

ESTTA Tracking number: **ESTTA459202**

Filing date: **02/29/2012**

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	4Life Trademarks LLC
Granted to Date of previous extension	02/29/2012
Address	9850 South 300 West Sandy, UT 84070 UNITED STATES

Attorney information	Glenn S. Bacal Bacal Law Group, P.C. 6991 East Camelback Road, Suite D-102 Scottsdale, AZ 85251 UNITED STATES glenn.bacal@bacalgroup.com,jamie.tuccio@bacalgroup.com Phone:4802456233
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Applicant Information

Application No	85327930	Publication date	11/01/2011
Opposition Filing Date	02/29/2012	Opposition Period Ends	02/29/2012
Applicant	Bobbie Renteria 6805 Windhaven Pkwy #207 The Colony, TX 75056 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. First Use: 2011/05/01 First Use In Commerce: 2011/05/01
All goods and services in the class are opposed, namely: Fruit-based beverages

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2475300	Application Date	01/06/2000
Registration Date	08/07/2001	Foreign Priority Date	NONE
Word Mark	4LIFE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 1997/06/00 First Use In Commerce: 1997/06/00 Dietary supplements, vitamins, minerals and herbal supplements

U.S. Registration No.	2659033	Application Date	12/14/2001
Registration Date	12/10/2002	Foreign Priority Date	NONE
Word Mark	4LIFE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1997/06/00 First Use In Commerce: 1997/06/00 Dietary and nutritional supplements; vitamin, mineral and herbal supplements; immune factor preparations intended to enhance and stimulate the immune system		

U.S. Registration No.	2730306	Application Date	10/09/2001
Registration Date	06/24/2003	Foreign Priority Date	NONE
Word Mark	FLEX 4LIFE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 2002/03/00 First Use In Commerce: 2002/03/00 DIETARY SUPPLEMENTS; VITAMIN, MINERAL AND HERBAL SUPPLEMENTS

U.S. Registration No.	2927894	Application Date	12/22/2003
Registration Date	02/22/2005	Foreign Priority Date	NONE

Word Mark	4LIFE TRANSFER FACTOR
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Design Mark	 <p>The design mark shows the text "4LIFE TRANSFER FACTOR" in a bold, serif font, centered on a light gray rectangular background.</p>
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Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 1998/01/01 First Use In Commerce: 1998/01/01 Dietary and nutritional supplements; vitamin, mineral and herbal supplements; immune factor preparations intended to enhance and stimulate the immune system

U.S. Registration No.	2680526	Application Date	02/21/2002
Registration Date	01/28/2003	Foreign Priority Date	NONE

Word Mark	TEA 4LIFE
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Design Mark	 <p>The design mark shows the text "TEA 4LIFE" in a large, bold, serif font, centered on a white background.</p>
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Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 1998/06/00 First Use In Commerce: 1998/06/00 HERBAL TEA DRINK FOR USE AS A NUTRITIONAL SUPPLEMENT

U.S. Registration No.	2807751	Application Date	07/16/2001
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Registration Date	01/27/2004	Foreign Priority Date	NONE
Word Mark	ANIMAL HEALTH 4LIFE		
Design Mark	ANIMAL HEALTH 4LIFE		
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2001/08/22 First Use In Commerce: 2001/08/22 DIETARY AND NUTRITIONAL SUPPLEMENTS FOR ANIMALS; VITAMINS, MINERALS AND HERBAL SUPPLEMENTS FOR ANIMALS		

U.S. Registration No.	2691540	Application Date	04/04/2001
Registration Date	02/25/2003	Foreign Priority Date	NONE
Word Mark	4LIFE		
Design Mark	4LIFE		
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2002/01/12 First Use In Commerce: 2002/01/12 EDUCATIONAL SERVICES, NAMELY, CONDUCTING SEMINARS, CLASSES AND WORKSHOPS IN THE FIELD OF HEALTHY DIETS AND LIFESTYLES, DIETARY AND NUTRITIONAL SUPPLEMENTS, VITAMINS, MINERALS AND HERBAL SUPPLEMENTS		

U.S. Registration No.	2824352	Application Date	05/02/2001
Registration Date	03/23/2004	Foreign Priority Date	NONE
Word Mark	HEALTHY 4LIFE		
Design Mark	HEALTHY 4LIFE		
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1998/08/00 First Use In Commerce: 1998/08/00		

