

ESTTA Tracking number: **ESTTA696653**

Filing date: **09/17/2015**

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	Sweetgreen, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	1728 14th Street, N.W., 4th Floor Washington, DC 20009 UNITED STATES		

Attorney information	Vincent J. Badolato Cooley LLP 1299 Pennsylvania Avenue, NW Suite 700 Washington, DC 20004 UNITED STATES trademarks@cooley.com, mklumpp@cooley.com, pwillsey@cooley.com, vbadolato@cooley.com Phone:202-842-7800		
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Applicant Information

Application No	86571853	Publication date	08/18/2015
Opposition Filing Date	09/17/2015	Opposition Period Ends	09/17/2015
Applicant	Vanessa Uteau 7131 Caminito Pantoja San Diego, CA 92122 UNITED STATES		

Goods/Services Affected by Opposition

Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Restaurant services featuring organic food and beverages

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.	3454783	Application Date	03/07/2007
Registration Date	06/24/2008	Foreign Priority Date	NONE
Word Mark	SWEETGREEN		

Design Mark	SWEETGREEN		
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2007/08/01 First Use In Commerce: 2007/08/01 Restaurant Services and Catering Services		

U.S. Registration No.	3951701	Application Date	09/18/2009
Registration Date	04/26/2011	Foreign Priority Date	NONE
Word Mark	SWEETGREEN		
Design Mark	SWEETGREEN		
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2007/08/17 First Use In Commerce: 2007/08/17 Canvas shopping bags; all-purpose reusable carrying bags		

U.S. Registration No.	3951702	Application Date	09/18/2009
Registration Date	04/26/2011	Foreign Priority Date	NONE
Word Mark	SWEETGREEN		
Design Mark	SWEETGREEN		
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 2007/08/17 First Use In Commerce: 2007/08/17 Salad bowls, bowls, water bottles sold empty		

U.S. Registration	4032144	Application Date	09/18/2009
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No.			
Registration Date	09/27/2011	Foreign Priority Date	NONE
Word Mark	SWEETGREEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2007/08/00 First Use In Commerce: 2007/08/00 Clothing, namely, shirts and t-shirts sold as promotional items		

U.S. Registration No.	4012976	Application Date	09/18/2009
Registration Date	08/16/2011	Foreign Priority Date	NONE
Word Mark	SWEETGREEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2011/05/00 First Use In Commerce: 2011/05/00 Edible oils; olive oil		

U.S. Application No.	77829459	Application Date	09/18/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SWEETGREEN		

Design Mark	<h1>SWEETGREEN</h1>		
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 0 First Use In Commerce: 0 Salad dressing; vinegar; frozen yogurt		

U.S. Registration No.	4495094	Application Date	07/12/2010
Registration Date	03/11/2014	Foreign Priority Date	NONE
Word Mark	SWEETGREEN		
Design Mark	<h1>SWEETGREEN</h1>		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2011/02/00 First Use In Commerce: 2011/02/00 Charitable fundraising services, namely, organizing and conducting fundraising events to raise money and awareness for socially progressive causes related to the environment, nutrition, diet, youth activities and health, and general healthy living		

U.S. Application No.	86416423	Application Date	10/07/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SWEETGREEN		

Design Mark	<h1>SWEETGREEN</h1>
Description of Mark	NONE
Goods/Services	Class 032. First use: First Use: 0 First Use In Commerce: 0 Beer Class 033. First use: First Use: 0 First Use In Commerce: 0 Wine

U.S. Registration No.	3859178	Application Date	09/09/2009
Registration Date	10/12/2010	Foreign Priority Date	NONE

Word Mark	SWEETGREEN
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Description of Mark	The mark consists of the word "sweetgreen" in lower case form, "sweet" being in dark green and "green" being in light green, to the left of a design of two overlapping leaves each in two shades of green, the leftmost leaf being dark green with light green lining and the rightmost leaf being light green with dark green lining.
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Goods/Services	Class 035. First use: First Use: 2007/08/01 First Use In Commerce: 2007/08/01 Retail store services primarily featuring salads, sandwiches and frozen yogurt Class 043. First use: First Use: 2007/08/01 First Use In Commerce: 2007/08/01 Restaurant services and catering services; restaurant and take-out restaurant services primarily featuring salads, sandwiches and frozen yogurt; catering services primarily featuring salads, sandwiches and frozen yogurt
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U.S. Registration No.	4570542	Application Date	06/03/2010
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Registration Date	07/22/2014	Foreign Priority Date	NONE
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Word Mark	SWEETGREEN
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Design Mark	
Description of Mark	The mark consists of the word "SWEETGREEN" in which the first letter "e" is lower case and backward.
Goods/Services	Class 035. First use: First Use: 2009/09/00 First Use In Commerce: 2009/09/00 Retail store services primarily featuring salads, sandwiches and frozen yogurt Class 043. First use: First Use: 2009/09/00 First Use In Commerce: 2009/09/00 Restaurant services and catering services; restaurant and take-out restaurant services primarily featuring salads, sandwiches and frozen yogurt; catering services primarily featuring salads, sandwiches and frozen yogurt

