

ESTTA Tracking number: **ESTTA212777**

Filing date: **05/21/2008**

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	Eniva Corporation		
Entity	Corporation	Citizenship	Minnesota
Address	9702 Ulysses Street NE Minneapolis, MN 55449 UNITED STATES		

Attorney information	Michael S. Sherrill SHERRILL LAW OFFICES, PLLC 4756 Banning Avenue Suite 212 White Bear Lake, MN 55110 UNITED STATES MichaelS@SherrillLaw.com Phone:(651) 426-2400
----------------------	---

Applicant Information

Application No	76975285	Publication date	05/20/2008
Opposition Filing Date	05/21/2008	Opposition Period Ends	06/19/2008
Applicant	ADM Kao LLC 4666 Faries Parkway Decatur, IL 62526 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: ingredients for diet capsules and pills, namely, edible oils and fats sold as integral components of diet capsules and pills; ingredients for dietary supplements, namely, edible oils and fats sold as integral components of dietary supplements; ingredients for meal replacement drinks and powders, namely, edible oils and fats sold as integral components of meal replacement drinks
Class 029. All goods and services in the class are opposed, namely: edible oils and fats for use as ingredients in the manufacture of diet capsules and pills, dietary supplements, and meal replacement drinks and powders

Grounds for Opposition

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

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2555133	Application Date	06/26/2000
-----------------------	---------	------------------	------------

Registration Date	04/02/2002	Foreign Priority Date	NONE
Word Mark	ENIVA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 1998/05/01 First Use In Commerce: 1998/05/01 Chemical gasoline additives Class 003. First use: First Use: 1998/05/01 First Use In Commerce: 1998/05/01 Skin care products, namely skin cleanser, skin toner, and skin clarifying cream Class 005. First use: First Use: 1998/05/01 First Use In Commerce: 1998/05/01 blended liquid mineral dietary supplements and nutritional dietary supplements		

Related Proceedings	Cancellation No. 92048546 Cancellation No. 92048706 Opposition No. 91180918 Cancellation No. 92045194 Opposition No. 91180929
---------------------	---

Attachments	76076966#TMSN.gif (1 page)(bytes) 080520 GOVT SEND (Notice of Opposition).pdf (2 pages)(14038 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/M. Sherrill/
Name	Michael S. Sherrill
Date	05/21/2008

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

ENIVA CORPORATION,

Opposer,

v.

Serial No. 76/975,285

ADM Kao LLC.

Applicant.

NOTICE OF OPPOSITION

Eniva Corporation, a Minnesota corporation located and doing business at 9702 Ulysses Street NE, Minneapolis, Minnesota 55449 (hereinafter referred to as “Opposer”) hereby opposes registration of the mark “ENOVA” that is the subject of United States Trademark Application Serial No. 76/975,285 filed on February 4, 2002 and published on May 20, 2008, and requests that registration to Applicant be refused.

The grounds in support of this opposition are as follows:

1. Opposer markets a line of nutritional products and dietary supplements.
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.
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.

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.

5. Applicant filed an intent-to-use application to register the mark “ENOVA” for *“ingredients for diet capsules and pills, namely, edible oils and fats sold as integral components of diet capsules and pills; ingredients for dietary supplements, namely, edible oils and fats sold as integral components of dietary supplements; ingredients for meal replacement drinks and powders, namely, edible oils and fats sold as integral components of meal replacement drinks”* in International Class 005 and *edible oils and fats for use as ingredients in the manufacture of diet capsules and pills, dietary supplements, and meal replacement drinks and powders* in International Class 029. That application was filed on February 4, 2002, published on May 20, 2008 and assigned Serial No. 76/975,285.

6. Applicant’s United States Trademark Application Serial No. 76/975,285 does not claim a date of first use.

7. Applicant’s mark “ENOVA” 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. 76/975,285, to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Trademark Act.

WHEREFORE, Opposer prays that this opposition proceeding be sustained in favor of Opposer and United States Trademark Application Serial No. 76/975,285 be refused.