

ESTTA Tracking number: **ESTTA840927**

Filing date: **08/21/2017**

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	McCormick & Company, Incorporated
Granted to Date of previous extension	08/20/2017
Address	18 Loveton Circle Sparks, MD 21152 UNITED STATES

Attorney information	Jennifer Lee Taylor Morrison & Foerster LLP 425 Market Street San Francisco, CA 94105 UNITED STATES Email: APhillips@mofo.com, JTaylor@mofo.com, JLiou@mofo.com, GGabriel@mofo.com, CBurns@mofo.com, TMDocket@mofo.com, KSamia@mofo.com
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Applicant Information

Application No	87189861	Publication date	02/21/2017
Opposition Filing Date	08/21/2017	Opposition Period Ends	08/20/2017
Applicant	Wild Flavors, Inc. 1261 Pacific Avenue Erlanger, KY 41018 UNITED STATES		

Goods/Services Affected by Opposition

Class 002. First Use: 2003/06/11 First Use In Commerce: 2003/06/11 All goods and services in the class are opposed, namely: natural food coloring for food and beverages

Grounds for Opposition

Other	Lack of use of the mark in commerce on or in connection with all the goods and services listed in the application as of the application filing date. 15 U.S.C. 1051(a).
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Related Proceedings	Opposition No. 91230400
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Attachments	Notice of Opposition to COLORS FROM NATURE Application.pdf(28163 bytes)
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Signature	/Jennifer Lee Taylor/
Name	Jennifer Lee Taylor
Date	08/21/2017

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

MCCORMICK & COMPANY,
INCORPORATED,

Opposer,

vs.

WILD FLAVORS, INC.,

Applicant.

Opposition No.:

Application No.: 87/189,861

Mark: COLORS FROM NATURE

Filed: September 30, 2016

Published: February 21, 2017

NOTICE OF OPPOSITION

Box TTAB FEE
Commissioner for Trademarks
P.O. Box 1451
Arlington, VA 22313-1451

McCormick & Company, Incorporated (“Opposer”), a Maryland corporation having its principal place of business at 18 Loveton Circle, Sparks, Maryland 21152, believes that it will be damaged by the use and registration of the COLORS FROM NATURE mark shown in Application Serial No. 87/189,861 by Wild Flavors, Inc. (“Applicant”), for “natural food coloring for food and beverages” in International Class 2.

As grounds for the opposition, it is alleged as follows:

1. On September 30, 2016, Applicant filed Application Serial No. 87/189,861 for the mark COLORS FROM NATURE for “natural food coloring for food and beverages” in International Class 2.

2. In support of the opposed application filed under Section 1(a), Applicant asserted a claimed first use date of June 11, 2003, and submitted as a specimen of use a shipping label for

elderberry extract concentrate bearing a manufacture date of June 11, 2003 and an expiration date of March 7, 2004.

3. On information and belief, the applied-for mark was abandoned and not in use as of September 16, 2016, the application filing date of its Section 1(a) application. Further, on information and belief, Applicant submitted a specimen in support of its Section 1(a) application that did not show the applied-for mark as used in commerce as of September 16, 2016, as evidenced by the March 7, 2004 expiration date on the specimen. For these reasons, Applicant's application is *void ab initio* because there was no bona fide use of Applicant's COLORS FROM NATURE mark in commerce to support the use-based application for its registration under Section 1(a).

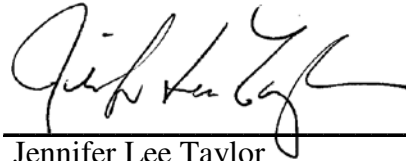
4. Opposer is a global leader in flavor, whose food, seasoning, and ingredient products encompass some of the top-selling global brands in the food industry. Specifically, Opposer manufactures, markets, and distributes spices, seasoning mixes, condiments, extracts, and other food seasoning products.

5. Opposer owns U.S. Application Serial No. 86/923,064 for the mark COLOR FROM NATURE for "food coloring" in Class 2, against which Applicant filed a notice of opposition asserting a likelihood of confusion based in part upon its rights in Application Serial No. 87/189,861. Accordingly, Opposer will be injured if Applicant's COLORS FROM NATURE mark matures to registration.

Filing Fee: The USPTO is authorized to charge \$400.00 for the Notice of Opposition to Application Serial No. 87/189,861 to Morrison & Foerster LLP's Deposit Account 03-1952 (Reference No. 27414-9117.503).

WHEREFORE, Opposer prays that Application Serial No. 87/189,861 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Respectfully submitted,



By:

Jennifer Lee Taylor
Attorney for Opposer
McCormick & Company, Incorporated

Dated: August 21, 2017

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