

ESTTA Tracking number: **ESTTA776306**

Filing date: **10/12/2016**

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	Clif Bar & Company
Granted to Date of previous extension	10/12/2016
Address	1451 66th Street Emeryville, CA 94608 UNITED STATES

Attorney information	Gia L. Cincone, Esq. Kilpatrick Townsend & Stockton LLP Two Embarcadero Center, Suite 1900 San Francisco, CA 94111 UNITED STATES gcincone@kilpatricktownsend.com, dvargas@kilpatricktownsend.com, ltan@kilpatricktownsend.com, tadmin@kilpatricktownsend.com Phone:415-576-0200
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Applicant Information

Application No	86878995	Publication date	06/14/2016
Opposition Filing Date	10/12/2016	Opposition Period Ends	10/12/2016
Applicant	Meat N Nuts LLC 141 High Street Mullica Hill, NJ 08062 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. First Use: 2015/07/15 First Use In Commerce: 2015/07/15 All goods and services in the class are opposed, namely: Trail mix consisting primarily of jerky; Trail mix consisting primarily of processed nuts, and also including dried meats; jerky; Trail mix consisting primarily of processed nuts, and also including chocolate, seeds, dried meat, and dried fruit; Trail mix consisting primarily of processed nuts, seeds, dried fruit and also including chocolate
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Dilution by tarnishment	Trademark Act Sections 2 and 43(c)
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disrepute	Trademark Act Section 2(a)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3778186	Application Date	07/08/2008
Registration Date	04/20/2010	Foreign Priority Date	05/20/2008
Word Mark	FUEL FOR ADVENTURE		
Design Mark	Fuel for Adventure		
Description of Mark	NONE		
Goods/Services	<p>Class 030. First use: First Use: 0 First Use In Commerce: 0</p> <p>Cereal preparations, namely, [cereal based snack foods, cereal based high energy snack foods,] cereal based snack bars, [cereal based high protein snack foods,] cereal based high protein snack bars, cereal based high energy bars [, breakfast cereals; confectionery, namely, chocolate bars, glucose based snack foods in the nature of candy bars, glucose candy bars, high energy gels in the nature of candy, glucose gels in the nature of candy, pastilles, and frozen confectionery; coffee, tea, honey; cereal preparations, namely, corn based snack foods and rice based snack foods; cereal preparations, namely, prepared meals consisting primarily of processed cereals, rice, processed wholegrain, and muesli, and also containing fruit, nuts, chocolate, confectionery, sugar, bread, pastry, glucose, bran, wheatgerm, oats, spices and honey]</p>		

U.S. Registration No.	5005186	Application Date	05/14/2014
Registration Date	07/19/2016	Foreign Priority Date	NONE
Word Mark	FEED YOUR ADVENTURE		
Design Mark	FEED YOUR ADVENTURE		
Description of Mark	NONE		
Goods/Services	<p>Class 030. First use: First Use: 2016/01/07 First Use In Commerce: 2016/01/07</p> <p>Energy bar and energy gels, both comprised primarily of brown rice syrup; ready-to-eat grain based food bars</p>		

Attachments	<p>79057985#TMSN.png(bytes)</p> <p>86979353#TMSN.png(bytes)</p> <p>Notice of Opposition - CHEW YOUR OWN ADVENTURE.pdf(22018 bytes)</p>
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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	/Gia L. Cincone/
Name	Gia L. Cincone
Date	10/12/2016

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

In re Application No. 86/878,995
Filed: January 19, 2016
Published: June 14, 2016, in the Official Gazette
For: **CHEW YOUR OWN ADVENTURE**

CLIF BAR & COMPANY,
Opposer,

vs.

MEAT N NUTS LLC,
Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Madam:

Clif Bar & Company (“Clif Bar”), a California corporation, located and doing business at 1451 66th Street, Emeryville, California 94608, believes it will be damaged by the registration of the mark CHEW YOUR OWN ADVENTURE shown in and covered by Application Serial No. 86/878,995, filed on January 19, 2016, by Meat N Nuts LLC (“Applicant”), a Delaware limited liability company with a mailing address at 141 High Street, Mullica Hill, New Jersey 08062, and published in the Official Gazette of June 14, 2016, and hereby opposes such registration.

As grounds for opposition, Clif Bar alleges:

1. Clif Bar is a famous company known for selling sports/energy/nutrition food and beverages, sponsoring athletic training teams, operating a socially responsible business, and working closely with environmental and charitable organizations. Clif Bar's products, including energy bars, trail mix bars, and other snack foods, are made from organic ingredients and are promoted largely to athletes and nutrition-minded consumers. Clif Bar's products are sold by many well-known retailers, such as REI, Whole Foods, Trader Joe's, Safeway, Wal-Mart, and Target, to name just a few. Clif Bar is working towards operating an entirely sustainable company and has run a program since 2001 where its employees collectively donate at least 2,080 hours (the average number of hours many full-time employees work in a year) to charitable causes. Clif Bar is also affiliated with and/or has provided support to a number of environmental, health, and community-based organizations, such as the Breast Cancer Fund, Habitat for Humanity, Conservation Alliance, and Greenhouse Network. Accordingly, Clif Bar enjoys a well known and highly regarded reputation for selling top-quality food products and for working diligently to help the environment and a variety of charitable causes.

2. Clif Bar is the owner of the distinctive trademark FUEL FOR ADVENTURE, as reflected in U.S. Trademark Registration No. 3,778,186, for cereal-based snack bars and energy bars in International Class 30. The application for said registration was filed on July 8, 2008, and matured to registration on April 20, 2010; Clif Bar acquired the registration by assignment in 2014. Since acquiring the FUEL FOR ADVENTURE trademark, Clif Bar has used the mark on and in connection with the sale of the aforementioned goods.

