

ESTTA Tracking number: **ESTTA688504**

Filing date: **08/10/2015**

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	Nature's Sunshine Products, Inc.		
Entity	Corporation	Citizenship	Utah
Address	2500 West Executive Parkway, Suite 100 Lehi, UT 84043 UNITED STATES		

Attorney information	Dennis H. Cavanaugh D H Cavanaugh Associates 555 Fifth Avenue, 17th Floor New York, NY 10017 UNITED STATES dhc@dhcavanaugh.net Phone:212-856-7210		
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### Applicant Information

Application No	86521258	Publication date	07/21/2015
Opposition Filing Date	08/10/2015	Opposition Period Ends	08/20/2015
Applicant	Gassinutrition L.L.C. 8301 14th Avenue Brooklyn, NY 11228 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005. First Use: 2014/11/26 First Use In Commerce: 2014/11/26  
All goods and services in the class are opposed, namely: Nutritional supplements; Vitamins; Dietary supplements; Health food supplements; Infant formula

### Grounds for Opposition

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

U.S. Registration No.	1062040	Application Date	12/29/1975
Registration Date	03/29/1977	Foreign Priority Date	NONE
Word Mark	NATURE'S SUNSHINE		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 005. First use: First Use: 1973/10/19 First Use In Commerce: 1974/03/28 CAPSULED HERBS USED AS A DIETARY FOOD SUPPLEMENT		
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U.S. Registration No.	1105438	Application Date	04/06/1978
Registration Date	11/07/1978	Foreign Priority Date	NONE
Word Mark	NATURE'S SUNSHINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1978/03/20 First Use In Commerce: 1978/03/20 SUPPLEMENTAL VITAMINS AND MINERALS		

U.S. Registration No.	1253892	Application Date	01/24/1980
Registration Date	10/11/1983	Foreign Priority Date	NONE
Word Mark	NATURE'S SUNSHINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1977/04/30 First Use In Commerce: 1977/04/30 Herbal Tea		


U.S. Registration No.	1200101	Application Date	04/10/1980
Registration Date	07/06/1982	Foreign Priority Date	NONE
Word Mark	NATURE'S SUNSHINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1978/07/26 First Use In Commerce: 1978/07/26 Dietary Food Supplements-Namely, Herb Extract Powders Dissolved in Liquid Solvent and Liquid Chlorophyl; Medicinal Preparations-Namely, Comfrey Compound Skin Discomfort Cream, and Herbal Cough Syrup		

U.S. Registration No.	1219650	Application Date	04/10/1980
Registration Date	12/14/1982	Foreign Priority Date	NONE
Word Mark	NATURE'S SUNSHINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1978/12/21 First Use In Commerce: 1978/12/21 Dietary Food Supplement in the Form of a Mineral Drink to Be Mixed with Other Drinks Class 032. First use: First Use: 1978/12/21 First Use In Commerce: 1978/12/21		

	Aloe Vera Juice
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U.S. Registration No.	1265867	Application Date	04/10/1980
Registration Date	01/31/1984	Foreign Priority Date	NONE
Word Mark	NATURE'S SUNSHINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1978/02/00 First Use In Commerce: 1978/02/00 Food Beverages Containing Cereal and Herbal Flavorings, Excluding Coffee		

U.S. Registration No.	1341417	Application Date	04/23/1984
Registration Date	06/11/1985	Foreign Priority Date	NONE
Word Mark	NATURE'S SUNSHINE PRODUCTS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1983/04/01 First Use In Commerce: 1983/04/01 Rendering Aid and Assistance in the Establishment and Operation of Distributorships in the Field of Health Related Products, Dietary Supplements and Cosmetics		

U.S. Registration No.	1341418	Application Date	04/23/1984
Registration Date	06/11/1985	Foreign Priority Date	NONE
Word Mark	NATURE'S SUNSHINE		
Design Mark			


Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 1983/04/01 First Use In Commerce: 1983/04/01 Rendering Technical Aid and Assistance in the Establishment and Operation of Distributorships in the Field of Health Related Products, Dietary Supplements and Cosmetics

U.S. Registration No.	1387194	Application Date	08/09/1985
Registration Date	03/25/1986	Foreign Priority Date	NONE
Word Mark	NATURE'S SUNSHINE CONCENTRATE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1985/07/01 First Use In Commerce: 1985/07/01 GENERAL PURPOSE CLEANING CONCENTRATE		

