

ESTTA Tracking number: **ESTTA646493**

Filing date: **12/22/2014**

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	4Life Trademarks, LLC
Granted to Date of previous extension	12/21/2014
Address	9850 South 300 West Sandy, UT 84070 UNITED STATES

Attorney information	Glenn S. Bacal Bacal Law Group 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	86127647	Publication date	06/24/2014
Opposition Filing Date	12/22/2014	Opposition Period Ends	12/21/2014
Applicant	Senuvo LLC 6637 West 10120 North Highland, UT 84003 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 003. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Essential oils for flavoring beverages
Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Dietary beverage supplements for human consumption in liquid and dry mix form for therapeutic purposes; Dietary supplement beverage for promoting general health and for nutritional purposes; Dietary supplemental drinks in the nature of vitamin and mineral beverages; Nutritionally fortified beverages; Soy protein for use as a nutritional supplement in various powdered and ready-to-drink beverages;Vitamin fortified beverages
Class 030. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Beverages with a tea base; Herbal flavourings for making beverages; Herbal foodbeverages
Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Fruit beverages; Fruit concentrates andpures used as ingredients of beverages; Fruit-based beverages; Fruit-flavored beverages; Powders used in the preparation of fruit-based beverages

## 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. Registration No.	4489645	Application Date	05/01/2013
Registration Date	02/25/2014	Foreign Priority Date	NONE
Word Mark	4LIFE TRANSFER FACTOR RENUVO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2013/10/18 First Use In Commerce: 2013/10/18 Dietary and nutritional supplements; vitamin, mineral and herbal supplements		

Attachments	85920554#TMSN.png( bytes ) 4LIFE notice of opposition SENUVO FINAL.pdf(409143 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	12/22/2014

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

4Life Trademarks, LLC

Opposer,

v.

Senuvo, LLC

Applicant.

Opposition No. \_\_\_\_\_

Serial No. 86127647

For the mark: SENUVO

Published for Opposition:  
June 24, 2014

**Notice of Opposition**

Opposer 4Life Trademarks, LLC (“4Life” or “Opposer”) will be harmed by registration of the applied for mark SENUVO that is the subject of Application Ser. No. 86127647 (the “Application”) filed by Senuvo, LLC (“Applicant”), and Opposer hereby opposes the Application on the basis that SENUVO is likely to cause confusion with Opposer’s RENUVO marks.

