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

Proceeding	91202219
Party	Plaintiff Eat Right Foods Ltd.
Correspondence Address	SIMONE M KATZ ONEILL SHARTISIS FRIESE LLP ONE MARITIME PLAZA, 18TH FLOOR SAN FRANCISCO, CA 94111 UNITED STATES skatz@sflaw.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Joseph V. Mauch
Filer's e-mail	jmartin@sflaw.com, jmauch@sflaw.com, calendar@sflaw.com
Signature	/Joseph V. Mauch/
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EAT RIGHT FOODS LTD.,

Opposer,

v.

KEVIN LEVILLE,

Applicant.

Opp. No.: 91202219

Ser. No.: 77/868,068

Date of Publication:
April 26, 2011

OPPOSER EAT RIGHT FOODS LTD.'S
NOTICE OF RELIANCE NO. 35

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, pursuant to 37 C.F.R. § 2.122(e) and 704.03(b)(1)(B) of the Trademark Trial and Appeal Board Manual of Practice and Procedure, Opposer Eat Right Foods Ltd. provides Notice of Reliance on Third-Party Registration No. 3,999,268, prepared and issued by the United States Patent and Trademark Office, submitted herewith.

Dated: September 25, 2012.

Respectfully Submitted,
SHARTSIS FRIESE LLP

By: _____


JOSEPH V. MAUCH

Attorneys for Opposer
EAT RIGHT FOODS LTD.

United States of America

United States Patent and Trademark Office



Reg. No. 3,999,268

Registered July 19, 2011

Int. Cls.: 5 and 29

TRADEMARK

PRINCIPAL REGISTER

MOUNTAIN HIGH ORGANICS, INC. (CONNECTICUT CORPORATION)
27 MAIN STREET
NEW MILFORD, CT 06776

FOR: DIETARY SUPPLEMENTS IN CAPSULE FORM CONTAINING A BLEND OF FLAX SEED OIL, COCONUT OIL, EVENING PRIMROSE OIL AND BORAGE SEED OIL; DIETARY SUPPLEMENTS IN THE NATURE OF OILS, OIL BLENDS, OIL EMULSIONS, OIL MICROENCAPSULATION AND POWDERS CONTAINING OMEGA-3 FATTY ACIDS; NUTRITIONAL SUPPLEMENTS CONTAINING ESSENTIAL FATTY ACID BLENDS, NAMELY, ONE OR MORE OF FLAX, EVENING PRIMROSE OIL, HEMP, CHIA AND FISH WITH ONE OF MORE OF HERBS, SPICES, ANTIOXIDANTS, BERRIES AND VITAMINS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 4-1-2010; IN COMMERCE 4-1-2010.

FOR: EDIBLE MILLED FLAX SEED, DRY FRUIT BARS, PROCESSED COCONUT FOR FOOD, DRIED FRUIT, PROCESSED BEANS AND SEEDS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 4-1-2010; IN COMMERCE 4-1-2010.

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

THE COLOR(S) BLUE, BLACK AND WHITE IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF THE WORDING "TRESOMEGA NUTRITION" WITH "TRESOMEGA" APPEARING IN BLUE SUPERIMPOSED OVER THE LETTER "N" IN BLACK WITH THE WORD "NUTRITION" IN WHITE WITH BLACK OUTLINE UNDER THE LETTER "EGA" IN "TRESOMEGA".

THE WORDING "TRESOMEGA" HAS NO MEANING IN A FOREIGN LANGUAGE.

SN 85-015,691, FILED 4-16-2010.

BARBARA BROWN, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.