

ESTTA Tracking number: **ESTTA672738**

Filing date: **05/18/2015**

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	Nutri/System IPHC, Inc.
Granted to Date of previous extension	05/16/2015
Address	1011 Centre Road, Suite 322 Wilmington, DE 19805 UNITED STATES

Attorney information	Timothy J. Szuhaj Becker Meisel LLC 220 Lake Drive East Cherry Hill, NJ 08002 UNITED STATES tszuhaj@beckermeisel.com Phone:856-779-8700
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Applicant Information

Application No	86421639	Publication date	03/17/2015
Opposition Filing Date	05/18/2015	Opposition Period Ends	05/16/2015
Applicant	NutriMost 135 Bella Vista Ct. Murrysville, PA 15668 UNITED STATES		

Goods/Services Affected by Opposition

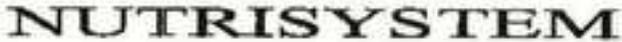
Class 005. First Use: 2007/04/30 First Use In Commerce: 2007/06/01 All goods and services in the class are opposed, namely: Dietary and nutritional supplements used for weight loss
Class 044. First Use: 2007/04/30 First Use In Commerce: 2007/06/01 All goods and services in the class are opposed, namely: Providing weight loss and nutritional program services

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1251922	Application Date	09/07/1982
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Registration Date	09/20/1983	Foreign Priority Date	NONE
Word Mark	NUTRISYSTEM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1979/07/00 First Use In Commerce: 1979/07/00 Conducting a Supervised Program for Weight Reduction and Control, Nutrition, and Exercise		

U.S. Registration No.	1297847	Application Date	09/29/1982
Registration Date	09/25/1984	Foreign Priority Date	NONE
Word Mark	NUTRISYSTEM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 029. First use: First Use: 1978/01/15 First Use In Commerce: 1978/01/15 [EGGS, SOUPS] [AND CHOCOLATE MILK, ALL] [IN POWDERED FORM FOR USE IN A WEIGHT REDUCTION PROGRAM]</p> <p>Class 030. First use: First Use: 1978/01/15 First Use In Commerce: 1978/01/15 [CREPES,] PANCAKES, MILKSHAKES, [FRUIT-FLAVORED GELATINS,] AND PUDDINGS, ALL IN POWDERED FORM; [TABLE SYRUP IN LIQUID FORM;] AND BREAKFAST CEREALS; ALL FOR USE IN A WEIGHT REDUCTION PROGRAM</p>		

U.S. Registration No.	1429657	Application Date	06/30/1986
Registration Date	02/17/1987	Foreign Priority Date	NONE
Word Mark	NUTRISYSTEM		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 042. First use: First Use: 1985/06/00 First Use In Commerce: 1985/06/00 CONDUCTING A SUPERVISED PROGRAM FOR WEIGHT REDUCTION INCLUDING ACCELERATED WEIGHT REDUCTION AND CONTROL, NUTRITION AND EXERCISE		
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U.S. Registration No.	1625052	Application Date	09/21/1987
Registration Date	11/27/1990	Foreign Priority Date	NONE

Word Mark	NUTRI/SYSTEM		
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Design Mark			
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Description of Mark	NONE		
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Goods/Services	<p>Class 029. First use: First Use: 1985/06/00 First Use In Commerce: 1985/06/00 BASE MIX FOR FOODS, NAMELY FOR MAKING SOUPS, SALAD DRESSINGS AND SNACK DIPS</p> <p>Class 030. First use: First Use: 1985/06/00 First Use In Commerce: 1985/06/00 FLAVORINGS FOR FOOD AND FOR FOOD BEVERAGES; BASE MIX FOR MAKING MILKSHAKES, FROZEN PUDDING BARS, AND SHERBET; CHOCOLATE AND VANILLA POWDER MIXES FOR MAKING FOOD BEVERAGES</p> <p>Class 032. First use: First Use: 1985/06/00 First Use In Commerce: 1985/06/00 BASE MIX FOR MAKING FRUIT FLAVORED SOFTDRINKS</p>		
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U.S. Registration No.	1731373	Application Date	11/04/1991
Registration Date	11/10/1992	Foreign Priority Date	NONE