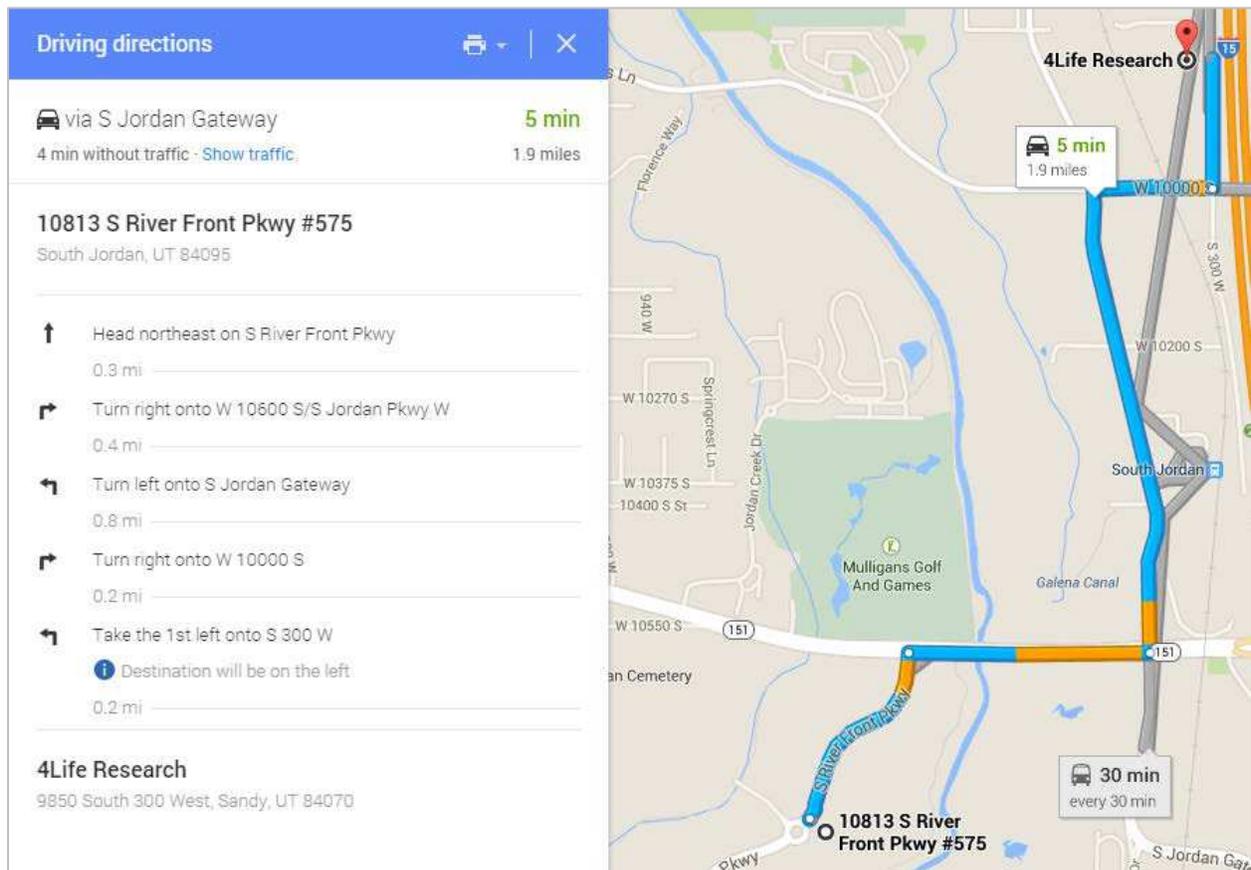
**Background on the Parties**

1. Opposer is a Utah limited liability company with its principal place of business at 9850 South 300 West, Sandy, Utah 84070.
2. 4Life and its affiliates comprise a successful worldwide network marketing business that offers and sells numerous products, including dietary and nutritional supplements; weight management products; and numerous other related products.
3. Opposer offers and sells its RENUVO products through a network marketing business platform, often referred to as “direct selling” and sometimes referred to as “multi-level marketing” or “MLM.”
4. In April 2014, Direct Selling News announced that Opposer is in the top 50 of the largest direct selling companies in the world.

5. On information and belief, Applicant is an Alaska limited liability company formed on November 21, 2013, with a listed address of 6637 West 10120 North, Highland, Utah 84003.

6. On information and belief, Applicant’s headquarters are located at 10542 S. Jordan Gateway, #300, South Jordan, Utah 84095.

7. The address of Applicant’s headquarters, as listed on Applicant’s website, is located *less than two miles* from Opposer’s world headquarters, as shown on the map below:



8. On information and belief, Applicant is a network marketing (i.e. MLM) business that offers and sells dietary and nutritional supplements; weight management products; and other related products.

9. Applicant’s use of SENUVO on and in connection with these products is likely to cause confusion with 4Life’s RENUVO mark as used on and in connection with its products.

10. The following shows Applicant's current use of SENUVO on its labels as compared with 4Life's use of RENUVO on its products:



11. Just as RENUVO is the dominant element and mark on Opposer's RENUVO products, SENUVO is the dominant element and mark on Applicant's SENUVO products.

12. SENUVO is just one letter off from RENUVO, and will be perceived as close to RENUVO by consumers familiar with both RENUVO and SENUVO, no matter how Applicant intends to pronounce SENUVO.

