ESTTA Tracking number: **ESTTA496535**
Filing date: **09/25/2012**

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
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Signature	/Joseph V. Mauch/
Date	09/25/2012
Attachments	Notice of Reliance No.40.pdf (3 pages)(1413880 bytes)

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. 40

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. 4,176,430, 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

PROMAX. LIFE IS GO.

Reg. No. 4,176,430

Registered July 17, 2012

Int. Cls.: 5, 29, and 30

TRADEMARK

PRINCIPAL REGISTER

PROMAX NUTRITION CORPORATION (DELAWARE CORPORATION)
100 BAYVIEW CIRCLE, SUITE 550
NEWPORT BEACH, CA 92660

FOR: NUTRITION BARS, NAMELY, NUTRITIONAL ENERGY BARS FOR USE AS A MEAL SUBSTITUTE; AND MEAL REPLACEMENT BARS, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 5-31-2011; IN COMMERCE 5-31-2011.

FOR: PROCESSED FRUIT- AND NUT-BASED FOOD BARS; PROTEIN BASED, NUTRIENT-DENSE SNACK BARS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 5-31-2011; IN COMMERCE 5-31-2011.

FOR: CEREAL BASED ENERGY BARS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 3-31-2012; IN COMMERCE 3-31-2012.

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

OWNER OF U.S. REG. NOS. 2,785,177, 3,905,788, AND OTHERS.

SN 85-184,232, FILED 11-23-2010.

DOUGLAS LEE, EXAMINING ATTORNEY

David J. Kappos

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.