Word Mark	NUTRISYSTEM		
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Design Mark			
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Description of Mark	NONE		
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Goods/Services	<p>Class 029. First use: First Use: 1991/06/05 First Use In Commerce: 1991/06/05 dinner entrees having a meat, fish, poultry, vegetable or cheese base</p> <p>Class 030. First use: First Use: 1991/06/05 First Use In Commerce: 1991/06/05 dinner entrees having a pasta base</p>		
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U.S. Registration No.	1767562	Application Date	02/23/1990
Registration Date	04/27/1993	Foreign Priority Date	NONE

Word Mark	NUTRI/SYSTEM		
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Design Mark			
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Description of Mark	NONE		
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Goods/Services	<p>Class 030. First use: First Use: 1986/05/00 First Use In Commerce: 1986/05/00 snack foods; namely, crackers; food flavorings; candy; and dry mixes for making fruit flavored tea drinks</p> <p>Class 031. First use: First Use: 1989/04/00 First Use In Commerce: 1989/04/00 snack foods; namely, unpopped popcorn</p>		
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U.S. Registration No.	1776989	Application Date	02/22/1990
Registration Date	06/15/1993	Foreign Priority Date	NONE
Word Mark	NUTRISYSTEM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 005. First use: First Use: 1988/00/00 First Use In Commerce: 1988/00/00 breakfast foods; namely, cereals, pancake mix, waffles and muffins, sold only through weight loss centers for use in connection with a supervised weight control program</p>		

U.S. Registration No.	1956649	Application Date	02/22/1990
Registration Date	02/13/1996	Foreign Priority Date	NONE
Word Mark	NUTRISYSTEM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 029. First use: First Use: 1989/07/00 First Use In Commerce: 1989/07/00 breakfast, lunch and dinner entrees having a meat, fish, poultry, vegetable or cheese base; egg based entrees; namely, omelet mixes; dry mixes for making soups; dry mixes for making yogurts; salad dressing; and snack foods; namely, potato chips</p> <p>Class 030. First use: First Use: 1989/07/00 First Use In Commerce: 1989/07/00 entrees having a pasta base; drinks; namely, dry mixes for making coffee flavored substantially non-dairy food beverages, cocoa flavored substantially non-dairy food beverages, and fruit flavored substantially non-dairy food beverages; artificially flavored maple syrup; dry mixes for making chocolate and vanilla flavored milk shakes; desserts; namely, cookies, fruit flavored bran/fiber bars, and dry mixes for making cupcakes, puddings, flavored gelatin and sherbet; snack foods; namely, pretzels; and crackers and rolls</p> <p>Class 032. First use: First Use: 1986/05/00 First Use In Commerce: 1986/05/00 dry mixes for making fruit flavored soft drinks</p>		

U.S. Registration No.	3251743	Application Date	08/10/2006
Registration Date	06/12/2007	Foreign Priority Date	NONE
Word Mark	NUTRISYSTEM		

Design Mark	<h1>NUTRISYSTEM</h1>		
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2003/12/29 First Use In Commerce: 2003/12/29 VITAMINS, MINERAL SUPPLEMENTS, NUTRITIONAL SUPPLEMENTS, PROTEIN SUPPLEMENTS, HERBAL SUPPLEMENTS, MEAL REPLACEMENT POWDERS AND DRINKS, USED IN CONNECTION WITH AWEIGHT MANAGEMENT PROGRAM		

U.S. Registration No.	3433126	Application Date	04/10/2006
Registration Date	05/20/2008	Foreign Priority Date	NONE

