

ESTTA Tracking number: **ESTTA559307**

Filing date: **09/13/2013**

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	Societe des Produits Nestle SA
Granted to Date of previous extension	09/18/2013
Address	Case Postale 353Brand IP Vevey, 1800 SWITZERLAND

Attorney information	Andrea Anderson Holland & Hart LLP 1800 Broadway, Suite 300 Boulder, CO 80302 UNITED STATES aanderson@hollandhart.com, kmorita@hollandhart.com, docket@hollandhart.com, jshajek@hollandhart.com, TMOOffice@purina.nestle.com Phone:(303) 473-2861
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**Applicant Information**

Application No	85792377	Publication date	05/21/2013
Opposition Filing Date	09/13/2013	Opposition Period Ends	09/18/2013
Applicant	Leatz , Stephen C 6978 Conejo Dr. San Bernardino, CA 924046247 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 028. First Use: 2000/04/17 First Use In Commerce: 2000/04/17 All goods and services in the class are opposed, namely: Fishing lures, namely, plastic worms
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**Grounds for Opposition**

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

U.S. Registration No.	552944	Application Date	03/22/1948
Registration Date	01/08/1952	Foreign Priority Date	NONE
Word Mark	CHOW		
Design Mark			

Description of Mark	NONE
Goods/Services	Class U046 (International Class 001, 005, 029, 030, 031, 032). First use: First Use: 1914/06/08 First Use In Commerce: 1914/06/08 ANIMAL FEEDS FOR [RATS, MICE,]DOGS, CATS,[MONKEYS, HAMSTERS, ]POULTRY AND CATTLE

U.S. Registration No.	845968	Application Date	09/08/1966
Registration Date	03/12/1968	Foreign Priority Date	NONE
Word Mark	DOG CHOW		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U046 (International Class 031). First use: First Use: 1926/09/13 First Use In Commerce: 1926/09/13 DOG FOOD		

U.S. Registration No.	986551	Application Date	03/14/1973
Registration Date	06/18/1974	Foreign Priority Date	NONE
Word Mark	KITTEN CHOW		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U046 (International Class 031). First use: First Use: 1973/01/11 First Use In Commerce: 1973/01/11 KITTEN FOOD		

U.S. Registration No.	1272052	Application Date	03/10/1982
Registration Date	03/27/1984	Foreign Priority Date	NONE
Word Mark	CAT CHOW		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 031. First use: First Use: 1962/03/02 First Use In Commerce: 1962/03/02 Cat Food		

U.S. Registration No.	1484494	Application Date	08/28/1987
Registration Date	04/12/1988	Foreign Priority Date	NONE
Word Mark	PUPPY CHOW		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 031. First use: First Use: 1963/00/00 First Use In Commerce: 1963/00/00 DOG FOOD		
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U.S. Registration No.	3249690	Application Date	08/15/2006
Registration Date	06/05/2007	Foreign Priority Date	NONE
Word Mark	CHOW		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 031. First use: First Use: 1914/06/08 First Use In Commerce: 1914/06/08 Food for animals		

Attachments	Notice of Opposition - BASSCHOW.pdf(17030 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	/Andrea Anderson/
Name	Andrea Anderson
Date	09/13/2013



<b>MARK</b>	<b>REG. NO.</b>	<b>REG. DATE</b>	<b>GOODS</b>
CHOW	552,944	1/08/1952	Animal feeds for dogs, cats, poultry and cattle
DOG CHOW	845,968	3/12/1968	Dog food
KITTEN CHOW	986,551	6/18/1974	Kitten food
CAT CHOW	1,272,052	3/27/1984	Cat food
PUPPY CHOW	1,484,494	4/12/1988	Dog food
CHOW	3,249,690	6/5/2007	Food for animals

5. These registrations are valid, subsisting, and incontestable, constituting conclusive evidence of the validity of the marks and registrations, and of Opposer's ownership of and exclusive right to use these marks in connection with the goods set forth in these registrations.

6. Opposer has sold millions of dollars worth of its animal food under the CHOW Marks and has invested significant resources in advertising and promoting its products under these marks.

7. As a result of Opposer's extensive marketing and promotion, coupled with the overwhelming commercial success of its animal food offered under the CHOW Marks, Opposer's CHOW Marks have become famous and well known.

8. Applicant's alleged BASSCHOW mark incorporates Opposer's CHOW mark in its entirety, merely adding the descriptive term "BASS."

**COUNT I**  
**Likelihood of Confusion**  
**(15 U.S.C. § 1052(d))**

9. Opposer realleges and incorporates by reference the preceding allegations of this Notice of Opposition.

10. Applicant's mark BASSCHOW so closely resembles Opposer's prior used and registered CHOW Marks as to be likely, when used in connection with the goods set forth in the

Application, to cause confusion, or to cause mistake, or to deceive under section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

**COUNT II**  
**Likelihood of Dilution**  
**(15 U.S.C. § 1125(c))**

11. Opposer incorporates by reference the preceding allegations of this Notice of Opposition.

12. Opposer's CHOW marks are famous, and became famous well prior to the filing date of the Application or Applicant's first use of the BASSCHOW mark.

13. Applicant's BASSCHOW mark so closely resembles Opposer's famous CHOW marks as to be likely to dilute the distinctive value of these marks by blurring, under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

WHEREFORE, Opposer believes that it will be damaged by the registration of the mark shown in Application Serial No. 85/792,377 and respectfully requests that the opposition be sustained and that registration to Applicant be denied.

The filing fee, in the amount of \$300, is being transmitted electronically with this submission. Any deficiency in the fee should be charged to Deposit Account No. 082623.

Dated: September 13, 2013

Respectfully submitted,

/s/ Andrea Anderson

Andrea Anderson

Kazuyo Morita

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**Attorneys for Opposer**  
**Société des Produits Nestlé S.A.**

**CERTIFICATE OF SERVICE**

I certify that on September 13, 2013, I served a copy of the above **NOTICE OF OPPOSITION** to the following by U.S. Mail, postage prepaid:

Mr. Stephen C Leatz, d/b/a BASSCHOW  
6978 Conejo Drive  
San Bernardino, CA 92404-6247

/s/ Wendy Bray

Wendy Bray

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