	PUBLICATIONS, NAMELY MAGAZINES AND PERIODICALS IN THE TOPICAL AREAS OF HEALTHY DIETS AND LIFESTYLES, DIETARY AND NUTRITIONAL SUPPLEMENTS, VITAMINS, MINERALS AND HERBAL SUPPLEMENTS, ALL FOR USE IN THE FIELDS OF MULTI-LEVEL AND DIRECT MARKETING		
U.S. Application No.	85481494	Application Date	11/28/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	4LIFE		
Design Mark			
Description of Mark	The mark consists of "4LIFE" in stylized lettering with a sun-like design used for the dot of the "i". The mark appears in either white or black lettering and the color of the lettering is not claimed.		
Goods/Services	Class 032. First use: First Use: 2005/05/01 First Use In Commerce: 2005/05/01 Fruit juices; fruit based drink; and fruit based beverages		

Attachments	75889052#TMSN.gif (1 page)(bytes) 76351280#TMSN.gif (1 page)(bytes) 76322894#TMSN.gif (1 page)(bytes) 78344235#TMSN.jpeg (1 page)(bytes) 76373143#TMSN.gif (1 page)(bytes) 76285188#TMSN.gif (1 page)(bytes) 76235208#TMSN.gif (1 page)(bytes) 76249220#TMSN.gif (1 page)(bytes) 85481494#TMSN.jpeg (1 page)(bytes) 4Life.2012.02.29 notice of opposition Spa Water 4 Life owned by Bobbie Renteria ('bb27fw00rb').pdf (7 pages)(27267 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 USPS Express Mail Post Office to Addressee on this date.

Signature	/Glenn S. Bacal/
Name	Glenn S. Bacal
Date	02/29/2012

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

4Life Trademarks, LLC,

Opposer,

v.

Bobbie Renteria,

Applicant.

Opposition No. _____

Serial No.: 85-327930

For the mark: Spa Water 4 Life

Published for Opposition:
November 1, 2011

Notice of Opposition

1. 4Life Trademarks, LLC, a Utah limited liability company with its principal place of business at 9850 South 300 West, Sandy, Utah 84070 (hereafter “4Life” or “Opposer”).
2. Opposer’s products include, among others, liquid nutritional supplements in the form of fruit based beverages, nutritional supplements, dietary supplements, vitamins, and herbal supplements.
3. These products of Opposer are branded with the 4LIFE mark, as well as particular product marks.
4. For example, RIOVIDA is a popular fruit based beverage of Opposer on which the RIOVIDA and 4LIFE marks both appear.
5. 4Life is the owner of numerous, longstanding federal registrations for 4LIFE[®], both alone and with other words, in multiple classes.

6. 4Life is the owner of a federal registration for 4LIFE[®] and design in Class 5 for dietary supplements, vitamins, minerals and herbal supplements (Registration No. 2,475,300). Registration No. 2,475,300 is incontestable.

7. 4Life is the owner of a federal registration for 4LIFE[®] in Class 5 for dietary and nutritional supplements; vitamin, mineral and herbal supplements; immune factor preparations intended to enhance and stimulate the immune system (Registration No. 2,659,033). Registration No. 2,659,033 is incontestable.

8. 4Life is the owner of a federal registration for FLEX 4LIFE[®] in Class 5 for dietary supplements; vitamin, mineral and herbal supplements (Registration No. 2,730,306). Registration No. 2,730,306 is incontestable.

9. 4Life is the owner of a federal registration for 4LIFE TRANSFER FACTOR[®] in Class 5 for dietary and nutritional supplements; vitamin, mineral and herbal supplements; immune factor preparations intended to enhance and stimulate the immune system (Registration No. 2,927,894). Registration No. 2,927,894 is incontestable.

10. 4Life is the owner of a federal registration for TEA 4LIFE[®] in Class 5 for herbal tea drink for use as a nutritional supplement (Registration No. 2,680,526). Registration No. 2,680,526 is incontestable.

11. 4Life is the owner of a federal registration for ANIMAL HEALTH 4LIFE[®] in Class 5 for dietary and nutritional supplements for animals; vitamins, minerals and herbal supplements for animals (Registration No. 2,807,751). Registration No. 2,807,751 is incontestable.

12. 4Life is the owner of a federal registration for 4LIFE® in class 41 for educational services, namely, conducting seminars, classes and workshops in the field of healthy diets and lifestyles, dietary and nutritional supplements, vitamins, minerals and herbal supplements (Registration No. 2,691,540). Registration No. 2,691,540 is incontestable.

