

ESTTA Tracking number: **ESTTA756301**

Filing date: **07/05/2016**

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 One, Inc.
Granted to Date of previous extension	07/06/2016
Address	8754 Cotter Street Lewis Center, OH 43035 UNITED STATES
Party who filed Extension of time to oppose	Nature's One, Inc.
Relationship to party who filed Extension of time to oppose	The request for the extension of time to oppose converted the apostrophe to a pound sign and for this filing it was converted into a question mark. The erroneous conversion was most likely due to a Patent and Trademark Office computer code quirk.

Correspondence information	Mark A. Watkins Attorney of Record Vorys, Sater, Seymour and Pease LLP P.O. Box 2255 Columbus, OH 43216-2255 UNITED STATES iplaw@vorys.com Phone:330.208.1000
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Applicant Information

Application No	86755687	Publication date	03/08/2016
Opposition Filing Date	07/05/2016	Opposition Period Ends	07/06/2016
Applicant	One Nature Labs, Inc, 1919 SW 24th Terrace Fort Lauderdale, FL 33312 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Nutraceutical for use as dietary supplements and homeopathic pharmaceuticals for use in the relief of symptoms relating to lack of attention and concentration, hyperactivity, motion sickness and lack of balance, mucus in throat and nose, weight management support, stress control, and weakness and lack of stamina, in capsule, tablet, and liquid forms</p>

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Dilution by tarnishment	Trademark Act Sections 2 and 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2504996	Application Date	11/03/1998
Registration Date	11/06/2001	Foreign Priority Date	NONE
Word Mark	NATURE'S ONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1999/04/01 First Use In Commerce: 1999/04/01 Baby Food		

Attachments	2016.07.5 Notice of Opposition - One Nature Labs.pdf(25016 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	/Mark A. Watkins/
Name	Mark A. Watkins
Date	07/05/2016

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial Number 86/755,687
Published in the Official Gazette of March 8, 2016
Application Date September 14, 2015

NATURE'S ONE, INC.)
)
Opposer,)
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v.)
)
ONE NATURE LABS, INC.)
)
Applicant.)
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NOTICE OF OPPOSITION

Nature's One, Inc. believes that it will be damaged by the registration of the trademark "ONENATURE LABS," Application No. 86/755,687, published in the *Official Gazette* of March 8, 2016.

1. Opposer Nature's One, Inc. (hereinafter "Opposer") is an Ohio corporation located at 8754 Cotter Street, Lewis Center, Ohio.

2. Opposer is the manufacturer and seller of high quality organic formulas, nutritional supplements and electrolyte drinks. Opposer's "NATURE'S ONE" products are carefully formulated to encourage the proper functioning of the immune system, boost energy, process fats and both protect and enhance a number of other vital body functions. Consumers can purchase Opposer's products at retail stores and medical suppliers nationwide and throughout the world.

3. Opposer is the owner of the entire right, title and interest in and to the registered trademark NATURE'S ONE, Registration No. 2,504,996, registered on November 6, 2001 for baby food. Opposer has filed affidavits of continuing use and incontestability and affidavits of continued use and renewal under §§ 8, 9 and 15 of the Trademark Act of 1946 for the registration. The Section 15 affidavit was accepted by the U.S. Patent and Trademark Office, indicating that Opposer's registration for this trademark is incontestable.

4. The Opposer's trademark was adopted in the U.S. at least as early as April 1, 1999 for use in connection with baby food.

5. Opposer has used the domain name www.naturesone.com since its inception into business. The words “Nature’s One” are part of its corporate name and “Nature’s One” has served and continued to serve as a common law house brand for all of its products. The term “Nature’s One” appears on virtually all of the Opposer’s promotional material, product labels, etc. Opposer’s products include baby formula, electrolyte beverages and replacement solutions, nutritional beverages and beverage mixes, most of which have been available well before 2012.

