

ESTTA Tracking number: **ESTTA671275**

Filing date: **05/08/2015**

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	Threshold Enterprises Ltd.
Granted to Date of previous extension	05/09/2015
Address	23 Janis Way Scotts Valley, CA 95066 UNITED STATES

Attorney information	Erica Connolly Arnold & Porter LLP 3 Embarcadero Ctr.10th Floor San Francisco, CA 94111 UNITED STATES trademarkdocketing@aporter.com, erica.connolly@aporter.com, monty.agarwal@aporter.com, bryan.gresham@aporter.com Phone:(415) 471-3100
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Applicant Information

Application No	86403467	Publication date	03/10/2015
Opposition Filing Date	05/08/2015	Opposition Period Ends	05/09/2015
Applicant	Primal Health LP 321 N. Central Expressway, Suite 341 McKinney, TX 75070 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Dietary and nutritional supplements
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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.	1909705	Application Date	05/12/1994
Registration Date	08/08/1995	Foreign Priority Date	NONE
Word Mark	SOURCE NATURALS		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 1982/01/01 First Use In Commerce: 1982/01/01 vitamins, herbs and nutritional supplements

U.S. Registration No.	3930397	Application Date	03/03/2009
Registration Date	03/15/2011	Foreign Priority Date	NONE

Word Mark	SOURCE NATURALS
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 003. First use: First Use: 2002/03/06 First Use In Commerce: 2002/03/06 cosmetics, namely, ointments, gels, creams, lotions, moisturizers, oils, serums, salves and bath oils, all of which are used for the skin
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Attachments	77682619#TMSN.png(bytes) Threshold--PrimalSource Nutrition--Notice of Opposition (No. 86403467).pdf(100217 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	/Erica Connolly/
Name	Erica Connolly
Date	05/08/2015

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

In the matter of trademark application Serial No. 86,403,467
Filed September 23, 2014
Mark PRIMALSOURCE NUTRITION
Published in the Official Gazette on March 10, 2015

Threshold Enterprises Ltd.,)	
)	
Opposer,)	
)	Opposition No. _____
vs.)	
)	
Primal Health LP,)	
)	
Applicant.)	
_____)	

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

In the matter of U.S. Trademark Application Serial No. 86,403,467 for the mark PRIMALSOURCE NUTRITION, in the name of Primal Health LP, a Texas limited partnership (“Applicant”), which was published for opposition in the Official Gazette on March 10, 2015. Threshold Enterprises Ltd. (“Threshold Enterprises”), a corporation of Delaware with its principal place of business at 23 Janis Way, Scotts Valley, California 95066, believes it will be damaged by the registration of the mark in Serial No. 86,403,467 and hereby opposes the same, in accordance with Section 13 of the Trademark (Lanham) Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, Threshold Enterprises alleges as follows:

Notice of Opposition
Serial No. 86,403,467

1. On information and belief, Applicant's principal place of business is 321 N. Central Expressway, Suite 341, McKinney, Texas 75070.
2. Applicant filed Serial No. 86,403,467 on September 23, 2014, seeking registration of PRIMALSOURCE NUTRITION for "Dietary and nutritional supplements," in International Class 005.
3. Threshold Enterprises is the owner of incontestable U.S. Trademark Registration No. 1,909,705 for SOURCE NATURALS for "vitamins, herbs and nutritional supplements." SOURCE NATURALS was originally registered by Source Naturals, Inc., a wholly owned subsidiary of Threshold Enterprises, and was later assigned to Threshold Enterprises. This registration is valid, subsisting, incontestable, uncancelled and conclusive evidence of Threshold Enterprises' exclusive right to use SOURCE NATURALS in commerce or in connection with the goods specified in the registration.
4. Since at least thirty-one years prior to Applicant's filing date for Serial No. 86,403,467, Threshold Enterprises adopted and has continuously used its SOURCE NATURALS mark and its trade name SOURCE NATURALS, INC. in connection with vitamins, herbs and nutritional supplements. SOURCE NATURALS is a prominent national brand, with products available nationwide in all major markets.
5. Threshold Enterprises is the owner of U.S. Trademark Registration No. 3,930,397 for SOURCE NATURALS for "cosmetics, namely, ointments, gels, creams, lotions, moisturizers, oils, serums, salves and bath oils, all of which are used for the skin." This registration is valid, subsisting, uncancelled and conclusive evidence of Threshold Enterprises' exclusive right to use SOURCE NATURALS in commerce or in connection with the goods

specified in the registration.

