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

Proceeding	91212477
Party	Defendant GFA Brands, Inc.
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Signature	/s/ Johanna M. Wilbert
Date	10/20/2014
Attachments	GFA's 2nd Notice of Reliance.pdf(12903 bytes) GFA's 2nd NOR Ex B-1.pdf(452376 bytes) GFA's 2nd NOR Ex B-2.pdf(246984 bytes) GFA's 2nd NOR Ex B-3.pdf(421080 bytes) GFA's 2nd NOR Ex B-4.pdf(212617 bytes) GFA's 2nd NOR Ex B-5.pdf(227102 bytes) GFA's 2nd NOR Ex B-6.pdf(234549 bytes) GFA's 2nd NOR Ex B-7.pdf(231663 bytes) GFA's 2nd NOR Ex B-8.pdf(213765 bytes) GFA's 2nd NOR Ex B-9.pdf(215174 bytes) GFA's 2nd NOR Ex B-10.pdf(216970 bytes) GFA's 2nd NOR Ex B-11.pdf(227876 bytes) GFA's 2nd NOR Ex B-12.pdf(244638 bytes) GFA's 2nd NOR Ex B-13.pdf(213365 bytes) GFA's 2nd NOR Ex B-14.pdf(251348 bytes) GFA's 2nd NOR Ex B-15.pdf(241624 bytes) GFA's 2nd NOR Ex B-16.pdf(257809 bytes) GFA's 2nd NOR Ex B-17.pdf(214194 bytes) GFA's 2nd NOR Ex B-18.pdf(227665 bytes) GFA's 2nd NOR Ex B-19.pdf(233099 bytes) GFA's 2nd NOR Ex B-20.pdf(245201 bytes) GFA's 2nd NOR Ex B-21.pdf(229793 bytes) GFA's 2nd NOR Ex B-22.pdf(248013 bytes) GFA's 2nd NOR Ex B-23.pdf(223246 bytes) GFA's 2nd NOR Ex B-24.pdf(222207 bytes)

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

In the Matter of Application Serial No. 85/751,520: EARTH BALANCE
Published for Opposition March 19, 2013

BALANCE BAR COMPANY,

Opposer,

Opposition No. 91212477

v.

GFA BRANDS, INC.,

Applicant.

APPLICANT'S SECOND NOTICE OF RELIANCE

Pursuant to Rule 2.122(e) of the Trademark Rules of Practice and Section 704.08(c) of the Trademark Trial and Appeal Board Manual of Procedure, Applicant, GFA Brands, Inc., hereby submits, makes of record in connection with this opposition proceeding, and notifies Opposer, Balance Bar Company, of Applicant's reliance upon health or nutritionally branded product packaging available in retail stores evidencing third party use of BALANCE. The examples of product packaging are relevant to the lack of a likelihood of consumer confusion because they show that the field of marks employing the term BALANCE and variations thereof is crowded, such that the common element shared by each member of the crowd is relatively weak and not a particularly distinctive element. True and correct photographs of the following product packaging are attached hereto as Exhibits B-1 to B-24. The physical packaging constituting Exhibits B-1 to B-24 has been filed with the TTAB via Express Mail.

Exhibit No.:	Description
B-1	Nestle Nutrition BOOST "Balanced Nutritional Drink™"
B-2	Triple Leaf Tea SUGAR BALANCE herbal dietary supplement

Exhibit No.:	Description
B-3	Enzymatic Therapy ESTROBALANCE dietary supplement
B-4	Nature's Plus MEGA B-100 BALANCED B-COMPLEX dietary supplement
B-5	Zand "bring balance to your body™" Tropical Soother Lozenges-Dietary Supplement
B-6	Whole Foods B DAILY ESSENTIALS BALANCED B-COMPLEX dietary supplement
B-7	Woodstock Herbal Products BP BLANCE FORMULA dietary supplement
B-8	MegaFood BALANCED B COMPLEX whole food multivitamin dietary supplement
B-9	CVS/pharmacy BALANCED B-50 dietary supplement
B-10	Nature Made BALANCED B-100 COMPLEX dietary supplement
B-11	Abbott ENSURE "COMPLETE, BALANCED NUTRITION" nutrition shake
B-12	Old Orchard HEALTHY BALANCE juice cocktail blend
B-13	Lowes Foods B-COMPLEX 50 BALANCED B-COMPLEX dietary supplement
B-14	Gruma Corporation MISSION CARB BALANCE whole wheat tortillas
B-15	PharmAssure BALANCED B COMPLEX dietary supplement
B-16	General Mills FIBER ONE MEAL BAR "balanced nutrition for a healthy lifestyle™"
B-17	SIMPLY BALANCED peach slices freeze dried fruit
B-18	SIMPLY BALANCED whole grain popcorn
B-19	SIMPLY BALANCED vanilla bean granola
B-20	SIMPLY BALANCED fruit strips
B-21	SIMPLY BALANCED nut & seed bars
B-22	SIMPLY BALANCED organic white grape juice
B-23	SIMPLY BALANCED essence water coconut pineapple
B-24	PROBALANCE™ Protein Shot XL dietary supplement

