

ESTTA Tracking number: **ESTTA651271**

Filing date: **01/21/2015**

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	Karma Culture, LLC
Granted to Date of previous extension	01/21/2015
Address	30-A Grove Street Pittsford, NY 14534 UNITED STATES
Attorney information	Katherine H. McGuire, Esq. Woods Oviatt Gilman LLP 2 State Street, 700 Crossroads Building Rochester, NY 14614 UNITED STATES trademarks@woodsoviatt.com Phone:585-987-2800

**Applicant Information**

Application No	86247771	Publication date	09/23/2014
Opposition Filing Date	01/21/2015	Opposition Period Ends	01/21/2015
Applicants	GIVN Goods Inc 400 Perimeter Center Terrace N, Ste 900 Atlanta, GA 30346 UNITED STATES  John Houseal 4166 Oak Forest Drive Atlanta, GA 30319 UNITED STATES		

**Goods/Services Affected by Opposition**


Class 032. First Use: 2014/03/10 First Use In Commerce: 2014/04/09 All goods and services in the class are opposed, namely: (Based on Use in Commerce) Bottled drinking water (Based on Intent to Use) Distilled drinking water; Drinking water; Drinking water with vitamins; Drinking waters; Purified bottled drinking water
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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. Registration No.	4063528	Application Date	10/19/2006
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Registration Date	11/29/2011	Foreign Priority Date	NONE
Word Mark	KARMA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2011/09/02 First Use In Commerce: 2011/09/02 Dietary supplements in the nature of stimulants in liquid form made from botanicals, algae, spices, and herbs for use in restoring mental alertness, all for non-medicinal purposes		

Attachments	77024533#TMSN.png( bytes ) noticeofopposition.pdf(823989 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	/Katherine H. McGuire/
Name	Katherine H. McGuire, Esq.
Date	01/21/2015

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

In the matter of Application Serial No. :86/247,771  
Published in the Official Gazette on September 23, 2014

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Karma Culture, LLC

Opposer,

Opposition No.:

v.

GIVN Goods Inc.

Applicant.

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Attn.: Trademark Trial and Appeal Board  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

- 1) On November 21, 2014 Karma Culture, LLC, a limited liability company duly organized under the laws of the State of New York ("Opposer"), was granted an extension of time to oppose the above-identified application thereby extending the deadline to file an Opposition to January 21, 2015.
- 2) Opposer believes that it will be damaged by issuance of a registration for INFUSED WITH GOOD KARMA (the "Mark") as applied for in Application Serial No. 86/247,771 (the "Application"), and hereby opposes the same.
- 3) Upon information and belief, GIVN Goods Inc. ("Applicant"), is a corporation organized and existing under the laws of Wyoming, with a principle place of business located at 400 Perimeter Center Terrace N., Suite 900, Atlanta, Georgia, 30346.

- 4) On April 9, 2014, Applicant filed the Application in the Patent and Trademark Office (“USPTO”) based on its use in commerce under Section 1(a).
- 5) The Application was filed under §1(a) of the Lanham Act, 15 U.S.C. §1051(a) based on use in commerce for goods in International Class 032 for: “Bottled drinking water.”, and was also filed under §1(b) based on an Intent-to-Use in International Class 032 for: “Distilled drinking water; Drinking water; Drinking water with vitamins; Drinking waters; Isotonic non-alcoholic drinks; Non-alcoholic beverages containing fruit juices; Non-alcoholic beverages with tea flavor; Non- alcoholic beverages, namely, carbonated beverages; Non-alcoholic drinks, namely, energy shots; Purified bottled drinking water.”
- 6) Opposer has long used trademarks similar to the Mark in connection with beverages.
- 7) Opposer is the owner of U.S. Federally Registered Trademark KARMA having a U.S. Trademark Registration No. 4063528 (“Opposer’s Mark” or “the ‘528 Registration”).
- 8) The ‘528 Registration is valid, subsisting and in full force and effect.
- 9) The ‘528 Registration is based on a Lanham Act Section 1(b) Intent-to-Use filing date of October 19, 2006.
- 10) The constructive use date of Opposer’s Mark pre-dates Applicant’s application filing date by more than seven years.

**CLAIM FOR RELIEF UNDER 15 U.S.C. § 1052(d)**  
**LIKELIHOOD OF CONFUSION**

- 11) Opposer incorporates by reference Paragraphs 1-10 as if fully set forth herein.
- 12) If Applicant is allowed to use the Mark for the same or related goods as provided by Opposer, the public is likely to associate goods offered by Applicant with the goods provided by Opposer under the same or similar Mark, or to believe that Applicant's goods are licensed, endorsed or sponsored by Opposer, or that there is some relationship between Applicant and

Opposer.

13) Moreover, the Mark included in the Application is confusingly similar to Opposer's Mark, and is intended for use in connection with substantially related goods.

14) For at least these reasons, the registration and/or use of the Mark as applied for, is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe that Applicant's goods emanate from or are otherwise sponsored or endorsed by Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

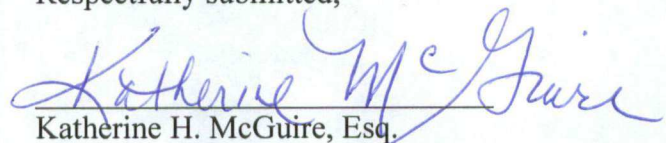
15) Applicant's Application and the presumption of exclusivity that would flow from a registration to Applicant of the Mark sought to be registered are inconsistent with the rights of Opposer, which has made prior and continuous use of Opposer's Mark in commerce.

By reason of the foregoing, Opposer would be damaged by the registration of INFUSED WITH GOOD KARMA to Applicant.

WHEREFORE, it is respectfully requested that this Opposition be sustained and that the registration sought by Application Serial No. 86/247,771 be denied.

Dated: Rochester, New York  
January 21, 2015

Respectfully submitted,



Katherine H. McGuire, Esq.

**Woods Oviatt Gilman LLP**

*Attorneys for Opposer*

*Dunn & Holland, LLC*

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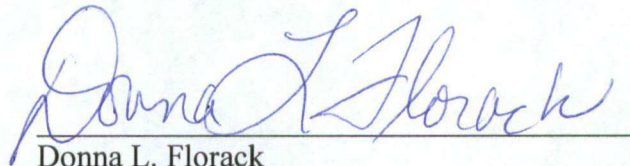
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Email: [kmcguire@woodsoviatt.com](mailto:kmcguire@woodsoviatt.com)

**Certificate of Service**

I hereby certify that a true and complete copy of the foregoing Notice of Opposition in regard to Application Serial No. 86/247,771 has been served on the Applicant, GIVN Goods Inc., by mailing said copy on January 21, 2015 via First Class Mail, postage prepaid, to:

GIVN GOODS INC  
400 PERIMETER CENTER TER NE STE 900  
ATLANTA, GA 30346-1236



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