U.S. Registration No.	1294784	Application Date	07/01/1983
Registration Date	09/11/1984	Foreign Priority Date	NONE
Word Mark	NATURE'S SUNSHINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 031. First use: First Use: 1977/02/00 First Use In Commerce: 1977/02/00 Bee Pollen		


U.S. Registration No.	1707732	Application Date	05/10/1991
Registration Date	08/18/1992	Foreign Priority Date	NONE
Word Mark	NATURE'S SUNSHINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1991/06/14 First Use In Commerce: 1991/06/14 house mark for a line of homeopathic medicines		

U.S. Registration No.	1907722	Application Date	03/10/1994
Registration Date	07/25/1995	Foreign Priority Date	NONE
Word Mark	NATURE'S SUNSHINE INDEPENDENT DISTRIBUTOR		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1994/05/00 First Use In Commerce: 1994/05/00 distributorship services in the field of health foods, food supplements, herbs, vitamins and minerals, cosmetics and hair and skin care products

U.S. Registration No.	2435532	Application Date	12/01/1997
Registration Date	03/13/2001	Foreign Priority Date	NONE

Word Mark	NATURE'S SUNSHINE QUALITY, SERVICE, INTEGRITY
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1998/01/31 First Use In Commerce: 1998/01/31

	[ Non-medicated toilet preparations, namely, hand and body soaps, body lotions and conditioners, skin salves, skin cream; skin lotions and skin conditioning gels; cosmetics, namely, facial moisturizers, toners, cleansers, skin treatments, eye creams; bath and shower gels, oils, soaps and salts; hair shampoos and conditioners; massage lotions, essential oils for personal use; toothpaste; non-medicated inhalation sachet; all-purpose cleaning preparations; and ] breath freshening tablets
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U.S. Registration No.	2409544	Application Date	12/01/1997
Registration Date	11/28/2000	Foreign Priority Date	NONE


Word Mark	NATURE'S SUNSHINE QUALITY, SERVICE, INTEGRITY
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Description of Mark	NONE
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Goods/Services	Class 005. First use: First Use: 1998/01/12 First Use In Commerce: 1998/01/12 Nutritional supplements, namely, herbal preparations and combinations in the forms of capsules, tablets, and/or powders, herb extract liquids and powders, herbal dietary supplements made of capsuled herbs and herbal combinations; supplemental vitamins and minerals and trace mineral supplements and trace mineral supplements suspended in liquid and liquid chlorophyll; weight control beverage concentrates and dietary supplement tablets; non-medicated homeopathic medicines and preparations for various ailments; medical preparations, namely, herbal skin discomfort cream and herbal cough syrup
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U.S. Registration No.	2523510	Application Date	05/17/2000
Registration Date	12/25/2001	Foreign Priority Date	NONE
Word Mark	NATURE'S SUNSHINE QUALITY, SERVICE, INTEGRITY INDEPENDENT DISTRIBUTOR		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2000/10/10 First Use In Commerce: 2000/10/10 Wholesale and retail distributorship services in the field of health foods, food supplements, herbs, vitamins and minerals, cosmetics and hair and skin care products

Attachments	73476975#TMSN.png( bytes ) 74498929#TMSN.png( bytes ) 75398387#TMSN.png( bytes ) 75979847#TMSN.png( bytes ) 76050440#TMSN.png( bytes ) Nature's Sunshine v. Gassinutrition Opposition.pdf(31474 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	/Dennis H. Cavanaugh/
Name	Dennis H. Cavanaugh
Date	08/10/2015

## NOTICE OF OPPOSITION

Pursuant to Trademark Rule 2.102, Nature's Sunshine Products, Inc., a Utah corporation having an office and place of business at 2500 West Executive Parkway, Suite 100, Lehi, Utah 84043 ("Opposer"), believes that it is and will be damaged by registration of the mark shown in Application Serial No. 86/521,258 in International Class 5, and therefore opposes the same. As grounds for the opposition it alleges that:

1. The Applicant, Gassinutrition L.L.C. ("Applicant"), is upon information and belief, a New York limited liability company with a place of business located at 8301 14th Avenue, Brooklyn, New York 11228.

