

ESTTA Tracking number: **ESTTA780298**

Filing date: **11/01/2016**

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	Quest Nutrition, LLC		
Entity	limited liability company	Citizenship	Delaware
Address	2233 E. El Segundo Boulevard El Segundo, CA 90245 UNITED STATES		

Attorney information	Michael Adams Rutan & Tucker LLP 611 Anton Blvd. Suite 1400 Costa Mesa, CA 92626 UNITED STATES madams@rutan.com, lhulley@rutan.com, trademarks@rutan.com, scook@rutan.com Phone:(714) 641-5100
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Applicant Information

Application No	87030068	Publication date	10/04/2016
Opposition Filing Date	11/01/2016	Opposition Period Ends	11/03/2016
Applicant	Wilhelmsson, Mark 16 Farview Rd Brookfield, CT 06804 UNITED STATES		

Goods/Services Affected by Opposition


Class 005. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Nutritional supplements

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.	4591303	Application Date	06/20/2013
Registration Date	08/26/2014	Foreign Priority Date	NONE
Word Mark	QUEST		


Design Mark	
Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 2009/04/24 First Use In Commerce: 2009/04/24 Dietary supplement, namely, nutrient-dense, protein-based snack bars Class 030. First use: First Use: 2009/04/24 First Use In Commerce: 2009/04/24 Shirataki based dried and wet noodles

U.S. Registration No.	4768690	Application Date	11/23/2014
Registration Date	07/07/2015	Foreign Priority Date	NONE

Word Mark	QUEST
Design Mark	

Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 2009/04/24 First Use In Commerce: 2009/04/24 Powdered nutritional supplement drink mix containing one or more of the following ingredients, soy, oat oil, creatine, soy oil, dextrose, protein, non-fat milk, milk protein, or whey protein concentrate Class 029. First use: First Use: 2009/04/24 First Use In Commerce: 2009/04/24 Vegetable and potato based chips and snacks; Protein based, nutrition dense snack bars, namely, high protein nut-based snack bars and high protein whey-based snack bars Class 030. First use: First Use: 2014/07/01 First Use In Commerce: 2014/07/25 Grain based chips and snacks; Chocolates and chocolate based ready to eat candies and snacks; high protein, low carbohydrate cereal-based and chocolate-based bars and snacks

U.S. Registration No.	4939775	Application Date	07/09/2015
Registration Date	04/19/2016	Foreign Priority Date	NONE

Word Mark	QUEST
Design Mark	
Description of Mark	The mark consists of the word "quest" with the "e" replaced by three parallel lines.
Goods/Services	Class 005. First use: First Use: 2008/08/01 First Use In Commerce: 2009/04/24 Dietary supplement, namely, nutrient-dense, protein-based snack bars; Powdered nutritional supplement drink mix containing one or more of the following ingredients, soy, oat oil, creatine, soy oil, dextrose, protein, non-fat milk, milk protein, or whey protein concentrate Class 029. First use: First Use: 2008/08/01 First Use In Commerce: 2009/04/24 Vegetable and potato based chips and snacks which contain protein; Protein based, nutrition dense snack bars, namely, high protein nut-based snack bars and high protein whey-based snack bars Class 030. First use: First Use: 2012/08/05 First Use In Commerce: 2012/09/20 Grain based chips and snacks; Chocolates and chocolate based ready to eat candies and snacks; high protein, low carbohydrate cereal-based and chocolate-based bars and snacks

Attachments	85965950#TMSN.png(bytes) 86462416#TMSN.png(bytes) 86688842#TMSN.png(bytes) Notice of Opposition - PurityQUEST.pdf(191278 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	/s/ Michael Adams
Name	Michael Adams
Date	11/01/2016

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

Quest Nutrition, LLC,

Opposer,

v.

Mark Wilhelmsson,

Applicant.

Opposition No. TO BE ASSIGNED

Serial No.: 87030068

Mark: PurityQUEST

NOTICE OF OPPOSITION


Opposer, Quest Nutrition, LLC, a Delaware limited liability company having a place of business at 2233 E. El Segundo Boulevard, El Segundo, California 90245 (hereinafter “Opposer”) believes that it will be damaged by registration of the mark PurityQUEST, shown in U.S. Application Serial No. 87030068 (the “Application”), filed by Mark Wilhelmsson (“Applicant”) and hereby opposes the same.

