

ESTTA Tracking number: **ESTTA544439**

Filing date: **06/21/2013**

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	Bohager Holdings, LLC
Granted to Date of previous extension	06/29/2013
Address	1341 Razorbill Lane Punta Gorda, FL 33983 UNITED STATES

Attorney information	Jennifer L. Whitelaw WHITELAW LEGAL GROUP 3838 Tamiami Trail North, Suite 310 Naples, FL 34103 UNITED STATES ttabmail@whitelawfirm.com Phone:239-262-1001
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Applicant Information

Application No	85608580	Publication date	04/30/2013
Opposition Filing Date	06/21/2013	Opposition Period Ends	06/29/2013
Applicant	Total Nutritional Holdings LLC 1209 Orange Street Wilmington, DE 19801 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. First Use: 2011/09/01 First Use In Commerce: 2011/09/01
All goods and services in the class are opposed, namely: Dietary and nutritional supplements

Grounds for Opposition

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

U.S. Registration No.	4299901	Application Date	12/09/2010
Registration Date	03/12/2013	Foreign Priority Date	NONE
Word Mark	PURIFY		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 005. First use: First Use: 1998/09/23 First Use In Commerce: 1998/09/23 Enzyme food supplements; Enzymes for medical purposes; Nutritional supplements
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Attachments	Notice of Opposition.pdf(17008 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	/JENNIFER L. WHITELAW/
Name	Jennifer L. Whitelaw
Date	06/21/2013

Notice of Opposition to Serial No. 85/608,580

Mark: PURIFY LGC

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1. Opposer is a well known and established company engaged in the offering to the public of a wide variety of nutritional supplements, enzyme-focused supplements, and related goods and services.
2. Opposer has invested considerable time and resources in the development of its trademarks, reputation, and goodwill.
3. Opposer is the owner of all rights, title and interest in U.S. Trademark Office Registration No. 4299901 for the Mark PURIFY, (hereinafter referred to as “Opposer’s Mark”).
4. Opposer’s Mark is fully valid and legally subsisting and Opposer’s first use date of at least as early as September 23, 1998 for Opposer’s Mark is long prior to any first use date which can be claimed by Applicant, who has applied for registration of Applicant’s mark alleging a first use date of September 1, 2011.
5. During the time in which Opposer has used Opposer’s Mark the same has come to possess a recognizable and favorable brand recognition. By virtue of Opposer’s successful efforts and expenditure for advertising and promotional activities, and by virtue of the excellence of the goods and services associated with Opposer’s Mark, the same has also achieved a valuable reputation, as well as the trust of consumers.
6. Applicant seeks to register the mark PURIFY LGC, as a trademark for confusingly similar goods and services, namely “Dietary and nutritional supplements”, in International Class 005, as evidenced by the publication of the mark in the April 30, 2013, Official Gazette.
7. Applicant’s mark should be denied registration on the basis of Opposer’s prior rights.
8. Applicant’s mark so resembles Opposer’s Mark so as to be likely, when applied to the goods and services of Applicant, to cause confusion or mistake or to deceive consumers

as to the source, sponsorship, or approval of Applicant's goods and services, thereby resulting in detriment to Opposer and its reputation.

9. Alternatively, the registration of Applicant's mark as applied for by Applicant would be a source of damage, tarnishment, dilution, and/or injury, to Opposer and a source of possible confusion to Opposer's many customers who rely upon the reputation of the Opposer, the high quality of Opposer's goods and services and because consumers may be caused to mistakenly attribute the source or sponsorship of Applicant's goods and services to Opposer.

WHEREFORE, Opposer, BOHAGER HOLDINGS, LLC, believes that it will be harmed by said registration of Applicant's mark and prays that it be denied, and for such other and further relief in the premises as may be deemed just and proper.

The required filing fee is submitted herewith.

Opposer hereby appoints the undersigned in connection herewith.

Respectfully submitted,

/JENNIFER L. WHITE LAW/
JENNIFER L. WHITE LAW
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Mark: PURIFY LGC

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy of this Notice of Opposition in this matter is being provided to the Attorney/Correspondent of Record via U.S. First Class Mail on

June 21, 2013:

JONATHON A. FALLON, ESQ.
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WEST ORANGE, NEW JERSEY 07052-4298

/JENNIFER L. WHITELAW/
JENNIFER L. WHITELAW