

ESTTA Tracking number: **ESTTA161610**

Filing date: **09/10/2007**

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                                  | Wyeth Holdings Corporation                               |
| Granted to Date of previous extension | 09/09/2007   |
| Address                               | Five Giralda Farms<br>Madison, NJ 07490<br>UNITED STATES |

|                      |   |
|----------------------|---|
| Attorney information | David H. McDonald<br>Wyeth<br>Five Giralda Farms<br>Madison, NJ 07490<br>UNITED STATES<br>mcdonad5@wyeth.com Phone:973-660-5746 |
|----------------------|---|

**Applicant Information**

|                        |  |                        |            |
|------------------------|--|------------------------|------------|
| Application No         | 78808422   | Publication date       | 03/13/2007 |
| Opposition Filing Date | 09/10/2007   | Opposition Period Ends | 09/09/2007 |
| Applicant              | Quiksilver, Inc.<br>15202 Graham Street<br>Huntington Beach, CA 92649<br>UNITED STATES |                        |            |

**Goods/Services Affected by Opposition**

|  |
|--|
| Class 005.<br>All goods and services in the class are opposed, namely: Foodstuffs and beverages, namely, vitamin fortified beverages, meal replacement and dietary supplement drink mixes, and nutritional shakes for use as a meal substitute; nutritionally fortified beverages; vitamin fortified beverages; soy protein for use as a nutritional ingredient in various powdered and ready-to-drink beverages; ready to drink meal replacement drinks; dietetic beverages for medical purposes; nutritional supplements; dietary food supplements; dietary supplemental drinks; vitamin supplements; mineral supplements; powdered nutritional supplement drink mix; ready to drink meal replacements beverages |
|--|

**Grounds for Opposition**

|                                      |                            |
|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
|--------------------------------------|----------------------------|

**Marks Cited by Opposer as Basis for Opposition**

|                       |            |                  |            |
|-----------------------|------------|------------------|------------|
| U.S. Registration No. | 1637376    | Application Date | 05/21/1990 |
| Registration Date     | 03/12/1991 | Foreign Priority | NONE       |

|                     |  |      |  |
|---------------------|--|------|--|
|                     |  | Date |  |
| Word Mark           | SILVER   |      |  |
| Design Mark         |  |      |  |
| Description of Mark | NONE   |      |  |
| Goods/Services      | Class 005. First use: First Use: 1990/04/16 First Use In Commerce: 1990/04/16 multivitamin/mineral preparation |      |  |

|                       |  |                       |            |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 1886901  | Application Date      | 04/26/1994 |
| Registration Date     | 04/04/1995   | Foreign Priority Date | NONE       |
| Word Mark             | IT'S A GREAT TIME TO BE SILVER   |                       |            |
| Design Mark           |  |                       |            |
| Description of Mark   | NONE   |                       |            |
| Goods/Services        | Class 005. First use: First Use: 1991/11/15 First Use In Commerce: 1991/11/15 multivitamin/mineral preparation |                       |            |

|             |  |
|-------------|--|
| Attachments | QUIKSILVER METHOD Opposition.pdf ( 3 pages )(86059 bytes ) |
|-------------|--|

|           |                     |
|-----------|---------------------|
| Signature | /David H. McDonald/ |
| Name      | David H. McDonald   |
| Date      | 09/10/2007          |

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

In the Matter of Application Serial Number 78/808422  
Published in the Official Gazette on March 13, 2007

|                            |   |                |
|----------------------------|---|----------------|
| WYETH HOLDINGS CORPORATION | : |                |
|                            | : |                |
| Opposer,                   | : |                |
|                            | : |                |
| v.                         | : | Opposition No: |
|                            | : |                |
| QUIKSILVER, INC.           | : |                |
|                            | : |                |
| Applicant.                 | : |                |
|                            | : |                |

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Wyeth Holdings Corporation (“Wyeth” or “Opposer”), a corporation duly organized and existing under the laws of the State of Maine with its principal place of business at Five Giralda Farms, Madison, New Jersey 07940, believes that it will be damaged by the registration of Trademark Application Serial No. 78/808422 (“Applicant’s Mark”) in International Class 5 and, pursuant to Section 13 of the Trademark Act of July 5, 1946, as amended, 15 U.S.C. §1063 and Rule 2.101 of the Trademark Rules of Practice, hereby opposes the registration of Applicant’s Mark for the goods claimed in International Class 5.

Wyeth has obtained the necessary extensions of time to file this Notice of Opposition and such Notice is timely made.

As grounds for opposition, it is alleged that:

1. Wyeth, and its affiliated and predecessor companies, are now, and for many years has been, engaged in the manufacture, distribution and sale of a wide variety of consumer healthcare products, including vitamin dietary supplement products. Wyeth's products are sold in commerce throughout the United States.

2. Wyeth is the owner of U.S. Trademark Registration No. 1637376 registered on March 12, 1991, for SILVER, for "multivitamin/mineral preparation, in Class 5." This registration is currently in full force and effect.

3. Wyeth is the owner of U.S. Trademark Registration No. 1886901 registered on April 4, 1995, for IT'S A GREAT TIME TO BE SILVER, for "multivitamin/mineral preparations, in Class 5." This registration is currently in full force and effect.

4. As evidenced by publication in the Official Gazette dated March 13, 2007, Applicant seeks to register QUIKSILVER METHOD for the following goods:

“Foodstuffs and beverages, namely, vitamin fortified beverages, meal replacement and dietary supplement drink mixes, and nutritional shakes for use as a meal substitute; nutritionally fortified beverages; vitamin fortified beverages; soy protein for use as a nutritional ingredient in various powdered and ready-to-drink beverages; ready to drink meal replacement drinks; dietetic beverages for medical purposes; nutritional supplements; dietary food supplements; dietary supplemental drinks; vitamin supplements; mineral supplements; powdered nutritional supplement drink mix; ready to drink meal replacements beverages, in international class 5.”

5. Applicant's mark so resembles Wyeth's previously used and registered mark that it is likely to cause confusion, to cause mistake or to deceive under Trademark Act Section 2(d), 15 U.S.C. §1052(d), with consequent injury to Wyeth, the consuming public and the trade.

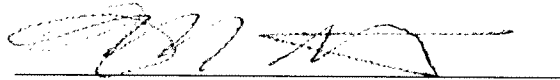
WHEREFORE, Wyeth prays that this opposition be sustained and that International Class 5 portion of the Application Serial No. 78/808422 be denied.

Please recognize David H. McDonald and Bret I. Parker, both members of the Bar of the State of New York, as the attorneys for Opposer Wyeth in this proceeding. It is further requested that all correspondence relating thereto be addressed to David H. McDonald, Trademark and Copyright Counsel, Five Giralda Farms, Madison, New Jersey 07940, (email: [mcdonad5@wyeth.com](mailto:mcdonad5@wyeth.com)).

Wyeth requests that the requisite opposition fee be charged to Deposit Account No. 01-1300 of Wyeth.

Dated: September 18, 2007

WYETH HOLDINGS CORPORATION



DAVID H. MCDONALD

Attorney for Opposer

Five Giralda Farms

Madison, New Jersey 07940

Telephone: (973) 660-5746

Facsimile: (973) 660-7978