As grounds for the Opposition, it is alleged that:

1. Opposer is now and for many years past has been engaged in the manufacture, marketing and sale of dietary and nutritional supplements.
2. For many years and since at least as early as August 1, 2008, Opposer adopted and has used the trademark QUEST on and in connection with its goods.
3. For many years, Opposer has drawn upon the goodwill and public recognition of its QUEST marks by adopting and using these marks to signify its high quality goods.
4. Opposer’s QUEST marks have been conspicuously applied to and used in conjunction with Opposer’s goods, and said goods so marked have been extensively distributed, advertised, promoted and sold in interstate commerce in the United States.
5. Opposer has widely and extensively advertised and promoted its goods such that the public and trade recognize that these products emanate from one source, *i.e.*, Quest Nutrition, LLC.
6. By virtue of Opposer’s extensive advertising, promotion, and sales of its goods

under its QUEST marks, the public and trade have come to rely upon Opposer's QUEST marks to identify Opposer's superior products and distinguish them from the products of others. The QUEST marks have come to represent an extremely valuable goodwill belonging exclusively to Opposer.

7. Opposer has long maintained registrations incorporating the word QUEST for dietary and nutritional supplements in the United States Patent and Trademark Office (the "USPTO") for its goods. Among said registrations owned by Opposer (collectively, Opposer's Marks") are the following:

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Class</u>
QUEST	4591303	August 26, 2014	5, 30
QUEST	4768690	July 7, 2015	5, 29, 30
	4939775	April 19, 2016	5, 29, 30

8. The registrations for said Opposer's QUEST Marks are valid and subsisting, and are owned by Opposer together with the business and goodwill connected therewith.

9. Copies of the TSDR records for these registrations and applications showing the current status and title are attached hereto as Exhibit A.

Applicant's Trademark Application

10. Applicant seeks registration of the mark PurityQUEST ("Applicant's Mark") on the basis of an application filed on May 9, 2016, pursuant to Section 1(b) of the Lanham Act.

11. As published on October 4, 2016, the Application covers "Nutritional supplements" in International Class 5.

**CLAIM FOR RELIEF
Likelihood of Confusion
Section 2(d) of The Lanham Act; 15 U.S.C. §1052(d)**

12. Opposer hereby incorporates the foregoing paragraphs as fully set forth herein.

13. Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), prohibits registration on the principal register of a mark that consists of or comprises a mark which so resembles a mark

previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods and/or services of the applicant, to cause confusion, or to cause mistake, or to deceive.

14. Upon information and belief, the goods identified in the Application are closely related and/or complementary to the goods offered under Opposer's Marks.

15. Applicant's Mark so resembles Opposer's Marks, as to be likely, when used in connection with Applicant's goods, to cause confusion, to cause mistake, or to deceive.

16. With many years of prior use of Opposer's Marks in Class 5, Opposer is entitled to the exclusive use of its marks in connection with those goods.

17. The Trademark Trial and Appeal Board has authority under 15 U.S.C. § 1068 to refuse to register the Application.

WHEREFORE, Opposer believes and avers that it will be damaged by registration of the Application and prays that the Application be rejected, that no registration be issued to Applicant, and that this Opposition be sustained in favor of Opposer.

Please recognize Michael Adams and the law firm of Rutan & Tucker, LLP, as attorneys for Opposer in this proceeding and address all communications to Mr. Adams at the address below. This Notice of Opposition is being submitted electronically through ESTTA. The required fee is authorized to be charged against the Deposit Account of the Attorney for Opposer.

Dated: November 1, 2016

Respectfully submitted,

/Michael Adams/
Michael Adams
Rutan & Tucker, LLP
611 Anton Boulevard, Suite 1400
Costa Mesa, California 92626
(714) 641-5100
Attorneys for Opposer,
QUEST NUTRITION, LLC

EXHIBIT A

1. TSDR is experiencing intermittent issues displaying certain documents. The issue is being addressed.

2. The Trademark organization is beta testing a next generation examination system. As a result, there may be instances where Office actions have unexpected formatting or spacing issues. The Office is working on improvements to resolve these issues and appreciates your patience. Please contact us at [TMFeedback](#)

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Mark: QUEST

Quest

US Serial Number: 85965950

Application Filing Date: Jun. 20, 2013

US Registration Number: 4591303

Registration Date: Aug. 26, 2014

Register: Principal

Mark Type: Trademark

TM5 Common Status

LIVE/REGISTRATION/Issued and Active

Descriptor:



The trademark application has been registered with the Office.

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Aug. 26, 2014

Publication Date: Jan. 07, 2014

Mark Information

Mark Literal Elements: QUEST

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *...* identify additional (new) wording in the goods/services.

For: Dietary supplement, namely, nutrient-dense, protein-based snack bars

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 24, 2009

Use in Commerce: Apr. 24, 2009

For: Shirataki based dried and wet noodles

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 24, 2009

Use in Commerce: Apr. 24, 2009

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: QUEST NUTRITION, LLC
Owner Address: 2233 E. EL SEGUNDO BOULEVARD
EL SEGUNDO, CALIFORNIA UNITED STATES 90245
Legal Entity Type: LIMITED LIABILITY COMPANY
State or Country Where Organized: DELAWARE

Attorney/Correspondence Information

Prosecution History

TM Staff and Location Information

Assignment Abstract Of Title Information

Summary

Total Assignments: 2

Conveyance Filter

Registrant: Quest Nutrition, LLC

Assignment 1 of 2

Assignment 2 of 2

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1. TSDR is experiencing intermittent issues displaying certain documents. The issue is being addressed.