2. On or about February 2, 2015, Applicant filed the above-referenced trademark application under Section 1a to register the mark "nature and sun technology" for "Nutritional supplements; Vitamins; Supplements; Health food supplements; Infant formula" in International Class 5. The identification was subsequently amended to: "Nutritional supplements; Vitamins; Dietary supplements; Health food supplements; Infant formula."

3. Opposer adopted and has been using the mark NATURE'S SUNSHINE in interstate commerce since at least as early as October 19, 1973, as a trademark to identify its dietary supplements and related products. Opposer continues to use the mark NATURE'S SUNSHINE to identify its dietary supplements, and such use has never been abandoned.

4. Opposer is the owner of the following registrations for the mark NATURE'S SUNSHINE on the Principal Register, which registrations are valid and subsisting and have never been abandoned:



- a. Registration No. 1,062,040, for NATURE'S SUNSHINE, issued December 29, 1975, for "capsuled herbs used as a dietary food supplement" in Class 5;
- b. Registration No. 1,105,438, for NATURE'S SUNSHINE, issued November 7, 1978, for "supplemental vitamins and minerals" in Class 5;
- c. Registration No. 1,253,892, for NATURE'S SUNSHINE, issued October 11, 1983, for "Herbal Tea" in Class 30;
- d. Registration No. 1,200,101, for NATURE'S SUNSHINE, issued July 6, 1982, for "Dietary Food Supplements-Namely, Herb Extract Powders Dissolved in Liquid Solvent and Liquid Chlorophyl; Medicinal Preparations-Namely, Comfrey Compound Skin Discomfort Cream, and Herbal Cough Syrup" in Class 5;
- e. Registration No. 1,219,650, for NATURE'S SUNSHINE, issued December 14, 1982, for "Dietary Food Supplement in the Form of a Mineral Drink to Be Mixed with Other Drinks" in Class 5 and "Aloe Vera Juice" in Class 32;
- f. Registration No. 1,265,867, for NATURE'S SUNSHINE, issued January 31, 1984, for "Food Beverages Containing Cereal and Herbal Flavorings, Excluding Coffee" in Class 30;
- g. Registration No. 1,341,417, for NATURE'S SUNSHINE PRODUCTS, issued January 15, 1985, for "Rendering Aid and Assistance in the Establishment and Operation of Distributorships in the Field of Health Related Products, Dietary Supplements and Cosmetics" in Class 35;
- h. Registration No. 1,341,418, for NATURE'S SUNSHINE PRODUCTS and

- Design, issued June 11, 1985, for “Rendering Technical Aid and Assistance in the Establishment and Operation of Distributorships in the Field of Health Related Products, Dietary Supplements and Cosmetics” in Class 35;
- i. Registration No. 1,387,194, for NATURE’S SUNSHINE CONCENTRATE, issued March 25, 1986, for “general purpose cleaning concentrate” in Class 3;
  - j. Registration No. 1,294,784, for NATURE’S SUNSHINE, issued September 11, 1984, for “Bee Pollen” in Class 31;
  - k. Registration No. 1,707,732, for NATURE’S SUNSHINE, issued August 18, 1992, for “house mark for homeopathic medicines” in Class 5;
  - l. Registration No. 1,907,722, for NATURE’S SUNSHINE INDEPENDENT DISTRIBUTOR and Design, issued July 25, 1995, for “distributorship services in the field of health foods, food supplements, herbs, vitamins and minerals, cosmetics and hair and skin care products” in Class 42;
  - m. Registration No. 2,435,532, for NATURE’S SUNSHINE QUALITY, SERVICE, INTEGRITY and Design, issued March 31, 2001, for “breath freshening tablets” in Class 3;
  - n. Registration No. 2,409,544, for NATURE’S SUNSHINE QUALITY, SERVICE, INTEGRITY and Design, issued November 28, 2000, for “Nutritional supplements, namely, herbal preparations and combinations in the forms of capsules, tablets, and/or powders, herb extract liquids and powders, herbal dietary supplements made of capsuled herbs and herbal combinations; supplemental vitamins and minerals and trace mineral

supplements and trace mineral supplements suspended in liquid and liquid chlorophyll; weight control beverage concentrates and dietary supplement tablets; non-medicated homeopathic medicines and preparations for various ailments; medical preparations, namely, herbal skin discomfort cream and herbal cough syrup” in Class 5; and

- o. Registration No. 2,523,510, for NATURE’S SUNSHINE QUALITY, SERVICE, INTEGRITY INDEPENDENT DISTRIBUTOR and Design, issued December 25, 2001, for “Wholesale and retail distributorship services in the field of health foods, food supplements, herbs, vitamins and minerals, cosmetics and hair and skin care products” in Class 35.