Dated this 20th day of October, 2014.

/s/ Johanna M. Wilbert
David R. Cross
Marta S. Levine
Johanna M. Wilbert
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Attorneys for Applicant GFA Brands, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2014, I served upon counsel of record the foregoing
by causing the same to be delivered by U.S. mail and email to:

R. Glenn Schroeder
Schroeder Law PC
110 Cooper Street #605
Babylon, New York 11702
gschroeder@schroederlawpc.com

Dated this 20th day of October, 2014.

/s/ Johanna M. Wilbert

Johanna M. Wilbert
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Phone: (414) 277-5000
Facsimile: (414) 978-8942
johanna.wilbert@quarles.com

EXHIBIT B-1

Nestlé Health Science

BOOST
Balanced Nutritional Drink

**CALORIE
SMART™**

4g of Sugar

PROTEIN: 16g to Help Maintain Muscle & Manage Hunger

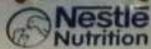
25 Essential Vitamins & Minerals

BONE: Excellent Source of Calcium & Vitamin D

Applicant's
EXHIBIT B-1
Opposition No.
91212477

®

NET WT 1.07 L (37 FL OZ)



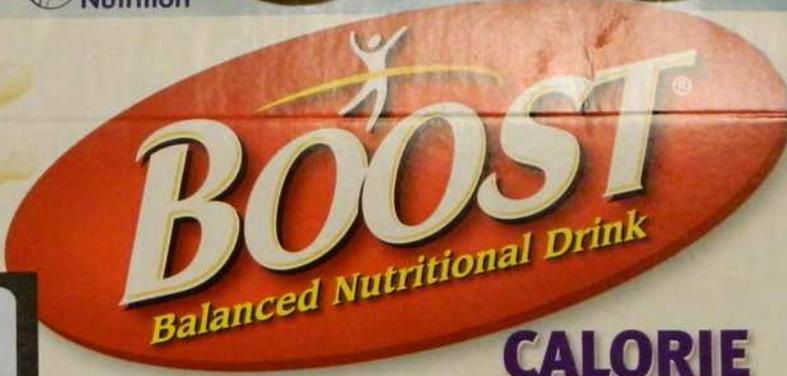
Balanced Nutritional Drink

CALORIE SMART

Very Vanilla Natural and Artificial Flavor



Gluten Free
Lactose Free



Balanced Nutritional Drink

CALORIE SMART

Applicant's
EXHIBIT B-1
Opposition No.
91212477

With 190 Calories and 4g of Sugars

Rich in High-Quality Protein to help maintain muscle

25 Essential Vitamins & Minerals

Very Vanilla Natural and Artificial Flavor

6-8 FL OZ (237 mL) BOTTLES
NET 1.5 QT (1.42 L)



EXHIBIT B-2

Applicant's
EXHIBIT B-2
Opposition No.
91212477



SUGAR BALANCE TEA
& WOMEN'S TONIC
WITH DONG QUAI

Helps Maintain Normal Blood Sugar Levels*
Promotes Healthy Menstruation & Menopause*

HERB TEA, CAFFEINE-FREE, ALL NATURAL

HERBAL DIETARY SUPPLEMENT



We invite you to try
all of Triple Leaf Tea's
delicious, effective &
healthful teas, including:
* American Ginseng Tea
* Detox Tea



Blended and packed in California, U.S.A. for
Triple Leaf Tea, Inc., South San Francisco, CA 94080
1-800-552-7448 www.tripleleaf-tea.com

We use oxygen
are made from
biodegradable
Guarantee: 100%
See inside fl.

