

ESTTA Tracking number: **ESTTA657543**

Filing date: **02/23/2015**

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	Primal Life Organics, LLC
Granted to Date of previous extension	02/22/2015
Address	215 West Garfield Road, Suite 230 Aurora, OH 44202 UNITED STATES

Correspondence information	Primal Life Organics, LLC 215 West Garfield Road, Suite 230 Aurora, OH 44202 UNITED STATES brian@dicksnantonlaw.com
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Applicant Information

Application No	86256467	Publication date	08/26/2014
Opposition Filing Date	02/23/2015	Opposition Period Ends	02/22/2015
Applicant	Primal Products, LLC 1900 E. Howard Lane Bldg D Austin, TX 78660 UNITED STATES		

Goods/Services Affected by Opposition


Class 003. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Deodorant for personal use

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	86117892	Application Date	11/13/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	PRIMAL LIFE ORGANICS PALEO SKINCARE		

Design Mark	
Description of Mark	The mark consists of Five stones in a stack with a flower on them in front of an image of a moon. To the right of the stones is the words "PRIMAL LIFE ORGANICSPAEO SKINCARE".
Goods/Services	<p>Class 003. First use: First Use: 2012/02/00 First Use In Commerce: 2012/02/00 Non-medicated skincare products, namely, masks, serums, moisturizers, creams, deodorants, balms, cleansers, acne treatment preparations; lip balm; non-medicated gum and tooth cleaning preparations; non-medicated hair care products, namely,washes, shampoos, conditioners, gels, hair dyes, sprays, creams, pomades, and tonics; non-medicated cosmetics, namely, foundations, blushes, eye shadows, concealers, makeup remover, lipsticks, lip liners, eye liners, eyebrow pencils and mascara; nail polish, nail enamels, nail polish remover; fragrances for personal use; non-medicated pet care products, namely, skin balms, lotions, creams, serums, hair washes, conditioners, gum cleaning preparations and tooth cleaning preparations, all of the aforesaid made in whole or substantial part of organic ingredients</p> <p>Class 035. First use: First Use: 2012/02/00 First Use In Commerce: 2012/02/00 On-line retail store services featuringhealth, skincare, and beauty products</p> <p>Class 041. First use: First Use: 2012/02/00 First Use In Commerce: 2012/02/00 On-line journals, namely, blogs featuring information about health, skincare, and beauty products</p>

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	Primal Life Organics		
Goods/Services	Non-medicated skincare products, namely, masks, serums, moisturizers, creams, deodorants, balms, cleansers, acne treatment preparations; lip balm; non-medicated gum and tooth cleaning preparations; non-medicated hair care products, namely,washes, shampoos, conditioners, gels, hair dyes, sprays, creams, pomades, and tonics; non-medicated cosmetics, namely, foundations, blushes, eye shadows, concealers, makeup remover, lipsticks, lip liners, eye liners, eyebrow pencils and mascara; nail polish, nail enamels, nail polish remover; fragrances for personal use; non-medicated pet care products, namely, skin balms, lotions, creams, serums, hair washes, conditioners, gum cleaning preparations and tooth cleaning preparations, all of the aforesaid made in whole or substantial part of organic ingredients; On-line retail store services featuringhealth, skincare, and beauty products; On-line journals, namely, blogs featuring information about health, skincare, and beauty products		

Attachments	86117892#TMSN.png(bytes) Primal Paste - Notice of Opposition.pdf(87842 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	/Brian S. Mencher/
Name	Primal Life Organics, LLC
Date	02/23/2015

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

In re Application Serial No. 86/256,467
 Filed: April 22, 2014
 For Mark: Primal Paste
 Published in the Official Gazette: August 26, 2014

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Primal Life Organics, LLC,	:	
	:	Opposition No.
Opposer,	:	
	:	
v.	:	
	:	<u>NOTICE OF OPPOSITION</u>
Primal Products LLC,	:	
Applicant.	:	
	:	
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Commissioner for Trademarks
 Attn: Trademark Trial and Appeal Board
 P.O. Box 1451
 Alexandria, VA 22313-1451

Primal Life Organics, LLC (“Opposer”), an Ohio limited liability company with offices at 215 West Garfield Road, Suite 230, Aurora, OH 44202, believes that it will be damaged by registration of the standard character word mark PRIMAL PASTE in International Class 3 for “Deodorant for personal use” as shown in Application Serial No. 86/256,467 (the “Application”), and being within the time in which to oppose said Application, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Applicant’s Application was filed on April 22, 2014 (“Filing Date”) for the product first identified above.
2. Applicant’s Application was filed pursuant to 15 U.S.C. § 1051(b) of the Trademark Act of 1946, claiming a bona fide intention to use the mark in commerce.
3. Upon information and belief, Applicant has not made any use of Applicant’s mark

in the United States prior to the Filing Date (“First Use”).

4. Since prior to Applicant’s Filing Date (and First Use, if any, following the Filing Date), Opposer has used the name Primal Life Organics in the United States and throughout the world, in connection with the sale and manufacturing of skin and hair care products, including but not limited to, face and body lotions, deodorants, hair shampoos and serums, pre-natal and baby care products, acne treatments, makeup, and sun protector lotions (collectively, the “Body Care Products”).

5. Since prior to Applicant’s Filing Date (and First Use, if any, following the Filing Date), Opposer’s use of the mark, Primal Life Organics, in the United States and throughout the world, has established valuable goodwill and common law protections in association with the sale and manufacturing of the Body Care Products.

6. Since prior to Applicant’s Filing Date (and First Use, if any, following the Filing Date), Opposer has used the name Primal Life Organics as a trademark in association with the sale and manufacturing of the Body Care Products.

7. On November 13, 2013, Opposer filed an application with the United States Patent & Trademark Office for Primal Life Organics Paleo Skincare, Serial Number 86117892, pursuant to 15 U.S.C. § 1051(a) of the Trademark Act of 1946, claiming actual use of the mark in commerce (“Opposer’s Application”).

8. Opposer’s Application was approved for publication on August 19, 2014.

9. Applicant’s Primal Paste mark so resembles Opposer’s Primal Life Organics mark and Opposer’s Application as to be likely, when used in connection with Applicant’s product, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant’s product has its origin with Opposer and/or that such product is approved, endorsed or sponsored by Opposer or associated in some way with

Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's Primal Paste mark.

10. Opposer would be further injured by granting of a certificate of registration to Applicant because Applicant's Primal Paste mark would falsely suggest a connection between Applicant and Opposer.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Primal Paste mark and requests that the opposition be sustained and said registration denied.

Please recognize as attorneys for Opposer in this proceeding Brian S. Mencher (member of the bar of the State of New York) and Nick D. Nanton (member of the bar of the State of Florida) and the firm of Dicks & Nanton P.A., 520 N. Orlando Ave., #2, Winter Park, FL 32789.

Please address all communications to Brian Mencher, Esq. at the address listed below.

Dated: February 23, 2015

DICKS & NANTON P.A.
Attorneys for Opposer

By: /Brian S. Mencher/
Dicks & Nanton P.A.
Attn: Brian S. Mencher
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Winter Park, FL 32789
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on February 23, 2015, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant's Attorney of Record, Joshua G. Jones, Reed and Scardino LLP, 301 Congress Ave Suite 1250, Austin, TX 78701.

/Brian S. Mencher/

Brian S. Mencher

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