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Mark: QUEST

Quest

US Serial Number: 86462416

Application Filing Date: Nov. 23, 2014

US Registration Number: 4768690

Registration Date: Jul. 07, 2015

Register: Principal

Mark Type: Trademark

TM5 Common Status

LIVE/REGISTRATION/Issued and Active

Descriptor:



The trademark application has been registered with the Office.

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Jul. 07, 2015

Publication Date: Apr. 21, 2015

Mark Information

Mark Literal Elements: QUEST

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *...* identify additional (new) wording in the goods/services.

For: Powdered nutritional supplement drink mix containing one or more of the following ingredients, soy, oat oil, creatine, soy oil, dextrose, protein, non-fat milk, milk protein, or whey protein concentrate

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 24, 2009

Use in Commerce: Apr. 24, 2009

For: Vegetable and potato based chips and snacks; Protein based, nutrition dense snack bars, namely, high protein nut-based snack bars and high protein whey-based snack bars

International Class(es): 029 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 24, 2009

Use in Commerce: Apr. 24, 2009

For: Grain based chips and snacks; Chocolates and chocolate based ready to eat candies and snacks; high protein, low carbohydrate cereal-based and chocolate-based bars and snacks

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 01, 2014

Use in Commerce: Jul. 25, 2014

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: QUEST NUTRITION, LLC
 Owner Address: 2233 E. EL SEGUNDO BOULEVERD
 EL SEGUNDO, CALIFORNIA UNITED STATES 91367
 Legal Entity Type: LIMITED LIABILITY COMPANY
 State or Country Where Organized: DELAWARE

Attorney/Correspondence Information

Prosecution History

TM Staff and Location Information

Assignment Abstract Of Title Information

Summary

Total Assignments: 2

Conveyance Filter

Registrant: QUEST NUTRITION, LLC

Assignment 1 of 2

Assignment 2 of 2

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1. TSDR is experiencing intermittent issues displaying certain documents. The issue is being addressed.

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Mark: QUEST



US Serial Number: 86688842

Application Filing Date: Jul. 09, 2015

US Registration Number: 4939775

Registration Date: Apr. 19, 2016

Filed as TEAS RF: Yes

Currently TEAS RF: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status

LIVE/REGISTRATION/Issued and Active

Descriptor:



The trademark application has been registered with the Office.

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Apr. 19, 2016

Publication Date: Feb. 02, 2016

Mark Information

Mark Literal Elements: QUEST

Standard Character Claim: No

Mark Drawing Type: 5 - AN ILLUSTRATION DRAWING WITH WORD(S) /LETTER(S)/ NUMBER(S) INSTYLIZED FORM

Description of Mark: The mark consists of the word "quest" with the "e" replaced by three parallel lines.

Color(s) Claimed: Color is not claimed as a feature of the mark.

Related Properties Information

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Dietary supplement, namely, nutrient-dense, protein-based snack bars; Powdered nutritional supplement drink mix containing one or more of the following ingredients, soy, oat oil, creatine, soy oil, dextrose, protein, non-fat milk, milk protein, or whey protein concentrate

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Aug. 01, 2008

Use in Commerce: Apr. 24, 2009

For: Vegetable and potato based chips and snacks which contain protein; Protein based, nutrition dense snack bars, namely, high protein nut-based snack bars and high protein whey-based snack bars

International Class(es): 029 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Aug. 01, 2008

Use in Commerce: Apr. 24, 2009

For:

Grain based chips and snacks; Chocolates and chocolate based ready to eat candies and snacks; high protein, low carbohydrate cereal-based and chocolate-based bars and snacks

International Class(es): 030 - Primary Class

U.S Class(es): 046

Class Status: ACTIVE

Basis: 1(a)

First Use: Aug. 05, 2012

Use in Commerce: Sep. 20, 2012

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: Quest Nutrition, LLC
 Owner Address: 2233 East El Segundo Blvd.
 El Segundo, CALIFORNIA UNITED STATES 902454608
 Legal Entity Type: LIMITED LIABILITY COMPANY
 State or Country Where Organized: DELAWARE

Attorney/Correspondence Information

Prosecution History

TM Staff and Location Information

Assignment Abstract Of Title Information - None recorded

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is one of the attorneys for Opposer Quest Nutrition, LLC in the above-captioned Opposition proceeding and that on the date which appears below, he caused a copy of the foregoing **NOTICE OF OPPOSITION** to be served on the following with the United States Postal Service with fully pre-paid postage by first class mail service:

Applicant

Mark Wilhelmsson
16 Fairview Road
Brookfield, Connecticut 06804

Dated: November 1, 2016
Costa Mesa, California

/Michael Adams/
Michael Adams