

ESTTA Tracking number: **ESTTA421548**

Filing date: **07/25/2011**

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	SBD Trademark Limited Partnership
Granted to Date of previous extension	07/24/2011
Address	c/o Greenberg Traurig P.A. 5100 Town Circle Boca Raton, FL 33486 UNITED STATES

Attorney information	Mary Sotis Frankfurt Kurnit Klein & Selz PC 488 Madison Avenue New York, NY 10022 UNITED STATES pto@fkks.com Phone:212-980-0120
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Applicant Information

Application No	77922673	Publication date	01/25/2011
Opposition Filing Date	07/25/2011	Opposition Period Ends	07/24/2011
Applicant	Marius, Inc. 229 14th Street Miami Beach, FL 33139 UNITED STATES		

Goods/Services Affected by Opposition

Class 030. First Use: 2009/11/17 First Use In Commerce: 2009/11/17
All goods and services in the class are opposed, namely: condiments, namely, vinaigrette sauces for sandwiches and salads

Grounds for Opposition

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

U.S. Registration No.	2633433	Application Date	05/20/1999
Registration Date	10/08/2002	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH DIET		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 005. First use: First Use: 1999/05/02 First Use In Commerce: 1999/05/02 meal replacement bars consisting primarily of processed vegetable products [; powered shakes consisting primarily of processed vegetable products and herbal dietary supplements] Class 016. First use: First Use: 1999/05/02 First Use In Commerce: 1999/05/02 diet booklets and pamphlets

U.S. Registration No.	2910278	Application Date	07/01/2002
Registration Date	12/14/2004	Foreign Priority Date	NONE

Word Mark	SOUTH BEACH DIET
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 016. First use: First Use: 1997/06/01 First Use In Commerce: 1997/06/01 BOOKS, PRINTED GUIDES AND BROCHURES FEATURING TOPICS RELATING TO WEIGHT LOSS, WEIGHT CONTROL, WEIGHT MAINTENANCE, NUTRITION, MENU PLANNING, RECIPES, FITNESS, DIET AND NUTRITION INFORMATION FOR THE PREVENTION OF CORONARY HEART DISEASES Class 044. First use: First Use: 1997/06/01 First Use In Commerce: 1997/06/01 WEIGHT REDUCTION DIET PLANNING AND SUPERVISION SERVICES, NAMELY, PROVIDING WEIGHT LOSS, WEIGHT CONTROL AND WEIGHT MAINTENANCE SERVICES, MENU PLANNING, NUTRITION COUNSELING SERVICES; FOOD NUTRITION CONSULTATION SERVICES; WEIGHT CONTROL EVALUATION SERVICES; WEIGHT CONTROL TREATMENT SERVICES; ADVICE AND COUNSELING SERVICES FOR DIET, NUTRITION AND MENU PLANNING FOR THE PREVENTION OF CORONARY HEART DISEASE; COUNSELING SERVICES IN THE FIELD OF WEIGHT LOSS, WEIGHT CONTROL, WEIGHT MAINTENANCE, NUTRITION AND MENU PLANNING; PERSONAL SERVICES FOR WEIGHT LOSS, WEIGHT CONTROL AND WEIGHT MAINTENANCE
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U.S. Registration No.	3554508	Application Date	09/15/2003
Registration Date	12/30/2008	Foreign Priority Date	NONE

Word Mark	SOUTH BEACH DIET
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Design Mark	SOUTH BEACH DIET
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Description of Mark	NONE
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Goods/Services	Class 009. First use: First Use: 2003/04/01 First Use In Commerce: 2003/04/01 Prerecorded video tapes, audio tapes, CD-ROMs, DVDs featuring information on weight loss, weight control and maintenance, diet, recipes and meal planning, exercise, nutrition, health and lifestyle
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U.S. Registration No.	3213757	Application Date	09/15/2003
Registration Date	02/27/2007	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH DIET		
Design Mark	SOUTH BEACH DIET		
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2006/05/15 First Use In Commerce: 2006/05/15 Cookbooks, printed diet guides and counters featuring information about the nutritional content of foods and beverages		