Word Mark	NUTRISYSTEM		
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Design Mark	<h1>NUTRISYSTEM</h1>		
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Description of Mark	NONE		
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Goods/Services	Class 009. First use: First Use: 2007/07/16 First Use In Commerce: 2007/07/16 Pre-recorded videotapes detailing instruction on obesity, weight loss/weight management programs, including nutrition and exercise Class 016. First use: First Use: 2003/12/15 First Use In Commerce: 2003/12/15 Educational publications, namely, training manuals and brochures detailing instruction on obesity, weight loss/weight management programs, including nutrition and exercise		
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U.S. Registration No.	3467401	Application Date	11/28/2007
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Registration Date	07/15/2008	Foreign Priority Date	NONE
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Word Mark	NUTRISYSTEM		
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Design Mark	<h1>NUTRISYSTEM</h1>		
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1989/07/00 First Use In Commerce: 1989/07/00 BREAKFAST, LUNCH AND DINNER ENTREES, AND SNACKS CONTAINING MEAT, FISH AND POULTRY, EGGS, MILK AND MILK PRODUCTS, NAMELY, CREAM CHEESE SPREAD, CHEESE SPREAD, COTTAGE CHEESE, SOUR CREAM, DRIED AND COOKED FRUITS AND VEGETABLES, JELLIES, SAUCES, NAMELY, APPLESAUCE, SNACK DIPS AND SOUPS; PROTEIN BASED NUTRIENT-DENSE SNACK BARS, YOGURTS		

U.S. Registration No.	3519390	Application Date	11/28/2007
Registration Date	10/21/2008	Foreign Priority Date	NONE

Word Mark	NUTRISYSTEM		
Design Mark	<h1>NUTRISYSTEM</h1>		
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1989/07/00 First Use In Commerce: 1989/07/00 MILKSHAKES, PUDDINGS; BREAKFAST, LUNCH, DINNER ENTREES, SNACKS AND DESSERTS, NAMELY, CEREALS; CEREAL BARS, NAMELY, READY TO EAT, CEREAL DERIVED FOOD BARS, MUFFINS, BREADS, DESSERT BARS, NAMELY, BROWNIES, COFFEE FLAVORED DESSERT BARS, CHOCOLATE CRUNCH BARS, PEANUT BUTTER, CARAMELAND MINT CHEWY CHOCOLATE BARS, FRUIT BARS, NUT BARS, RICE, SAUCES, NAMELY, SALSAS AND TOMATO SAUCES, GRAVIES, SALAD DRESSINGS, FROZEN BARS AND ICES, NAMELY, FUDGE BARS, FROZEN CONFECTIONS AND ICE POPS, FOOD BEVERAGES WITH A COFFEE, TEA OR COCOA BASE, NAMELY, COFFEE BASED BEVERAGES CONTAINING MILK, COCOA BASED BEVERAGES CONTAINING MILK, ICED TEAS		

U.S. Registration No.	3519391	Application Date	11/28/2007
Registration Date	10/21/2008	Foreign Priority	NONE

		Date	
Word Mark	NUTRISYSTEM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1986/05/00 First Use In Commerce: 1986/05/00 FRUIT DRINKS, FRUIT JUICES, AND OTHER PREPARATIONS, NAMELY, POWDER MIXES FOR MAKING LEMONADE AND CITRUS FLAVORED DRINKS, AND ORANGEADE		

U.S. Registration No.	4327113	Application Date	05/04/2012
Registration Date	04/30/2013	Foreign Priority Date	NONE
Word Mark	NUTRISYSTEM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 2001/07/01 First Use In Commerce: 2001/07/01 Providing online chat rooms and electronic bulletin boards for transmission of messages among registered computer usersconcerning weight loss, weight management, nutrition, and exercise; Online chatservices featuring information providedby a weight loss counselor, and weight loss and weight maintenance subscriptionlevel services in the nature of audio, video, image, voice, and data information transmitted through the internet and electronic mobile devices		

U.S. Registration No.	4327114	Application Date	05/04/2012
Registration Date	04/30/2013	Foreign Priority Date	NONE
Word Mark	NUTRISYSTEM		

Design Mark	<h1>NUTRISYSTEM</h1>		
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2009/02/01 First Use In Commerce: 2009/02/01 Computer services, namely, creating and hosting an online community website for registered users to share, discuss, obtain feedback from their peers and engage in social networking related to weight loss, weight management, exercise, food, nutrition and fitness		

U.S. Registration No.	4327116	Application Date	05/04/2012
Registration Date	04/30/2013	Foreign Priority Date	NONE