Applicant's
EXHIBIT B-2
Opposition No.
91212477



BEST BY
JUN 2017 DISS

Herbal Tea
All Natural
CAFFEINE-FREE



SUGAR BALANCE™

& WOMEN'S TONIC WITH DONG QUAI

Helps Maintain Normal Blood Sugar Levels*
Promotes Healthy Menstruation & Menopause*

20 TEA BAGS HERBAL DIETARY SUPPLEMENT NET WT. 1.34 OZ. (38G)

ANCIENT CHINESE MEDICINALS

TRIPLE LEAF TEA'S ANCIENT CHINESE MEDICINALS

Traditional Chinese medicine began in approximately 2500 B.C. Recently, here in the West, people have discovered the value of this ancient system which focuses on aiding the body's own healing mechanisms through restoring harmony and balance.* The Chinese system of herbology has been recorded in ancient texts which are studied and employed even today.* This time tested knowledge has been passed on from generation to generation over the centuries.*

Triple Leaf Tea comes from such a tradition.* It is made in the U.S.A. by a Chinese American family-owned business. The company owner can remember stories of his own grandfather selling herbs and teas in his village in China. Today, these traditional Chinese herbal formulas are available to you.* We wish you harmony and balance!*

EXHIBIT B-3

estrobalance^{®*}

with absorbable DIM[®]

Supports healthy
balance of hormones*

*THIS STATEMENT HAS NOT BEEN EVALUATED BY THE FOOD AND DRUG ADMINISTRATION.
THIS PRODUCT IS NOT INTENDED TO DIAGNOSE, TREAT, CURE, OR PREVENT ANY DISEASE.



estrobalance^{®*}

with absorbable DIM[®]

Supports healthy
balance of hormones*

Applicant's
EXHIBIT B-3
Opposition No.
91212477

DIETARY SUPPLEMENT

30 TABLETS

WOMEN'S HEALTH

*THIS STATEMENT HAS NOT BEEN EVALUATED BY THE FOOD AND DRUG ADMINISTRATION.
THIS PRODUCT IS NOT INTENDED TO DIAGNOSE, TREAT, CURE, OR PREVENT ANY DISEASE.

ORGANIC
MARKET
\$26.95

LIT 51 BEST BY
92492 03/16/12

EXHIBIT B-4

Nature's Plus

The Energy Supplements

SUSTAINED RELEASE
Dietary Supplement

MEGA B-100

Balanced
B-Complex

Applicant's
EXHIBIT B-4
Opposition No.
91212477



EXHIBIT B-5

ZAND

bring balance to your body™

ORGANIC

HERBALOZENGE®

Tropical Soother

**With Zinc
& Vitamin C**

**Sweetened Only
With Organic
Brown Rice Syrup**



18 Lozenges • Dietary Supplement

Applicant's
EXHIBIT B-5
Opposition No.
91212477



EXHIBIT B-6

WHOLE FOODS™

B Daily
Essentials[®]
Balanced B-Complex[®]

30 capsules
vegetarian
Dietary Supplement

DISTRIB
550 80W
©2007 V
www.wh

Tamper
use only
please
224154

Applicant's
EXHIBIT B-6
Opposition No.
91212477

EXHIBIT B-7

TRADITIONALLY HANDCRAFTED

WOODSTOCK
Herbal Products®

BP BALANCE
FORMULA*

Traditional Handcrafted
Herbal Formula

NET 1 FL OZ (30 mL)
DIETARY SUPPLEMENT

EXHIBIT B-8

*MegaFood*TM

*Fresh From Farm To Tablet*TM

Balanced B Complex

Nourish • Energize • Replenish

Applicant's
EXHIBIT B-8
Opposition No.
91212477

**WHOLE FOOD MULTIVITAMIN
DIETARY SUPPLEMENT**

EXHIBIT B-9

CVS/pharmacy

Balanced
B-50[®]