**Opposer's Rights in its RENUVO Mark**

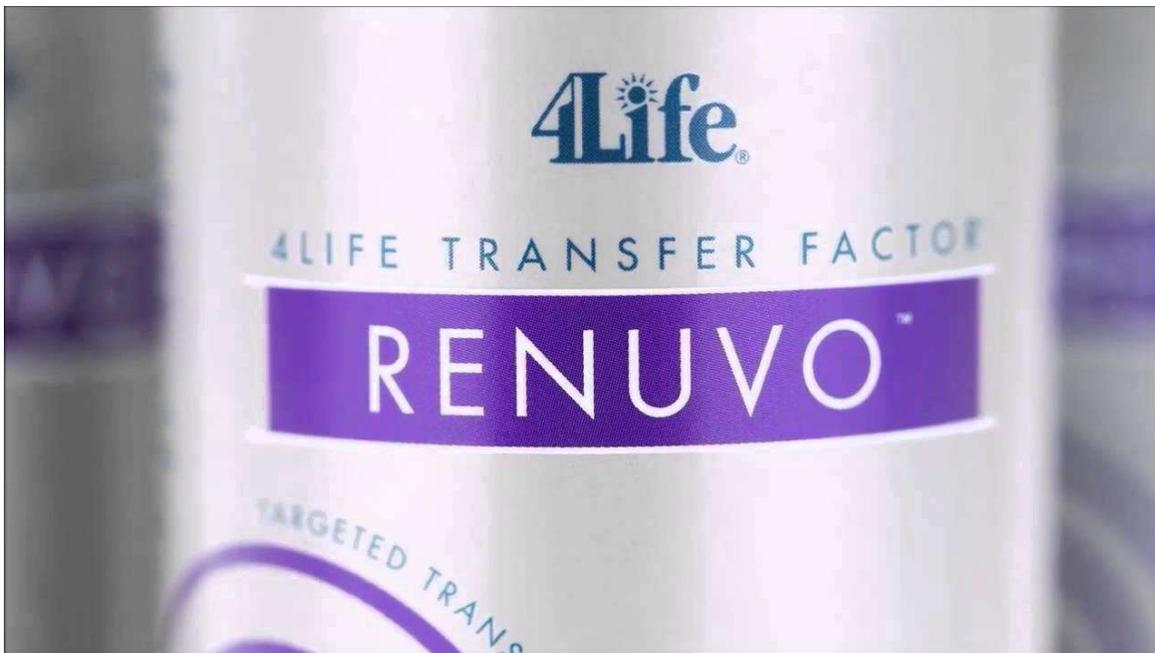
13. Opposer has both registered and common law rights in marks for or incorporating RENUVO (the "RENUVO Marks").

14. Opposer has used the mark RENUVO in commerce since October 2013 in connection with Opposer's own products.

15. Opposer's current product offered under the RENUVO Marks is often referred to simply as RENUVO.

16. Opposer has made prominent use of RENUVO in Opposer's marketing and advertising of its products. The following are just some examples:

# 4LIFE TRANSFER FACTOR RENUVO™



17. Opposer's launch of its RENUVO product was Opposer's most successful product launch to date.

18. Opposer's RENUVO product sold out in just seven hours at Opposer's International Convention in October 2013.

19. Opposer's RENUVO product has quickly achieved widespread recognition and popularity and is among Opposer's top-selling products.

20. Opposer also heavily uses social media to market its RENUVO products. *See, e.g.,* <http://www.pinterest.com/4life/feel-22/>, <https://www.youtube.com/watch?v=mNMwO3qvfQU>.

21. One of the main characteristics of Opposer's products, including its RENUVO products, is that they are designed to support a healthy immune system.

22. Opposer is also the owner of valid and subsisting federal registration (Reg. No. 4489645) for the mark 4LIFE TRANSFER FACTOR RENUVO®, which combines Applicant's famous 4LIFE® mark with the disclaimed term "transfer factor" and the distinctive RENUVO mark.

23. Opposer's registration for 4LIFE TRANSFER FACTOR RENUVO® covers "dietary and nutritional supplements; vitamin, mineral and herbal supplements" in Class 5.

24. The priority date for Opposer's registration of 4LIFE TRANSFER FACTOR RENUVO® is May 1, 2013, the date Opposer filed the application to register that mark.

25. Opposer also has filed an application (Ser. No. 86347599) to register the mark RENUVO alone in Class 5 for "Nutritional supplement protein capsules, tablets, powders, shakes and bars intended to support muscle building, fat burning and exercise recovery; dietary supplement protein bar; nutritional supplements in the form of protein shakes and bars; powdered protein supplement drink mix and concentrate; protein supplement shakes; protein

supplement shakes for supporting weight loss; protein supplement shakes for supporting muscle building; dietary supplements in the form of powders; powder preparations for providing additional protein and protein concentrate; dietary supplements in the form of capsules and tablets containing protein.”

26. Opposer’s application to register RENUVO alone was filed on an intent-to-use basis because, while Opposer has been using RENUVO for some of the goods listed in the application since at least as early as October 2013, use for some of the other listed goods is intended.

27. In addition to Opposer’s various products that it sells under its various marks that are classified in Class 5, Opposer also offers and sells products that are classified in Class 3 (e.g. skin care preparations), Class 30 (plant-based health foods), and Class 32 (fruit based beverages)

28. Products classified in Class 3, Class 30, and Class 32 would be an area of natural expansion for Opposer’s use of RENUVO, which currently is offered with products in Class 5

29. Further, Opposer has long sold dietary beverage supplements, meal replacement drinks and supplements in a dry mix form, and this is also a possible area of natural expansion for RENUVO.

