

ESTTA Tracking number: **ESTTA562368**

Filing date: **10/01/2013**

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	C.J. Labs
Granted to Date of previous extension	11/06/2013
Address	12245 S.W. 128 St., Suite 301 Miami, FL 33186 UNITED STATES

Correspondence information	Amaury Cruz Amaury Cruz, P.A. 1560 Lenox Avenue, Suite 207 Miami Beach, FL 33139 UNITED STATES lex@lexarian.com Phone:3056042051
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Applicant Information

Application No	85845980	Publication date	07/09/2013
Opposition Filing Date	10/01/2013	Opposition Period Ends	11/06/2013
Applicant	PHARMA-NATURAL INC. Bay 1 2431 West 80 Street Hialeah, FL 33016 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. First Use: 2013/01/01 First Use In Commerce: 2013/01/01 All goods and services in the class are opposed, namely: Dietary and nutritional supplements
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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. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	Cardispan		
Goods/Services	dietary and nutritional supplements		

Attachments	Notice of Opposition CARDISPAN.pdf(169685 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	/ac/
Name	Amaury Cruz
Date	10/01/2013

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

In Re: Serial No. 85/845,980
Filed: February 11, 2013
Mark: CARDISPAN
Applicant: Pharma-Natural, Inc.

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C.J. LABS, INC.)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
PHARMA-NATURAL, INC.)	
)	
Applicant.)	
-----)	

NOTICE OF OPPOSITION

C.J. Labs, Inc. (the “Opposer”), a corporation in the State of Florida, with a principal place of business at 12245 S.W. 128th Street, Miami, FL 33186, believes that it will be damaged by the registration of the designation CARDISPAN for “dietary and nutritional supplements” in International Class 05 sought to be registered in the U.S. under Serial No. 85/845,980 by Pharma-Natural, Inc., (the “Applicant”), and hereby opposes the same.

As grounds for opposition, Opposer alleges that:

1. Applicant seeks to register the mark CARDISPAN (the “Applicant’s Mark”) for “dietary and nutritional supplements,” in International Class 05, Application

Serial No. 85/845,980 (the "Application"). The Application was filed on February 11, 2013.

2. Applicant's Mark was published for opposition on July 9, 2013. On August 7, 2013, within the time allowed for opposition of Applicant's Mark, the Opposer filed a Request for Extension of Time to Oppose (the "Request"). The Board granted the Request and extended the time to oppose the Applicant's Mark to September 7, 2013, which fell on a Saturday. This Notice of Opposition is therefore timely filed on the first day after September 7, 2013 which is not a Saturday, Sunday or a federal holiday within the District of Columbia.
3. The Application is based on Applicant's purported first use of the Mark in commerce on or after January 1, 2013.
4. Opposer is now, and for many years has been, engaged in the manufacture, marketing and sale of dietary and nutritional supplements.
5. Since at least as early as November 11, 2009, and long prior to January 1, 2013, the purported first use in commerce of the Applicant's Mark, Opposer has manufactured, marketed and sold dietary and nutritional supplements in connection with the trademark CARDISPAN used by Opposer at common law.
6. As a result of Opposer's advertising, marketing and sale of its products bearing the CARDISPAN mark, its mark is known to and recognized by U.S. consumers as indicating source exclusively in Opposer.
7. Applicant's Mark is essentially identical to and otherwise deceptively and confusingly similar to the Opposer's CARDISPAN mark. Applicant's Mark has

an overall confusingly similar sound, appearance, connotation, and commercial impression to Opposer's CARDISPAN Mark. Further, the goods identified in the Application are identical or substantially similar to the products offered by Opposer under its CARDISPAN Mark and fall squarely within the field of dietary and nutritional supplements.

8. As a result of the foregoing, consumers of Opposer's CARDISPAN products who encounter Applicant's CARDISPAN designation used on or in connection with the goods identified in the Application are likely to be confused, misled or deceived into thinking that the goods of Applicant are goods of Opposer, or constitute a subset of Opposer's CARDISPAN products or are in some way sponsored by or connected with Opposer, thus causing Opposer irreparable damage and injury in violation of Section 2(d) of the Lanham Act, 15 U.S.C. 1052(d).
9. Issuance of the registration will give color of statutory rights to Applicant in violation and derogation of the long-standing prior and superior common law and statutory rights of Opposer in its CARDISPAN mark.

WHEREFORE, Opposer believes that it is being damaged by the registration of Applicant's Mark and prays that this opposition be sustained and that Application Serial No. 85/845,980 be denied.

Dated: September 9, 2013

Respectfully submitted,

By: /AC/
Amaury Cruz, Esq.
Florida Bar No. 898244

Mario Roitman, Esq.
Florida Bar No. 28337

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Miami Beach, FL 33139
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CERTIFICATE OF SERVICE

I hereby certify that this Notice of Opposition was served on Applicant Pharma-Natural Inc., via First Class Mail in a prepaid postage envelope addressed to Pharma-Natural Inc., 2431 West 80th Street, Bay 1, Hialeah, Florida 33016, on this 1st day of October, 2013.

/MR/ _____
Mario Roitman, Esq.