

ESTTA Tracking number: **ESTTA674515**

Filing date: **05/27/2015**

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	AB MAURI FOOD INC.
Granted to Date of previous extension	05/27/2015
Address	1350 Timberlake Manor Parkway, Suite 550 Chesterfield, MO 63017 UNITED STATES
Attorney information	Samantha M. Quimby Frost Brown Todd LLC One Columbus, Suite 2300 10 West Broad Street Columbus, OH 43215 UNITED STATES squimby@fbtlaw.com, kcomella@fbtlaw.com, fbtiplitigation@fbtlaw.com,

Applicant Information

Application No	86387268	Publication date	01/27/2015
Opposition Filing Date	05/27/2015	Opposition Period Ends	05/27/2015
Applicant	Nootie LLC Suite 210 Delray Beach, FL 33483 UNITED STATES		

Goods/Services Affected by Opposition

Class 031. First Use: 2014/09/05 First Use In Commerce: 2014/09/05 All goods and services in the class are opposed, namely: Pet food; Dog Food; Cat food; Dog Treats; Cat Treats

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3357281	Application Date	07/05/2005
Registration Date	12/18/2007	Foreign Priority Date	NONE
Word Mark	AB MAURI		

Design Mark	<h1>AB MAURI</h1>
Description of Mark	NONE
Goods/Services	<p>Class 001. First use: First Use: 2005/09/30 First Use In Commerce: 2005/09/30 House mark for a full line of chemical food additives, preservatives and ingredients used in the manufacture of bakery goods, namely, dough improvers, dough leaveners, mold inhibitors, acidulants, mineral salts, gums, oxidation agents, and enzyme tablets</p> <p>Class 030. First use: First Use: 2005/09/30 First Use In Commerce: 2005/09/30 Yeast, corn syrups, malt syrups, flour, sugar, vinegar, molasses, baking powder, baking soda</p>

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	AB MAURI		
Goods/Services	Specialty ingredients for pet care, pet food, and pet nutritional products.		

Attachments	AB Mauri_Notice of Opposition re MAURI.pdf(437892 bytes) AB Mauri_Exhibit A to Notice of Opposition re MAURI.pdf(684721 bytes) 78664078#TMSN.png(bytes)
-------------	---

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	/samantha m quimby/
Name	Samantha M. Quimby
Date	05/27/2015

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

IN THE MATTER OF: Trademark Serial No. 86/387,268—MAURI
DATE OF PUBLICATION: January 27, 2015

AB MAURI FOOD, INC.

Opposer,

v.

NOOTIE LLC

Applicant.

Opposition Proceeding No.: _____

NOTICE OF OPPOSITION

AB Mauri Food Inc., a corporation organized under the laws of California, having a place of business at 4240 Duncan Avenue, Suite 110, St. Louis, Missouri 63110 (hereinafter “AB Mauri” or “Opposer”) believes it will be damaged by registration of Application Serial No. 86/387,268 for MAURI word mark filed by Nootie LLC (hereinafter the “Applicant” or “Nootie”) and published for use on “Pet food; Dog Food; Cat food; Dog Treats; Cat Treats” in Class 31, and hereby opposes the same under the provisions of Section 13 of the Trademark Act of July 5, 1946, codified at 15 U.S.C. § 1063.

As grounds therefore, Opposer alleges:

1. AB Mauri is a nationwide manufacturer and distributor of specialty yeast and a broad range of bakery ingredients.
2. In particular, AB Mauri supplies the animal feed and nutrition market with specialty yeast ingredients and has done so since at least as early as 2011.
3. AB Mauri has enjoyed much success from the sale of its specialty ingredients to the animal feed and nutrition market.
4. In 2014 alone, AB Mauri collected revenues in excess of \$2,000,000 from sales of AB Mauri branded goods to the animal feed and nutrition market.
5. Specifically, AB Mauri provides its specialty ingredients to notable producers of pet food products and pet care for consumer retail in the United States.
6. Opposer is the owner of, among others, the following federal trademark registration:

AB MAURI—Registration No. 3,357,281, registered December 18, 2007, for house mark for a full line of chemical food additives, preservatives and ingredients used in the manufacture of bakery goods, namely, dough improvers, dough leaveners, mold inhibitors, acidulants, mineral salts, gums, oxidation agents, and enzyme tablets, in Class 1; and yeast corns syrups, malt syrups, flour, vinegar, molasses, baking powder, baking soda, in Class 30.

(the “AB Mauri Registered Mark”).

7. Pursuant to Trademark Rule 2.122(d)(1), Opposer hereby provides proof of status and title of the AB Mauri Registered Mark by filing a copy of the records from the

USPTO electronic database attached hereto as Exhibit A.

8. The certificate of registration identified in paragraph 6 is valid and subsisting; is *prima facie* evidence of the validity of the registration, of Opposer's ownership of the AB Mauri Registered Mark, and Opposer's exclusive right to use the AB Mauri Registered Mark in commerce in connection with the goods specified under the provisions of 15 U.S.C. § 1057(b); and serves as constructive notice of Opposer's claim of ownership under 15 U.S.C. § 1072. Moreover, this registration is incontestable, which provides conclusive evidence of its validity, of Opposer's ownership of the mark, and of Opposer's exclusive right to use the AB Mauri Registered Mark in commerce under 15 U.S.C. § 1115(b).
9. Further, Opposer has expanded its rights in the AB Mauri Mark to include specialty ingredients for the animal feed and nutrition market. Since at least as early as 2011, Opposer has developed significant common law rights and interest in and to the term "AB Mauri" as a trademark for ingredients sold to the animal feed and nutrition market (the AB Mauri Registered Mark and the AB Mauri common law trademark are collectively referred to as the "AB Mauri Mark").
10. Nootie is the owner of Application Serial No. 86/387,268 for MAURI for use in connection with pet food; dog food; cat food; dog treats; cat treats in Class 31, with an alleged date of first use of September 5, 2014.
11. Applicant's goods are not restricted to any particular trade channel such that they will be found in the same retail markets and on the same retail shelves as the products containing "AB Mauri" branded specialty ingredients.
12. Opposer has continuously and long prior to September 5, 2014—the alleged first use

date of the Applied-for Mark by Applicant for use in connection with its Class 31 goods—used “AB Mauri” as a trademark or made use in a manner analogous to trademark use in connection with highly related and/or overlapping goods.

