

ESTTA Tracking number: **ESTTA371963**

Filing date: **10/06/2010**

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 | N3 OCEANIC, INC. |
| Granted to Date of previous extension | 10/06/2010 |
| Address | 1862 A Tollgate Road Palm, PA 18070 UNITED STATES |
| Attorney information | Tristram R. Fall, III, Esquire Fox Rothschild LLP P.O. Box 5231 Princeton, NJ 08543-5231 UNITED STATES ipdocket@foxrothschild.com Phone:215-299-2016 |

Applicant Information

| | | | |
|------------------------|---|------------------------|------------|
| Application No | 77931682 | Publication date | 06/08/2010 |
| Opposition Filing Date | 10/06/2010 | Opposition Period Ends | 10/06/2010 |
| Applicant | Food Technology & Design, LLC 10012 S. Painter Avenue Santa Fe Springs, CA 90670 UNITED STATES | | |

Goods/Services Affected by Opposition

| |
|--|
| Class 005. All goods and services in the class are opposed, namely: Dietary food supplements; Energy boosting bars for use as a meal substitute; Food supplements; Food supplements, namely, anti-oxidants; Health food supplements; Meal replacement bars; Mineral food supplements; Nutritional energy bars for use as a meal substitute; Nutritional food bars for use as a meal replacement |
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Grounds for Opposition

| | |
|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
|--------------------------------------|----------------------------|

Mark Cited by Opposer as Basis for Opposition

| | | | |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 2926143 | Application Date | 08/09/2002 |
| Registration Date | 02/15/2005 | Foreign Priority Date | NONE |
| Word Mark | RES-Q | | |

| | |
|---------------------|---|
| Design Mark | RES-Q |
| Description of Mark | NONE |
| Goods/Services | Class 005. First use: First Use: 1985/03/20 First Use In Commerce: 1985/03/20 nutritional supplements comprised of marine lipid concentrate for human consumption *for use in lowering cholesterol, triglycerides and blood pressure* |

| | |
|-------------|--|
| Attachments | 76439016#TMSN.gif (1 page)(bytes) Notice of Opposition - RES-Q PRO_Page_01.tif (1 page)(97270 bytes) Notice of Opposition - RES-Q PRO_Page_02.tif (1 page)(164446 bytes) Notice of Opposition - RES-Q PRO_Page_03.tif (1 page)(150468 bytes) Notice of Opposition - RES-Q PRO_Page_04.tif (1 page)(134346 bytes) Notice of Opposition - RES-Q PRO_Page_05.tif (1 page)(158278 bytes) Notice of Opposition - RES-Q PRO_Page_06.tif (1 page)(151632 bytes) Notice of Opposition - RES-Q PRO_Page_07.tif (1 page)(44318 bytes) Notice of Opposition - RES-Q PRO_Page_08.tif (1 page)(93092 bytes) Notice of Opposition - RES-Q PRO_Page_09.tif (1 page)(31772 bytes) Notice of Opposition - RES-Q PRO_Page_10.tif (1 page)(255880 bytes) Notice of Opposition - RES-Q PRO_Page_11.tif (1 page)(107708 bytes) Notice of Opposition - RES-Q PRO_Page_12.tif (1 page)(163534 bytes) Notice of Opposition - RES-Q PRO_Page_13.tif (1 page)(165524 bytes) Notice of Opposition - RES-Q PRO_Page_14.tif (1 page)(98954 bytes) Notice of Opposition - RES-Q PRO_Page_15.tif (1 page)(109128 bytes) Notice of Opposition - RES-Q PRO_Page_16.tif (1 page)(32988 bytes) Notice of Opposition - RES-Q PRO_Page_17.tif (1 page)(161874 bytes) Notice of Opposition - RES-Q PRO_Page_18.tif (1 page)(31796 bytes) Notice of Opposition - RES-Q PRO_Page_19.tif (1 page)(295806 bytes) Notice of Opposition - RES-Q PRO_Page_20.tif (1 page)(150004 bytes) Notice of Opposition - RES-Q PRO_Page_21.tif (1 page)(149404 bytes) Notice of Opposition - RES-Q PRO_Page_22.tif (1 page)(250532 bytes) Notice of Opposition - RES-Q PRO_Page_23.tif (1 page)(163778 bytes) Notice of Opposition - RES-Q PRO_Page_24.tif (1 page)(55556 bytes) Notice of Opposition - RES-Q PRO_Page_25.tif (1 page)(74532 bytes) Notice of Opposition - RES-Q PRO_Page_26.tif (1 page)(33146 bytes) Notice of Opposition - RES-Q PRO_Page_27.tif (1 page)(87674 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 | /Tristram R. Fall, III/ |
| Name | Tristram R. Fall, III |

