

ESTTA Tracking number: **ESTTA313538**

Filing date: **10/26/2009**

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	Go Fast Sports & Beverage Company
Granted to Date of previous extension	10/25/2009
Address	2600 West 8th Avenue Denver, CO 80204 UNITED STATES

Attorney information	Sabrina C. Stavish, Sarah J. Miller Sheridan Ross P.C. 1560 Broadway, Suite 1200 Denver, CO 80202 UNITED STATES sstavish@sheridanross.com, smiller@sheridanross.com Phone:3038639700
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### Applicant Information

Application No	76695169	Publication date	04/28/2009
Opposition Filing Date	10/26/2009	Opposition Period Ends	10/25/2009
Applicant	PACIFICHEALTH LABORATORIES, INC. 100 Matawan Avenue, Suite 420 Matawan, NJ 07747 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: THERAPEUTIC AGENTS FOR WEIGHT CONTROL AND APPETITE SUPPRESSION; NUTRITIONAL BEVERAGES HAVING VITAMINS AND/OR NATURAL SUPPLEMENTS
Class 032. All goods and services in the class are opposed, namely: FRUIT FLAVORED BEVERAGES; SOY-BASED BEVERAGES NOT BEING MILK SUBSTITUTES; WHEY BEVERAGES

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2307671	Application Date	01/05/1996
Registration Date	01/11/2000	Foreign Priority	NONE

		Date	
Word Mark	GO FAST		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1994/08/00 First Use In Commerce: 1994/08/00 stickers, post cards, posters</p> <p>Class 025. First use: First Use: 1994/08/00 First Use In Commerce: 1994/08/00 clothing and outerwear, namely, shirts, hats, jackets, headwear, caps, socks, [ gloves, ] pants, shorts, [ head bands, sweat bands, sweatpants, ] and sweatshirts</p>		

U.S. Registration No.	2312114	Application Date	01/05/1996
Registration Date	01/25/2000	Foreign Priority Date	NONE
Word Mark	GO FAST. SPORTS		
Design Mark	<p><b>GO FAST. SPORTS</b></p>		
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1994/08/00 First Use In Commerce: 1994/08/00 stickers, post cards, posters</p> <p>Class 025. First use: First Use: 1994/08/00 First Use In Commerce: 1994/08/00 clothing and outerwear, namely, shirts, hats, jackets, [ sweatpants, ] and sweatshirts</p>		

U.S. Registration No.	3600298	Application Date	01/01/2006
Registration Date	03/31/2009	Foreign Priority Date	NONE
Word Mark	GO FAST		
Design Mark	<p><b>Go Fast</b></p>		
Description of Mark	NONE		
Goods/Services	<p>Class 005. First use: First Use: 2008/08/22 First Use In Commerce: 2008/08/22 Breath-freshening chewing gum for medicinal purposes; Medicated chewing</p>		

	gum Class 030. First use: First Use: 2008/08/22 First Use In Commerce: 2008/08/22 Bubble gum; Chewing gum; Sugar-free chewing gum
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U.S. Registration No.	3511463	Application Date	02/11/2008
Registration Date	10/07/2008	Foreign Priority Date	NONE
Word Mark	GO FAST SPORTS!		
Design Mark			
Description of Mark	The mark consists of an outlined oval containing the words "GO FAST SPORTS!" with the word "SPORTS" in stylized script beneath the word "FAST".		
Goods/Services	Class 025. First use: First Use: 1996/12/00 First Use In Commerce: 1996/12/00 Clothing and outerwear, namely, shirts, hats, jackets, headwear, caps, socks, gloves, pants, shorts, head bands, sweat bands, sweatpants and sweatshirts Class 032. First use: First Use: 2001/11/00 First Use In Commerce: 2001/11/00 Sports and energy drinks		

U.S. Registration No.	3640651	Application Date	02/11/2008
Registration Date	06/16/2009	Foreign Priority Date	NONE
Word Mark	GO FAST SPORTS!		
Design Mark			
Description of Mark	The mark consists of an outlined oval containing the words "GO FAST SPORTS!" with the word "SPORTS" in stylized script beneath the word "FAST".		
Goods/Services	Class 005. First use: First Use: 2008/08/22 First Use In Commerce: 2008/08/22 Breath-freshening chewing gum for medicinal purposes; medicated chewing gum Class 030. First use: First Use: 2008/08/22 First Use In Commerce: 2008/08/22 Bubble gum; chewing gum; sugar-free chewing gum		