**ENERGY
METABOLISM***

**Supports Heart &
Nervous System Health***

**100
Caplets**

DIETARY
SUPPLEMENT

Applicant's
EXHIBIT B-9
Opposition No.
91212477

EXHIBIT B-10



Nature Made

**Balanced B-100
Complex**

TIMED RELEASE

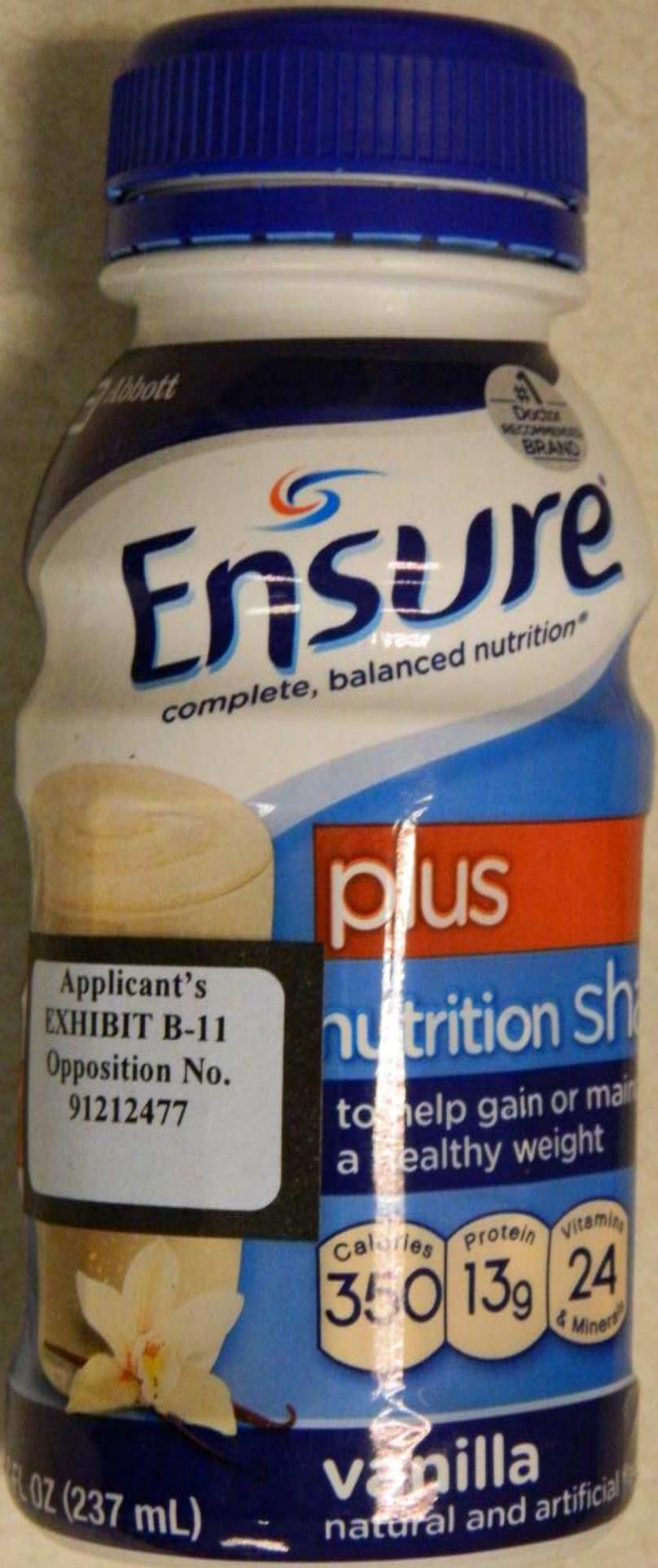
Helps
Convert
Food Into
Energy*

DIETARY SUPPLEMENT

60 TABLETS

Applicant's
EXHIBIT B-10
Registration No.

EXHIBIT B-11



Abbott



Ensure

complete, balanced nutrition

plus

nutrition shake

to help gain or maintain
a healthy weight

Applicant's
EXHIBIT B-11
Opposition No.
91212477

Calories	protein	Vitamins & Minerals
350	13g	24



vanilla
natural and artificial

8 FL OZ (237 mL)

EXHIBIT B-12



Healthy Balance



"I recommend Healthy Balance to my patients who are looking to reduce their sugar intake while cutting back on calories and carbs"

Amy Bragagnini - MS, RD, CSO

Ask Amy your questions about Diet and Nutrition, plus find diabetes resources, healthy tips, recipes and promotions at www.facebook.com/healthybalance

5g SUGAR

5g CARBS

20 CALORIES

Apple Cranberry



Applicant's
EXHIBIT B-12
Opposition No.
91212477

JDRF IMPROVING LIVES. CURING TYPE 1 DIABETES.

Flavored Reduced Sugar
Juice Cocktail Blend
From Concentrate

64 FL OZ (1/2 GAL) 1.89L

EXHIBIT B-13



Lowes
foods

Naturally

B-Complex 50

Balanced B-Complex

Dietary Supplement
100 Capsules

... wheat,
... artificial
... supplement,
... with meals,
... professional
... may harm
... CHILDREN.

