

ESTTA Tracking number: **ESTTA449607**

Filing date: **01/05/2012**

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	Eric S Lee		
Entity	Individual	Citizenship	UNITED STATES
Address	3530 Wilshire Blvd., #1280 Los Angeles, CA 90010 UNITED STATES		

Attorney information	Yong Bom (Brian) Lee Law Office of Lee & Associates 3530 Wilshire Blvd., #1280 Los Angeles, CA 90010 UNITED STATES wilshirefirm@yahoo.com Phone:213-368-7717		
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**Applicant Information**

Application No	85371860	Publication date	12/06/2011
Opposition Filing Date	01/05/2012	Opposition Period Ends	01/05/2012
Applicant	KIM, Sung Il 621 S. GRAMERCY PL. #507 LOS ANGELES, CA 90005 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 005. First Use: 2011/01/30 First Use In Commerce: 2011/01/30 All goods and services in the class are opposed, namely: Herbal male enhancement capsules
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**Grounds for Opposition**

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

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	Triple Miraclezen		
Goods/Services	Male Sexual Performance Enhancement Products		

Attachments	01052011 Notice of Opposition for Miraclezen 85371860.pdf ( 4 pages )(627944 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	/brian lee/
Name	Yong Bom (Brian) Lee
Date	01/05/2012



1 connection with the male sexual performance enhancement products in the U.S. commerce  
2 beginning at least as early as September 1, 2010.

3 3. In Application No. 85/371860 filed on July 18, 2010, the Applicant seeks  
4 registration of the mark MiracleZen for "Herbal male enhancement capsules" based on alleged  
5 use of the mark as of January 30, 2011.

6 4. On information and belief, the Applicant's actual use of the mark MiracleZen  
7 started in July 2011 or later.

8 5. On information and belief, the Applicant cannot establish priority in its  
9 MiracleZen mark earlier than the January 2011 alleged use date in the Application, or the July  
10 2011 date.

11 6. On information and belief, the Opposer's priority in its Triple MiracleZen mark  
12 is earlier than any priority that the Applicant can establish in its Miraclezen mark.

13 7. The Applicant's adoption and alleged use of the MiracleZen mark has been  
14 without the consent or permission of the Opposer.

15 8. On information and belief, the Applicant's adoption and use of its MiracleZen  
16 mark have been with actual or constructive knowledge of the Opposer's prior use of and rights  
17 in the Triple MiracleZen mark.

18 9. On information and belief, the goods specified in the Applicant's Application  
19 are substantially identical, similar and closely related to the goods the Opposer sells.

20 10. On information and belief, the goods specified in the Applicant's Application  
21 are marketed and sold to the same or related customers in the same or related channel of trade  
22 as the goods the Opposer provides.

23 11. The MiracleZen mark for which the Applicant seeks registration is substantially  
24 identical with, indistinguishable from, and confusingly similar to the Opposer's Triple  
25 MiracleZen mark.

26 12. If the Applicant is granted registration of its MiracleZen mark as shown in the  
27 Application No. 85/371860, such registration will impair, diminish, and dilute Triple  
28 MiracleZen's goodwill and rights in its Triple MiracleZen mark, causing irreparable injury to  
the Opposer.



1 STATE OF CALIFORNIA  
2 COUNTY OF LOS ANGELES

3 I am a resident of the country aforesaid; am over the age of eighteen years and not a  
4 party to the within action. My business address is 3530 Wilshire Blvd., Suite 1280 Los  
5 Angeles, CA 90010.

6 On Jan. 5, 2012, I served the within documents:

7 **Answer to the Petition for Opposition**

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9 On the interested parties in the above action, by faxing and mailing a true copy thereof as follows:

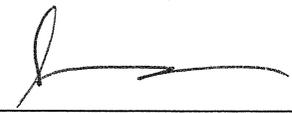
10 **Sung Il Kim**  
11 **621 S. Gramercy Pl., #507, Los Angeles, CA 90005**

12 **Je M. Cha, Esq. of Law Offices of J. M. Cha & Associates**  
13 **3200 Wilshire Blvd., South Tower, Suite 1207, Los Angeles, CA 90010**

14 Executed on Jan. 5, 2012, at Los Angeles, California

15  
16  STATE I declare under penalty of perjury under the laws of the State of California that the foregoing  
is true and correct.

17  FEDERAL I declare that I am employed in the office of a member of the bar of Federal Court at  
18 whose direction the service was made.

19  
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21 \_\_\_\_\_  
22 Su Lee