Opp.pdf (10 pages)(321336 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/RB/
Name	Rebecca Borden
Date	07/23/2008

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

In the Matter of Application Serial No. 77/299999
Published in the Official Gazette on March 25, 2008

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CBS BROADCASTING INC.,	:	Opposition No. _____
Opposer,	:	
-against-	:	<u>NOTICE OF OPPOSITION</u>
Jamie Mahjobi.	:	
Applicant.	:	

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CBS Broadcasting Inc., (“Opposer”), a New York company, having its principal offices at 51 West 52nd St., New York, New York, 10019, believes it will be damaged by registration of the trademark VITAMEATAVEGAMIN sought to be registered on the Principal Register by Jamie Mahjobi (“Applicant”) in Application Serial No.77/299999, published in the Official Gazette on March 25, 2008, for “dietary and nutritional supplements; mineral nutritional supplements; nutritional additives for medical purposes for use in foods and dietary supplements for human consumption; nutritional drink mix for use as a meal replacement; liquid dietary and nutritional supplements; nutritional energy bars for use as a meal substitute; nutritional supplements; nutritive substances for microorganisms for medical purposes; powdered nutritional supplement drink mix; soy protein for use as a nutritional ingredient in various powdered and ready-to-drink beverages; amino acids for nutritional purposes; meal replacement bars; nutritional shakes for use as a meal substitute; nutritive substances for micro-organisms for

medical use; vitamin and mineral formed and packaged as bars” in International Class 5 (the “Application”), and hereby opposes registration on the following grounds:

1. Opposer produced and broadcast on the CBS Network in the 1950’s, and, since then, has continuously distributed, licensed for broadcast and promoted the world-famous I LOVE LUCY television series, which is currently broadcast in re-runs in the United States and many other countries around the world. The I LOVE LUCY television series (the “Series”) was first broadcast in the United States on October 15, 1951 and starred the late Lucille Ball, as the character, Lucy Ricardo. Opposer is the owner of numerous copyrights and trademarks in the Series.

2. Opposer created and owns the well known episode in the Series, called “Lucy Does A Television Commercial” (the “Vitameatavegamin Episode”). In the Vitameatavegamin Episode, Lucy Ricardo manages to be selected to present a live television commercial for the 23 percent alcohol health tonic “Vitameatavegamin.” After many rehearsals, during which she takes numerous spoonfuls of the health tonic, Lucy becomes drunk, and performs the live television commercial while intoxicated. The Vitameatavegamin Episode is considered classic television comedy and is an I LOVE LUCY fan favorite. The Vitameatavegamin Episode originally aired in May 1952 and has been re-aired in syndication repeatedly throughout the decades. As a result of the popularity of the Series, including the Vitameatavegamin Episode, the Series, the Opposer’s I LOVE LUCY and VITAMEATAVEGAMIN trademarks have become famous worldwide and Opposer has derived significant revenue by licensing broadcast and merchandising rights to the Series and numerous properties within the Series, including VITAMEATAVEGAMIN.

3. Opposer is the owner in the United States of the VITAMEATAVEGAMIN trademark, which was created on the Vitameatavegamin Episode. The trademark is famous and distinctive of goods and services offered by the Opposer. The VITAMEATAVEGAMIN trademark has received wide public recognition when used by the Opposer to identify its goods.

4. Opposer has made use of the VITAMEATAVEGAMIN trademark since as early as 1995 for numerous products, including t-shirts, candy, clocks, desk clocks, professional nurse scrub uniforms, costumes, dolls, wall stickers, greeting cards, cell phone covers, watches, pajamas, cookie jars, tote bags, mugs, afghans and pillows. All of the Opposer's uses of the VITAMEATAVEGAMIN trademark are tied to the famous I LOVE LUCY Vitameatavegamin Episode and the fictional health tonic. For example, the VITAMEATAVEGAMIN candy packaging is in the shape of the fictional "Vitameatavegamin" health tonic bottle.

5. Opposer has made use of the VITAMEATAVEGAMIN mark in conjunction with its famous I LOVE LUCY trademarks including the I LOVE LUCY word mark and the I LOVE LUCY Logo design (the "I LOVE LUCY Heart Design"); Opposer also owns an additional LUCY'S CHOCOLATE FACTORY I LOVE LUCY Logo design (collectively "the I LOVE LUCY Trademarks").

6. Opposer has registrations and pending applications for the I LOVE LUCY Trademarks at the United States trademarks office as summarized below.

