

ESTTA Tracking number: **ESTTA154835**

Filing date: **08/03/2007**

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	Econugenics, Inc.		
Entity	Corporation	Citizenship	California
Address	2208 Northpoint Parkway Santa Rosa, CA 95407 UNITED STATES		

Attorney information	Jay H. Geller W. Tower, Suite 4000 2425 W. Olympic Bl. Santa Monica, CA 90404 UNITED STATES jhgeller@aol.com Phone:310-449-1399		
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### Applicant Information

Application No	77075118	Publication date	07/31/2007
Opposition Filing Date	08/03/2007	Opposition Period Ends	08/30/2007
Applicant	Zone Labs, Inc. 222 Rosewood Drive, Suite 500 Danvers, MA 01945 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: VITAMINS, NUTRITIONAL SUPPLEMENTS, AND NUTRITIONAL FOOD BARS FOR USE AS A NUTRITIONAL SUPPLEMENT OR MEAL REPLACEMENT
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### 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. Registration No.	2075242	Application Date	02/05/1996
Registration Date	07/01/1997	Foreign Priority Date	NONE
Word Mark	ECOGEN		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 005. First use: First Use: 1996/01/09 First Use In Commerce: 1996/01/09 dietary and nutritional supplements
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Attachments	eicogenOpp.pdf ( 1 page )(550080 bytes ) EicogenOpp2.pdf ( 1 page )(521822 bytes )
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Signature	/jhgeller/
Name	Jay H. Geller
Date	08/03/2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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Econugenics, Inc.	)	
	)	<u>NOTICE OF OPPOSITION</u>
Opposer,	)	
	)	EICOGEN - SN 77075118
v.	)	International Class 5
Zone Labs., Inc.	)	
	)	
Applicant.	)	
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To The Commissioner of Patents and Trademarks:

Econugenics, Inc. hereby opposes registration of Applicant's trademark, EICOGEN, SN 77075118, in International Class 5 only published in the Official Gazette of July 31, 2007, at page TM 128. The following allegations are submitted in support of this Notice of Opposition:

1. Opposer is a California corporation, with its principal place of business at Santa Rosa, CA.

2. Applicant, upon information and belief, is a corporation under the laws of Massachusetts.

3. Applicant has applied for serial number 77075118 for the trademark EICOGEN in Classes 3, 5 and 35 based upon intent to use. The goods covered by the application include, among others, nutritional supplements in International Class 5. This Opposition only applies to the goods in International Class 5.

4. Opposer has at least since 1996, long prior to the date of filing of the subject application, used the trademark EICOGEN in interstate commerce in the United States with respect to goods in International Class 5, particularly dietary and

nutritional supplements. Opposer is the owner of United States  
2075242 issued on July 1, 1997 which is valid and  
subsisting and has become incontestable.

5. Applicant's mark EICOGEN is virtually identical in  
sound and appearance and spelling to Opposer's mark ECOGEN.

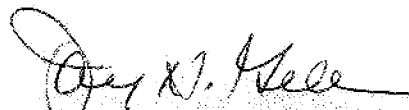
6. The goods upon which applicant intends to use its  
mark EICOGEN are identical to those goods upon which Opposer uses  
its mark ECOGEN.

7. The likelihood of confusion in the marketplace exists  
between Opposer's trademark when applied to the goods of the  
respective parties, and applicant's trademark.

8. Registration of applicant's trademark will result in  
damage to Opposer's trademark and Opposer's business.

Wherefore, Opposer requests that this Opposition be  
sustained and that the registration to the Applicant be refused.

Dated: August 2, 2007



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