U.S. Registration No.	3107236	Application Date	09/15/2003
Registration Date	06/20/2006	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH DIET		
Design Mark	SOUTH BEACH DIET		
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2005/10/01 First Use In Commerce: 2005/10/01 Prepared entrees, side dishes and meals consisting primarily of beef, seafood or poultry; vegetable based ready to eat food bars, protein based ready to eat food bars; sugar-free peanut butter, butter substitutes, sugar-free and low sugar jams, jellies, and fruit spreads, cooking oils, olive oil, canola oil, vegetable oil		

U.S. Registration No.	3107235	Application Date	09/15/2003
Registration Date	06/20/2006	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH DIET		
Design Mark	SOUTH BEACH DIET		
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2005/10/01 First Use In Commerce: 2005/10/01		

	"Ready to eat food bars and snack foods made with whole grains; oatmeal; whole grain breads, whole grain pastas, whole grain breakfast cereals, whole grain muffin mixes, and whole grain pancake mixes; sugar-free chocolate, chocolates, sugar-free chocolate powder, cocoa powder, sugar-free candy, sugar-free gum, sugar-free flavored gelatin, fat-free and sugar-free pudding, sugar substitutes, salad dressings, salsa, sauces, seasonings,spices, sugar-free desserts, sugar-free frozen confections, nutritional candy bars"
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U.S. Registration No.	3557917	Application Date	09/15/2003
Registration Date	01/06/2009	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH DIET		
Design Mark	SOUTH BEACH DIET		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2005/01/01 First Use In Commerce: 2005/01/01 online catalogue order services via the Internet, all featuring books, cookbooks, foods, and drink mixes		

U.S. Registration No.	3557916	Application Date	09/15/2003
Registration Date	01/06/2009	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH DIET		
Design Mark	SOUTH BEACH DIET		
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2008/08/08 First Use In Commerce: 2008/08/08 Food delivery services		

U.S. Registration No.	3123993	Application Date	09/15/2003
Registration Date	08/01/2006	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH DIET		

Design Mark	SOUTH BEACH DIET
Description of Mark	NONE
Goods/Services	Class 044. First use: First Use: 2003/06/05 First Use In Commerce: 2003/06/05 Providing a web site featuring information about weight loss, weight control and maintenance, diet, recipes and meal planning, exercise, nutrition, health and lifestyle, and interactive weight loss features, namely, weight trackers, shopping list generators and on-line diet diaries

U.S. Registration No.	3644911	Application Date	03/19/2004
Registration Date	06/23/2009	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH LIVING		
Design Mark	SOUTH BEACH LIVING		
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2008/01/00 First Use In Commerce: 2008/01/00 Food supplements, mineral supplements, nutritional supplements, dietary supplements, meal replacement and dietary supplement drink mixes, meal replacement powders		

U.S. Registration No.	3588906	Application Date	03/19/2004
Registration Date	03/10/2009	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH LIVING		
Design Mark	SOUTH BEACH LIVING		

Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 2008/01/31 First Use In Commerce: 2008/01/31 Prepared entrees, side dishes and meals consisting primarily of meat, seafood, poultry or vegetables; meat; processed meat, namely, ham, poultry or beef; vegetable based ready to eat food bars, protein based ready to eat food bars, protein based nutrient dense snack bars; processed nuts; snack mix consisting primarily of processed fruits, processed nuts and/or raisins; yogurt,cheese, cheese spreads, cheese and cracker combinations; food package combinations consisting primarily of cheese, meat and/or processed fruit

U.S. Registration No.	3652612	Application Date	03/19/2004
Registration Date	07/07/2009	Foreign Priority Date	NONE

Word Mark	SOUTH BEACH LIVING
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 030. First use: First Use: 2008/01/00 First Use In Commerce: 2008/01/00 Ready to eat food bars and snack foods made with whole grains; ready to eat, cereal derived food bars; granola based snack bars; whole grain breakfast cereals, breakfast cereals, processed cereals, fat-free and sugar-free pudding, puddings, salad dressings, sugar-free desserts, namely, sugar-free cookies, bakery deserts, cookies, crackers; snack mix consisting primarily of candied nuts, pizza, sandwiches, nutritional candy bars
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U.S. Application No.	77757573	Application Date	06/11/2009
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	SOUTH BEACH DIET
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 005. First use: Food supplements, vitamins, mineral supplements, nutritional supplements, dietary supplements, meal replacement and dietary supplement drink mixes, meal replacement powders