| | |
|------|------------|
| Date | 10/06/2010 |
|------|------------|

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

In re: Trademark Application of
Food Technology & Design, LLC

Mark: "RES-Q PRO"

Serial No.: 77/931,682

Filed: February 9, 2010

Published in the Official Gazette on
June 8, 2010

N3 OCEANIC, INC.

Opposer,

v.

FOOD TECHNOLOGY & DESIGN, LLC

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Opposer, N3 Oceanic, Inc., a Pennsylvania corporation having an address of 1862 A Tollgate Road, Palm, Pennsylvania 18070 ("Opposer"), believes that it would be damaged by the registration of the mark shown in Application Serial No. 77/931,682 and hereby opposes the same under Section 13 of the Trademark Act of July 5, 1946, 15 U.S.C. § 1063, as amended.

As grounds for opposition, Opposer alleges that:

1. Food Technology & Design, LLC (“Applicant”) seeks to register the mark “RES-Q PRO”, as shown in Application Serial No. 77/931,682, as a trademark for use on, *inter alia*, goods described as “dietary food supplements; energy boosting bars for use as a meal substitute; food supplements; food supplements, namely, anti-oxidants; health food supplements; meal replacement bars; mineral food supplements; nutritional energy bars for use as a meal substitute; nutritional food bars for use as a meal replacement”, in International Class 005, as evidenced by publication of the mark in the June 8, 2010 issue of the Official Gazette (“Applicant’s Mark”).

2. Opposer is the owner of, and will rely on herein, a valid and subsisting United States Trademark Registration, namely, Trademark Registration No. 2,926,143, for the mark “RES-Q” (“Opposer’s Mark”), issued on February 15, 2005, for use on goods described as “nutritional supplements comprised of marine lipid concentrate for human consumption for use in lowering cholesterol, triglycerides and blood pressure”, in International Class 005. Copies of print-outs from the United States Patent and Trademark Office’s online databases, the Trademark Electronic Search System (“TESS”) (available at <http://www.uspto.gov/main/trademarks.htm>) and the Trademark Applications and Registrations Retrieval (“TARR”) (available at <http://tarr.uspto.gov>), showing the current status and title of such registration, together with printouts of the corresponding Assignment database pages, are attached hereto as Exhibit A.

3. Opposer’s predecessor-in-interest, Timothy J. Shields, duly adopted Opposer’s Mark for use on the aforementioned goods. Opposer’s predecessor-in-interest first used Opposer’s Mark in intrastate commerce at least as early as March 20, 1985. Opposer’s predecessor-in-interest first used Opposer’s Mark in interstate commerce at least as early as

March 20, 1985. Upon the death of Mr. Shields, his estate assigned all rights in and to Opposer's Mark, including without limitation all goodwill associated therewith, to Opposer. Such assignment was recorded with the Trademark Office on November 13, 2006. Opposer continues to offer the goods identified in Trademark Registration No. 2,926,143 in interstate commerce and Opposer's Mark has been continuously used in this manner since at least as early as 1985.

4. Opposer has also sold and distributed various other types of dietary and nutritional supplements in interstate commerce in the United States of America continuously since at least as early as May 2002 and continues to sell such goods in interstate commerce bearing and under the mark "RES-Q".

5. Among the various dietary and nutritional supplements currently sold by Opposer in interstate commerce is a product sold under the mark "RES-Q PROBIOTIC", for a supplement that contains probiotics. Opposer has used the mark "RES-Q PROBIOTIC" since at least as early as September 2008.