Word Mark	NUTRISYSTEM		
Design Mark	<h1>NUTRISYSTEM</h1>		

Description of Mark	NONE		
Goods/Services	<p>Class 041. First use: First Use: 1999/06/01 First Use In Commerce: 1999/06/01 Providing information regarding exercise programs by telephone and a global computer network; Providing an interactive website featuring information and links pertaining to exercise</p> <p>Class 044. First use: First Use: 1999/06/01 First Use In Commerce: 1999/06/01 Health care services, namely, providing treatment, planning and counseling for weight reduction and obesity, weight management in the nature of weight loss and/or weight maintenance programs and weight reduction diet supervision, namely, providing individuals with customized weight loss and weight management counseling, weight management planning and transition planning and nutrition behavior modification, all provided by telephone and a global computer network; providing an interactive website featuring information and links to healthy living, weight loss, weight management, and nutrition</p>		

U.S. Registration No.	4327117	Application Date	05/04/2012
Registration Date	04/30/2013	Foreign Priority	NONE

		Date	
Word Mark	NUTRISYSTEM		
Design Mark			
Description of Mark	The mark consists of the word "NUTRISYSTEM" with a leaf comprising the dot of the letter "i".		
Goods/Services	<p>Class 041. First use: First Use: 2009/03/11 First Use In Commerce: 2009/03/11 Providing information regarding exercise programs by telephone and a global computer network; Providing an interactive website featuring information and links pertaining to exercise</p> <p>Class 044. First use: First Use: 2009/03/11 First Use In Commerce: 2009/03/11 Health care services, namely, providing treatment, planning and counseling for weight reduction and obesity, weight management in the nature of weight loss and/or weight maintenance programs and weight reduction diet supervision, namely, providing individuals with customized weight loss and weight management counseling, weight management planning and transition planning and nutrition behavior modification, all provided by telephone and a global computer network; providing an interactive website featuring information and links to healthy living, weight loss, weight management, and nutrition</p>		

U.S. Registration No.	4330709	Application Date	05/04/2012
Registration Date	05/07/2013	Foreign Priority Date	NONE
Word Mark	NUTRISYSTEM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2001/03/01 First Use In Commerce: 2001/03/01 Computer hardware, software for the collection, editing, organizing, modifying, book marking, transmission, storage and sharing of data and information and peripheral devices, all for use in connection with weight loss and weight management programs; interactive software programs for use in food diary tracking, activity planning, menu planning, calorie tracking, exercise tracking, recipe calculating, and results tracking; digital materials, namely, CDs, DVDs, and downloadable data, image, audio and video files featuring information on weight loss, weight management, nutrition, and exercise; computer application software for mobile and internet enabled devices, namely, software for the collection, editing, organizing, modifying, book marking, transmission, storage and sharing of data and information for use in weight management; electronic diaries; electronic</p>		

	sensors for measuring human body movement, not for medical purposes; scales for food and body weighing
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U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	NUTRISYSTEM		
Goods/Services	Weight loss goods and services		

Attachments	73383698#TMSN.png(bytes) 73394040#TMSN.png(bytes) 73606917#TMSN.png(bytes) 73685587#TMSN.png(bytes) 78949222#TMSN.png(bytes) 78858027#TMSN.png(bytes) 77338836#TMSN.png(bytes) 77338865#TMSN.png(bytes) 77338892#TMSN.png(bytes) 85616681#TMSN.png(bytes) 85616875#TMSN.png(bytes) 85617026#TMSN.png(bytes) 85617220#TMSN.png(bytes) 85616627#TMSN.png(bytes) Notice of Opposition NUTRIMOST 86421639.pdf(732064 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	/Timothy J. Szuhaj/
Name	Timothy J. Szuhaj
Date	05/18/2015

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

NUTRI/SYSTEM IPHC, INC.)	
)	
Opposer,)	
)	
v.)	
	)	Opposition No.:
	)	Serial No. 86/421639
NUTRIMOST LLC	)	Mark: NUTRIMOST
	)	Filing Date: October 13, 2014
Applicant.	)	Publication Date: March 17, 2015

**NOTICE OF
OPPOSITION**

Nutri/System IPHC, Inc., a Delaware corporation, located and doing business at 1011 Centre Road, Suite 322, Wilmington, DE 19805 (“Opposer”), will be damaged in the event that registration issues for NUTRIMOST (Serial No. 86/421639) in International Classes 5 and 44, filed by NutriMost LLC, a Pennsylvania limited liability company (“Applicant”) on October 13, 2014, and hereby opposes Application Serial No. 86/421639.