U.S. Application No.	78479437	Application Date	09/07/2004
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	SOUTH BEACH DIET
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Design Mark	
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Description of Mark	The mark consists of the words "SOUTH BEACH DIET" in white and light teal appearing on a teal background featuring palm fronds and a salmon border.
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Goods/Services	<p>Class 029. First use: Prepared entrees, side dishes and meals consisting primarily of meat, seafood, poultry or vegetables; prepared dinners consisting of meat substitutes; meat; processed meat, namely, ham, poultry or beef vegetable based ready to eat food bars, protein based ready to eat food bars, protein based nutrient dense snack bars; sugar-free peanut butter, butter substitutes; sugar-free and low sugar jams, jellies, and fruit spreads; fruit toppings, whipped toppings, nut toppings; cooking oils, olive oil, canola oil, vegetable oil, mayonnaise, sour cream, processed nuts; snack mix consisting primarily of processed fruits, processed nuts and/or raisins; yogurt, cheese, cheese spreads, cheese and cracker combinations; food package combinations consisting primarily of cheese, meat and/or processed fruit</p> <p>Class 030. First use: Ready to eat food bars and snack foods made with whole grains; ready to eat, cereal derived food bars; granola based snack bars; oatmeal; whole grain breads, whole grain pastas, whole grain breakfast cereals, breakfast cereals, processed cereals, whole grain muffin mixes, and whole grain pancake mixes; sugar-free chocolate, chocolates, sugar-free chocolate powder, cocoa powder, sugar-free candy, sugar-free gum, sugar-free flavored gelatin, sweetened flavored gelatin desserts, fat-free and sugar-free pudding, puddings, cheesecake, sugar substitutes, salad dressings, salsa, sauces, seasonings, spices; sugar-free desserts, namely, sugar-free cookies, caramel corn, pies, cakes, cheesecakes, brownies, marshmallow topping, chocolate topping, chocolate syrup, flavoring syrup, topping syrup and bakery desserts; sugar-free frozen confections, marshmallow topping, chocolate topping, chocolate syrup, flavoring syrup, topping syrup, cookies, crackers, popped popcorn, caramel popcorn, rice cakes, pretzels, cheese flavored puffed corn snacks; cheese flavored snacks, namely, cheese curls; snack mix consisting primarily of crackers, pretzels, candied nuts and/or popped corn, pizza, sandwiches</p>
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U.S. Application No.	77187569	Application Date	05/22/2007
Registration Date	NONE	Foreign Priority	NONE

		Date	
Word Mark	SOUTH BEACH SOLUTIONS		
Design Mark	<p style="text-align: center;">SOUTH BEACH SOLUTIONS</p>		
Description of Mark	NONE		
Goods/Services	Class 039. First use: Providing of food and drink, namely, food delivery services		

U.S. Application No.	77187549	Application Date	05/22/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH SOLUTIONS		
Design Mark	<p style="text-align: center;">SOUTH BEACH SOLUTIONS</p>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: Telephone and mail order catalogue services, online catalogue order services via the Internet, all featuring books, cookbooks, foods, dietary preparations, nutritional supplements and vitamins		

U.S. Application No.	77187540	Application Date	05/22/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH SOLUTIONS		

Design Mark	SOUTH BEACH SOLUTIONS
Description of Mark	NONE
Goods/Services	Class 030. First use: Ready to eat food bars and snack foods made with whole grains; ready to eat, cereal derived food bars; granola based snack bars; oatmeal; whole grain breads, whole grain pastas, whole grain breakfast cereals, breakfast cereals, processed cereals, whole grain muffin mixes, and whole grain pancake mixes; chocolate, chocolates, chocolate powder, cocoa powder, candy, chewing gum, flavored gelatin, sweetened flavored gelatin desserts, puddings, cheesecake, sugar substitutes, salad dressings, salsa, sauces, seasonings, spices, mayonnaise; desserts, namely, sugar-free cookies, caramel corn, pies, cakes, cheesecakes, brownies, marshmallow topping, chocolate topping, chocolate syrup, flavoring syrup, topping syrup and bakery desserts; frozen confections, marshmallow topping, chocolate topping, chocolate syrup, flavoring syrup, topping syrup, cookies, crackers, popped popcorn, caramel popcorn, rice cakes, pretzels, cheese flavored puffed corn snacks; cheese flavored snacks, namely, cheese curls; snack mix consisting primarily of crackers, pretzels, candied nuts and/or popped corn, pizza, sandwiches; nutritional candy bars

