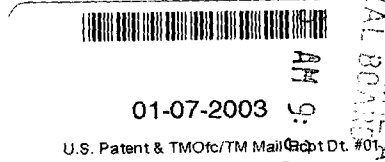


**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application of EDWARD ANTHONY D'AVANZO II)
Serial No.: 76/389,614)
Publication date: October 2, 2002)
Trademark: "BLUECOSAMINE")

NUTRAMAX LABORATORIES, INC.)
Opposer)
v.)
EDWARD ANTHONY D'AVANZO II)
Applicant)

Opposition No.



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 U.S. PATENT & TRADEMARK OFFICE
 TRADEMARK TRIAL AND APPEAL BOARD

NOTICE OF OPPOSITION

Nutramax Laboratories, Inc, Opposer, by counsel, files this Opposition to the registration on the principal register of the trademark "BLUECOSAMINE," serial number 76/389,614 and alleges as follows:

1. Nutramax Laboratories, Inc. ("Nutramax") is a Maryland corporation, with its principal offices at 2208 Lakeside Boulevard, Edgewood, Maryland 21040.
2. Nutramax is engaged in the business of researching, developing, manufacturing, marketing and distributing dietary supplements.
3. Nutramax is the holder of, among other federally registered trademarks, the following:
 - a. COSAMIN®, "a food supplement" was registered with the United States Patent And Trademark Office on June 29, 1993, Registration No. 1,778,630 (and is now an incontestable mark);
 - b. COSAMIN PROTEK®, "dietary supplements" was registered with the United States Patent and Trademark Office on July 31, 2001, Registration No. 2,474,400; and

- c. COSAMIN QUICK START™, "dietary supplements" was filed with the United States Patent and Trademark Office on March 28, 2001, Serial No.: 78-055,511;

(collectively, the "Marks").

4. Nutramax's mark COSAMIN® is now incontestable and has been in uninterrupted use by Nutramax since its date of first use.

5. Among other products, Nutramax markets and distributes COSAMIN® and COSAMIN PROTEK® under its federally registered trademarks in the human field. COSAMIN® and COSAMIN PROTEK® are dietary supplements that are taken orally and affect the connective tissue of the body. Nutramax intends to expand its line of COSAMIN® products to include a product to be sold under the mark COSAMIN QUICK START™.

6. COSAMIN® is Nutramax' flagship product and has been shown to have proven benefits in published, placebo-controlled, double-blind studies. In addition, as a result of long use, substantial advertising expenditures (including national television advertising), substantial unsolicited national and local press, and national distribution and sales, Nutramax's COSAMIN® product has become famous in its market segment.

7. As a result of such promotional and marketing efforts and the quality of the products sold under the Marks, Nutramax's COSAMIN® mark has become widely and favorably known and has acquired distinctiveness and secondary meaning in the field of dietary supplements.

8. Applicant seeks to register the word "BLUECOSAMINE" in class 5 (the same class that the Marks are registered in) for "pain relief cream." Based upon Applicant's trademark application, Applicant intends to sell and market its "BLUECOSAMINE" product in the same or nearly the same marketing channels and trade journals and other publications used by Nutramax to market its products sold under the Marks. Additionally, Applicant's product and Nutramax's

products may be used to address the same health indications.

9. Because the non-generic "cosamine" portion of Applicant's mark is nearly identical to, and a only a single letter different than, Nutramax's COSAMIN® mark, Applicant's mark is confusingly and deceptively similar to Nutramax's Marks COSAMIN®, COSAMIN PROTEK® and COSAMIN QUICK START™, and use of Applicant's mark is likely to cause confusion or mistake as to the source of goods, quality, and affiliation with Nutramax's goods.

10. Further, Applicant's intended use of its mark BLUECOSAMINE to sell similar goods to customers using similar marketing and distribution channels will likely cause blurring of the distinctiveness of Nutramax's Marks and tarnishment of its reputation for providing high quality, efficacious products, thereby lessening of the capacity for Nutramax's Marks to identify and distinguish Nutramax's goods.

WHEREFORE, Opposer requests that the registration for Applicant's mark be denied, and that this Opposition be sustained.

Dated: January 6, 2002.

Respectfully submitted,



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Elizabeth S. McClure
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CERTIFICATE OF MAILING

I, Deborah Allison, hereby certify under the penalties of perjury that the correspondence, NOTICE OF OPPOSITION against the trademark application of EDWARD ANTHONY D'AVANZO, II, Serial No.: 76/389,614, Mark: "BLUECOSAMINE," is being deposited with the United States Postal Service by "Express Mail" addressed to:

Assistant Commissioner of Patents and Trademarks
U.S. Department of Commerce, Patents and Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513.

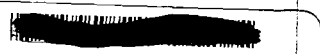
Deborah Allison

Deborah Allison

Date: January 6, 2003

TTAB

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01-07-2003

U.S. Patent & TMOrc/TM Mail Rcpt Dt. #0

E-MAIL:
ALLISON@BOWIE-JENSEN.COM

January 6, 2003

BY EXPRESS MAIL
Commissioner of Trademarks
Box TTAB
FEE
2900 Crystal Drive
Arlington, Virginia 22202-3513

RECEIVED
APPE
JAN 10 AM 9:31

Re: Notice of Opposition
Mark: "Bluecosamine"
Serial No.: 76/389,614

Dear Sir/ Madame:

Enclosed for filing please find an original and two copies of "Notice of Opposition" in the above matter. Also enclosed is our firms check in the amount of \$300.00 as the filing fee.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Deborah L. Allison
Paralegal

Enclosure

cc: Nutramax Laboratories, Inc.