... applicant's
... B-13
... position No.
... 1212477

... SUPPLEMENT FACTS

EXHIBIT B-14

super soft™

World's Best-Selling Tortilla™

The Authentic Tradition®



MISSION

Carb Balance®

WHOLE WHEAT TORTILLAS

FAJITA

3g net carbs

8 ct

0g TRANS FAT PER SERVING
NO CHOLESTEROL

Applicant's
EXHIBIT B-14
Opposition No.
91212477



NET WT 8 OZ (226g)

MISSION

3g net carbs

Carb Balance®

WHOLE WHEAT TORTILLAS

FAJITA

8 ct

EXHIBIT B-15

PHARMASSURE®

Timed-Release

Balanced B Complex

DIETARY SUPPLEMENT

Applicant's
EXHIBIT B-15
Opposition No.
91212477



... BLETS

EXHIBIT B-16



0 16000 48125 1

FIBER One

mealbar
balanced nutrition for a healthy lifestyle™

Chocolate Peanut Butter

FIBER One

mealbar
balanced nutrition for a healthy lifestyle™

10g
PROTEIN

9g
FIBER
9g OF TOTAL FAT
PER BAR

60%
LESS SUGAR
THAN A SPECIAL K
MEAL BAR*

Chocolate Peanut Butter
NATURALLY FLAVORED

NEW!



PER BAR
190
CALORIES
3g
SAT FAT
180mg
SODIUM
6g
SUGARS
9g
FIBER

CHOCOLATE
FLAVORED CHIPS

Applicant's
EXHIBIT B-16
Opposition No.
91212477

enlarged to
show texture

5 - 1.59 OZ (45g) BARS NET WT 7.95 OZ (225g)

Quality & Guarantee
We're committed to quality. In fact, we guarantee the quality of our products. If you're not satisfied with the quality of this product, a prompt refund or adjustment of equal value will be made. Your comments and questions are welcome. Save the UPC and color date information and...
CALL 1-800-331-6388 (7:30 a.m. - 3:30 p.m. CT weekdays)
WHITE, General Mills, Box 206, Mpls, MN 55448
www.FiberOne.com

Carbohydrate Choices: 1

100%
Recycled
Paperboard

2
11-13



EXHIBIT B-17

reclosable for freshness

6 fruit
servings*
per pouch

Simply
balanced™

peach slices
freeze dried fruit
made with
natural ingredients

Applicant's
EXHIBIT B-17
Opposition No.
91212477

Serving suggestion

NET WT 1.75 OZ (50g)



EXHIBIT B-18

pull to open

reclosable for freshness

35

calories
per cup

no
preservatives

gluten free

Simply
balanced™

whole grain popcorn
vanilla caramel

natural flavor

BEST BY
27 AUG 2014
LOT# 1009 3524

Applicant's
EXHIBIT B-18
Opposition No.
91212477



Serving suggestion

NET WT 5.5 OZ (155g)

K-6000425



EXHIBIT B-19

BEST BY 12OCT2014
0108727 04127



30g
whole grains
per serving

made with a blend
of ancient grains
good source of fiber

Clearance
231 13 0708
Mar 07 10

Serving suggestions

Spread apple slices with peanut butter or hazelnut spread and sprinkle with granola.

Stir about 1 cup of granola into your favorite muffin recipe or mix.

Sprinkle granola and fresh fruit over frozen yogurt to add a crunch to your treat.



Applicant's
EXHIBIT B-19
Opposition No.
91212477



Serving suggestion
NET WT 15 OZ (425g) ®



EXHIBIT B-20

made with
natural
ingredients



NET WT 0.5 OZ (14g)

Simply
balanced™

fruit strip
wild berry
naturally flavored

Applicant's
EXHIBIT B-20
Opposition No.
91212477

BEST BY: 28 FEB 2016 21:10 03

made with
natural
ingredients

10 count

Simply
balanced™

fruit strips
wild berry
naturally flavored

Applicant's
EXHIBIT B-20
Opposition No.
91212477



Serving suggestion

10 - 0.5 OZ (14g) STRIPS / NET WT 5 OZ (140g)



Carton made from minimum 35%
post-consumer recycled paper.

071 20 0688 R00 ID563488



0 85239 20688 1

Nutrition Facts

Serving Size 1 strip (14g)
Servings Per Container 10

Amount Per Serving

Calories 45

% Daily Value*

Total Fat 0g 0%

Sodium 5mg 0%

Total Carbohydrate 11g 4%

Dietary Fiber 1g 4%

Sugars 9g

Protein 0g

Vitamin C 10%

Not a significant source of calories from fat,
saturated fat, trans fat, cholesterol,
vitamin A, calcium or iron.