The grounds for this opposition are as follows:

1. Commencing long prior to Applicant's alleged date of first use, Opposer, and Opposer's predecessor in interest and licensee Nutrisystem, Inc., have engaged, and Opposer through its licensee is now engaged, in the manufacture, distribution, sale, advertising and promotion in interstate commerce of a wide range of products and services.

2. Commencing long prior to Applicant's alleged date of first use, Opposer, and Opposer's predecessor in interest and licensee, have used, and Opposer

through its licensee is now using, Opposer's NUTRISYSTEM trademarks ("Opposer's Marks") in connection with products and services related to weight loss and weight management distributed and sold by Opposer's licensee in commerce.

3. Opposer, is owner of, and will rely herein, upon the following Federal Trademark Registrations:

MARK	Registration No.	Issue Date	Goods
NUTRISYSTEM	1,251,922	September 20, 1983	CONDUCTING A SUPERVISED PROGRAM FOR WEIGHT REDUCTION AND CONTROL, NUTRITION, AND EXERCISE
NUTRISYSTEM	1,297,847	September 25, 1984	CREPES, PANCAKES, MILKSHAKES, FRUIT-FLAVORED GELATINS, AND PUDDINGS, ALL IN POWDERED FORM; TABLE SYRUP IN LIQUID FORM; AND BREAKFAST CEREALS; ALL FOR USE IN A WEIGHT REDUCTION PROGRAM
NUTRISYSTEM	1,429,657	February 17, 1987	CONDUCTING A SUPERVISED PROGRAM FOR WEIGHT REDUCTION INCLUDING ACCELERATED WEIGHT REDUCTION AND CONTROL,

			NUTRITION AND EXERCISE
NUTRISYSTEM	1,625,052	November 27, 1990	<p>BASE MIX FOR FOODS, NAMELY FOR MAKING SOUPS, SALAD DRESSINGS AND SNACK DIPS</p> <p>And</p> <p>FLAVORINGS FOR FOOD AND FOR FOOD BEVERAGES; BASE MIX FOR MAKING MILKSHAKES, FROZEN PUDDING BARS, AND SHERBET; CHOCOLATE AND VANILLA POWDER MIXES FOR MAKING FOOD BEVERAGES</p> <p>And</p> <p>BASE MIX FOR MAKING FRUIT FLAVORED SOFT DRINKS</p>
NUTRISYSTEM	1,731,373	November 10, 1992	DINNER ENTREES HAVING A MEAT, FISH, POULTRY, VEGETABLE OR CHEESE BASE
NUTRISYSTEM	1,767,562	April 27, 1993	SNACK FOODS; NAMELY, CRACKERS; FOOD FLAVORINGS; CANDY; AND DRY MIXES FOR MAKING FRUIT

			FLAVORED TEA DRINKS
NUTRISYSTEM	1,776,989	June 15, 1993	BREAKFAST FOODS; NAMELY, CEREALS, PANCAKE MIX, WAFFLES AND MUFFINS, SOLD ONLY THROUGH WEIGHT LOSS CENTERS FOR USE IN CONNECTION WITH A SUPERVISED WEIGHT CONTROL PROGRAM
NUTRISYSTEM	1,956,649	February 13, 1996	BREAKFAST, LUNCH AND DINNER ENTREES HAVING A MEAT, FISH, POULTRY, VEGETABLE OR CHEESE BASE; EGG BASED ENTREES; NAMELY, OMELET MIXES; DRY MIXES FOR MAKING SOUPS; DRY MIXES FOR MAKING YOGURTS; SALAD DRESSING; AND SNACK FOODS; NAMELY, POTATO CHIPS
NUTRISYSTEM	3,251,743	June 12, 2007	VITAMINS, MINERAL SUPPLEMENTS, NUTRITIONAL SUPPLEMENTS, PROTEIN SUPPLEMENTS, HERBAL SUPPLEMENTS,

