

ESTTA Tracking number: **ESTTA50631**

Filing date: **10/26/2005**

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

<b>Name</b>	Booster Juice Limited Partnership		
<b>Entity</b>	Partnership	<b>Citizenship</b>	Oregon
<b>Composed Of:</b>	A. W. Holdings, Inc., general partner, a Nevada corporation		
<b>Address</b>	131 N. State Street, Suite D Lake Oswego, OR 97034 UNITED STATES		

<b>Attorney information</b>	Benjamin D. Knaupp Benjamin D. Knaupp, P.C. 4900 SW Griffith Drive Suite 165 Beaverton, OR 97005 UNITED STATES ben@knaupplaw.com Phone:(503) 626-7071		
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#### Applicant Information

<b>Application No</b>	79002104	<b>Publication date</b>	09/27/2005
<b>Opposition Filing Date</b>	10/26/2005	<b>Opposition Period Ends</b>	10/27/2005
<b>International Registration No.</b>	0823250	<b>International Registration Date</b>	11/27/2003
<b>Applicant</b>	Boost Juice Holdings Pty Ltd; ACN 102 379 591		

Suite 2 261-267 High Street  
ASHBURTON VIC 3147,  
AUSTRALIA

### Goods/Services Affected by Opposition

Class 032.

All goods and services in the class are opposed, namely: Fruit and vegetable based nutritional drinks and smoothies

Class 043.

All goods and services in the class are opposed, namely: Fast food restaurants and restaurant services featuring vitamin and nutrition based fruit and vegetable juices, fruit dairy drinks, including those containing natural energy and vitamin supplement, as well as nutritional fruit and vegetable based foods

### Grounds for Opposition

Priority and likelihood of confusion

Trademark Act section 2(d)

### Mark Cited by Opposer as Basis for Opposition

<b>U.S. Application/Registration No.</b>	NONE	<b>Application Date</b>	NONE
<b>Registration Date</b>	NONE		
<b>Word Mark</b>	JOOST		
<b>Goods/Services</b>	Non-alcoholic fruit, vegetable, herbal, vitamin, and dairy product based beverages and smoothies. Retail fast food and restaurant services featuring the beverages and smoothies as described herein.		

<b>Related Proceedings</b>	Notice of opposition, ESTTA 45198, Application#78407484
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<b>Attachments</b>	joost_opposition.pdf ( 1 page )
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<b>Signature</b>	/Benjamin D. Knaupp/
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<b>Name</b>	Benjamin D. Knaupp
<b>Date</b>	10/26/2005

## NOTICE OF OPPOSITION

Booster Juice Limited Partnership (Opposer) is an Oregon limited partnership with its registered office at 131 North State Street, Suite D, Lake Oswego Oregon, 97034.

The above-identified Opposer believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer operates a growing franchise of retail stores in the United States and Canada that sell fresh fruit and vegetable based juice drinks, smoothies, and healthy meal alternatives made on the premises. Opposer has been using the mark "JOOST" on one of its products which was first offered for sale in the United States in October 2003 in Boise Idaho.
2. Opposer is preparing an application to register "JOOST" under Section 1051(a) as a federal trademark for its products, and believes that it is entitled to registration based on priority of use in commerce.
3. Opposer believes that should registration of Applicant's mark be granted, this would impede Opposer's application to register the same trademark because the terms are identical and the products are of a similar nature.

By: \_\_\_\_\_  
Benjamin D. Knaupp, Attorney for Opposer

Date: October 26, 2005