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

Proceeding	91199446
Party	Defendant NutraMarks, Inc.
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Date	05/25/2011
Attachments	Answer.pdf (5 pages)(12373 bytes)

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

Troy Healthcare, LLC,)	
)	Serial No. 85/127,398
Opposer,)	Published on February 15, 2011
)	
v.)	For the mark DROPAIN
)	
NutraMarks, Inc.)	Opposition No. 91199446
)	
Applicant.)	

ANSWER TO NOTICE OF OPPOSITION

Applicant, NutraMarks, Inc., by and through its attorneys, answers the Notice of Opposition as follows:

I. PARTIES

1. Applicant is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 1 of Opposer’s Notice of Opposition and therefore denies the same.

2. Applicant admits the allegations of Paragraph 2 of Opposer’s Notice of Opposition.

II. NOTICE OF OPPOSITION

3. Applicant admits that it filed an application for trademark registration, Serial No. 85/127,398, on September 10, 2010, which application was published in the Official Gazette of the United States Patent and Trademark Office on February 15, 2011, and which Opposer has opposed. Applicant denies the remaining allegations contained in Paragraph 3 of Opposer’s Notice of Opposition.

4. Applicant is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 4 of Opposer's Notice of Opposition and therefore denies the same.

5. Applicant is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 5 of Opposer's Notice of Opposition and therefore denies the same.

6. Applicant is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 6 of Opposer's Notice of Opposition and therefore denies the same.

7. Applicant admits that Section 8 and Section 15 affidavits were filed on May 20, 1998, and accepted on August 11, 1998. The remaining allegations contained in Paragraph 7 of Opposer's Notice of Opposition are legal conclusions to which no response is required.

8. Applicant is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 8 of Opposer's Notice of Opposition and therefore denies the same.

9. Applicant is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 9 of Opposer's Notice of Opposition and therefore denies the same.

10. Applicant admits that, according to the PTO website, application Serial No. 85/081,646 lists a filing date of July 9, 2010, and is without sufficient information to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 10 of Opposer's Notice of Opposition and therefore denies the same.

11. Applicant admits that, according to the PTO website, application Serial No. 85/081,646 has been allowed for registration and a statement of use was accepted, and is without sufficient information to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 11 of Opposer's Notice of Opposition and therefore denies the same.

12. Applicant admits the allegations of Paragraph 12 of Opposer's Notice of Opposition.

13. Applicant admits the allegations of Paragraph 13 of Opposer's Notice of Opposition.

14. Applicant denies the allegations of Paragraph 14 of Opposer's Notice of Opposition.

15. Applicant denies the allegations of Paragraph 15 of Opposer's Notice of Opposition.

16. Applicant denies the allegations of Paragraph 16 of Opposer's Notice of Opposition.

FIRST DEFENSE

Opposer's stated ground for opposition fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Opposer is barred from challenging Applicant's mark by the doctrines of acquiescence, waiver, laches and/or estoppel.

WHEREFORE, Applicant prays that Opposer's Notice of Opposition be dismissed with prejudice and that the application be allowed to issue to registration.

Dated: May 25, 2011

Respectfully submitted,

/s/ Timothy P. Getzoff

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**ATTORNEYS FOR APPLICANT
NUTRAMARKS, INC.**

CERTIFICATE OF SERVICE

I certify that on May 25, 2011, I served a copy of the above **ANSWER TO NOTICE OF OPPOSITION** to the following by U.S. Mail, postage prepaid:

Anne W. Glazer
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/s/ Jane Guy
For Holland & Hart, LLP