U.S. Application No.	77187528	Application Date	05/22/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH SOLUTIONS		
Design Mark	SOUTH BEACH SOLUTIONS		
Description of Mark	NONE		
Goods/Services	Class 029. First use: Prepared entrees, side dishes and meals consisting primarily of meat, seafood, poultry or vegetables; prepared dinners consisting of meat substitutes; meat; processed meat, namely, ham, poultry or beef; vegetable based ready to eat food bars, protein based ready to eat food bars, protein based nutrient dense snack bars; peanut butter, butter and butter substitutes; jams, jellies, and fruit		

	spreads; fruit toppings, whipped toppings, nut toppings; cooking oils, olive oil, canola oil, vegetable oil, sour cream, processed nuts; snack mix consisting primarily of processed fruits, processed nuts and/or raisins; yogurt, cheese, cheese spreads, cheese and cracker combinations; food package combinations consisting primarily of cheese, meat and/or processed fruit
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U.S. Application No.	77187518	Application Date	05/22/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH SOLUTIONS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: Cookbooks, printed guides and reference cards featuring information about the nutritional content of foods and beverages; books, printed guides and brochures about nutrition, menu planning, recipes, fitness, health and lifestyle; calendars		

U.S. Application No.	77187445	Application Date	05/22/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH SOLUTIONS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: Prerecorded video tapes, audio tapes, CD-ROMs, DVDs and computer software featuring information on recipes, meal planning, exercise, nutrition, health and lifestyle; computer software for generating shopping lists, meal planning, menu planning, devising personalized nutrition programs and nutrition diaries		

U.S. Application No.	77187364	Application Date	05/22/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH SOLUTIONS		
Design Mark	<p style="text-align: center;">SOUTH BEACH SOLUTIONS</p>		
Description of Mark	NONE		
Goods/Services	Class 005. First use: Food supplements, vitamins, mineral supplements, nutritional supplements, dietary supplements, meal replacement and dietary supplement drink mixes, and meal replacement powders		

U.S. Application No.	77463612	Application Date	05/01/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH DIET DELIVERED		
Design Mark	<p style="text-align: center;">SOUTH BEACH DIET DELIVERED</p>		
Description of Mark	NONE		
Goods/Services	Class 039. First use: Food delivery service		

U.S. Application No.	77737063	Application Date	05/14/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SOUTH BEACH LIVING		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 030. First use:</p> <p>Oatmeal; whole grain breads, whole grain pastas, whole grain muffin mixes, and whole grain pancake mixes; sugar-free chocolate, chocolates, sugar-free chocolate powder, cocoa powder, sugar-free candy, sugar-free gum, sugar-free flavored gelatin, sweetened flavored gelatin desserts, sugar substitutes, salsa, sauces, seasonings, spices; caramel corn, pies, cakes, cheesecakes, brownies, chocolate syrup, flavoring syrup, topping syrup; sugar-free frozen confections, marshmallow topping, chocolate topping, popped popcorn, caramel popcorn, rice cakes, pretzels, cheese flavored puffed corn snacks; cheese flavored snacks, namely cheese curls; snack mix consisting primarily of crackers, pretzels and/or popped corn</p>

Attachments	<p>76548398#TMSN.gif (1 page)(bytes) 76548397#TMSN.jpeg (1 page)(bytes) 76548396#TMSN.gif (1 page)(bytes) 76548395#TMSN.gif (1 page)(bytes) 76548393#TMSN.gif (1 page)(bytes) 76548392#TMSN.gif (1 page)(bytes) 76548391#TMSN.gif (1 page)(bytes) 78387731#TMSN.jpeg (1 page)(bytes) 78387736#TMSN.jpeg (1 page)(bytes) 78387741#TMSN.jpeg (1 page)(bytes) 77757573#TMSN.jpeg (1 page)(bytes) 78479437#TMSN.jpeg (1 page)(bytes) 77187569#TMSN.jpeg (1 page)(bytes) 77187549#TMSN.jpeg (1 page)(bytes) 77187540#TMSN.jpeg (1 page)(bytes) 77187528#TMSN.jpeg (1 page)(bytes) 77187518#TMSN.jpeg (1 page)(bytes) 77187445#TMSN.jpeg (1 page)(bytes) 77187364#TMSN.jpeg (1 page)(bytes) 77463612#TMSN.jpeg (1 page)(bytes) 77737063#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (19 pages)(3469645 bytes)</p>
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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	/Mary Sotis/
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Name	Mary Sotis
Date	07/25/2011