6. Since at least eleven years prior to Applicant's filing date for Serial No. 86,403,467, Threshold Enterprises adopted and has continuously used its SOURCE NATURALS mark in connection with cosmetics, namely, ointments, gels, creams, lotions, moisturizers, oils, serums, salves and bath oils, all of which are used for the skin. SOURCE NATURALS is a prominent national brand, with products available nationwide in all major markets.

7. Threshold Enterprises has invested substantial amounts of time, effort and money in developing, marketing, promoting and protecting its SOURCE NATURALS mark and SOURCE NATURALS, INC. trade name throughout the United States. As such, in addition to the protection afforded Threshold Enterprises by its federal trademark registration of SOURCE NATURALS, Threshold Enterprises has extensive, non-registered statutory and common law rights in its SOURCE NATURALS marks and SOURCE NATURALS, INC. trade name.

8. Applicant's mark so resembles Threshold Enterprises' SOURCE NATURALS mark that it is likely to cause confusion, or to cause mistake or deceive within the meaning of Section 2(d) of the Trademark (Lanham) Act of 1946, 15 U.S.C. §1052(d); and more particularly, Applicant's mark and use thereof are likely to cause confusion in, or to cause mistake by, or to deceive the trade and purchasing public into believing that the goods/services in Serial No. 86,403,467 originate with or are affiliated with Threshold Enterprises, or otherwise are authorized, licensed or sponsored by Threshold Enterprises.

9. By reasons of the foregoing, Threshold Enterprises will be gravely damaged by the registration of PRIMALSOURCE NUTRITION for the goods in Serial No. 86,403,467, because registration of that mark would be in violation of Threshold Enterprises' trademark

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rights.

WHEREFORE, Threshold Enterprises prays that this Notice of Opposition be sustained in favor of Threshold Enterprises and that Serial No. 86,403,467 be denied registration.

You are hereby authorized to deduct the \$300 fee for filing this Opposition, and any additional fees necessary to process this Notice, from Deposit Account No. 50-2387 in the name of Arnold Porter LLP.

Respectfully submitted,

THRESHOLD ENTERPRISE LTD.

May 8, 2015

/s/

Erica Connolly
ARNOLD & PORTER LLP
Three Embarcadero Center
10th Floor
San Francisco, California 94111
Phone: (415) 471-3100
Fax: (415) 471-3400
E-Mail: erica.connolly@aporter.com

Attorneys for Opposer

PROOF OF SERVICE

I am over eighteen years of age and not a party to this action. I am employed in San Francisco, California. My business address is Three Embarcadero Center, 10th Floor, San Francisco, California 94111. I am readily familiar with the practice of this office for collection and processing of correspondence for mail delivery, and they are deposited that same day in the ordinary course of business.

On May 8, 2015, I served the following document(s):

NOTICE OF OPPOSITION

I served the document(s) on the following person(s):

Renee L. Duff
Renee L. Duff. P.C.
1 Chase Rd
Scarsdale, NY 10583-4156

Daniel M. Cislo
Cislo & Thomas LLP
12100 Wilshire Boulevard, Suite 1700
Los Angeles, CA 90025-7103

(BY MAIL) by causing a true and correct copy of the above to be placed in the United States Mail at San Francisco, California in sealed envelope(s) with postage prepaid, addressed listed above.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct.

May 8, 2015

Signature: _____ /s/
Type or Print Name: Bryan J. Gresham