

ESTTA Tracking number: **ESTTA37714**

Filing date: **07/06/2005**

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	Mannatech, Inc.		
Entity	Corporation	Citizenship	Texas
Address	600 S. Royal Lane, Suite 200 Coppell, TX 75019 UNITED STATES		

Attorney information	John M. Cone Akin Gump Strauss Hauer & Feld LLP P.O. Box 688 Dallas, TX 75313-0688 UNITED STATES trademarkdallas@akingump.com Phone:2149694214		
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Applicant Information

Application No	76603308	Publication date	06/14/2005
Opposition Filing Date	07/06/2005	Opposition Period Ends	07/14/2005
Applicant	CUMMINGS, Joseph James 345 Atwells Avenue Providence, RI 02903 UNITED STATES		

Goods/Services Affected by Opposition

Class 005.

All goods and services in the class are opposed, namely: Meal replacement powders

Attachments

mannatritionopposition.pdf (2 pages)

Signature

/johnmccone/

Name

John M. Cone

Date

07/06/2005

As grounds for such opposition, it is alleged that:

1. Upon information and belief, and according to the records of the United States Patent and Trademark Office, Applicant, Joseph James Cummings., is the owner of Application Serial No. 76/603,308.
2. Upon information and belief, Applicant had not used the mark MANNATRITION in the United States for the goods set out in Application Serial No. 76/603,308, namely meal replacement powders, prior to July 21, 2004, the date of filing of Applicant's intent-to-use application for this mark.
3. Since as long ago as 1995, Opposer has used the trademark and trade name MANNATECH to sell dietary and nutritional supplements throughout the United States. It has also used the trademarks MANNA C, MANNA CLEANSE, MANNATONIN and MANNA BEARS in connection with dietary and nutritional supplements.
4. As a result of this use, the trademark MANNATECH and generally marks containing the prefix MANNA, when used in connection with dietary and nutritional supplements, are associated by the relevant purchasing public with Mannatech. This identification and association with Opposer occurred long prior to the date of filing of Applicant's Application Serial No. 76/603,308 and long prior to any date of first use that can be relied upon by Applicant for the mark MANNATRITION.
5. The trademark made the subject of Application Serial No. 76/603,308 and sought to be registered by Applicant consists of a mark which is so similar to Opposer's trade name and trademarks identified above and previously used and registered by Opposer, and not abandoned, as to be likely, when used on or in connection with the goods of the Applicant, to cause confusion or to cause mistake, or to deceive.

6. Opposer believes it will be damaged by the registration of Applicant's mark made the subject of Application Serial No. 76/603,308.

Opposer therefore prays that Applicant be required to answer this Notice of Opposition; that Application Serial No. 76/603,308 be denied; that registration of the mark covered by that application be refused; and that Opposer be granted such other and further relief as may be deemed just and proper.