#### **Applicant’s Attempt to Register and Use of SENUVO**

30. On or about November 23, 2013, Applicant applied on an intent-to-use basis to register the mark SENUVO (the “SENUVO Mark”), in the U.S. Patent and Trademark Office under Application Serial No. 86127647 for the following goods:

Class 3—“Essential oils for flavoring beverages”

Class 5—“Dietary beverage supplements for human consumption in liquid and dry mix form for therapeutic purposes; Dietary supplement beverage for promoting general health and for nutritional purposes; Dietary supplemental drinks in the nature of vitamin and mineral beverages; Nutritionally fortified beverages; Soy protein for use as a nutritional supplement in various powdered and ready-to-drink beverages; Vitamin fortified beverages”

Class 30—“Beverages with a tea base; Herbal flavourings for making beverages; Herbal food beverages”

Class 32—“Fruit beverages; Fruit concentrates and purees used as ingredients of beverages; Fruit-based beverages; Fruit-flavored beverages; Powders used in the preparation of fruit-based beverages.”

31. SENUVO differs from RENUVO by only one letter.

32. Applicant also filed on January 22, 2014 an application (Ser. No. 86171813) to register the following stylized mark, but later abandoned that application for failure to submit a complete response to a final office action:

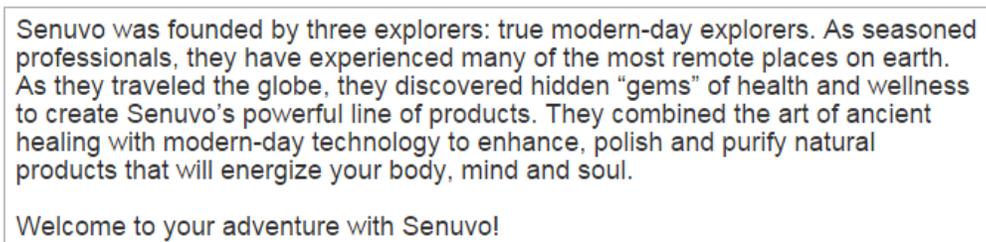


33. Applicant uses SENUVO not only in the stylized form shown above, but also regularly uses SENUVO as a standard character mark (without any stylization). The following are just some examples of such use:

As headers and titles:



In text:



34. Applicant makes prominent use of SENUVO not only as the name of Applicant but also as a brand used on labels and in marketing and advertising of products.

35. The following are examples of how Applicant uses SENUVO on product:



36. Similar to Opposer, Applicant markets and sells its products using a direct sales or MLM platform, with a business model that uses commissions and bonuses for distributors.

37. Similar to Opposer, Applicant also heavily markets its SENUVO products and its business using social media. *See, e.g.,* [www.pinterest.com/senuvo](http://www.pinterest.com/senuvo); [www.facebook.com/senuvo](http://www.facebook.com/senuvo), <https://twitter.com/senuvo>.

38. Similar to Opposer, Applicant also claims that its products support a healthy immune system. *See, e.g.,* <https://twitter.com/Senuvo/status/546470254898335745>.

39. In Applicant's marketing of its SENUVO products, Applicant makes similar claims in a similar manner and form as those made by Opposer for its RENUVO products, as shown in the examples below:

Claims from Applicant's Marketing Claims	Information from Opposer's Marketing
<p>Senuvo Power Men's Formula is designed to:</p> <ul style="list-style-type: none"> <li>• Support an already healthy reproductive system*</li> <li>• Provide energy and stamina*</li> <li>• Minimize occasional stress*</li> <li>• Improve sexual desire*</li> <li>• Enhance sexual performance*</li> </ul> <p>Senuvo Power Women's Formula is designed to:</p> <ul style="list-style-type: none"> <li>• Support an already healthy reproductive system*</li> <li>• Helps maintain already healthy hormone levels*</li> <li>• Influence healthy mood*</li> <li>• Enhance energy and stamina levels*</li> <li>• Support the digestive system*</li> </ul>	<p>4Life Transfer Factor Renuvo is formulated to support:</p> <ul style="list-style-type: none"> <li>• Total body recovery*</li> <li>• Mental acuity*</li> <li>• Sexual vitality*</li> <li>• Energy*</li> <li>• Mood*</li> <li>• Metabolism*</li> </ul>

40. Thus, Applicant is using a mark (SENUVO) that is very similar to Opposer's mark (RENUVO) to sell the same kinds of products (nutritional supplements) that are marketed to the same kinds of consumers using the very same marketing channels (direct sales / network marketing) using very similar claims (e.g. supports energy, mood, sexual performance, etc.). Such overlap is highly likely to cause confusion among consumers

41. The pronunciation of SENUVO vs RENUVO, even if Applicant were to claim that somehow there are differences or if there was an accent on any letter, is not likely to be a factor in the marketplace.