6. As a result of exclusive and continuous use of the mark "RES-Q" in interstate commerce, substantially throughout the United States, on and in connection with dietary and nutritional supplements prior to the filing date of Applicant's intent-to-use application noted above, Opposer is the exclusive owner of , and will assert, common law rights in the mark "RES-Q" for use on goods in this field. As a result of such exclusive and continuous use of the mark "RES-Q" in interstate commerce, substantially throughout the United States on and in connection with such goods, the mark "RES-Q" has come to be recognized in the trade and in the minds of the relevant consuming public as identifying Opposer as the manufacturer

and source of origin of dietary and nutritional supplements sold and distributed under and bearing the mark "RES-Q".

7. There is no issue as to priority, as Applicant filed Application Serial No. 77/931,682 on February 9, 2010 on an intent-to-use basis, in Class 1(b). This priority date occurred subsequent to the date of the first use of Opposer's Mark in interstate commerce by Opposer's predecessor-in-interest at least as early as 1985.

8. Opposer has made a substantial investment in promoting its goods as described above in connection with Opposer's Mark, has established a valuable reputation in the dietary and nutritional supplement field, and has developed substantial goodwill which is symbolized by this mark. Opposer has extensively used, promoted and offered its goods under Opposer's Mark to the public through various channels of trade in interstate commerce, with the result that its customers, and the public in general, have come to know and recognize Opposer's Mark, and to identify, associate and/or equate this mark with Opposer and/or the goods offered, marketed and/or provided by Opposer.

9. By virtue of its substantial investment in promoting its goods under Opposer's Mark, and by virtue of the excellence of its goods, Opposer has gained a valuable reputation for Opposer's Mark.

10. Opposer's Mark and Applicant's Mark each consist solely of text. Applicant's Mark consists of two terms – "RES-Q" and "PRO". Opposer's Mark consists of but a single term – "RES-Q". Opposer's Mark is substantially similar to, and entirely contained within, Applicant's mark.

11. The similarities between Applicant's Mark and Opposer's Mark are increased in view of the fact that Applicant has disclaimed the exclusive right to use the term "PRO", apart from the mark as shown, as evidenced by the publication of the mark in the June 8, 2010 issue of the Official Gazette, at Page TM 259 set forth in Exhibit B hereto, as well as in the print-out of the listing of Trademark Application Serial No. 77/931,682 contained on the Trademark Office's online database, the Trademark Electronic Search System ("TESS") (available at <http://www.uspto.gov/main/trademarks.htm>), a copy of which is attached hereto as Exhibit C.

12. Applicant's Mark so resembles Opposer's Mark as to be likely, when applied to Applicant's and Opposer's respective goods, to cause confusion or mistake and/or to deceive purchasers, resulting in damage to Opposer and its reputation.

13. Upon information and belief, the goods on which Applicant uses Applicant's Mark, namely, "dietary food supplements; energy boosting bars for use as a meal substitute; food supplements; food supplements, namely, anti-oxidants; health food supplements; meal replacement bars; mineral food supplements; nutritional energy bars for use as a meal substitute; nutritional food bars for use as a meal replacement", and the dietary and nutritional supplements on which Opposer's Mark is used, are related and/or identical and are likely to be offered and/or targeted to the same group or groups of purchasers.

14. Because of the similarities that exist between Applicant's Mark and Opposer's Mark, and because the parties' goods are related and/or identical and are likely to be encountered by the same customer groups, Opposer's customers and the general public are likely to be confused, mistaken and/or deceived as to the origin and sponsorship of Applicant's goods

and misled into believing that Applicant's goods offered under Applicant's Mark are provided by, or are in some other way directly or indirectly associated or affiliated with, Opposer, resulting in damage to Opposer and its reputation.

15. Opposer has no control over the nature or quality of the goods on which Applicant uses Applicant's Mark. In the event of false association with Opposer, any defects, objections or faults found with any goods offered under Applicant's Mark could inflict serious injury upon Opposer and its reputation.

