

ESTTA Tracking number: **ESTTA866373**

Filing date: **12/20/2017**

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	Taste of Nature, Inc.
Granted to Date of previous extension	12/20/2017
Address	2828 Donald Douglas, Loop N. Suite A Santa Monica, CA 90405 UNITED STATES
Attorney information	Jessie Reider, CA Bar 237113 Buchalter, APC 1000 Wilshire Blvd., Suite 1500 Los Angeles, CA 90017 UNITED STATES Email: trademark@buchalter.com

Applicant Information

Application No	87453243	Publication date	08/22/2017
Opposition Filing Date	12/20/2017	Opposition Period Ends	12/20/2017
Applicant	Provide Commerce, Inc. 4830 Eastgate Mall San Diego, CA 92121 UNITED STATES		

Goods/Services Affected by Opposition


<p>Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Online retail store services, retail mail order catalogue services and retail shop-by-telephone services featuring dipped fresh or frozen fruits, baked goods, marshmallows, espresso beans, whole or ground coffee, cocoa powder, crackers, meats, cheeses, food spreads, condiments, gift items such as plush toys and mugs, bags, trays and containers, gift baskets comprising various food and/or beverage items, and live flowers sold as a unit with food and/or beverage items</p>

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3214419	Application Date	10/02/2000
Registration Date	03/06/2007	Foreign Priority Date	NONE

Word Mark	SHARI
Design Mark	
Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 1986/04/07 First Use In Commerce: 1986/04/07 glazed fruit; candied fruit; snack mixes consisting primarily of processed fruits, processed nuts, raisins, processed sunflower seeds, dried soybeans, pepitas, and also including sugar Class 030. First use: First Use: 1986/04/07 First Use In Commerce: 1986/04/07 candy

U.S. Registration No.	1864816	Application Date	03/31/1993
Registration Date	11/29/1994	Foreign Priority Date	NONE
Word Mark	SHARI		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1946/04/01 First Use In Commerce: 1946/04/01 [processed nut meats] Class 030. First use: First Use: 1946/04/01 First Use In Commerce: 1946/04/01 [glazed or candied fruit;] candy; [ingredients for candy;] namely, almond bark-chips; and snack mixes consisting primarily of - dried fruits, nuts, raisins, sun-flowers seeds, soybeans, pepitas and sugar		

Attachments	76139442#TMSN.png(bytes) Sharis Gourmet.pdf(24244 bytes)
-------------	--

Signature	/jkr/
Name	Jessie Reider, CA Bar 237113
Date	12/20/2017

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

In the matter of Trademark Application Serial Number 87453243

For the Mark: **SHARI'S GOURMET and DESIGN**

Published in the *Official Gazette* on August 22, 2017

TASTE OF NATURE, INC.

Opposer;

v.

PROVIDE COMMERCE, INC.

Applicant.

Opposition No.: _____

Application: Serial No. 87453243

Mark:



Published For Opposition: August 22, 2017

NOTICE OF OPPOSITION

Taste of Nature, Inc., a corporation organized under the laws of the State of California (“**Opposer**”), believes that it will be damaged by registration on the Principal Register of the captioned mark SHARI’S GOURMET and DESIGN (“**Applicant’s Mark**”), in the name of Applicant Provide Commerce, Inc. (“**Applicant**”), and hereby opposes the same. As grounds for opposition, Opposer alleges as follows:

1. Opposer is a corporation organized and existing under the laws of the State of California, with an address of 2828 Donald Douglas, Loop N. Suite A, Santa Monica, CA 90405.
2. Upon information and belief, Applicant is a Delaware corporation with an address of 4830 Eastgate Mall, San Diego, California 92121.

3. Opposer is the owner of the SHARI mark, for goods and services including, without limitation, *glazed fruit; candied fruit; snack mixes consisting primarily of processed fruits, processed nuts, raisins, processed sunflower seeds, dried soybeans, pepitas, and also including sugar; candy; namely, almond bark chips*. (“**Opposer’s Mark**”).

4. Opposer is the owner of incontestable U.S. Registration No. 1864816 for Opposer’s Mark.

5. Opposer is the owner of incontestable U.S. Registration No. 3214419 for Opposer’s Mark.

6. Opposer’s Mark includes Opposer’s common law rights and trademark registrations.

7. Opposer uses Opposer’s Mark in connection with sales of candy and related goods, including through its websites.

8. Opposer, including through its predecessors, has used Opposer’s Mark in commerce in the United States at least as early as 1946.

9. Opposer has established a strong reputation and goodwill in and to Opposer’s Mark.

10. On information and belief, on or about May 17, 2017, Applicant filed an application, Serial Number 87453243, to register on the Principal Register the mark SHARI’S GOURMET and DESIGN, in connection with *Online retail store services, retail mail order catalogue services and retail shop-by-telephone services featuring dipped fresh or frozen fruits, baked goods, marshmallows, espresso beans, whole or ground coffee, cocoa powder, crackers, meats, cheeses, food spreads, condiments, gift items such as plush toys and mugs, bags, trays*

and containers, gift baskets comprising various food and/or beverage items, and live flowers sold as a unit with food and/or beverage items in Class 035 (the “**Application**”).

11. The Application is based on the intent to use.

12. Opposer timely filed an Extension of Time to Oppose the Application with the Trademark Trial and Appeal Board on September 15, 2017 and the Extension request was granted. Therefore, this Notice of Opposition is being timely filed.

13. Opposer has rights in and to Opposer’s Mark long prior to the first actual or constructive use of Applicant’s Mark.

14. Applicant’s Mark so resembles Opposer’s Mark as to be likely, when used on or in connection with Applicant’s services, to cause confusion, to cause mistake, or to deceive in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), as amended. Applicant’s Mark also conveys the same commercial impression to Opposer’s Mark.

15. The services in the Application are similar and related to the goods and services used in connection with Opposer’s Mark. Applicant’s use and registration of the SHARI’S GOURMET and DESIGN mark in connection with its services is likely to cause confusion, deception and/or mistake among the relevant public.

16. If Applicant is permitted to use Applicant’s Mark as specified in the Application, confusion in trade resulting in damage and injury to Opposer would be caused and would result by reason of the similarity between Applicant’s Mark and Opposer’s Mark. Consumers familiar with Opposer’s Mark would be likely to believe Applicant’s services are provided by Opposer or provided with Opposer’s authorization or approval. Any such confusion would inevitably result in lost sales for Opposer. Furthermore, any defect, objection or fault found with Applicant’s

As a courtesy, a true and correct copy of the instant **Notice of Opposition** has been sent to the Applicant's representative by email at the following email addresses:

docketing@mwzb.com, major@mwzb.com

By: _____/jkr/_____
Jessie K. Reider