* Percent Daily Values are based on a 2,000
calorie diet.

INGREDIENTS: APPLE PUREE CONCENTRATE, APPLE JUICE CONCENTRATE, CONTAINS 2% OR LESS OF: NATURAL FLAVOR, CITRUS PECTIN, LEMON JUICE CONCENTRATE, STRAWBERRY JUICE CONCENTRATE, RASPBERRY JUICE CONCENTRATE, BLUEBERRY JUICE CONCENTRATE, CITRIC ACID, ASCORBIC ACID (VITAMIN C), VEGETABLE AND FRUIT JUICE (CARROT, BLUEBERRY) FOR COLOR.

DISTRIBUTED BY TARGET CORPORATION
MINNEAPOLIS, MN 55403

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Shop Target.com

Guest Services 1-800-316-6151

Keep package for reference.

EXHIBIT B-21



Simply balanced™
nut & seed bars
made with mixed nuts,
sunflower
& pumpkin seeds

Applicant's
EXHIBIT B-21
Opposition No.
91212477

INGREDIENTS: MIXED NUT (ALMONDS, PEANUTS, CASHEWS (CASHEWS, CANOLA OIL), HAZELNUTS), CORN SYRUP, SUNFLOWER KERNELS, CRISP RICE (RICE FLOUR, SUGAR, SALT, CALCIUM CARBONATE), DRIED UNSWEETENED COCONUT, PUMPKIN SEEDS, SOYBEANS, HONEY, CANOLA AND/OR SOYBEAN OIL, MILK, PUFFED WHOLE WHEAT, BROWN SUGAR, SALT, SOY LECITHIN, MIXED Tocopherols, ASCORBIC ACID, CITRIC ACID, ROSEMARY EXTRACT, NATURAL FLAVOR.
CONTAINS ALMOND, PEANUT, CASHEW, HAZELNUT, COCONUT, SOY, MILK AND WHEAT
MAY CONTAIN OTHER TREE NUTS
DISTRIBUTED BY TARGET CORPORATION
MINNEAPOLIS, MN 55401
PRODUCT OF CANADA

EXHIBIT B-22

Delicious and refreshing

Made with organic grape juice from concentrate, Simply Balanced Organic White Grape Juice is sure to please. Taste the sweetness in every glass; Simply Balanced delivers great taste and quality ingredients.

HI, ME-5¢ DEP



Recyclable PET Bottle. May not be recyclable in your area.

203 14 0102 R01 ID103434



0 85239 14 102 1

100%
juice

Simply
balariced™

organic white grape
juice

from concentrate with
added ingredients

Applicant's
EXHIBIT B-22
Opposition No.
91212477

64 FL OZ (2 QT) 1.89L



EXHIBIT B-23

10 calories
per serving

made with
natural
ingredients

Simply
balanced

essence water
coconut pineapple

naturally flavored water
beverage with other
natural flavors

Applicant's
EXHIBIT B-23
Opposition No.
91212477

16 FL OZ (1 PT) 473 mL



CONTAINS 3% JUICE

Nutrition Facts

Serving Size 8 fl oz (240 mL)
Servings Per Container 2

Amount Per Serving	
Calories 10	
	% Daily Value*
Total Fat 0g	0%
Sodium 0mg	0%
Total Carbohydrate 3g	1%
Sugars 3g	
Protein 0g	

Not a significant source of calories from fat, saturated fat, trans fat, cholesterol, dietary fiber, vitamin A, vitamin C, calcium and iron.

*Percent Daily Values are based on a 2,000 calorie diet.

INGREDIENTS: WATER, SUGAR, APPLE JUICE CONCENTRATE, CITRIC ACID, NATURAL FLAVOR, POTASSIUM CITRATE, REBIANA (STEVIA EXTRACT), BETA CAROTENE (COLOR).

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CT, HI, ME, NY, OR-5¢ DEP

CA CASH REFUND

203 75 0031 R00 ID103443



0 85239 75031 5

A refreshing
alternative
to soda

Featuring flavors
of coconut and
pineapple, Simply
Balanced Essence
Water will quench
your thirst.
Made with natural
ingredients and
with only 10 calories
per serving,
Simply Balanced
delivers on taste and
quality ingredients.

EXHIBIT B-24

28g
HYDROMAXX™
PROTEIN BLEND

PROBALANCE™

The Original

**PROTEIN
SHOTX™**

STRAWBERRY

MADE WITH
**REAL
FRUIT**

Applicant's
EXHIBIT B-24
Opposition No.
91212477