U.S. Application No.	78717955	Application Date	09/21/2005
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GO FAST		

Design Mark	<b>GO FAST</b>
Description of Mark	NONE
Goods/Services	Class 012. First use: First Use: 2000/11/00 First Use In Commerce: 2000/11/00 AUTOMOBILES, VANS, AIRPLANES, MOTORBIKES, MOTORCYCLES, RACING CARS, BICYCLES, BOATS, PERSONAL WATERCRAFT, namely, RECREATIONAL JET BOATS, LAND VEHICLES, POWER BOATS, GO CARTS, ALL TERRAIN VEHICLES, NON-MOTORIZED SCOOTERS, MOTORIZED SCOOTERS

U.S. Registration No.	2929528	Application Date	10/04/2000
Registration Date	03/01/2005	Foreign Priority Date	NONE
Word Mark	GO FAST		
Design Mark	<b>GO FAST!</b>		
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2001/11/00 First Use In Commerce: 2001/11/00 SPORTS/ENERGY DRINK		

Attachments	75042696#TMSN.gif ( 1 page )( bytes ) 78783522#TMSN.jpeg ( 1 page )( bytes ) 77394202#TMSN.jpeg ( 1 page )( bytes ) 77394205#TMSN.jpeg ( 1 page )( bytes ) 78717955#TMSN.jpeg ( 1 page )( bytes ) 78029072#TMSN.jpeg ( 1 page )( bytes ) Ntc of Opposition.pdf ( 5 pages )(368730 bytes )
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**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	/Sarah J. Miller/
Name	Sarah J. Miller
Date	10/26/2009

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

In the Matter of Trademark Application Serial No. 76/695169  
For the Mark "GET LEANER GET LEANER GO FASTER"  
Published in the Official Gazette: April 28, 2009

Go Fast Sports & Beverage Company,	)	
	)	Opposition No. _____
Opposer,	)	
	)	
v.	)	
	)	
Pacifichealth Laboratories, Inc.	)	
	)	
Applicant.	)	

NOTICE OF OPPOSITION

Go Fast Sports & Beverage Company ("Opposer"), a corporation organized and existing under the laws of the state of Colorado, and having a place of business at 2600 West 8th Avenue, Denver, Colorado 80204, believes that it will be damaged by registration of the mark "GET LEANER GO FASTER" for "therapeutic agents for weight control and appetite suppression; nutritional beverages having vitamins and/or natural supplements" in Class 5 and "fruit flavored beverages; soy-based beverages not being milk substitutes; whey beverages" in Class 32 and hereby opposes the same.

As grounds for this Opposition, Opposer alleges:

1. Opposer's filing of this Notice of Opposition is timely. Applicant's U.S. Trademark Application No. 76/695169 for "GET LEANER GO FASTER" published for opposition in the April 28, 2009 Trademark Office's *Official Gazette*. Opposer filed a 90

day extension of time to oppose and then filed a 60 Day Request for Extension of Time to Oppose Upon Consent on August 26, 2009. As such, this document is being filed by the present deadline to oppose.

2. Opposer has, for almost ten years, and prior to the filing of U.S. Trademark Application Serial No. 76/695169, marketed and sold sports and energy drinks under the marks "GO FAST" and "GO FAST SPORTS" in commerce in the United States. Since 2008, Opposer has marketed and sold varieties of chewing gum under the marks "GO FAST" and "GO FAST SPORTS" in commerce in the United States. In addition, Opposer has, marketed and sold other products including, clothing, stickers, post cards, posters under marks "GO FAST" and "GO FAST SPORTS" in commerce in the United States.