			MEAL REPLACEMENT POWDERS AND DRINKS, USED IN CONNECTION WITH A WEIGHT MANAGEMENT PROGRAM
NUTRISYSTEM	3,433,126	May 20, 2008	PRE-RECORDED VIDEOTAPES DETAILING INSTRUCTION ON OBESITY, WEIGHT LOSS/WEIGHT MANAGEMENT PROGRAMS, INCLUDING NUTRITION AND EXERCISE And EDUCATIONAL PUBLICATIONS, NAMELY, TRAINING MANUALS AND BROCHURES DETAILING INSTRUCTION ON OBESITY, WEIGHT LOSS/WEIGHT MANAGEMENT PROGRAMS, INCLUDING NUTRITION AND EXERCISE
NUTRISYSTEM	3,467,401	July 15, 2008	BREAKFAST, LUNCH AND DINNER ENTREES, AND SNACKS CONTAINING MEAT, FISH AND POULTRY, EGGS, MILK AND MILK PRODUCTS, NAMELY, CREAM CHEESE SPREAD,

			CHEESE SPREAD, COTTAGE CHEESE, SOUR CREAM, DRIED AND COOKED FRUITS AND VEGETABLES, JELLIES, SAUCES, NAMELY, APPLESAUCE, SNACK DIPS AND SOUPS; PROTEIN BASED NUTRIENT-DENSE SNACK BARS, YOGURTS
NUTRISYSTEM	3,519,390	October 21, 2008	MILKSHAKES, PUDDINGS; BREAKFAST, LUNCH, DINNER ENTREES, SNACKS AND DESSERTS, NAMELY, CEREALS; CEREAL BARS, NAMELY, READY TO EAT, CEREAL DERIVED FOOD BARS, MUFFINS, BREADS, DESSERT BARS, NAMELY, BROWNIES, COFFEE FLAVORED DESSERT BARS, CHOCOLATE CRUNCH BARS, PEANUT BUTTER, CARAMEL AND MINT CHEWY CHOCOLATE BARS, FRUIT BARS, NUT BARS, RICE, SAUCES, NAMELY, SALSAS AND TOMATO SAUCES,

			GRAVIES, SALAD DRESSINGS, FROZEN BARS AND ICES, NAMELY, FUDGE BARS, FROZEN CONFECTIONS AND ICE POPS, FOOD BEVERAGES WITH A COFFEE, TEA OR COCOA BASE, NAMELY, COFFEE BASED BEVERAGES CONTAINING MILK, COCOA BASED BEVERAGES CONTAINING MILK, ICED TEAS
NUTRISYSTEM	3,519,391	October 21, 2008	FRUIT DRINKS, FRUIT JUICES, AND OTHER PREPARATIONS, NAMELY, POWDER MIXES FOR MAKING LEMONADE AND CITRUS FLAVORED DRINKS, AND ORANGEADE
NUTRISYSTEM	4,327,113	April 30, 2013	PROVIDING ONLINE CHAT ROOMS AND ELECTRONIC BULLETIN BOARDS FOR TRANSMISSION OF MESSAGES AMONG REGISTERED COMPUTER USERS CONCERNING WEIGHT LOSS, WEIGHT MANAGEMENT,

			NUTRITION, AND EXERCISE; ONLINE CHAT SERVICES FEATURING INFORMATION PROVIDED BY A WEIGHT LOSS COUNSELOR, AND WEIGHT LOSS AND WEIGHT MAINTENANCE SUBSCRIPTION LEVEL SERVICES IN THE NATURE OF AUDIO, VIDEO, IMAGE, VOICE, AND DATA INFORMATION TRANSMITTED THROUGH THE INTERNET AND ELECTRONIC MOBILE DEVICES
NUTRISYSTEM	4,327,114	April 30, 2013	COMPUTER SERVICES, NAMELY, CREATING AND HOSTING AN ONLINE COMMUNITY WEBSITE FOR REGISTERED USERS TO SHARE, DISCUSS, OBTAIN FEEDBACK FROM THEIR PEERS AND ENGAGE IN SOCIAL NETWORKING RELATED TO WEIGHT LOSS, WEIGHT MANAGEMENT, EXERCISE, FOOD, NUTRITION AND FITNESS
NUTRISYSTEM	4,327,116	April 30, 2013	PROVIDING INFORMATION