<u>Mark</u>	<u>Application/ Registration No./Status</u>	<u>Application/ Registration Date</u>	<u>International Class(es)</u>	<u>Description of Goods/Services</u>

I LOVE LUCY (words alone)	Reg. No. 2793932	Registration date: December 16, 2003	41	Entertainment in the nature of a television comedy series; providing entertainment information concerning television programs via global computer network
I LOVE LUCY Logo	Reg. No. 1715262	Registration date: Sept 15, 1992	9, 16, 21, 25, 28, 41	Television programs recorded on videocassettes and video tapes stationery, calendars, trading cards, greeting cards, posters and comic books, plates and mugs, clothing , namely, tshirts and hat, dolls and board games.
I LOVE LUCY Logo	Reg. No. 3194246	Registration Date: January 2, 2007	25	Clothing, namely hats, t- shirts, pajamas, nurses uniforms, aprons, and non- surgical scrubs
I LOVE LUCY Logo	Serial No. 78694570	Application Date August 17, 2005	25	Aprons, sweatshirts, denim shirts and jackets, polo shirts, socks
I LOVE LUCY (words alone)	Reg. No. 2761214	Registration Date: September 9, 2003	9	Videocassettes, laser discs and digital video discs/digital versatile discs, ("DVD") featuring prerecorded entertainment in the nature of motion pictures, television series episodes and made for television motion pictures
I LOVE LUCY (words alone)	Reg. No. 3178229	Registration Date November 28, 2006	9	Mouse pads, decorative magnets, refrigerator magnets, slot machines
I LOVE LUCY (words alone)	Reg. No. 3330886	Application date: March 11, 2005	11	Table lamps, lamps for outdoor use
I LOVE LUCY (words alone)	Ser. No. 78574943	Application Date: February 25, 2005	6, 21	Metal license plate, metal signs, metal key chains; lunch tin boxes; metal bins
I LOVE LUCY	Ser. No.	Application	20	Personal compact mirrors;

(words alone)	78575320	Date: February 25, 2005		non-metal and non-leather key chains; picture frames
I LOVE LUCY (words alone)	Ser. No. 78575433	Application Date: February 25, 2005	24	Beach towels, shower curtains
I LOVE LUCY (words alone)	Ser. No. 78575448	Application Date: February 25, 2005	27	Carpets and rugs
I LOVE LUCY Logo	Reg. No. 2992352	Registration Date: September 6, 2005	30	Candy; chocolate
I LOVE LUCY	Serial No. 78694547	Application Date August 17, 2005	14	Clocks; jewelry, namely watches, charms, bracelets pendants
I LOVE LUCY Logo	Serial No. 78694576	Application Date August 17, 2005	28	Balloons, Christmas tree ornaments, namely bells, balls, and hearts; porcelain dolls, stuffed toys, modeled plastic toy figurines; snow globes; music box toys; dice games; bingo game playing equipment; bingo cards
I LOVE LUCY	Serial No. 78694562	Application Date August 17, 2005	21	Servingware for food; holiday ornaments of porcelain; ceramic figurines; spice racks; salt shakers; drinking glasses; bowls; cookie jars
I LOVE LUCY Logo	Serial No. 78694553	Application Date August 17, 2005	18	Umbrellas; bags; backpacks; purses; leather key chain; leather bags; suitcases; wallets
LUCY'S CHOCOLATE FACTORY I LOVE LUCY Logo	Reg. No. 29918977	Registration Date September 20, 2005	9	Currency and credit operated slot machines and gaming devices, namely gaming machines for use in gaming establishments; cell phone covers; magnets.
LUCY'S CHOCOLATE FACTORY I	Reg. No. 3093830	Registration Date: May 16, 2006	18	Bags, namely purses and handbags

LOVE LUCY Logo				
LUCY'S CHOCOLATE FACTORY I LOVE LUCY Logo	Reg. No. 2992369	Registration Date: September 6, 2005	30	Candy; chocolate
LUCY'S CHOCOLATE FACTORY I LOVE LUCY Logo	Reg. No. 2998976	Registration Date: September 20, 2005	14	Jewelry, namely charms, bracelets; watches
LUCY'S CHOCOLATE FACTORY I LOVE LUCY Logo	Reg. No. 2998975	Application Date: July 2, 2003	28	Toys, namely stuffed toys, stuffed animals, plush toys, and play figures; decorations for Christmas trees

7. To complement the I LOVE LUCY Series, Opposer licenses the I LOVE LUCY Trademarks for use on a wide variety of merchandise, including dvds, t-shirts, pajamas, socks, jackets, plush toys, key rings, calendars, books, checkbooks, watches, clocks, board games, postage stamps, cookie jars, candy, chocolate, greeting cards, dolls, ornaments, magnets, lunchboxes, and snow globes. The I LOVE LUCY Logo trademark is licensed and used on slot machines. Licensees of CBS have sold all of these items under the I LOVE LUCY Trademarks.

8. As a consequence of the Opposer's extensive and continuous use of the I LOVE LUCY Trademarks along with use of the VITAMEATAVEGAMIN trademark since prior to the filing of the Application and any intent to use by Applicant of the proposed VITAMEATAVEGAMIN trademark, Opposer's I LOVE LUCY Trademarks, including its VITAMEATAVEGAMIN trademark have achieved vast public recognition.

