

ESTTA Tracking number: **ESTTA496544**

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
Filer's Name	Joseph V. Mauch
Filer's e-mail	jmartin@sflaw.com, jmauch@sflaw.com, calendar@sflaw.com
Signature	/Joseph V. Mauch/
Date	09/25/2012
Attachments	Notice of Reliance No.45.pdf (8 pages)(3852119 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. 45

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)(2) of the Trademark Trial and Appeal Board Manual of Practice and Procedure, Opposer Eat Right Foods Ltd. provides Notice of Reliance on Third-Party Application, Serial No. 85/432,323, obtained from the Trademark Status and Document Retrieval database accessible on the United States Patent and Trademark Office's website, submitted herewith.

Dated: September 25, 2012.

Respectfully Submitted,
SHARTSIS FRIESE LLP

By: _____


JOSEPH V. MAUCH

Attorneys for Opposer
EAT RIGHT FOODS LTD.

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 85432323

Filing Date: 09/26/2011

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	<u>Tasty Functional Foods</u>
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Tasty Functional Foods
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	NEKUTLI SA DE CV
DBA/AKA/TA/FORMERLY	AKA NEKUTLI
*STREET	Ignacio Rayon 64
*CITY	Cuquio, Jalisco
*COUNTRY	Mexico
*ZIP/POSTAL CODE (Required for U.S. applicants only)	45480
PHONE	3338261120
EMAIL ADDRESS	cgaeta@alior.com

AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
WEBSITE ADDRESS	www.alior.com
LEGAL ENTITY INFORMATION	
*TYPE	CORPORATION
* STATE/COUNTRY OF INCORPORATION	Mexico
GOODS AND/OR SERVICES AND BASIS INFORMATION	
* INTERNATIONAL CLASS	005
IDENTIFICATION	Baby foods; Dietary supplements; Food for babies
* FILING BASIS	SECTION 1(b)
* INTERNATIONAL CLASS	029
IDENTIFICATION	Dairy products excluding ice cream, ice milk and frozen yogurt; Fruit jellies; Fruit preserves; Fruits in preserved form; Jellies, jams; Marmalades; Unflavored and unsweetened gelatins; Yogurt; Yogurt-based beverages
* FILING BASIS	SECTION 1(b)
* INTERNATIONAL CLASS	030
IDENTIFICATION	Bread; Breakfast cereals; Candies; Caramels; Cereal based energy bars; Chocolate and chocolates; Flavored and sweetened gelatins; Flour; Gummy candies; Ice cream; Ices and ice creams; Lollipops; Marshmallows; Natural sweetener; Pasta; Pastry; Ready to eat, cereal derived food bars; Salad dressings; Toaster pastries
* FILING BASIS	SECTION 1(b)
* INTERNATIONAL CLASS	032
IDENTIFICATION	Smoothies
* FILING BASIS	SECTION 1(b)
* INTERNATIONAL CLASS	033
IDENTIFICATION	Alcoholic beverages, namely, pulque
* FILING BASIS	SECTION 1(b)
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION	

(if applicable)	
* TRANSLITERATION (if applicable)	
* CLAIMED PRIOR REGISTRATION (if applicable)	
* CONSENT (NAME/LIKENESS) (if applicable)	
* CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
* NAME	NEKUTLI SA DE CV
FIRM NAME	NEKUTLI SA DE CV
* STREET	Ignacio Rayon 64
* CITY	Cuquio, Jalisco
* COUNTRY	Mexico
* ZIP/POSTAL CODE	45480
PHONE	3338261120
* EMAIL ADDRESS	cgaeta@alior.com
* AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	5
FEE PER CLASS	275
* TOTAL FEE PAID	1375
SIGNATURE INFORMATION	
* SIGNATURE	/Carlos Gaeta/
* SIGNATORY'S NAME	Carlos Gaeta
* SIGNATORY'S POSITION	"Turn Supervisor"
* DATE SIGNED	09/26/2011

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 85432323

Filing Date: 09/26/2011

To the Commissioner for Trademarks:

MARK: Tasty Functional Foods (Standard Characters, see [mark](#))

The literal element of the mark consists of Tasty Functional Foods.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, NEKUTLI SA DE CV, AKA NEKUTLI, a corporation of Mexico, having an address of
Ignacio Rayon 64
Cuquio, Jalisco 45480
Mexico

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 005: Baby foods; Dietary supplements; Food for babies

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 029: Dairy products excluding ice cream, ice milk and frozen yogurt; Fruit jellies; Fruit preserves; Fruits in preserved form; Jellies, jams; Marmalades; Unflavored and unsweetened gelatins; Yogurt; Yogurt-based beverages

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 030: Bread; Breakfast cereals; Candies; Caramels; Cereal based energy bars; Chocolate and chocolates; Flavored and sweetened gelatins; Flour; Gummy candies; Ice cream; Ices and ice creams; Lollipops; Marshmallows; Natural sweetener; Pasta; Pastry; Ready to eat, cereal derived food bars; Salad dressings; Toaster pastries

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 032: Smoothies

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 033: Alcoholic beverages, namely, pulque

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

For informational purposes only, applicant's website address is: www.alior.com

The applicant's current Correspondence Information:

NEKUTLI SA DE CV

NEKUTLI SA DE CV

Ignacio Rayon 64

Cuquio, Jalisco 45480, Mexico

3338261120(phone)

cgaeta@alior.com (authorized)

A fee payment in the amount of \$1375 has been submitted with the application, representing payment for 5 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Carlos Gaeta/ Date Signed: 09/26/2011

Signatory's Name: Carlos Gaeta

Signatory's Position: "Turn Supervisor"

RAM Sale Number: 22441

RAM Accounting Date: 09/27/2011

Serial Number: 85432323

Internet Transmission Date: Mon Sep 26 19:12:51 EDT 2011

TEAS Stamp: USPTO/FTK-187.146.136.247-20110926191251

045139-85432323-480f0b48515658295d4c11b6

5541cac99b-CC-22441-20110926183551646797

Tasty Functional Foods