

ESTTA Tracking number: **ESTTA868860**

Filing date: **01/03/2018**

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	PRIMAL ELEMENTS, INC.
Granted to Date of previous extension	01/03/2018
Address	18062 Redondo Circle Huntington Beach, CA 92648 UNITED STATES
Correspondence information	Kit M. Stetina Stetina Brunda Garred & Brucker 75 Enterprise, Suite 250 Aliso Viejo, CA 92656 UNITED STATES Email: opposition@stetinalaw.com, kstetina@stetinalaw.com

**Applicant Information**

Application No	87396163	Publication date	09/05/2017
Opposition Filing Date	01/03/2018	Opposition Period Ends	01/03/2018
Applicant	STPCA 9250 Jeronimo Road Irvine, CA 92618 UNITED STATES		

**Goods/Services Affected by Opposition**


Class 005. First Use: 2016/10/11 First Use In Commerce: 2017/03/31 All goods and services in the class are opposed, namely: Food supplements for promoting hair growth; Herbal supplements for natural hairgrowth function and hair loss due to aging; Nutraceuticals for use as a dietary supplement for reducing and/or preventing hair loss and hair regrowth
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**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.	2022796	Application Date	06/20/1994
Registration Date	12/17/1996	Foreign Priority Date	NONE
Word Mark	PRIMAL ELEMENTS		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1993/12/15 First Use In Commerce: 1994/04/30 non-medicated skin lotions and creams, aromatic therapy lotions and creams, bath salts and bath soaps		

U.S. Registration No.	2293272	Application Date	07/28/1997
Registration Date	11/16/1999	Foreign Priority Date	NONE
Word Mark	PRIMAL ELEMENTS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1993/11/00 First Use In Commerce: 1993/11/00 [ potpourri ] Class 004. First use: First Use: 1993/11/00 First Use In Commerce: 1993/11/00 candles Class 021. First use: First Use: 1993/11/00 First Use In Commerce: 1993/11/00 [ incense and domestic incense burners ]		

U.S. Registration No.	2541605	Application Date	05/10/2000
Registration Date	02/19/2002	Foreign Priority Date	NONE

Word Mark	PRIMAL SPA
Design Mark	PRIMAL SPA
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2001/07/02 First Use In Commerce: 2001/07/02 NON-MEDICATED BATH SOAPS AND TOILET SOAPS Class 004. First use: First Use: 2001/09/10 First Use In Commerce: 2001/09/10 CANDLES

U.S. Registration No.	2764997	Application Date	05/29/2001
Registration Date	09/16/2003	Foreign Priority Date	NONE
Word Mark	PRIMAL DEFENSE		
Design Mark	PRIMAL DEFENSE		
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1996/09/00 First Use In Commerce: 1996/09/00 Non-medicated bath soaps and toilet soaps; non-medicated skin cremes and lo- tions; perfume and perfume oils Class 004. First use: First Use: 2001/11/29 First Use In Commerce: 2001/11/29 [ candles ]		

Attachments	74540272#TMSN.png( bytes ) 75331404#TMSN.png( bytes ) 76045248#TMSN.png( bytes ) 76263881#TMSN.png( bytes ) NoticeOfOpposition.pdf(123451 bytes )
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Signature	/Kit M. Stetina/
Name	Kit M. Stetina
Date	01/03/2018

Case: FREEM-416M

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the Matter of Trademark Application Serial No. 87/396,163**

Primal Elements, Inc.,	)	Opposition No.:
	)	
Opposer	)	
	)	
vs.	)	
	)	
STPCA dba Sun Ten Laboratories,	)	
	)	
Applicant	)	

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**NOTICE OF OPPOSITION**

In the matter of the application of STPCA dba Sun Ten Laboratories, of Irvine, California (hereinafter “Applicant”) for registration of the mark PRIMAL HAIR, Application Serial No. 87/396,163 published in the Official Gazette on September 5, 2017 at TM 2349, Primal Elements, Inc., a California corporation, with offices at 18062 Redondo Circle, Huntington Beach, CA 92648 (hereinafter “Opposer”), believes that it will be damaged by registration of the mark shown in Serial No. 87/396,163, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is and has been for many years engaged in the extensive development, advertising, and marketing of a variety of products and services in the field of skin lotions and creams, bath salts and soaps, potpourri, candles, incense, and publications relating thereto. In connection therewith, Opposer has used, or filed federal applications with an intent to use, in interstate commerce, the marks PRIMAL

ELEMENTS, PRIMAL SPA, and PRIMAL DEFENSE, (hereinafter collectively referred to as the “PRIMAL MARKS”) for the aforementioned goods since long prior to Applicant’s filing date of the application of Serial No. 87/396,163 for the mark PRIMAL HAIR.