16. If the mark "RES-Q PRO" is registered pursuant to Application Serial No. 77/931,682, Applicant will acquire the *prima facie* exclusive right to use the mark "RES-Q PRO" on and in connection with the goods set forth in such application, namely, "dietary food supplements; energy boosting bars for use as a meal substitute; food supplements; food supplements, namely, anti-oxidants; health food supplements; meal replacement bars; mineral food supplements; nutritional energy bars for use as a meal substitute; nutritional food bars for use as a meal replacement", throughout the United States. This will damage Opposer in that there will be a likelihood of confusion, and probably actual confusion, among consumers and in the trade as to the true source of origin of the goods sold by Applicant under Applicant's Mark. Such confusion will inevitably damage Opposer and result in irreparable harm to Opposer.

17. Pursuant to Trademark Rule 2.102, Opposer obtained an extension of time for filing a Notice of Opposition against Application Serial No. 77/931,682, until and including October 6, 2010. (*See Exhibit D* hereto.)

18. In sum, the registration of Applicant's Mark by Applicant will seriously damage Opposer and its reputation.

WHEREFORE, Opposer prays that Application Serial No. 77/931,682 be refused registration, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

Respectfully submitted,

N3 OCEANIC, INC.

By: 

Tristram R. Fall, III, Esquire
Fox Rothschild LLP
P.O. Box 5231
Princeton, NJ 08543-5231
(215) 299-2016
Counsel for Opposer

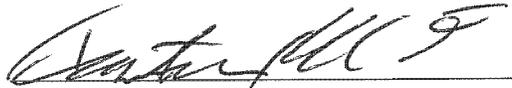
Dated: October 6, 2010

VIA ELECTRONIC SYSTEM FOR
TRADEMARK TRIALS AND APPEALS ("ESTTA")
DATE OF FILING: October 6, 2010

CERTIFICATE OF TRANSMISSION

I hereby certify that this paper is being electronically filed with the Trademark Trial and Appeal Board of the United States Patent and Trademark Office by means of the Electronic System for Trademark Trials and Appeals ("ESTTA") on this 6th day of October, 2010.

Dated: October 6, 2010


Tristram R. Fall, III

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this paper was deposited with the United States Postal Service, first class postage prepaid, on the date indicated below, in an envelope addressed to:

Donna J. Bunton, Esquire
Nixon & Vanderhye P.C.
901 North Glebe Road
11th Floor
Arlington, VA 22203

Dated: October 6, 2010


Tristram R. Fall, III

EXHIBIT A



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Typed Drawing

Word Mark RES-Q
Goods and Services IC 005. US 006 018 044 046 051 052. G & S: nutritional supplements comprised of marine lipid concentrate for human consumption *for use in lowering cholesterol, triglycerides and blood pressure*. FIRST USE: 19850320. FIRST USE IN COMMERCE: 19850320
Mark Drawing Code (1) TYPED DRAWING
Serial Number 76439016
Filing Date August 9, 2002
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition December 23, 2003
Change In Registration CHANGE IN REGISTRATION HAS OCCURRED
Registration Number 2926143
Registration Date February 15, 2005
Owner (REGISTRANT) Shields, Timothy J. INDIVIDUAL UNITED STATES P. O. Box 115 East Greenville PENNSYLVANIA 18041
 (LAST LISTED OWNER) N3 OCEANIC, INC. CORPORATION PENNSYLVANIA 1862A TOLLGATE ROAD PALM PENNSYLVANIA 18070

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Norman E. Lehrer
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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This page was generated by the TARR system on 2010-10-06 10:47:16 ET

Serial Number: 76439016 Assignment Information Trademark Document
Retrieval

Registration Number: 2926143

Mark (words only): RES-Q

Standard Character claim: No

Current Status: Registered.

Date of Status: 2005-02-15

Filing Date: 2002-08-09

Transformed into a National Application: No

Registration Date: 2005-02-15

Register: Principal

Law Office Assigned: LAW OFFICE 116

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2006-04-26

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. N3 OCEANIC, INC.