13. Applicant’s Applied-for Mark is confusingly similar to Opposer’s AB Mauri Mark such that one would reasonably expect the Applied-for Mark to emanate from Opposer, and the contemporaneous use thereof is likely to cause confusion, mistake, or deception in that the purchasing public is likely to believe that Applicant or Applicant’s goods emanate from, or are in some way associated or connected with, or sponsored, licensed, or authorized by Opposer, all to the damage of Opposer and should be refused registration under Section 2(d) of the Lanham Act.
14. In addition, if the Applied-for Mark matures to registration, Opposer believes it will be damaged in that, any subsequent application(s) by Opposer for federal trademark registration of AB Mauri for use in connection with ingredients sold to animal feed and nutrition market is likely to be refused by the United States Patent and Trademark Office due to the similarity of the marks (AB MAURI vs. MAURI) and the relatedness of the respective parties’ goods (*pet food and pet care ingredients vs. pet food*).
15. In addition, if the Applied-for Mark matures to registration, Nootie will be afforded a legal presumption to rights that it is otherwise not entitled as Opposer is the senior “MAURI” user in the animal feed and nutrition market.
16. Given Opposer’s prior trademark rights and use of the AB Mauri Mark for use in connection with ingredients sold to the animal feed and nutrition market, any federal

trademark registration for the Applied-for Mark conferring exclusive, nationwide rights would be improper and would interfere with Opposer's prior rights.

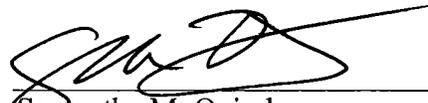
17. By reason of the foregoing, Opposer's opposition should be sustained and Nootie's application refused registration pursuant to Section 13 of the Trademark Act (15 U.S.C. § 1063).

WHEREFORE, Opposer prays that this Notice of Opposition be sustained and that Application Serial No. 86/387,268 Applied-for Mark be refused registration.

The fee of \$300 as provided by Sections 13 and 31 of the Trademark Act of 1946 is paid by credit card upon electronic filing of this Notice of Opposition. Please recognize Samantha M. Quimby and Kathryn A. Comella, both members of the Bar of the State of Ohio, as its attorneys to prosecute this Notice of Opposition and to transact all business in the Patent and Trademark Office in connection herewith. Please address all communications and correspondence to: Samantha M. Quimby, Frost Brown Todd LLC, 10 West Broad Street, Suite 2300, Columbus, Ohio 43215, Telephone 614.559.7282, Facsimile 614.464.1737, E-mail squimby@fbtlaw.com.

Date: May 27, 2015

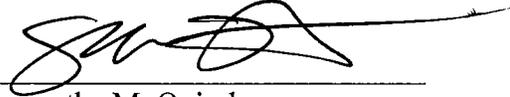
Respectfully submitted,



Samantha M. Quimby
Kathryn A. Comella
FROST BROWN TODD LLC
One Columbus, Suite 2300
10 West Broad Street
Columbus, Ohio 43215-3484
Telephone: (614) 559-7282
Facsimile: (614) 464-1737

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Opposition was served via first class mail, postage prepaid upon counsel for Applicant, Raj Abhyanker, Raj Abhyanker, P.C. 1580 West El Camino Real, Suite 8, Mountain View, California 94040-2462 on this 27th day of May 2015.



Samantha M. Quimby
Attorney for AB Mauri Food, Inc.

Exhibit A


United States Patent and Trademark Office
[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)
Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue May 26 03:21:16 EDT 2015

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#)

Logout

Please logout when you are done to release system resources allocated for you.

Record 1 out of 1
[TSDR](#)
[ASSIGN STATUS](#)
[LITIG STATUS](#)

(Use the "Back" button of the Internet Browser to return to TESS)

AB MAURI

Word Mark	AB MAURI
Goods and Services	IC 001. US 001 005 006 010 026 046. G & S: House mark for a full line of chemical food additives, preservatives and ingredients used in the manufacture of bakery goods, namely, dough improvers, dough leaveners, mold inhibitors, acidulants, mineral salts, gums, oxidation agents, and enzyme tablets. FIRST USE: 20050930. FIRST USE IN COMMERCE: 20050930
	IC 030. US 046. G & S: Yeast, corn syrups, malt syrups, flour, sugar, vinegar, molasses, baking powder, baking soda. FIRST USE: 20050930. FIRST USE IN COMMERCE: 20050930
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Trademark Search Facility Classification Code	LETS-2 AB Two letters or combinations of multiples of two letters
Serial Number	78664078
Filing Date	July 5, 2005
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	January 9, 2007
Registration Number	3357281

Registration Date December 18, 2007

Owner (REGISTRANT) AB MAURI FOOD INC. CORPORATION CALIFORNIA 1350 Timberlake Manor Parkway, Suite 550 Chesterfield MISSOURI 63017

Attorney of Record Samantha M. Quimby

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Other Data The name(s), portrait(s), and/or signature(s) shown in the mark does not identify a particular living individual.

Live/Dead Indicator LIVE

[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICT](#)[SEARCH OG](#)[TOP](#)[HELP](#)

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)