

ESTTA Tracking number: **ESTTA722376**

Filing date: **01/24/2016**

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	LOCAL ROOTS NYC LLC
Granted to Date of previous extension	01/24/2016
Address	101 Warren Street A3e Brooklyn, NY 11201 UNITED STATES

Attorney information	Louis Smoller Savur Threadgold LLP 225 Broadway, #2420 New York, NY 10007 UNITED STATES ls@savurlaw.com
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**Applicant Information**

Application No	86395115	Publication date	07/28/2015
Opposition Filing Date	01/24/2016	Opposition Period Ends	01/24/2016
Applicant	Precision AgriTechnologies LLC P.O. Box 7000-742 Redondo Beach, CA 90277 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Wholesale and retail distributorship services in the field of fruits and vegetables
Class 039. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: distribution services, namely, delivery of fruits and vegetables

**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. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	LOCAL ROOTS		

Goods/Services	Distribution of food and grocery goods, including fruits and vegetables; Community Supported Agriculture Services
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Attachments	01Local Roots - Notice of Opposition TTAB 2016-01-24.pdf(74174 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	/Louis Smoller/
Name	Louis Smoller
Date	01/24/2016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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LOCAL ROOTS NYC LLC	:	
	:	Opposition No. _____
Opposer,	:	Serial No. 86395115
	:	Mark: LOCAL ROOTS
v.	:	Filing Date: September 15, 2014
	:	Publication Date: July 28, 2015
PRECISION AGRITECHNOLOGIES, LLC:	:	
	:	
Applicant	:	
_____	:	

NOTICE OF OPPOSITION

Local Roots NYC LLC (“Local Roots”), a limited liability corporation organized under the laws of New York with a place of business at 101 Warren Street, Suite A3E, Brooklyn NY 11201, believes that it will be damaged by the registration of the LOCAL ROOTS trademark and servicemark in International Classes 35 and 39 (“Applicant’s Mark”) as shown in Application Serial No. 86395115 filed by applicant Precision AgriTechnologies LLC (“Applicant”) and hereby opposes the same and requests that registration to Applicant be refused.

The grounds for Local Roots’ opposition are as follows:

1. Local Roots is a New York limited liability corporation operating currently, and at all relevant times in the past, as a community supported agriculture provider and grocery distributor, among other things.
2. Local Roots first began using the marks Local Roots, Local Roots NYC, and/or Local Roots CSA (individually and collectively the “Marks”) in 2011, and has continuously used the Marks since that time.

3. Operating under the Marks, Local Roots engages in business activities common to community supported agriculture providers and grocery distributors including, without limitation, distributing food, grocery, and other similar goods to consumers, growing foods, organizing community agricultural food and music festivals, organizing and hosting supper clubs, and other similar events, hosting community table talk discussions, offering and conducting cooking classes, workshops, demonstrations, producing educational materials, and operating a series of websites and social media pages regarding community supported agriculture, farming, and farm share activities.

4. Through extensive common law uses of the Marks in the state of New York, Local Roots has created a widespread and overarching brand that consumers have become accustomed to seeing and recognize products and services bearing the Marks as originating from Local Roots, with the common characteristic of the varied products and services associated with Local Roots being the words “Local Roots” contained with each of the Marks.

5. Local Roots has devoted substantial resources, time and effort to develop, market, and promote the Marks in order to create a common source identifier for the varied goods and services Local Roots offers under the Marks.

6. Applicant is a limited liability corporation organized under the laws of California with a mailing address of P.O. Box 7000-742. Redondo Beach, California 90277.

7. On September 15, 2014, notwithstanding Local Roots’ rights in and to the Marks, Applicant filed an intent to use application to register Applicant’s Mark in International Classes 35, 39, 44, and 45 for uses in connection with a variety of goods and services, namely, wholesale and retail distributorship services in the field of fruits and vegetables, distribution services, namely, delivery of fruits and vegetables, farming services in the fields of fruits and vegetables,

agricultural advice, agricultural services, namely, planting, growing, fertilizing, pruning and picking fruits and vegetables for others, horticultural services, namely, garden conditioning, improvement and maintenance for indoor areas, and legal services, namely, licensing of business and operating methods in the fields of agricultural and farming .

8. There is no issue of priority. Local Roots has been using the Marks in commerce, prior to the Applicant's application date, September 15, 2014, and Local Roots uses, actual and constructive, cover products and services that are identical or closely related to the goods identified in the Application.

9. The goods set forth in the Application are the same, similar, or complementary and related to the products and services marketed by Local Roots under the Marks. Applicant's advertising and use of Applicant's Mark as contemplated in the Application will inevitably reach the same consumers that Local Roots currently engages in business with and targets through Local Roots uses of the Marks.

10. Consumers, upon seeing Applicant's Mark used in connection with Applicant's goods and services, are likely to mistakenly believe that Applicant's Mark, and the goods or services provided in connection therewith, originated from or are connected with, sponsored by, associated with, or licensed or approved by Local Roots and are likely to cause a likelihood of confusion between Local Roots and Applicants goods and services.

11. The Mark as contemplated by the Application, shares the identical element "Local Roots". Thus, the Applicant's Mark is substantially similar in sight, sound, and meaning, to the Marks. As such, Applicant's Mark is confusingly similar to the previous uses of the Marks by Local Roots, and therefore, if Applicant's Mark were allowed to register for goods and services in at least International Classes 35 and 39 as set forth in the Application, such registration would

likely cause confusion, mistake, or deception among consumers concerning the origin, source or sponsorship of Applicant's products in violation of the Lanham Act and other similar trade practice and competition laws.

12. If Applicant's Mark is allowed to register, the confusion between the Marks and Applicant's Marks, both individually and collectively, would result in irreparable damage and injury to Local Roots and to the public.

13. In addition, should the quality of Applicant's good or services be lacking, Applicant's use of Applicant's Mark may also tarnish the Marks, both individually and collectively, resulting in harm to Local Roots' reputation.

14. Local Roots will continue to be irreparably damaged by registration of Applicant's confusingly similar mark. Deficiencies or faults in the quality of Applicant's products are likely to reflect negatively upon, tarnish, and seriously injure the reputation Local Roots has established for its products and service marketed under the Marks. This confusion is likely to result in loss of revenues to Local Roots and damage to its reputation, among other things.

WHEREFORE, Opposer, Local Roots requests that:

1. The registration sought by Applicant, as shown in Application Serial Number 86395115 be refused and that this Notice of Opposition be sustained.

2. That Local Roots be awarded any attorney's fees or costs to which they may be entitled to under law.

3. For any other relief that the Trademark Trial and Appeal Board deems just and proper.

Respectfully submitted,

Dated: January 24, 2016

/s/ Louis Smoller  
Attorney for Local Roots NYC LLC  
Savur Threadgold LLP  
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New York, New York 10007  
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Opposer,	:	Serial No. 86395115
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PRECISION AGRITECHNOLOGIES, LLC:	:	
	:	
Applicant	:	
_____	:	

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on the following Attorney of Record and correspondence for Applicant, Precision AgriTechnologies LLC as listed on the website for the United States Patent and Trademark Office by email and U.S.P.S. Certified Mail on January 24, 2016 to:

Aaron D. Hendelman  
Wilson Sonsini Goodrich & Rosati  
701 Fifth Avenue, Suite 5100  
Seattle, WA 98104  
Email: ahendelman@wsgr.com, dmarlan@wsgr.com

Dated: January 24, 2016

/s/ Louis Smoller \_\_\_\_\_  
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