Address:

N3 OCEANIC, INC.
1862A TOLLGATE ROAD
PALM, PA 18070
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Pennsylvania

GOODS AND/OR SERVICES

International Class: 005**Class Status:** Active

nutritional supplements comprised of marine lipid concentrate for human consumption for use in lowering cholesterol, triglycerides and blood pressure

Basis: 1(a)**First Use Date:** 1985-03-20**First Use in Commerce Date:** 1985-03-20

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2006-11-22 - Automatic Update Of Assignment Of Ownership

2006-11-10 - TEAS Change Of Correspondence Received

2006-04-26 - Section 7 correction issued

2006-02-17 - Assigned To Paralegal

2006-01-19 - FAX RECEIVED

2004-04-15 - PAPER RECEIVED

2005-02-15 - Registered - Principal Register

2004-04-15 - PAPER RECEIVED

2004-08-18 - Extension Of Time To Oppose Process - Terminated

2004-07-26 - FAX RECEIVED

2004-06-24 - PAPER RECEIVED

2004-01-21 - Extension Of Time To Oppose Received
2003-12-23 - Published for opposition
2003-12-03 - Notice of publication
2003-10-24 - Approved for Pub - Principal Register (Initial exam)
2003-07-25 - Communication received from applicant
2003-08-15 - Case File In TICRS
2003-07-25 - PAPER RECEIVED
2003-01-22 - Non-final action mailed
2003-01-07 - Assigned To Examiner
2002-09-18 - PAPER RECEIVED

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Norman E. Lehrer

Correspondent

Norman E. Lehrer
Norman E Lehrer, P.C.
1205 North Kings Highway
Cherry Hill NJ 08034
Phone Number: 856.429.4100
Fax Number: 856.429.8819



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Trademark Assignment Abstract of Title

Total Assignments: 1**Serial #:** [76439016](#)**Filing Dt:** 08/09/2002**Reg #:** [2926143](#)**Reg. Dt:** 02/15/2005**Registrant:** Shields, Timothy J.**Mark:** RES-Q**Assignment: 1****Reel/Frame:** [3431/0813](#)**Received:** 11/15/2006**Recorded:** 11/13/2006**Pages:** 2**Conveyance:** ASSIGNS THE ENTIRE INTEREST**Assignor:** [SHIELDS, TIMOTHY J.](#)**Exec Dt:** 03/23/2006**Entity Type:** INDIVIDUAL**Citizenship:** NONE**Entity Type:** CORPORATION**Citizenship:** PENNSYLVANIA**Assignee:** [N3 OCEANIC, INC.](#)1862A TOLLGATE ROAD
PALM, PENNSYLVANIA 18070**Correspondent:** NORMAN E. LEHRER, P.C.
1205 N. KINGS HIGHWAY
CHERRY HILL, NJ 08034

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EXHIBIT B

CLASS 5—PHARMACEUTICALS

FOR ANTI-ITCH CREAM (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

MARIA-VICTORIA SUAREZ, EXAMINING ATTORNEY

SN 77-931,978. TIMBERWOLF HOLDINGS LLC, PUEBLO, CO. FILED 2-9-2010.

LEGACY COLLECTION

SN 77-931,682. FOOD TECHNOLOGY & DESIGN, LLC, DBA FOODPHARMA, SANTA FE SPRINGS, CA. FILED 2-9-2010.

RES-Q PRO

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PRO", APART FROM THE MARK AS SHOWN.

CLASS 5—PHARMACEUTICALS

FOR DIETARY FOOD SUPPLEMENTS; ENERGY BOOSTING BARS FOR USE AS A MEAL SUBSTITUTE; FOOD SUPPLEMENTS; FOOD SUPPLEMENTS, NAMELY, ANTI-OXIDANTS; HEALTH FOOD SUPPLEMENTS; MEAL REPLACEMENT BARS; MINERAL FOOD SUPPLEMENTS; NUTRITIONAL ENERGY BARS FOR USE AS A MEAL SUBSTITUTE; NUTRITIONAL FOOD BARS FOR USE AS A MEAL REPLACEMENT (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

CLASS 29—MEATS AND PROCESSED FOODS

FOR FRUIT AND SOY BASED SNACK FOOD; FRUIT-BASED ORGANIC FOOD BARS; FRUIT-BASED ORGANIC FOOD BARS, ALSO CONTAINING NUTRICEUTICALS; FRUIT-BASED SNACK FOOD; NUT AND SEED-BASED SNACK BARS; NUT-BASED SNACK FOODS; PROCESSED FRUIT- AND NUT-BASED FOOD BARS; PROTEIN BASED, NUTRIENT-DENSE SNACK BARS; SOY-BASED FOOD BARS; SOY-BASED FOOD BARS ALSO CONTAINING NUTRICEUTICALS; SOY-BASED SNACK FOODS (U.S. CL. 46).

