

ESTTA Tracking number: **ESTTA584814**

Filing date: **01/30/2014**

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	Abbott Laboratories
Granted to Date of previous extension	02/02/2014
Address	100 Abbott Park Road Abbott Park, IL 60064 UNITED STATES

Attorney information	Elisa M. Valenzona Abbott Laboratories 100 Abbott Park Road D377/AP6C Abbott Park, IL 60064 UNITED STATES trademarks@abbott.com
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Applicant Information

Application No	85886054	Publication date	08/06/2013
Opposition Filing Date	01/30/2014	Opposition Period Ends	02/02/2014
Applicant	Natreon, Inc. 2D Janine Place New Brunswick, NJ 08901 NJ		

Goods/Services Affected by Opposition

Class 005. First Use: 2012/07/15 First Use In Commerce: 2012/07/15

All goods and services in the class are opposed, namely: Dietary and nutritional supplements; Dietary and nutritional supplements for endurance sports; Dietary supplemental drinks; Nutraceuticals for use as a dietary supplement; Nutritional supplement energy bars

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 No.	85592253	Application Date	04/09/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NUTRIVIGOR		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 005. First use: First Use: 0 First Use In Commerce: 0 Liquid or powder nutritive supplements for human use; liquid nutritive supplement for oral or gavage feeding; nutritionally fortified beverages and powders for meal replacement adapted for medical use</p> <p>Class 029. First use: First Use: 0 First Use In Commerce: 0 Dairy-based and fruit-based food beverages containing fortified nutrients for use as a healthy snack</p> <p>Class 030. First use: First Use: 0 First Use In Commerce: 0 Grain-based and herbal food beverages containing fortified nutrients for use as a healthy snack</p> <p>Class 032. First use: First Use: 0 First Use In Commerce: 0 Sports drinks, namely, energy drinks, fruit flavored drinks</p>

Attachments	85592253#TMSN.jpeg(bytes) NU-VIGOR Opposition.pdf(368235 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	/emv/ck
Name	Elisa M. Valenzona
Date	01/30/2014

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

In Re: Application of Natreon, Inc.
Serial No: 85/886054
Published: Aug. 6, 2013

Abbott Laboratories,)
Petitioner)
)
) Opposition No:
v.) Mark: NU-VIGOR
)
Natreon, Inc.,)
Respondent)

NOTICE OF OPPOSITION

Abbott Laboratories ("Abbott") believes that it will be damaged by the registration of the proposed mark NU-VIGOR set forth in Application Serial No. 85/886054 ("the Application") filed by Natreon, Inc. ("Natreon"). Abbott, therefore, opposes registration of the proposed mark.

Abbott has obtained the necessary extensions of time to file this Notice of Opposition and this Notice is timely made.

In support of the opposition, Abbott states as follows:

1. Abbott is an Illinois corporation with its principal place of business at 100 Abbott Park Road, Abbott Park, Illinois 60064.
2. Abbott is a global healthcare company devoted to improving life through the development of products and technologies that span the breadth of healthcare. With a portfolio of leading, science-based offerings in diagnostics, medical devices, nutritionals and branded generic pharmaceuticals, Abbott serves people in more than 150 countries and employs approximately 70,000 people. Abbott's Nutrition business develops and markets nutritional products to support the growth, health and wellness of people of all ages. Its products include SIMILAC brand infant formula, ENSURE brand nutrition shakes, GLUCERNA brand shakes and bars for people with diabetes, and, through its subsidiaries, ZONE PERFECT nutrition bars and EAS sports nutrition products.
3. Abbott is the owner of the following valid and subsisting U.S. Trademark Application for the mark NUTRIVIGOR:

Mark	App. No.	App. Date	Goods - Class
NUTRIVIGOR	85/592253	April 9, 2012	<p>Liquid or powder nutritive supplements for human use; liquid nutritive supplement for oral or gavage feeding; nutritionally fortified beverages and powders for meal replacement adapted for medical use in Class 5;</p> <p>Dairy-based and fruit-based food beverages containing fortified nutrients for use as a healthy snack in Class 29;</p> <p>Grain-based and herbal food beverages containing fortified nutrients for use as a healthy snack in Class 30;</p> <p>Sports drinks, namely energy drinks, fruit flavored drinks in Class 32</p>

A printout from the USPTO TSDR database for this application is attached as Exhibit A and is hereby made of record in this proceeding.