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

Applicant : Marius, Inc.
Trademark : LA SANDWICHERIE SOUTH BEACH & Design
Serial No. : 77/922,673
Filed : January 28, 2010
Published : January 25, 2011
International Class: 30 (condiments, namely, vinaigrette sauces for sandwiches and salads)

SBD Trademark Limited Partnership,

Opposer,

Opposition No. _____

v.

Marius, Inc.

Applicant.

NOTICE OF OPPOSITION

Opposer, SBD Trademark Limited Partnership (“Opposer”), a partnership organized under the laws of the State of Florida (comprised of SBD Trademarks, Inc., a Florida corporation), with an address at c/o Greenberg Traurig, P.A., 5100 Town Center Circle, Suite 400, Boca Raton, Florida 33486, believes that it would be damaged by registration of the mark shown in Serial No. 77/922,673, and hereby opposes the same.

As grounds for opposition, it is alleged as follows:

1. Opposer and/or its assignors have been using the mark SOUTH BEACH DIET in commerce and without interruption since at least as early as October 2005 in connection with various food products. Said use has been valid and continuous since the date of first use and has not been abandoned.
2. Opposer is the owner of (9) trademark registrations (including in Classes 5, 29 & 30 for various food products) and two (2) applications for the trademark SOUTH BEACH DIET, as well as twelve (12) registrations and applications for other marks that include the words SOUTH BEACH, the filing dates of which all predate the date of Applicant's application. Annexed as Exhibit A is a list of the prior registrations and applications owned by Opposer for SOUTH BEACH DIET and other marks that incorporate the words SOUTH BEACH.
3. Dr. Agatston, President of Opposer's General Partner SBD Trademarks, Inc., is the author of the bestselling book entitled *The South Beach Diet: The Delicious, Doctor-Designed, Foolproof Plan for Fast and Healthy Weight Loss* (the "Book"). The Book was one of the best-selling non-fiction/advice books in the country for the year 2003 and has been, and in many cases remains, on the bestseller lists, with more than 7.5 million copies in print. (See Exhibit B).

4. Dr. Agatston has since published several additional books, including among others:
(1) *The South Beach Diet Dining Guide: Your Reference Guide to Restaurants Across America*, which is a guide to United States restaurants that have meal options that conform to the SOUTH BEACH DIET; (2) *The South Beach Diet Good Fats Good Carbs Guide*, which provides detailed food and product recommendations for people following all phases of the SOUTH BEACH DIET; (3) *The South Beach Diet Cookbook*, a cookbook that provides recipes (including those of nationally renowned chefs and restaurants) that conform to the SOUTH BEACH DIET; (4) *The South Beach Diet Taste of Summer Cookbook*, a cookbook that provides additional recipes that conform to the SOUTH BEACH DIET; and (5); *The South Beach Diet Supercharged*, that provides information on increased fitness through healthy eating. (See Exhibit C).
5. Opposer also operates the South Beach Diet web site, www.southbeachdiet.com, which has had more than 500,000 subscribers. (See Exhibit D).
6. Through Opposer's many years of use, advertising and promotion of its trademark SOUTH BEACH DIET, the trademark SOUTH BEACH DIET is symbolic of extensive good will and consumer recognition and has come to be associated by the public exclusively with Opposer and the goods and services provided by Opposer.
7. Applicant, Marius, Inc. ("Applicant"), has applied for a trademark registration for the name LA SANDWICHERIE SOUTH BEACH & Design for "condiments, namely, vinaigrette sauces for sandwiches and salads" in International Class 30 (the "Application").

8. Applicant's use of the name LA SANDWICHERIE SOUTH BEACH & Design is likely to cause confusion, or to cause mistake or to deceive by suggesting that Applicant's goods are endorsed, authorized, sponsored, associated with or approved by Opposer.

WHEREFORE, Opposer requests that this opposition be sustained and that Application Serial No. 77/922,673 be rejected.