CLASS 30—STAPLE FOODS

FOR CANDY BARS; CEREAL BASED ENERGY BARS; CEREAL BASED SNACK FOOD; CEREAL-BASED SNACK FOODS; CHOCOLATE BARS; CHOCOLATE-BASED READY-TO-EAT FOOD BARS; CONFECTIONERIES, NAMELY, SNACK FOODS, NAMELY, CHOCOLATE; GRAIN-BASED FOOD BARS ALSO CONTAINING NUTRICEUTICALS; GRAIN-BASED SNACK FOODS; READY TO EAT, CEREAL DERIVED FOOD BARS; SNACK FOOD CHEWS MADE PRIMARILY FROM BROWN RICE SYRUP; SNACK FOODS, NAMELY, CHOCOLATE-BASED SNACK FOODS (U.S. CL. 46).

CLASS 43—HOTEL AND RESTAURANT SERVICES

FOR SNACK BARS; SNACK-BARS (U.S. CLS. 100 AND 101).

MEGHAN REINHART, EXAMINING ATTORNEY

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COLLECTION", APART FROM THE MARK AS SHOWN.

CLASS 18—LEATHER GOODS

FOR DOG COLLARS; DOG LEASHES (U.S. CLS. 1, 2, 3, 22 AND 41).

CLASS 28—TOYS AND SPORTING GOODS

FOR DOG TOYS (U.S. CLS. 22, 23, 38 AND 50).

SUZANNE BLANE, EXAMINING ATTORNEY

SN 77-933,764. CBR SYSTEMS, INC., SAN BRUNO, CA. FILED 2-11-2010.

OPEN THE DOORS TO MAXIMUM
CELL RECOVERY

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

CLASS 39—TRANSPORTATION AND STORAGE

FOR TRANSPORTATION AND STORAGE OF BLOOD, BLOOD COMPONENTS, STEM CELLS AND TISSUE (U.S. CLS. 100 AND 105).

CLASS 44—MEDICAL, BEAUTY AND AGRICULTURAL SERVICES

FOR MEDICAL SERVICES, NAMELY, THE COLLECTION, TESTING, PROCESSING AND PRESERVATION OF BLOOD, BLOOD COMPONENTS, STEM CELLS AND TISSUE (U.S. CLS. 100 AND 101).

AMY ALFIERI, EXAMINING ATTORNEY

EXHIBIT C



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RES-Q PRO

Word Mark RES-Q PRO
Goods and Services IC 005. US 006 018 044 046 051 052. G & S: Dietary food supplements; Energy boosting bars for use as a meal substitute; Food supplements; Food supplements, namely, anti-oxidants; Health food supplements; Meal replacement bars; Mineral food supplements; Nutritional energy bars for use as a meal substitute; Nutritional food bars for use as a meal replacement

IC 029. US 046. G & S: Fruit and soy based snack food; Fruit-based organic food bars; Fruit-based organic food bars, also containing nutraceuticals; Fruit-based snack food; Nut and seed-based snack bars; Nut-based snack foods; Processed fruit- and nut-based food bars; Protein based, nutrient-dense snack bars; Soy-based food bars; Soy-based food bars also containing nutraceuticals; Soy-based snack foods

IC 030. US 046. G & S: Candy bars; Cereal based energy bars; Cereal based snack food; Cereal-based snack foods; Chocolate bars; Chocolate-based ready-to-eat food bars; Confectioneries, namely, snack foods, namely, chocolate; Grain-based food bars also containing nutraceuticals; Grain-based snack foods; Ready to eat, cereal derived food bars; Snack food chews made primarily from brown rice syrup; Snack foods, namely, chocolate-based snack foods

IC 043. US 100 101. G & S: Snack bars; Snack-bars

Standard
 Characters
 Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77931682

Filing Date February 9, 2010

Current Filing Basis 1B

Original Filing Basis 1B

Published for Opposition June 8, 2010

Owner (APPLICANT) Food Technology & Design, LLC DBA Foodpharma LIMITED LIABILITY COMPANY CALIFORNIA 10012 S. Painter Avenue Santa Fe Springs CALIFORNIA 90670

Attorney of Record Lee Goldberg

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PRO" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

| | | | | | | | | |
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Serial Number: 77931682 Assignment Information Trademark Document
Retrieval

Registration Number: (NOT AVAILABLE)

Mark

RES-Q PRO

(words only): RES-Q PRO

Standard Character claim: Yes

Current Status: A request for an extension of time to file an opposition has been filed at the Trademark Trial and Appeal Board.