4. Respondent Natreon is a New Jersey Corporation with its principal place of business at 2-D Janine Place, New Brunswick, New Jersey 08901.
5. Natreon is in the business of manufacturing dietary supplements.
6. Natreon has filed an Application to register:

Mark	App. Serial No.	App. Date	Goods - Class
NU-VIGOR	85/886054	March 25, 2013	Dietary and nutritional supplements; dietary and nutritional supplements for endurance sports; dietary supplemental drinks; nutraceuticals for use as a dietary supplement; nutritional supplement energy bars in Class 5

7. The date of first use of the NU-VIGOR mark, as stated in the Application, was July 15, 2012.
8. Abbott filed its application for NUTRIVIGOR before Natreon's claimed date of first use and before Natreon filed the Application.
9. The goods described in the Application are similar and related to the goods sold by Abbott described in the NUTRIVIGOR application.

10. The goods described in the Application are likely to be sold in the same channels of trade as the goods sold by Abbott described in the NUTRIVIGOR application.
11. The goods described in the Application are likely to be sold to the same classes of purchasers as the goods sold by Abbott described in the NUTRIVIGOR application.
12. The proposed mark sought to be registered by Natreon so resembles Abbott's NUTRIVIGOR mark that it is likely to cause confusion or mistake or to deceive purchasers when used in connection with Natreon's goods. Such confusion, mistake or deception will damage Abbott's name, reputation, goodwill and its rights in its NUTRIVIGOR mark.
13. If Natreon is granted the registration it seeks, Natreon will obtain such rights as are conferred under the Principal Register of the Trademark Act, and its registration will operate as *prima facie* evidence of Natreon's right to use NU-VIGOR despite the likelihood of confusion with Abbott's mark. Natreon will thereby obtain unlawful advantage to which it is not entitled under the Trademark Act, to the detriment of Abbott, its mark, and its goodwill and reputation.

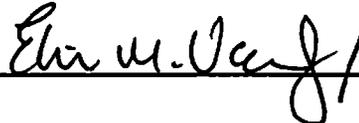
WHEREFORE, Abbott respectfully requests that Application Serial No. 85/886054 be refused and that this Opposition be sustained.

Respectfully submitted,

ABBOTT LABORATORIES

Dated: Jan. 30, 2014

By: _____



Elisa M. Valenzona
Attorney for Opposer
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Abbott Park, Illinois 60064
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Fax: (847) 935-6552
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Exhibit A



United States Patent and Trademark Office

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NUTRIVIGOR

Word Mark	NUTRIVIGOR
Goods and Services	IC 005. US 006 018 044 046 051 052. G & S: Liquid or powder nutritive supplements for human use; liquid nutritive supplement for oral or gavage feeding; nutritionally fortified beverages and powders for meal replacement adapted for medical use IC 029. US 046. G & S: Dairy-based and fruit-based food beverages containing fortified nutrients for use as a healthy snack IC 030. US 046. G & S: Grain-based and herbal food beverages containing fortified nutrients for use as a healthy snack IC 032. US 045 046 048. G & S: Sports drinks, namely, energy drinks, fruit flavored drinks
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85592253
Filing Date	April 9, 2012
Current Basis	1B
Original Filing Basis	1B
Published for Opposition	September 11, 2012
Owner	(APPLICANT) Abbott Laboratories CORPORATION ILLINOIS Dept. 0377, Bldg. AP6A-1 100 Abbott Park Road Abbott Park ILLINOIS 600646008

Attorney of Record Cheryl A. Withycombe
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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CERTIFICATE OF SERVICE

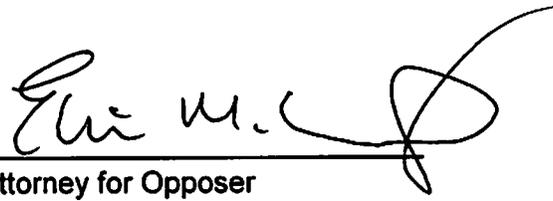
I hereby certify that a copy of the foregoing Notice of Opposition has been served upon Natreon Inc. via First Class Mail, on the date indicated below, addressed to:

Natreon Inc.
2-D Janine Place
New Brunswick, New Jersey 08901

With a copy to:

Todd A. Denys, Esq.
PORZIO, BROMBERG & NEWMAN, P.C.
29 Thanet Road, Suite 201
Princeton, NJ 08540-3661

Date: 1/30/14



Attorney for Opposer