Dated: New York, New York
July 25, 2011

Respectfully submitted,

FRANKFURT KURNIT KLEIN
& SELZ, PC

By: /Mary Sotis/
Mary Sotis
Edward H. Rosenthal
488 Madison Avenue
New York, NY 10022
(212) 980-0120

Attorneys for Opposer

CERTIFICATE OF ELECTRONIC TRANSMISSION

Date: July 25, 2011

I hereby certify that this paper is being transmitted electronically to the United States Patent and Trademark Office through the ESTTA electronic filing system on the date indicated above and is addressed to Trademark Trial and Appeal Board, Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451

/Matthew Bart/
Matthew Bart

CERTIFICATE OF SERVICE

I, Matthew Bart, certify that a copy of the foregoing Notice of Opposition was served on:

Loren Donald Pearson
Assouline & Berlowe, P.A.
3250 Mary Street Suite 404
Miami, FL 33133

By placing same with the U.S. Postal Service, via first class mail, postage pre-paid, this 25th day of July 2011



Matthew Bart
Trademark Paralegal

EXHIBIT A

SOUTH BEACH DIET TRADEMARKS

U.S. TRADEMARKS

<u>Mark</u>	<u>App.No./ Reg. No.</u>	<u>Filing Date/ Reg. Date</u>	<u>Class(es)</u>
SOUTH BEACH DIET	Reg. No. 2,633,433	10/8/2002	5, 16
SOUTH BEACH DIET	Reg. No. 2,910,278	12/14/2004	16, 44
SOUTH BEACH DIET	Reg. No. 3,554,508	12/30/2008	9
SOUTH BEACH DIET	Reg. No. 3,213,757	2/27/2007	16
SOUTH BEACH DIET	Reg. No. 3,107,236	6/20/2006	29
SOUTH BEACH DIET	Reg. No. 3,107,235	6/20/2006	30
SOUTH BEACH DIET	Reg. No. 3,557,917	1/6/2009	35
SOUTH BEACH DIET	Reg. No. 3,557,916	1/6/2009	39
SOUTH BEACH DIET	Reg. No. 3,123,993	8/1/2006	41
SOUTH BEACH LIVING	Reg. No. 3,644,911	6/23/2009	5
SOUTH BEACH LIVING	Reg. No. 3,588,906	3/10/2009	29
SOUTH BEACH LIVING	Reg. No. 3,652,612	7/7/2009	30
SOUTH BEACH DIET	Serial No. 77/757,573	6/11/2009	5
SOUTH BEACH DIET & Design	Serial No. 78/479,437	9/7/2004	29, 30
SOUTH BEACH SOLUTIONS	Serial No. 77/187,569	5/22/2007	39
SOUTH BEACH SOLUTIONS	Serial No. 77/187,549	5/22/2007	35
SOUTH BEACH SOLUTIONS	Serial No. 77/187,540	5/22/2007	30
SOUTH BEACH SOLUTIONS	Serial No. 77/187,528	5/22/2007	29
SOUTH BEACH SOLUTIONS	Serial No. 77/187,518	5/22/2007	16
SOUTH BEACH SOLUTIONS	Serial No. 77/187,445	5/22/2007	9
SOUTH BEACH SOLUTIONS	Serial No. 77/187,364	5/22/2007	5
SOUTH BEACH DIET DELIVERED	Serial No. 77/463,612	5/1/2008	39
SOUTH BEACH LIVING	Serial No. 77/737,063	5/12/2009	30

EXHIBIT B

SEARCH

The Web CNN.com

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Home Page

World

U.S.

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ENTERTAINMENT/BOOKS

TOP 10: BESTSELLERS

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USA TODAY'S BESTSELLING BOOKS

- "The South Beach Diet" by Arthur Agatston (Rodale) (NF-H)
- "The Da Vinci Code" by Dan Brown (Doubleday) (F-H)
- "The South Beach Diet Good Fats Good Carbs Guide" by Arthur Agatston (Rodale) (NF-P)
- "Angels & Demons" by Dan Brown (Pocket Star) (F-P)
- "The Ultimate Weight Solution Food Guide" by Phillip C. McGraw (Pocket) (P-NF)
- "Chesapeake Blue" by Nora Roberts (Jove) (P-F)
- "The Five People You Meet in Heaven" by Mitch Albom (Hyperion) (F-H)
- "One Hundred Years of Solitude" by Gabriel Garcia Marquez (Perennial) (F-P)
- "The Proper Care & Feeding of Husbands" by Laura Schlessinger (HarperCollins) (NF-H)
- "The King of Torts" by John Grisham (Dell) (F-P)