			<p>REGARDING EXERCISE PROGRAMS BY TELEPHONE AND A GLOBAL COMPUTER NETWORK; PROVIDING AN INTERACTIVE WEBSITE FEATURING INFORMATION AND LINKS PERTAINING TO EXERCISE</p> <p>And</p> <p>HEALTH CARE SERVICES, NAMELY, PROVIDING TREATMENT, PLANNING AND COUNSELING FOR WEIGHT REDUCTION AND OBESITY, WEIGHT MANAGEMENT IN THE NATURE OF WEIGHT LOSS AND/OR WEIGHT MAINTENANCE PROGRAMS AND WEIGHT REDUCTION DIET SUPERVISION, NAMELY, PROVIDING INDIVIDUALS WITH CUSTOMIZED WEIGHT LOSS AND WEIGHT MANAGEMENT COUNSELING, WEIGHT MANAGEMENT PLANNING AND</p>
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			TRANSITION PLANNING AND NUTRITION BEHAVIOR MODIFICATION, ALL PROVIDED BY TELEPHONE AND A GLOBAL COMPUTER NETWORK; PROVIDING AN INTERACTIVE WEBSITE FEATURING INFORMATION AND LINKS TO HEALTHY LIVING, WEIGHT LOSS, WEIGHT MANAGEMENT, AND NUTRITION
NUTRISYSTEM	4,327,117	April 30, 2013	PROVIDING INFORMATION REGARDING EXERCISE PROGRAMS BY TELEPHONE AND A GLOBAL COMPUTER NETWORK; PROVIDING AN INTERACTIVE WEBSITE FEATURING INFORMATION AND LINKS PERTAINING TO EXERCISE And HEALTH CARE SERVICES, NAMELY, PROVIDING TREATMENT, PLANNING AND COUNSELING FOR WEIGHT

			REDUCTION AND OBESITY, WEIGHT MANAGEMENT IN THE NATURE OF WEIGHT LOSS AND/OR WEIGHT MAINTENANCE PROGRAMS AND WEIGHT REDUCTION DIET SUPERVISION, NAMELY, PROVIDING INDIVIDUALS WITH CUSTOMIZED WEIGHT LOSS AND WEIGHT MANAGEMENT COUNSELING, WEIGHT MANAGEMENT PLANNING AND TRANSITION PLANNING AND NUTRITION BEHAVIOR MODIFICATION, ALL PROVIDED BY TELEPHONE AND A GLOBAL COMPUTER NETWORK; PROVIDING AN INTERACTIVE WEBSITE FEATURING INFORMATION AND LINKS TO HEALTHY LIVING, WEIGHT LOSS, WEIGHT MANAGEMENT, AND NUTRITION
NUTRISYSTEM	4,330,709	May 7, 2013	COMPUTER HARDWARE, SOFTWARE FOR THE COLLECTION,

			EDITING, ORGANIZING, MODIFYING, BOOK MARKING, TRANSMISSION, STORAGE AND SHARING OF DATA AND INFORMATION AND PERIPHERAL DEVICES, ALL FOR USE IN CONNECTION WITH WEIGHT LOSS AND WEIGHT MANAGEMENT PROGRAMS; INTERACTIVE SOFTWARE PROGRAMS FOR USE IN FOOD DIARY TRACKING, ACTIVITY PLANNING, MENU PLANNING, CALORIE TRACKING, EXERCISE TRACKING, RECIPE CALCULATING, AND RESULTS TRACKING; DIGITAL MATERIALS, NAMELY, CDS, DVDS, AND DOWNLOADABLE DATA, IMAGE, AUDIO AND VIDEO FILES FEATURING INFORMATION ON WEIGHT LOSS, WEIGHT MANAGEMENT, NUTRITION, AND
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			EXERCISE; COMPUTER APPLICATION SOFTWARE FOR MOBILE AND INTERNET ENABLED DEVICES, NAMELY, SOFTWARE FOR THE COLLECTION, EDITING, ORGANIZING, MODIFYING, BOOK MARKING, TRANSMISSION, STORAGE AND SHARING OF DATA AND INFORMATION FOR USE IN WEIGHT MANAGEMENT; ELECTRONIC DIARIES; ELECTRONIC SENSORS FOR MEASURING HUMAN BODY MOVEMENT, NOT FOR MEDICAL PURPOSES; SCALES FOR FOOD AND BODY WEIGHING
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(“Opposer’s Registered Marks”). The registrations of Opposer’s Registered Marks are valid, subsisting and conclusive evidence of Opposer’s exclusive right to use Opposer’s Registered Marks in commerce on the goods and services specified in said registrations. Opposer shall rely herein upon its common law usage of Opposer’s other NUTRISYSTEM marks for other various promotional and licensed products and uses (“Opposer’s Common Law Marks”). Together, Opposer’s Marks,