Date of Status: 2010-07-07

Filing Date: 2010-02-09

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 108

Attorney Assigned:
REINHART MEGHAN M

Current Location: 650 -Publication And Issue Section

Date In Location: 2010-05-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Food Technology & Design, LLC

DBA/AKA/TA/Formerly: DBA Foodpharma

Address:

Food Technology & Design, LLC
10012 S. Painter Avenue
Santa Fe Springs, CA 90670
United States

Legal Entity Type: Limited Liability Company

State or Country Where Organized: California

Phone Number: 562-944-7821

Fax Number: 562-944-1308

GOODS AND/OR SERVICES

International Class: 005

Class Status: Active

Dietary food supplements; Energy boosting bars for use as a meal substitute; Food supplements; Food supplements, namely, anti-oxidants; Health food supplements; Meal replacement bars; Mineral food supplements; Nutritional energy bars for use as a meal substitute; Nutritional food bars for use as a meal replacement

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 029

Class Status: Active

Fruit and soy based snack food; Fruit-based organic food bars; Fruit-based organic food bars, also containing nutraceuticals; Fruit-based snack food; Nut and seed-based snack bars; Nut-based snack foods; Processed fruit- and nut-based food bars; Protein based, nutrient-dense snack bars; Soy-based food bars; Soy-based food bars also containing nutraceuticals; Soy-based snack foods

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 030

Class Status: Active

Candy bars; Cereal based energy bars; Cereal based snack food; Cereal-based snack foods; Chocolate bars; Chocolate-based ready-to-eat food bars; Confectioneries, namely, snack foods, namely, chocolate; Grain-based food bars also containing nutraceuticals; Grain-based snack foods; Ready to eat, cereal derived food bars; Snack food chews made primarily from brown rice syrup; Snack foods, namely, chocolate-

based snack foods

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 043

Class Status: Active

Snack bars; Snack-bars

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Disclaimer: "PRO"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-07-07 - Extension Of Time To Oppose Received

2010-06-08 - Notice Of Publication E-Mailed

2010-06-08 - Published for opposition

2010-05-04 - Law Office Publication Review Completed

2010-05-04 - Assigned To LIE

2010-04-22 - Approved For Pub - Principal Register

2010-04-14 - Assigned To Examiner

2010-02-18 - Notice Of Pseudo Mark Mailed

2010-02-17 - New Application Office Supplied Data Entered In Tram

2010-02-12 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Lee Goldberg

Correspondent

LEE GOLDBERG

LAW OFFICES OF LEE R. GOLDBERG

23272 MILL CREEK DR STE 360

LAGUNA HILLS, CA 92653-1681

Phone Number: 949-305-6870

Fax Number: 949-305-6874



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No assignment has been recorded at the USPTO

For Serial Number: 77931682

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350.
Web interface last modified: October 18, 2008 v.2.0.2

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EXHIBIT D

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Tristram R. Fall, III, Esquire
Fox Rothschild LLP
2000 Market Street 20th Floor
Philadelphia, PA 19103

Mailed: July 8, 2010

Serial No.: 77931682
ESTTA TRACKING NO: ESTTA356854

The request to extend time to oppose is granted until
10/6/2010 on behalf of potential opposer N3 OCEANIC, INC.

Please do not hesitate to contact the Trademark Trial and
Appeal Board at (571)272-8500 if you have any questions
relating to this extension.

Note from the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to
oppose, notices of opposition, petition for cancellation, notice
of ex parte appeal, and inter partes filings are now available
at <http://estta.uspto.gov>. Images of TTAB proceeding files can
be viewed using TTABVue at <http://ttabvue.uspto.gov>.