2. Since at least as early as 1993, Opposer has made use of its PRIMAL MARKS throughout the United States in interstate commerce. Since adoption of its PRIMAL MARKS, Opposer has continuously used those marks throughout the United States in interstate commerce.

3. Opposer has expended considerable sums in exerting every effort to maintain the highest standard of quality for its products, and has created valuable goodwill among the purchasing public under its PRIMAL MARKS.

4. As a result of the continuous and extensive use of the PRIMAL MARKS by Opposer, those marks have become and continue to function as a valuable business and marketing asset of Opposer, and serve to indicate to the trade and consuming public the products originating from Opposer and its authorized representative.

5. Opposer has obtained United States Trademark Registration No. 2,022,796, registered December 17, 1996, for the mark PRIMAL ELEMENTS (stylized) for the goods set forth in that registration. A copy of that registration is attached hereto as **Exhibit 1**.

6. Opposer has obtained United States Trademark Registration No. 2,293,272, registered November 16, 1999, for the mark PRIMAL ELEMENTS for the goods set forth in that registration. A copy of that registration is attached hereto as **Exhibit 2**.

7. Opposer has obtained United States Trademark Registration No. 2,541,605, registered February 19, 2002, for the mark PRIMAL SPA for the goods set forth in that registration. A copy of that registration is attached hereto as **Exhibit 3**.

8. Opposer has obtained United States Trademark Registration No. 2,764,997, registered September 16, 2003, for the mark PRIMAL DEFENSE for the goods set forth in that registration. A copy of that registration is attached hereto as **Exhibit 4**.

9. Pursuant to Trademark Rules of Practice 2.102, Opposer filed a Request to Extend Time for Filing this Notice of Opposition against Application Serial No. 87/396,163 to January 3, 2018. A copy of said Request to Extend Time is attached hereto as **Exhibit 5**.

10. Notwithstanding Opposer's rights in and to said PRIMAL MARKS on April 3, 2017 Applicant, on information and belief, filed an application for registration of the mark PRIMAL HAIR in International Class 005, for food supplements for promoting hair growth; herbal supplements for natural hair growth function and hair loss due to aging; nutraceuticals for use as a dietary supplement for reducing and/or preventing hair loss and hair regrowth. Said application was published for opposition in the Official Gazette on September 5, 2017 at TM 2349.

11. Applicant's PRIMAL HAIR mark is confusingly similar to Opposer's PRIMAL MARKS and its registration and use by Applicant on the goods claimed in the subject application are likely to cause confusion, deception and mistake.

12. Applicant's use of its PRIMAL HAIR mark interferes with Opposer's use of its PRIMAL MARKS and dilutes the strength of Opposer's trademark and use of, or registration of Applicant's mark by Applicant will seriously damage Opposer.

WHEREFORE, Opposer believes that it will be damaged by said registration and prays that registration of Application Serial No. 87/396,163 to Applicant be denied.

Opposer authorizes the filing fee for this Opposition in the amount of \$400 (one international class) to be charged to Opposer's Deposit Account.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Dated: January 3, 2018

By: Kit M. Stetina/  
Kit M. Stetina, Reg. No. 29,445  
75 Enterprise, Suite 250  
Aliso Viejo, CA 92656  
(949) 855-1246

Counsel for Opposer  
Primal Elements, Inc.

# Exhibit 1



**Int. Cl.: 3**

**Prior U.S. Cls.: 51 and 52**

**United States Patent and Trademark Office**

**Reg. No. 2,022,796**

**Registered Dec. 17, 1996**

**TRADEMARK  
PRINCIPAL REGISTER**



**FREEMAN, SCOTT (UNITED STATES CITI-  
ZEN)  
5228 EAST SECOND STREET  
LONG BEACH, CA 90803**

**BATH SOAPS, IN CLASS 3 (U.S. CLS. 51 AND  
52).**

**FIRST USE 12-15-1993; IN COMMERCE  
4-30-1994.**

**FOR: NON-MEDICATED SKIN LOTIONS  
AND CREAMS, AROMATIC THERAPY LO-  
TIONS AND CREAMS, BATH SALTS AND**

**SER. NO. 74-540,272, FILED 6-20-1994.**

**PATRICIA HORRALL, EXAMINING ATTOR-  
NEY**

# Exhibit 2

Int. Cls.: 3, 4, and 21

Prior U.S. Cls.: 1, 2, 4, 6, 13, 15, 23, 29, 30, 33,  
40, 50, 51, and 52

Reg. No. 2,293,272

**United States Patent and Trademark Office**

Registered Nov. 16, 1999

**TRADEMARK  
PRINCIPAL REGISTER**

**PRIMAL ELEMENTS**

FREEMAN, SCOTT (UNITED STATES CITIZEN)  
5662 BUCKINGHAM DRIVE  
HUNTINGTON BEACH, CA 92645

FOR: POTPOURRI, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).  
FIRST USE 11-0-1993; IN COMMERCE 11-0-1993.