3. Clif Bar is also the owner of the distinctive trademark FEED YOUR ADVENTURE, as reflected in U.S. Trademark Registration No. 5,005,186 for energy bars and food bars in International Class 30. Clif Bar's application for said registration was filed on May

14, 2014, and matured to registration on July 19, 2016. Clif Bar has used the FEED YOUR ADVENTURE mark on and in connection with the sale of the aforementioned goods since at least as early as January 2016.

4. By virtue of Clif Bar's extensive use and promotion of its FUEL FOR ADVENTURE and FEED YOUR ADVENTURE marks, Clif Bar has established valuable goodwill in the marks. The public has come to associate the FUEL FOR ADVENTURE and FEED YOUR ADVENTURE marks with Clif Bar, and to know the marks as indicators of goods that originate from Clif Bar. As a result of Clif Bar's extensive advertising, sales, and marketing, Clif Bar's FUEL FOR ADVENTURE and FEED YOUR ADVENTURE marks are famous and well known to purchasers.

5. Applicant filed U.S. Trademark Application Serial No. 86/878,995, which is the subject of this Opposition, on January 19, 2016, for the mark CHEW YOUR OWN ADVENTURE for "Trail mix consisting primarily of jerky; Trail mix consisting primarily of processed nuts, and also including dried meats; jerky; Trail mix consisting primarily of processed nuts, and also including chocolate, seeds, dried meat, and dried fruit; Trail mix consisting primarily of processed nuts, seeds, dried fruit and also including chocolate" in International Class 29, with a claimed first use date of July 15, 2015.

6. Applicant's goods are closely related to the products identified in Clif Bar's registrations for its FUEL FOR ADVENTURE and FEED YOUR ADVENTURE marks, and in connection with which Clif Bar has been using and continues to use those marks.

7. Clif Bar's FUEL FOR ADVENTURE and FEED YOUR ADVENTURE marks are undisputedly prior to Applicant's application, which was filed in January 2016 and claims a first use date of July 2015.

8. As a result of the similarity between Clif Bar's FUEL FOR ADVENTURE and FEED YOUR ADVENTURE marks and Applicant's CHEW YOUR OWN ADVENTURE mark, and the closely related nature of Applicant's goods and Clif Bar's goods, Applicant's mark is likely to cause confusion, mistake or deception in the trade and among purchasers as to the source, origin or sponsorship of the parties' respective goods.

9. Specifically, registration of Applicant's mark will lead the public to conclude, incorrectly, that Applicant and/or its goods are have been authorized, sponsored, or licensed by Clif Bar. Issuance of any registration to Applicant for the proposed mark is therefore contrary to the provisions of 15 U.S.C. § 1052(a) and will result in damage to Clif Bar and the public.

10. Applicant's mark is deceptively similar to Clif Bar's FUEL FOR ADVENTURE and FEED YOUR ADVENTURE marks so as to cause confusion, or to cause mistake or to deceive the public as to the origin of Applicant's goods offered under the CHEW YOUR OWN ADVENTURE mark. Therefore, registration of Applicant's mark is prohibited by 15 U.S.C. § 1052(d).

11. Because Applicant's mark creates the same, or essentially the same, commercial impression as Clif Bar's FUEL FOR ADVENTURE and FEED YOUR ADVENTURE marks, registration of Applicant's mark is likely to cause confusion, or to cause mistake or to deceive the public as to the source of Applicant's goods, to the harm and damage of Clif Bar and the public. Therefore, registration of Applicant's mark is prohibited by 15 U.S.C. § 1052(d).

12. Clif Bar's FUEL FOR ADVENTURE and FEED YOUR ADVENTURE marks are distinctive and famous within the meaning of 15 U.S.C. § 1125(c), and were famous before Applicant filed the application at issue and before Applicant began its use of the proposed mark. Applicant's mark has caused or is likely to cause dilution of the distinctive quality of Clif Bar's

marks and/or harm the reputation of Clif Bar's marks in violation of 15 U.S.C. § 1125(c), to the harm and damage of Clif Bar and the public. Therefore, registration of Applicant's mark should be refused under 15 U.S.C. §§ 1052 and 1063(a).

13. Registration of Applicant's mark would constitute prima facie evidence of the validity of such registration, Applicant's ownership of the mark, and Applicant's exclusive right to use the mark pursuant to the provisions of 15 U.S.C. § 1057(b). Such registration would be a source of damage and injury to Clif Bar and the public, and would be contrary to the principles of registration set out in 15 U.S.C. §§ 1051 *et seq.*

14. WHEREFORE, Clif Bar prays that this Opposition be sustained and that registration of U.S. Trademark Application Serial No. 86/878,995 be denied.

Please charge any necessary fee regarding this Opposition to the Deposit Account of Kilpatrick Townsend & Stockton LLP, 20-1430, and credit any overpayment to such deposit account.

Please direct all notices, pleadings and process regarding this matter to:

Gia L. Cincone, Esq.
KILPATRICK TOWNSEND & STOCKTON LLP
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Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

Dated: October 12, 2016

By: /s/ Gia L. Cincone
Gia L. Cincone

*Attorneys for Opposer
Clif Bar & Company*

CERTIFICATE OF SERVICE

On October 12, 2016, I served the foregoing **NOTICE OF OPPOSITION** on the Applicant by depositing a true copy thereof with the United States Postal Service as first class mail, postage prepaid, at San Francisco, California, enclosed in a sealed envelope addressed as follows:

Meat N Nuts LLC
141 High Street
Mullica Hill, NJ 08062

Dated : October 12, 2016

By : /s/ Linda Tan
Linda Tan