WALL STREET JOURNAL FICTION **

- "The Da Vinci Code" by Dan Brown
- "The Five People You Meet in Heaven" by Mitch Albom
- "New Spring" by Robert Jordan
- "Retreat, Hell!" by W.E.B. Griffin
- "Eragon: Inheritance" by Christopher Paolini
- "The Big Bad Wolf" by James Patterson
- "The Amateur Marriage" by Anne Tyler
- "Angels & Demons" by Dan Brown
- "Trojan Odyssey" by Clive Cussler
- "The Lady and the Unicorn" by Tracy Chevalier

WALL STREET JOURNAL NONFICTION/GENERAL **

- "The South Beach Diet" by Arthur Agatston (Rodale)
- "The Proper Care & Feeding of Husbands" by Laura Schlessinger (HarperCollins)
- "The Purpose-Driven Life" by Rick Warren (Zondervan)
- "Automatic Millionaire: A Powerful One-Step Plan to Live and Finish Rich" by David Bach (Broadway Books)
- "Ultimate Weight Solution" by Phil McGraw (Free Press)
- "The Price of Loyalty: George W. Bush, the White House, and the Education of Paul O'Neill" by Ron Suskind (Simon & Schuster)
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USA Today calculates a list of approximately 250 best-selling books. The first 10 are listed.

Reporting stores include: Doubleday Book Shops, Hungry Mind Bookstore (St. Paul), Joseph-Beth Booksellers (Lexington, Cincinnati), Ingram Book Co. (reporting retail sales for independent bookstores including Hawley Cooke Booksellers, Louisville, and a sampling of Little Professor Book Centers), Lauriat's and Royal Discount Book Stores, Scribners Bookstores, Tattered Cover Book Store (Denver), Waldenbooks, Waterstone's (Boston), B. Dalton Bookseller, Barnes & Noble Inc, Books-A-Million and Bookland, Books & Co. (Dayton), Borders Books & Music, Brentano's, Crown Books, Davis Kidd Booksellers (Tennessee).

The Wall Street Journal's list reflects nationwide sales of hardcover books during the week ended last Saturday at more than 2,500 B. Dalton, Barnes & Noble, Bookland, Books-a-Million, Books & Co., Bookstar, Bookstop, Borders, Brentano's, Coles, Coopersmith, Crown, Doubleday, Scribners, Super Crown and Waldenbooks stores, as well as sales from online retailers bamesandnoble.com and Amazon.com.

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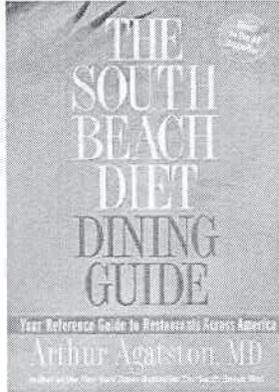
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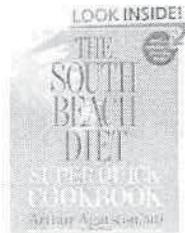
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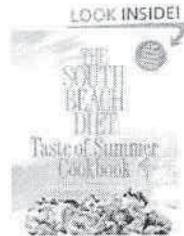


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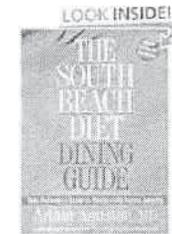
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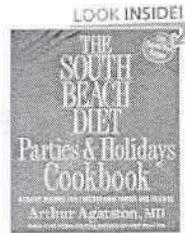
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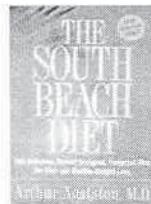
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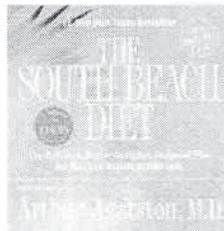
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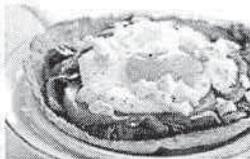
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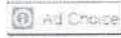
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