

ESTTA Tracking number: **ESTTA190882**

Filing date: **02/05/2008**

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

Proceeding	91180918
Party	Defendant ADM Kao LLC
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Date	02/05/2008
Attachments	91180918.pdf (5 pages)(877369 bytes)

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

ENIVA CORPORATION,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91180918
)	
ADM Kao LLC,)	Serial No. 76/446,145
)	
Applicant.)	

APPLICANT'S ANSWER TO OPPOSER'S NOTICE OF OPPOSITION

Applicant, ADM Kao LLC, responds to the Notice of Opposition as follows:

ALLEGATION NO. 1

Opposer markets a line of nutritional products and dietary supplements.

ANSWER NO. 1:

Applicant lacks information sufficient to form a belief as to the truth of the allegations of Paragraph 1 and therefore denies those allegations..

ALLEGATION NO. 2

Opposer has adopted and continuously used the trademark ENIVA in connection with its line of nutritional products and dietary supplements since at least as early as May 1998.

ANSWER NO. 2:

Applicant lacks information sufficient to form a belief as to the truth of the allegations of Paragraph 2 and therefore denies those allegations..

ALLEGATION NO. 3

Opposer is the owner of United States Trademark Registration No. 2,555,133 issued April 2, 2002 for the mark ENIVA in connection with "*blended liquid mineral dietary supplements and nutritional dietary supplements* in International Class 5.

ANSWER NO. 3:

Applicant lacks information sufficient to form a belief as to the truth of the allegations of Paragraph 3 and therefore denies those allegations.

ALLEGATION NO. 4

The application which matured into United States Trademark Registration No. 2,555,133 was filed by Opposer on June 26, 2000 as a use application.

ANSWER NO. 4:

Applicant lacks information sufficient to form a belief as to the truth of the allegations of Paragraph 4 and therefore denies those allegations..

ALLEGATION NO. 5

Applicant filed an intent-to-use application to register the mark "ENOVA and design" for "dietary aids namely, dietary supplements and nutritional supplements; dietary and nutritional

supplements for use as a meal replacer” in International Class 005. That application was filed on September 3, 2002, published on July 31, 2007 and assigned Serial No. 76/446,145.

ANSWER NO. 5:

Admitted.

ALLEGATION NO. 6

Applicant’s United States Trademark Application Serial No. 76/446,145 does not claim a date of first use.

ANSWER NO. 6:

Admitted.

ALLEGATION NO. 7

Applicant’s mark “ENOVA and design” so resembles Opposer’s previously used and registered mark ENIVA as to be likely, when applied to the goods set forth in Applicant’s United States Trademark Application Serial No. 76/446,145, to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Trademark Act.

ANSWER NO. 7:

Denied.

WHEREFORE, Applicant respectfully requests that the opposition be denied and that the Board issue a Notice of Allowance for the mark shown in Application Serial No. 76/446,145.

Date: February 5, 2008

Respectfully Submitted,

LOEB & LOEB LLP

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CERTIFICATE OF SERVICE

I, Nathan J. Hole, attorney for Applicant, hereby certify that a copy of the foregoing **APPLICANT'S ANSWER TO OPPOSER'S NOTICE OF OPPOSITION**, has been served upon, Michael Sherrill, Esq., Sherrill Law Offices, PLLC, 4756 Banning Avenue, Suite 212, White Bear Lake, MN 55110, this 5th day of February, 2008 by first class mail, postage prepaid.

/nathan j. hole/.....