5. Applicant’s filing date of February 2, 2015 is subsequent to both Opposer’s date of first use of its NATURE’S SUNSHINE mark, October 19, 1973, and the date of its first registration therefor, December 29, 1975. Applicant’s claimed date of first use of November 26, 2014 is also subsequent to both Opposer’s date of first use of its NATURE’S SUNSHINE mark, October 19, 1973, and the date of its first registration therefor, December 29, 1975. Thus, priority is not at issue.

6. Applicant’s mark “nature and sun technology” is confusingly similar in sight, sound and meaning to Opposer’s NATURE’S SUNSHINE mark. Applicant’s mark so closely resembles Opposer’s mark as to be likely to be confused with and mistaken for Applicant’s mark. As a result, there is a significant likelihood of confusion between Applicant’s mark and Opposer’s mark.

7. Applicant’s goods are identical to and closely related to those of Opposer, thus increasing the likelihood of confusion that may result from registration and use of Applicant’s mark.

8. Opposer has invested substantial time, effort and money in using and promoting its

NATURE'S SUNSHINE mark and the goods bearing it. Through such prior use, promotion and advertising, Opposer has built up a valuable and protectable goodwill associated therewith. By virtue of Opposer's continuous, exclusive and widespread use of its NATURE'S SUNSHINE mark it has become well-known by the relevant purchasing public as a trademark of Opposer.

9. Registration of Applicant's mark is likely to cause the public to be confused, misled or deceived, and to falsely believe that Applicant's products are affiliated, associated, approved, sponsored, licensed or authorized by Opposer or others authorized or licensed by Opposer to use the NATURE'S SUNSHINE mark. Persons familiar with Opposer's mark are likely to purchase Applicant's products believing they are marketed by, affiliated with or endorsed by Opposer, when in fact they are not.

10. Registration of Applicant's mark is likely to cause harm and damage to Opposer and its mark by causing confusion, mistake and/or deception as to the respective rights of the parties and as to the source of the goods marketed and provided under the Applicant's mark, and by constituting a cloud on Opposer's prior established rights in its NATURE'S SUNSHINE mark. Such registration would give Applicant at least a prima facie right to use Applicant's mark, thereby causing continuing serious and irreparable harm to Opposer's rights in its mark, its business and to the goodwill of such business symbolized by Opposer's mark. Registration of Applicant's mark will also tend to reduce the distinctiveness, value and goodwill of Opposer's mark.

WHEREFORE, Opposer believes that it will be damaged by registration of the Applicant's mark in Class 5, Application Serial No. 86/521,258 and opposes registration thereof on the grounds set forth above. Opposer further requests that Application Serial No. 86/521,258 be rejected, and

that registration of Applicant's mark therein sought for the goods specified therein in Class 5 be denied and refused.

Dated: New York, New York  
August 10, 2015

Respectfully submitted,

NATURE'S SUNSHINE PRODUCTS, INC.

/Dennis H. Cavanaugh/

By: \_\_\_\_\_

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Attorneys for Opposer

CERTIFICATE OF SERVICE

DENNIS H. CAVANAUGH, declares that:

1. I am counsel for the Opposer in the captioned action, and that on the execution date which appears below, a true copy of the foregoing was served on Applicant, by causing the same to be placed in an official depository under the exclusive care and custody of the United States Postal Service, first class mail, postage prepaid, addressed as follows:

Paul Gassi  
Owner/CEO  
GASSINUTRITION L.L.C.  
8301 14th Avenue  
Brooklyn, New York 11228-3115

2. Pursuant to 28 U.S.C. Sect. 1746, I declare under penalty of perjury that all of the foregoing is true and correct.

Executed on August 10, 2015

/Dennis H. Cavanaugh/  
By \_\_\_\_\_  
Dennis H. Cavanaugh

CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8

I hereby certify that on August 10, 2015, this correspondence is being filed electronically with the U.S. Patent and Trademark Office.

/Dennis H. Cavanaugh/  
\_\_\_\_\_  
Dennis H. Cavanaugh