

ESTTA Tracking number: **ESTTA808250**

Filing date: **03/20/2017**

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	Threshold Enterprises Ltd.
Granted to Date of previous extension	03/19/2017
Address	23 Janis Way Scotts Valley, CA 95066 UNITED STATES
Attorney information	Monty Agarwal CounselTen 650 2nd Street # 605 San Francisco, CA 94107 UNITED STATES monty@counselten.com Phone:4153779356

Applicant Information

Application No	86968629	Publication date	09/20/2016
Opposition Filing Date	03/20/2017	Opposition Period Ends	03/19/2017
Applicant	Kahan, Joseph 9 Mordche Scher Blvd Monroe, NY 10950 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: Lipstick; eyeliner
Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Health food 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.	1909705	Application Date	05/12/1994
Registration Date	08/08/1995	Foreign Priority Date	NONE
Word Mark	SOURCE NATURALS		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 1982/01/01 First Use In Commerce: 1982/01/01 vitamins, herbs and nutritional supplements

U.S. Registration No.	3930397	Application Date	03/03/2009
Registration Date	03/15/2011	Foreign Priority Date	NONE

Word Mark	SOURCE NATURALS
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2002/03/06 First Use In Commerce: 2002/03/06 cosmetics, namely, ointments, gels, creams, lotions, moisturizers, oils, serums, salves and bath oils, all of which are used for the skin

Attachments	77682619#TMSN.png(bytes) Elixir Source Notice of Opposition.pdf(222256 bytes)
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Signature	/s/ Monty Agarwal
Name	Monty Agarwal
Date	03/20/2017

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

In the matter of trademark application Serial No. 86/968,629
Filed April 8, 2016
Mark ELIXIR SOURCE
Published in the Official Gazette on September 20, 2016

Threshold Enterprises Ltd.,)	
)	
Opposer,)	
)	Opposition No. _____
vs.)	
)	
Joseph Kahan,)	
)	
Applicant.)	
_____)	

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

In the matter of U.S. Trademark Application Serial No. 86/968,629 for the mark ELIXIR SOURCE, in the name of Joseph Kahan, an individual (“Applicant”), which was published for opposition in the Official Gazette on September 20, 2016. Threshold Enterprises Ltd. (“Threshold Enterprises”), a corporation of Delaware with its principal place of business at 23 Janis Way, Scotts Valley, California 95066, believes it will be damaged by the registration of the mark in Serial No. 86/968,629 and hereby opposes the same, in accordance with Section 13 of the Trademark (Lanham) Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, Threshold Enterprises alleges as follows:

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Serial No. 86/968,629

1. On information and belief, Applicant's residence and/or principal place of business is 9 Mordche Scher Blvd Monroe, New York 10950.

2. Applicant filed Serial No. 86/968,629 on April 8, 2016, seeking registration of ELIXIR SOURCE for "Lipstick; eyeliner" in International Class 003 and "Health food supplements" in International Class 005.

3. Threshold Enterprises is the owner of incontestable U.S. Trademark Registration No. 1,909,705 for SOURCE NATURALS for "vitamins, herbs and nutritional supplements." SOURCE NATURALS was originally registered by Source Naturals, Inc., a wholly owned subsidiary of Threshold Enterprises, and was later assigned to Threshold Enterprises. This registration is valid, subsisting, incontestable, uncancelled and conclusive evidence of Threshold Enterprises' exclusive right to use SOURCE NATURALS in commerce or in connection with the goods specified in the registration.

4. Since at least thirty-one years prior to Applicant's filing date for Serial No. 86/968,629, Threshold Enterprises adopted and has continuously used its SOURCE NATURALS mark and its trade name SOURCE NATURALS, INC. in connection with vitamins, herbs and nutritional supplements. SOURCE NATURALS is a prominent national brand, with products available nationwide in all major markets.

5. Threshold Enterprises is the owner of U.S. Trademark Registration No. 3,930,397 for SOURCE NATURALS for "cosmetics, namely, ointments, gels, creams, lotions, moisturizers, oils, serums, salves and bath oils, all of which are used for the skin." This registration is valid, subsisting, uncancelled and conclusive evidence of Threshold Enterprises' exclusive right to use SOURCE NATURALS in commerce or in connection with the goods

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specified in the registration.

6. Since at least eleven years prior to Applicant's filing date for Serial No. 86/968,629, Threshold Enterprises adopted and has continuously used its SOURCE NATURALS mark in connection with cosmetics, namely, ointments, gels, creams, lotions, moisturizers, oils, serums, salves and bath oils, all of which are used for the skin. SOURCE NATURALS is a prominent national brand, with products available nationwide in all major markets.

7. Threshold Enterprises has invested substantial amounts of time, effort and money in developing, marketing, promoting and protecting its SOURCE NATURALS mark and SOURCE NATURALS, INC. trade name throughout the United States. As such, in addition to the protection afforded Threshold Enterprises by its federal trademark registration of SOURCE NATURALS, Threshold Enterprises has extensive, non-registered statutory and common law rights in its SOURCE NATURALS marks and SOURCE NATURALS, INC. trade name.

8. Applicant's mark so resembles Threshold Enterprises' SOURCE NATURALS mark that it is likely to cause confusion, or to cause mistake or deceive within the meaning of Section 2(d) of the Trademark (Lanham) Act of 1946, 15 U.S.C. §1052(d); and more particularly, Applicant's mark and use thereof are likely to cause confusion in, or to cause mistake by, or to deceive the trade and purchasing public into believing that the goods/services in Serial No. 86/968,629 originate with or are affiliated with Threshold Enterprises, or otherwise are authorized, licensed or sponsored by Threshold Enterprises.

9. By reasons of the foregoing, Threshold Enterprises will be gravely damaged by the registration of THE SOURCE OF HEALING INSTITUTE for the goods in Serial No. 86/968,629, because registration of that mark would be in violation of Threshold Enterprises'

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trademark rights.

WHEREFORE, Threshold Enterprises prays that this Notice of Opposition be sustained in favor of Threshold Enterprises and that Serial No. 86/968,629 be denied registration.

Respectfully submitted,

THRESHOLD ENTERPRISE LTD.

March 20, 2017

/s/

MONTY AGARWAL
COUNSELTEN
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San Francisco, California 94107
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E-Mail: monty@counselten.com

wAttorneys for Opposer

PROOF OF SERVICE

I am over eighteen years of age and not a party to this action. I am employed in San Francisco, California. My business address is 650 2nd Street # 605, San Francisco, California 94107. On March 20, 2017, I served the following document(s):

NOTICE OF OPPOSITION

I served the document(s) on the following person(s):

Neda Mostfavi (lfdisputes@legalforcelaw.com)
Jessica Tam (jessica@legalforcelaw.com)
LegalForce RAPC
1580 West El Camino Real Suite 14
Mountain View, CA 94040

(BY EMAIL) by causing a true and correct copy of the above to be sent to the email(s) listed above.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

March 20, 2017

Signature: _____ /s/ Monty Agarwal