3. Opposer is the owner of the following U.S. Trademark Registrations and allowed U.S. Trademark Application containing the mark GO FAST (hereinafter the "GO FAST Marks"):

- a. Incontestable U.S. Trademark Registration No. 2307671 for "GO FAST" for "stickers, post cards, posters" in Class 16 and "clothing and outerwear, namely, shirts, hats, jackets, headwear, caps, socks, pants, shorts and sweatshirts" in Class 25;
- b. Incontestable U.S. Trademark Registration No. 2312114 for "GO FAST.SPORTS" "stickers, post cards, posters" in Class 16 and "clothing and outerwear, namely, shirts, hats, jackets and sweatshirts" in Class 25;
- c. U.S. Trademark Registration No. 2929528 for "GO FAST" for "sports/energy drink" in Class 32;
- d. U.S. Trademark Registration No. 3600298 for "GO FAST" for "breath-freshening chewing gum for medicinal purposes; medicated chewing gum" in class 5 and "bubble gum; chewing gum; sugar-free chewing gum" in class 30;

- e. U.S. Trademark Registration No. 3511463 for “GO FAST! SPORTS & Design” for “clothing and outerwear, namely, shirts, hats, jackets, headwear, caps, socks, gloves, pants, shorts, head bands, sweat bands, sweatpants and sweatshirts” in Class 25 and for “sports and energy drinks” in Class 32;



- f. U.S. Trademark Registration No. 3640651 for “GO FAST! SPORTS & Design” “breath-freshening chewing gum for medicinal purposes; medicated chewing gum” in class 5 and “bubble gum; chewing gum; sugar-free chewing gum” in class 30;



- f. Allowed U.S. Trademark Application No. 78/717955 for "GO FAST" for “automobiles, vans, airplanes, motorbikes, motorcycles, racing cars, bicycles, boats, personal watercraft, namely, recreational jet boats, land vehicles, power boats, go carts, all terrain vehicles, non-motorized scooters, motorized scooters” in Class 12.

4. As a result of Opposer’s longstanding and ongoing use, Opposer’s GO FAST Marks have become widely and favorably known to the relevant public. By virtue of the public’s recognition of Opposer’s GO FAST Marks, Opposer has developed substantial goodwill in the GO FAST marks.

5. Applicant is the owner of U.S. Trademark Application No. 76/695169 for “GET LEANER GO FASTER” for “therapeutic agents for weight control and appetite suppression; nutritional beverages having vitamins and/or natural supplements” in Class 5 and “fruit flavored beverages; soy-based beverages not being milk substitutes; whey beverages” in Class 32, said application filed January 6, 2009 on an intent-to-use basis. Upon information and belief, no amendment to allege use has been filed in the application.



6. As a result of the public's association of the GO FAST Marks with Opposer and Opposer's prior rights in the GO FAST Marks, Applicant's use and registration of the confusingly similar mark "GET LEANER GO FASTER" in connection with the goods listed in U.S. Trademark Application No. 76/695169 is likely to cause confusion, mistake or deception with Opposer's GO FAST Marks.

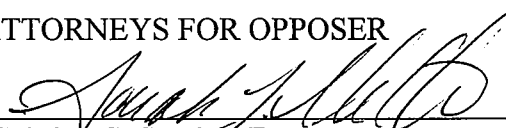
7. If Applicant is permitted to register U.S. Trademark Application No. 76/695169 for "GET LEANER GO FASTER" despite this likelihood of confusion, Opposer's right to exclusive use of its GO FAST Marks will be impaired and Opposer will be damaged.

WHEREFORE, Opposer prays that this Opposition be sustained and that the application for registration of U.S. Trademark Application No. 76/695169 for "GET LEANER GO FASTER" be denied and refused. The filing fee of \$600.00 is enclosed herewith as required by 37 C.F.R. §§2.111 and 2.6(a)(16).

Respectfully submitted,

ATTORNEYS FOR OPPOSER

Date: October 26, 2009



Sabrina C. Stavish, Esq.

Sarah J. Miller, Esq.

SHERIDAN ROSS P.C.

1560 Broadway, Suite 1200

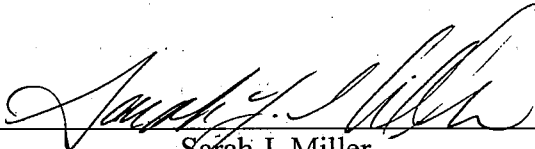
Denver, Colorado 80202-5141

Phone: (303) 863-9700

Fax: (303) 863-0223

CERTIFICATE OF SERVICE

I, Sarah J. Miller, do hereby certify that a copy of the foregoing NOTICE OF OPPOSITION was served by first class mail, postage prepaid, on the 26th day of October, 2009, upon the attorney/domestic representative for the Applicant:

  
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Sarah J. Miller

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