6. Opposer has been engaged in its business since 1998, which is many years prior to September 14, 2015, the date that One Nature Labs, Inc. (referred to herein as “Applicant”) filed its present trademark application for “ONENATURE LABS” for “nutraceutical for use as dietary supplements and homeopathic pharmaceuticals for use in the relief of symptoms relating to lack of attention and concentration, hyperactivity, motion sickness and lack of balance, mucus in throat and nose, weight management support, stress control, and weakness and lack of stamina, in capsule, tablet, and liquid forms.”

7. Opposer’s goods covered by its registration and common law trademark rights are nutritional dietary supplements. The Applicants’ products are for similar goods and will create a likelihood of confusion.

8. Applicant’s trademark “ONENATURE LABS” is confusingly similar to Opposer’s “NATURE’S ONE” trademark because Applicant’s trademark is nearly identical to Opposer’s trademark. The words “ONE” and “NATURE” make up the predominant portion of each mark. Applicant has merely reversed the order of the words found in Opposer’s mark and disclaimed the word “LABS” in its application. Furthermore, the goods identified in Application No. 86/755,687 are very closely related to those sold under Opposer’s “NATURE’S ONE” trademark.

9. The products covered by Applicant’s trademark are of a type that have been, are or may be offered to the same classes of purchasers, substantially the same classes of purchasers, and/or classes of purchasers that are related to those to whom the Opposer’s products are offered.

10. The products covered by Applicant’s trademark are of a type that have been, are or may be advertised, marketed and promoted through the same media channels as the Opposer.

11. Opposer has spent and continues to spend large sums of money in the promotion, advertisement and sale of its goods bearing its "NATURE'S ONE" trademark, and by reason of such advertising and the high quality of its products carrying such trademarks, Opposer enjoys a valuable goodwill and an enviable reputation with respect to its trademarks and the goods associated therewith.

12. As a result of the foregoing, members of the purchasing public familiar with Opposer's products and Opposer's "NATURE'S ONE" trademark are likely to be confused, misled, or deceived into thinking that the products of Applicant are products of Opposer or are in some way sponsored by or connected with Opposer, to Opposer's irreparable damage and injury.

13. Opposer will be injured if registration is granted to Applicant because its trademark "ONENATURE LABS" falsely suggests a connection with Opposer's products bearing the trademark "NATURE'S ONE." Opposer has no control over the nature and quality of the products offered by Applicant under the "ONENATURE LABS" trademark, and thus, will be damaged and irreparably harmed by reason of the loss of control over its reputation and the erosion of its goodwill in its trademark.

14. As a result of over fifteen (15) years of continuous and substantial use, as well as significant amounts of advertising and sales, Opposer's trademark is famous among the relevant buying public and within the meaning of § 43(c) of the Lanham Act. Such trademarks became famous before Applicant's actual or constructive use of the proposed "ONENATURE LABS" trademark. Opposer will be injured if registration is granted to Applicant because its trademark "ONENATURE LABS" will cause dilution by blurring and/or tarnishment of Opposer's "NATURE'S ONE" trademark.

15. For the reasons set forth above, Opposer believes and accordingly asserts that the goodwill in its "NATURE'S ONE" trademark will be damaged by the registration of Applicant's trademark "ONENATURE LABS," and that Applicant should therefore be denied registration for its proposed trademark.

WHEREFORE, Opposer prays that this Opposition be sustained and that Applicant's trademark "ONENATURE LABS," Application No. 86/755,687 be refused registration.

Opposer herewith submits this Notice of Opposition along with the requisite filing fee in the amount of three hundred dollars (\$300). Please charge any additional fees or credit any excess to our Deposit Account No. 50-6424.

Date: July 5, 2016

Respectfully submitted,



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Attorney for Opposer,
Nature's One, Inc.

CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing NOTICE OF OPPOSITION was served on One Nature Labs, Inc. on July 5, 2016, by first class mail, addressed to:

Todd I. Stone, Esq.
The Stone Law Group
101 NE Third Avenue, Suite 1250
Fort Lauderdale, FL 33301



Mark A. Watkins