Opposer's Registered Marks and Opposer's Common Law Marks are hereafter referred to as Opposer's "NUTRISYSTEM Marks."

4. Opposer and its licensee have made substantial investment in advertising and promoting goods and services under Opposer's NUTRISYSTEM Marks since their initial use. Opposer, through its licensee, has extensively used, advertised, promoted and offered Opposer's goods and services bearing Opposer's NUTRISYSTEM Marks to the public through various channels of trade in commerce with the result that the subject customers and the public in general have come to know and recognize Opposer's NUTRISYSTEM Marks and associate the same with Opposer and/or goods sold by Opposer's licensee.

5. Upon information and belief, notwithstanding Opposer's rights in and to Opposer's NUTRISYSTEM Marks, on October 13, 2014, Applicant filed an application for registration of the proposed NUTRIMOST Mark alleging use in association with "[d]ietary and nutritional supplements used for weight loss" and "[p]roviding weight loss and nutritional program services" in International Classes 5 and 44, respectively. Said application was assigned Serial No. 86/421,639.

6. Although Applicant's NUTRIMOST Mark is neither visually nor aurally identical to the NUTRISYSTEM Marks, the use of the "Nutri" formative mark in association with goods and services identical and/or closely related to those of Opposer results in Applicant's mark resembling Opposer's NUTRISYSTEM Marks so as to likely cause confusion or mistake or to deceive purchasers resulting in damage and detriment to Opposer and its reputation.

7. Opposer, upon information and belief, avers that its customers, and the

public generally, are likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant's proposed goods and services to be marketed under Applicant's alleged NUTRIMOST Mark and misled into believing that such goods and services emanate from, or are licensed to or are in some way directly or indirectly associated with Opposer, to the detriment of Opposer and its reputation.

8. In the event that registration issues, Opposer, upon information and belief, avers that it will be damaged by the registration by Applicant of the alleged NUTRIMOST Mark, as set forth in Applicant's Trademark Application Serial No. 86/421,639, in that the mark is substantially similar to Opposer's NUTRISYSTEM Marks, and may permit the same to be used in connection with the sale and advertising of goods and services that are either directly competitive with or closely related to Opposer's goods and services. In the event that such goods and services are directly competitive and/or closely related, consumers could easily infer that the alleged NUTRIMOST Mark branded goods and services were either an extension of Opposer's goods and services or that Opposer had licensed Applicant's use of Opposer's famous brand.

Wherefore, the Opposer, Nutri/System IPHC, Inc., believes and avers that it will be damaged by registration of the proposed NUTRIMOST Mark as aforesaid, and prays that said Application Serial No. 86/421,639 be rejected, that no registration be issued thereon to Applicant with respect to said application and that this Opposition be sustained in favor of Opposer.

Respectfully Submitted,

NUTRI/SYSTEM IPHC, INC.

By 
Becker Meisel LLC
220 Lake Drive East, Suite 102
Cherry Hill, NJ 08002

Date: May 18, 2015

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

NUTRI/SYSTEM IPHC, INC.)	
)	
Opposer,)	
)	
v.)	
	)	Opposition No.:
	)	Serial No. 86/421639
NUTRIMOST LLC	)	Mark: NUTRIMOST
	)	Filing Date: October 13, 2014
Applicant.	)	Publication Date: March 17, 2015

**CERTIFICATE OF
SERVICE**

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on the following Correspondent listed on the TSDR website of the United States Patent and Trademark Office by mailing said copy on May 18, 2015, via First Class Mail, postage prepaid to:

NUTRIMOST
135 BELLA VISTA CT
MURRYSVILLE, PENNSYLVANIA 15668-2621



Timothy J. Szuhaj