FOR: CANDLES, IN CLASS 4 (U.S. CLS. 1, 6 AND 15).  
FIRST USE 11-0-1993; IN COMMERCE 11-0-1993.

FOR: INCENSE AND DOMESTIC INCENSE BURNERS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 11-0-1993; IN COMMERCE 11-0-1993.

OWNER OF U.S. REG. NO. 2,022,796.

SN 75-331,404, FILED 7-28-1997.

AMOS T. MATTHEWS, JR., EXAMINING ATTORNEY

# Exhibit 3

**Int. Cls.: 3 and 4**

**Prior U.S. Cls.: 1, 4, 6, 15, 50, 51, and 52**

**United States Patent and Trademark Office**

**Reg. No. 2,541,605**

**Registered Feb. 19, 2002**

**TRADEMARK  
PRINCIPAL REGISTER**

**PRIMAL SPA**

**IN A LATHER, INC. (CALIFORNIA CORPORATION)  
12472 EDISON WAY  
GARDEN GROVE, CA 92841**

**FIRST USE 9-10-2001; IN COMMERCE 9-10-2001.**

**FOR: NON-MEDICATED BATH SOAPS AND TOILET SOAPS, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).**

**NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SPA", APART FROM THE MARK AS SHOWN.**

**FIRST USE 7-2-2001; IN COMMERCE 7-2-2001.**

**SN 76-045,248, FILED 5-10-2000.**

**FOR: CANDLES, IN CLASS 4 (U.S. CLS. 1, 6 AND 15).**

**SUSAN HAYASH, EXAMINING ATTORNEY**

# Exhibit 4

**Int. Cls.: 3 and 4**

**Prior U.S. Cls.: 1, 4, 6, 15, 50, 51, and 52**

**United States Patent and Trademark Office**

**Reg. No. 2,764,997**

**Registered Sep. 16, 2003**

**TRADEMARK  
PRINCIPAL REGISTER**

**PRIMAL DEFENSE**

**PRIMAL ELEMENTS, INC. (CALIFORNIA CORPORATION)  
12472 EDISON WAY  
GARDEN GROVE, CA 92841**

**FOR: NON-MEDICATED BATH SOAPS AND TOILET SOAPS; NON-MEDICATED SKIN CREAMS AND LOTIONS; PERFUME AND PERFUME OILS, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).**

**FIRST USE 9-0-1996; IN COMMERCE 9-0-1996.**

**FOR: CANDLES, IN CLASS 4 (U.S. CLS. 1, 6 AND 15).**

**FIRST USE 11-29-2001; IN COMMERCE 11-29-2001.**

**SN 76-263,881, FILED 5-29-2001.**

**MICHAEL KEATING, EXAMINING ATTORNEY**

# Exhibit 5



ESTTA Tracking number: **ESTTA844629**

Filing date: **09/08/2017**

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

Applicant:	<b>STPCA</b>
Application Serial Number:	<b>87396163</b>
Application Filing Date:	<b>04/03/2017</b>
Mark:	<b>PRIMAL HAIR</b>
Date of Publication	<b>09/05/2017</b>

## **First 90 Day Request for Extension of Time to Oppose for Good Cause**

Pursuant to 37 C.F.R. Section 2.102, PRIMAL ELEMENTS, INC., 18062 Redondo Circle, Huntington Beach, CA 92648, UNITED STATES, a corporation organized under the laws of CA , respectfully requests that it be granted a 90-day extension of time to file a notice of opposition against the above-identified mark for cause shown .

Potential opposer believes that good causes are established for this request by:

- The potential opposer needs additional time to investigate the claim
- The potential opposer needs additional time to confer with counsel

The time within which to file a notice of opposition is set to expire on 10/05/2017. PRIMAL ELEMENTS, INC. respectfully requests that the time period within which to file an opposition be extended until 01/03/2018.

Respectfully submitted,

/KMS/

09/08/2017

**KIT M. STETINA**

**STETINA BRUNDA GARRED & BRUCKER**

**75 ENTERPRISESUITE 250**

**ALISO VIEJO, CA 92656**

**UNITED STATES**

**nroberts@stetinalaw.com, opposition@stetinalaw.com**

**9498551246**