9. Since prior to the filing of the Application and any intent to use by Applicant of the VITAMEATAVEGAMIN trademark, the I LOVE LUCY Trademarks, including the VITAMEATAVEGAMIN trademark have been extensively and continuously

promoted throughout the United States and worldwide, in advertising and other promotional materials, including newspapers, magazines, radio, television, street billboards, Internet and other promotional items.

10. Opposer has devoted substantial resources to developing recognition of the I LOVE LUCY Trademarks, including the VITAMEATAVEGAMIN trademark and the goodwill associated therewith. The outstanding reputation and goodwill associated with the I LOVE LUCY Trademarks, including the VITAMEATAVEGAMIN trademark are of inestimable value to Opposer.

11. Applicant filed the Application in the U.S. Patent and Trademark Office on or about October 9, 2007. The Application is based on Applicant's intent to use in commerce the trademark VITAMEATAVEGAMIN on or in connection with "dietary and nutritional supplements; mineral nutritional supplements; nutritional additives for medical purposes for use in foods and dietary supplements for human consumption; nutritional drink mix for use as a meal replacement; liquid dietary and nutritional supplements; nutritional energy bars for use as a meal substitute; nutritional supplements; nutritive substances for microorganisms for medical purposes; powdered nutritional supplement drink mix; soy protein for use as a nutritional ingredient in various powdered and ready-to-drink beverages; amino acids for nutritional purposes; meal replacement bars; nutritional shakes for use as a meal substitute; nutritive substances for microorganisms for medical use; vitamin and mineral formed and packaged as bars."

12. Applicant's proposed trademark "VITAMEATAVEGAMIN" is likely to cause confusion with the I LOVE LUCY Trademarks, particularly Opposer's identical mark, VITAMEATAVEGAMIN.

13. Applicant has applied for and intends to use the proposed trademark VITAMEATAVEGAMIN to benefit from the goodwill associated with the I LOVE LUCY Trademarks, particularly Opposer's identical mark VITAMEATAVEGAMIN.

14. Through the extensive and continuous use of the I LOVE LUCY Trademarks, particularly the VITAMEATAVEGAMIN trademark by Opposer prior to the Application for the Applicant's proposed trademark "VITAMEATAVEGAMIN," and the widespread public identification of the I LOVE LUCY Trademarks, including VITAMEATAVEGAMIN, with Opposer, the Opposer's I LOVE LUCY Trademarks, including VITAMEATAVEGAMIN became famous. Registration and use of the Applicant's proposed trademark "VITAMEATAVEGAMIN," will lessen the capacity of Opposer's mark to identify and distinguish the Opposer's goods and services.

15. Given the extensive and continuous use of the I LOVE LUCY Trademarks, including VITAMEATAVEGAMIN, by Opposer and the widespread public identification of the I LOVE LUCY Trademarks, including VITAMEATAVEGAMIN, with Opposer, Opposer would be seriously injured by the granting of a certificate of registration to Applicant for the trademark VITAMEATAVEGAMIN in International Class 5 because such registration would:

- (a) support and assist Applicant in the confusing and misleading use of Applicant's VITAMEATAVEGAMIN trademark sought to be registered in violation of Sections 2(d) and 13(a) of the Lanham Act, 15 U.S.C. §§ 1052(d), 1063(a);
- (b) damage, interfere with and cause dilution of Opposer's valuable goodwill in its I LOVE LUCY Trademarks, particularly its VITAMEATAVEGAMIN trademark in violation of Sections 2(f), 13(a) and 43(c) of the Lanham Act, 15 U.S.C. §§ 1052(f), 1063(a) and 1125(c);
- (c) give color of exclusive statutory rights to Applicant in violation and derogation of Opposer's prior and superior rights; and

(d) tend to falsely and erroneously suggest a connection with Opposer.

WHEREFORE, Opposer believes that it will be seriously damaged by registration of Applicant's VITAMEATAVEGAMIN trademark and, therefore, Opposer, by its undersigned attorneys, respectfully requests that its opposition be sustained and that registration of the trademark at issue in the Application be refused.

Dated: New York, New York
July 23, 2008

Respectfully submitted,

CBS Broadcasting Inc.



Alice Fradin

Counsel for Opposer

CBS Broadcasting Inc.
51 W. 52nd St.
New York, NY 10019

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the CBS Broadcasting Inc.'s Notice of Opposition has been served on Jamie Mahjobi, applicant, by mailing said copy to Jamie Mahjobi, 18034 Ventura Boulevard, #195, Encino, CA 91316-3516 on July 23, 2008 via First Class Mail, postage prepaid to: .

A handwritten signature in cursive script, appearing to read 'Elena R. Vetere', written over a horizontal line.

Elena R. Vetere

July 23, 2008