42. On information and belief, SENUVO will be perceived by consumers as similar sounding to RENUVO, and vice versa.

43. The fact that Applicant founded and set up its headquarters right down the street from Opposer strongly suggests that Applicant's intent was and is to draw on the good will of Opposer's already successful RENUVO product.

**Standing**

44. Opposer first used RENUVO in commerce prior to the date that Applicant first applied to register the mark SENUVO.

45. Opposer first used RENUVO in commerce prior to the date that Applicant first used SENUVO in commerce.

46. Opposer's priority date extends back to May 1, 2013, the date when Opposer filed its application to register the mark 4LIFE TRANSFER FACTOR RENUVO.

47. Applicant's use and registration of the mark SENUVO is likely to cause confusion with Opposer's RENUVO Marks.

48. Applicant's use and registration of the mark SENUVO will impair the value of Opposer's rights in the RENUVO Marks.

49. Applicant's use and registration of the mark SENUVO has caused and will continue to cause harm to Opposer and its business.

#### **Likelihood of Confusion**

50. Consumers and others are likely to be confused by Applicant's use of SENUVO, which differs by just one letter from Opposer's RENUVO mark.

51. Applicant's SENUVO Mark is substantially similar in appearance, sound, connotation, and commercial impression to Opposer's RENUVO mark.

52. The type of goods with which Applicant is using and has applied to register the mark SENUVO are the same as or very similar to the type of goods on which 4Life has used and is using its RENUVO Marks.

53. Applicant's Application to register the mark SENUVO covers dietary and nutritional supplements in Class 5; the very same goods are covered by Opposer's federal registration for 4LIFE TRANSFER FACTOR RENUVO®.

54. Applicant's Application to register the mark SENUVO also covers goods in Classes 3, 30, and 32, which are not only in the same classes as and related to or nearly identical

to other products offered and sold by Opposer, but also are goods which would be a natural expansion of Opposer's Class 5 products already offered and sold under Opposer's RENUVO Marks.

55. Both Applicant and Opposer market, offer, and sell their products in connection with identical and/or highly related channels of trade—namely, direct sales or network marketing.

56. On information and belief, both Applicants' SENUVO products and Opposer's RENUVO product are marketed to and used by similar kinds of consumers.

57. On information and belief, both Applicants' SENUVO products and Opposer's RENUVO product are marketed to and used by consumers concerned about the same kinds of health and wellness issues.

58. Both Applicants' SENUVO products and Opposer's RENUVO product are marketed to consumers as providing support for and strengthening the immune system.

59. Both Applicant's SENUVO products and Opposer's RENUVO products are marketed to consumers as supporting one's energy, mood, and sexual performance.

60. Applicant's use of SENUVO trades on Opposer's goodwill in its RENUVO Marks.

61. The mark SENUVO so resembles Opposer's RENUVO Marks so as to make it likely, when applied to Applicant's goods, to cause mistake and confusion among, and to deceive, the trade and the public, with consequential injury to Opposer

62. On information and belief, the adoption by Applicant, located less than two miles from Opposer, of a mark that is so similar to RENUVO, with only one letter different, for very similar products within a month after Opposer publicly announced the new line of RENUVO products, was not coincidental.

63. Based on the foregoing, Applicant's use and registration of the mark SENUVO are likely to cause confusion with Opposer's RENUVO Marks.

64. On information and belief, Applicant was on notice of Opposer's RENUVO Marks prior to filing the Application and prior to commencing use of the mark SENUVO.

65. Applicant already has been offering and selling its SENUVO products in the same geographic areas that Opposer has been offering and selling its RENUVO product.

66. There is a present and high likelihood of confusion caused by Applicant's use of SENUVO in the marketplace.

### **Conclusion**

67. Applicant is not entitled to a registration for the mark SENUVO.

68. Applicant's use and registration of SENUVO is likely to cause confusion with Opposer's RENUVO mark.

69. Opposer will be damaged by Applicant's registration of the SENUVO Mark.

THEREFORE, Opposer respectfully requests that Application Serial No. 86127647 be refused registration.

Respectfully submitted this 22<sup>nd</sup> day of December, 2014.

BACAL LAW GROUP, P.C.

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

Application No.: 86127647  
Mark: SENUVO  
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. §2.119.

I hereby further certify that this Notice of Opposition is being sent via Express Mail addressed to:

James Harward  
Harward & Associates  
6637 West 10120 North  
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Attorney of Record for the Applicant

/s/Glenn Spencer Bacal  
Signature

December 22, 2014  
Date