U.S. Application No.	85052038	Application Date	06/01/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SWEETGREEN		
Design Mark			
Description of Mark	The mark consists of the word "SWEETGREEN" in which the first letter "e" is lower case and backward.		
Goods/Services	Class 030. First use: First Use: 0 First Use In Commerce: 0 salad dressing; vinegar; frozen yogurt; granola-based snack bars; grain-based food bars also containing soy, dried fruits, chocolate, nuts		

Attachments	77124231#TMSN.png(bytes) 77829444#TMSN.png(bytes) 77829447#TMSN.png(bytes) 77829450#TMSN.png(bytes) 77829451#TMSN.png(bytes) 77829459#TMSN.png(bytes) 85082284#TMSN.png(bytes) 86416423#TMSN.png(bytes) 77823137#TMSN.png(bytes) 85053583#TMSN.png(bytes) 85052038#TMSN.png(bytes) Notice of Opposition Sweetgreen v V Uteau (PURE GREENS) .pdf(110434 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	/Mary J. Klumpp/
Name	Mary J. Klumpp
Date	09/17/2015

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

In the Matter of Application Serial No. 86/571,853
For the Trademark PURE GREENS
Published in the Official Gazette on August 18, 2015

Sweetgreen, Inc.,)	
)	
Opposer,)	
)	Opposition No. _____
v.)	
)	
Vanessa Uteau,)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Sweetgreen, Inc. (“Opposer”), a Delaware corporation having its principal place of business at 1728 14th Street, N.W., 4th Floor, Washington, D.C. 20009, believes that it will be damaged by registration of the mark PURE GREENS (the “PURE GREENS Mark”) identified in Application Serial No. 86/571,853 (the “Application”) filed March 20, 2015, by Vanessa Uteau (“Applicant”), an individual having a principal address of 7131 Caminito Pantoja, San Diego, California 92122. Accordingly, Opposer hereby opposes the Application pursuant to Section 13 of the Lanham Act, 15 U.S.C. §1063.

As grounds for this Opposition, Opposer alleges the following.

1. In October 2009, Opposer, formerly known as Greens Management, LLC, officially converted from a limited liability company to a corporation and duly changed its name to Sweetgreen, Inc.

2. Since at least as early as August 2007, Opposer has used its SWEETGREEN trademark and an associated logo prominently featuring the term “SWEETGREEN” in U.S. interstate commerce in connection with its restaurant and catering services.

3. In addition to owning common law trademark rights in the SWEETGREEN trademark, Opposer owns the following U.S. trademark registrations and pending applications:

TRADEMARK	APPLICATION/ REGISTRATION NO.	GOODS/SERVICES
SWEETGREEN	Registration No. 3,454,783	Class 43: Restaurant services and catering services
SWEETGREEN	Registration No. 3,951,701	Class 18: Canvas shopping bags; all-purpose reusable carrying bags
SWEETGREEN	Registration No. 3,951,702	Class 21: Salad bowls, bowls, water bottles sold empty
SWEETGREEN	Registration No. 4,032,144	Class 25: Clothing, namely, shirts and t-shirts sold as promotional items
SWEETGREEN	Registration No. 4,012,976	Class 29: Edible oils; olive oil
SWEETGREEN	Application No. 77/829,459	Class 30: Salad dressing; vinegar; frozen yogurt
SWEETGREEN	Registration No. 4,495,094	Class 36: Charitable fundraising services, namely, organizing and conducting fundraising events to raise money and awareness for socially progressive causes related to the environment, nutrition, diet, youth activities and health, and general healthy living