13. 4Life is the owner of a federal registration for HEALTHY 4LIFE® in class 16 for publications, namely magazines and periodicals in the topical areas of healthy diets and lifestyles, dietary and nutritional supplements, vitamins, minerals and herbal supplements, all for use in the fields of multi-level and direct marketing (Registration No. 2,824,352). Registration No. 2,824,352 is incontestable.

14. 4Life is also the owner of a pending application for 4LIFE stylized in class 32 for fruit juices; fruit based drink; and fruit based beverages, serial number 85/481,494 with a claimed date of first use back to at least as early as May 1, 2005.

15. 4Life has sold many hundreds of millions of dollars' worth of 4LIFE labeled products.

16. Through the long use of the mark, the success of the mark in the marketplace, and the extensive advertising and promotion of the mark, substantial good will and widespread recognition has developed in the 4LIFE mark, such that it is considered a famous mark.

17. As a famous mark, 4Life is entitled to a wide latitude of protection.

18. 4Life has regularly enforced its trademark rights in the 4LIFE mark in the United States and worldwide.

19. 4Life has regularly taken actions to try to protect the strength of 4LIFE as a mark.

20. On or about May 23, 2011, Applicant applied to register the mark Spa Water 4 Life (“Applicant’s Class 32 Application”) (Serial No. 85-327930) for “Fruit-based beverages” in international class 32.

21. Applicant’s Class 32 Application was published for opposition on November 1, 2011.

22. Combining “Spa Water” with “4 Life” creates a mark that is likely to cause confusion with Opposer’s 4LIFE[®] marks.

23. Spa Water 4 Life, as applied for by Applicant, includes a use of “4 LIFE” which is audibly identical to the 4LIFE in each of Opposer’s 4LIFE[®] marks.

24. “4 Life” in “Spa Water 4 Life” is virtually identical to the 4LIFE used in each of Opposer’s referenced 4LIFE[®] marks.

25. Applicant uses a term, Spa Water, before “4 Life” just as Opposer uses terms like HEALTHY, FLEX, TEA, and other words before 4LIFE, for marks used on its products and services.

26. Applicant’s Spa Water 4 Life mark would trade on Opposer’s marks.

27. Applicant’s application for Spa Water 4 Life covers “fruit based beverages” which describes the same kind of goods that Opposer uses its 4LIFE mark on.

28. Because Opposer’s 4LIFE[®] mark is famous, purchasers would be even less likely to perceive the slight difference between Applicant’s mark and Opposer’s 4LIFE[®] mark.

29. Use and registration of “Spa Water 4 Life” by Applicant for the applied for goods would dilute the distinctiveness of Opposer’s 4LIFE[®] marks and would result in actual harm to Opposer.

30. Applicant’s “Spa Water 4 Life” mark so resembles each of Opposer’s 4LIFE[®] marks so as to make it likely, when applied to Applicant’s goods, to cause mistake, to cause confusion and to deceive, with consequential injury to Opposer, to the trade, and to the public.

31. Applicant’s Spa Water 4 Life mark falsely suggests a connection with Opposer due to the use of “4 Life”.

32. Applicant’s Spa Water mark falsely suggest a connection with Opposer due to the common use by both Applicant and Opposer of the number 4 and the word LIFE in marks.

33. Applicant is not entitled to a registration for “Spa Water 4 Life” in class 32.

34. Opposer will be damaged by the registration of “Spa Water 4 Life” in class 32 by Applicant.

THEREFORE, Opposer respectfully requests that Application Serial No. 85-327930 be denied.

Respectfully submitted this 29th day of February, 2012.

BACAL LAW GROUP, P.C.

By: /s/Glenn Spencer Bacal
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*Attorneys for Opposer,
4Life Trademarks, LLC*

Certificate of Mailing or Transmission Pursuant to 37 C.F.R. § 2.119

Application No.: 85-327930
Mark: Spa Water 4 Life
Opposer: 4Life Trademarks, LLC
Type of Filing: Notice of Opposition

I hereby certify that this Notice of Opposition is being filed electronically with the United States Trademark Trial and Appeal board 37 C.F.R. §1.8.

I hereby further certify that this Notice of Opposition is being sent via Express

Mail addressed to:

Bobbie Renteria
6805 Windhaven Pkwy #207
The Colony, TX 75056
Applicant.

/s/Glenn Spencer Bacal

February 29, 2012

Date