TRADEMARK	APPLICATION/ REGISTRATION NO.	GOODS/SERVICES
SWEETGREEN	Application No 86/416,423	Class 32: Beer Class 33: Wine
	Registration No. 3,859,178	Class 35: Retail store services primarily featuring salads, sandwiches and frozen yogurt Class 43: Restaurant services and catering services; restaurant and take-out restaurant services primarily featuring salads, sandwiches and frozen yogurt; catering services primarily featuring salads, sandwiches and frozen yogurt
swætgreen	Registration No. 4,570,542	Class 35: Retail store services primarily featuring salads, sandwiches and frozen yogurt Class 43: restaurant services and catering services; restaurant and take-out restaurant services primarily featuring salads, sandwiches and frozen yogurt; catering services primarily featuring salads, sandwiches and frozen yogurt
swætgreen	Application No. 85/052,038	Class 30: Salad dressing; vinegar; frozen yogurt; granola-based snack bars; grain-based food bars also containing soy, dried fruits, chocolate, nuts

Sazerac’s SWEETGREEN word mark and associated logos shall be referred to herein collectively as the “SWEETGREEN Marks.”

4. Opposer has expended considerable effort and expense in promoting its goods and services under its SWEETGREEN Marks. As a result, the SWEETGREEN Marks are widely recognized in the marketplace as indicators of the source of Opposer’s unique food services, and other related goods and services. Thus, the relevant consuming public has come to associate the SWEETGREEN Marks with the substantial and valuable goodwill of Opposer.

5. Applicant seeks to register the PURE GREENS Mark in connection with “restaurant services featuring organic food and beverages” in Class 43.

6. Applicant's Mark is a two-syllable term that ends with the identical word "GREEN." In addition, the terms "PURE" and "SWEET" convey similar positive meanings. As such, Applicant's Mark is highly similar to the SWEETGREEN Marks in visual appearance, pronunciation, meaning, and overall commercial impression.

7. The Application identifies services that are identical to some of the services Opposer provides under its SWEETGREEN Marks, and which are closely related to Opposer's other goods and services. In addition, (i) the channels of trade for the goods and services at issue (restaurant establishments) are identical, and (ii) the target consumers for the relevant goods and services are likely to be the same – consumers looking for a healthy alternative to fast food.

8. Opposer is not affiliated with or connected to Applicant or her prospective services, nor has Opposer endorsed or sponsored Applicant or her prospective services.

9. There is no issue as to priority of use. Applicant filed her Application on an intent-to-use basis on March 20, 2015, whereas Opposer's first use date for its SWEETGREEN mark is August 1, 2007.

10. If Applicant is permitted to register the PURE GREENS Mark in connection with the services identified in the Application, the consuming public will likely be confused or mistaken into believing the services Applicant will provide either emanate from, or are endorsed, sponsored or otherwise approved by Opposer given the (i) similarities between the PURE GREENS Mark and the SWEETGREEN Marks; (ii) identical and/or related nature of the parties' goods and services; (iii) identical and/or related nature of the trade channels through which those goods and services are provided; and (iv) the fact that the goods and services at issue are likely to be directed toward the same consumers.

11. Opposer has no control over the nature and quality of Applicant's services and any deficiency, objection, or fault found in connection with such services marketed under the PURE GREENS Mark would necessarily reflect upon and seriously injure the reputation that Opposer has established for the goods and services offered under its SWEETGREEN Marks.

12. Applicant's registration of the PURE GREENS Mark will cause substantial harm to Opposer's prior existing, superior, and valuable rights in its SWEETGREEN Marks, and will interfere with Opposer's enjoyment of those rights. As such, for the reasons set forth herein, registration of Applicant's Mark should be denied pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

WHEREFORE, based on the foregoing, Opposer requests that the Board sustain this Opposition and that registration of Application Serial No. 86/571,853 be refused.

Date: September 17, 2015

By: *Vincent J. Badolato*
Peter J. Willsey
Vincent J. Badolato
1299 Pennsylvania Avenue, NW
Suite 700
Washington, DC 20004

Attorneys for Opposer Sweetgreen, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on September 17, 2015, I mailed the foregoing **NOTICE OF OPPOSITION** to counsel for Applicant by depositing a true and correct copy of the same with the United States Postal Service, first-class mail, postage prepaid, in an envelope addressed to:

Abigail G. Stephenson
Blanchard Krasner & French
800 Silverado St. Fl. 2
La Jolla, California 92037-4274

Date: September 17, 2015

/Vincent J. Badolato/
Vincent J. Badolato