

ESTTA Tracking number: **ESTTA985360**

Filing date: **07/03/2019**

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	ChromaDex Inc.
Granted to Date of previous extension	07/03/2019
Address	10005 Muirlands Suite G Irvine, CA 92618 UNITED STATES
Correspondence information	JOSEPH T. NABOR FITCH, EVEN, TABIN & FLANNERY, LLP 120 S. LASALLE STREET Suite 2100 CHICAGO, IL 60603 UNITED STATES trademark@fitcheven.com, jt_nabo@fitcheven.com 3125777000

Applicant Information

Application No	88136737	Publication date	03/05/2019
Opposition Filing Date	07/03/2019	Opposition Period Ends	07/03/2019
Applicant	Carol Cole Company Suite A 1325 Sycamore Ave Vista, CA 92081 UNITED STATES		

Goods/Services Affected by Opposition

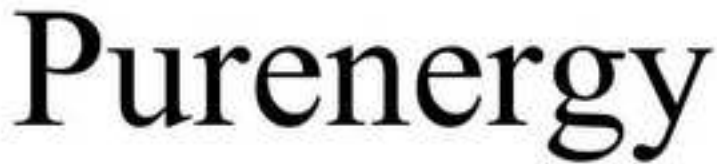
Class 001. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: A blend of ingredients comprised of minerals in the nature of sorbents, hyaluronic acid, and plant extracts for use in the manufacture of non-medicated skincare preparations

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration	4512267	Application Date	02/22/2013
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No.			
Registration Date	04/08/2014	Foreign Priority Date	NONE
Word Mark	PUREENERGY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 2013/02/00 First Use In Commerce: 2013/02/00 Phytochemicals for use in the manufacturing of dietary supplements, nutritional-products, pharmaceuticals and cosmetics		

Attachments	85857505#TMSN.png(bytes) 147235 Not of Opp.pdf(195036 bytes)
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Signature	/Joseph T. Nabor/
Name	JOSEPH T. NABOR
Date	07/03/2019

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

ChromaDex Inc.)	
)	
v.)	
)	
Carol Cole Company)	Opposition No.
)	
)	
Applicant.)	
)	
Serial No. 88136737)	
Filed: September 28, 2018)	
Mark: PŪRE ENERGY)	
Published: March 5, 2019)	

NOTICE OF OPPOSITION

ChromaDex Inc., a California corporation, having a principal place of business at 10005 Muirlands, Suite G, Irvine, CA 92618 (hereinafter referred to as “ChromaDex”) believes that it will be damaged by the registration of the PŪRE ENERGY mark in Application No. 88136737 filed by Carol Cole Company identified as a California Corporation with an address of Suite A, 1325 Sycamore Ave, Vista, California 92081 (hereinafter referred to as “Applicant”) and hereby oppose the same upon the following grounds:

COUNT 1: LIKELIHOOD OF CONFUSION

1. ChromaDex is the owner of the PUREENERGY trademark in connection with phytochemicals based on its use beginning at least as early as 2013, long before the Applicant can make any claim to its PŪRE ENERGY mark.
2. On April 8, 2014, the United States Patent & Trademark Office registered on the Principal Register and issued Registration No. 4512267 for the mark PUREENERGY for use on “Phytochemicals for use in the manufacturing of dietary supplements, nutritional products, pharmaceuticals and cosmetics” in International Class 1. Said Registration is presently valid and subsisting and is now owned by ChromaDex and is *prima facie* evidence of ChromaDex's exclusive right to use said mark in commerce on the goods. A current

printout of information from the USPTO electronic database records showing the current status and title of Registration No. 4512267 appears in Exhibit A.

3. In its Application No. 88136737, Applicant seeks registration on the Principal Register for the PŪRE ENERGY mark in connection with “A blend of ingredients comprised of minerals in the nature of sorbents, hyaluronic acid, and plant extracts for use in the manufacture of non-medicated skincare preparations” in International Class I.
4. Upon information and belief, Applicant cannot claim priority in the United States for its PŪRE ENERGY Mark earlier than the September 28, 2018 filing date of its application.
5. Upon information and belief, Applicant has not made *bona fide* use in commerce of the PŪRE ENERGY mark in connection with any of the goods specified in its Application.
6. By reason of longstanding and extensive marketing, advertising and promotion of the goods in connection with the PUREENERGY Mark, and the high quality of those goods, the PUREENERGY Mark has developed extremely valuable goodwill, is famous and has had a reputation associated and identified with ChromaDex long before the Applicant can assert any claim in the Applicant’s PŪRE ENERGY Mark.
7. On information and belief, Applicant's adoption and use of the Applicant’s PŪRE ENERGY Mark has been with actual or constructive knowledge of the prior use of, application for, and registration of the PUREENERGY Mark.
8. Applicant's adoption and use of the Applicant’s PŪRE ENERGY Mark has been without the consent or permission of the Opposer.
9. The goods specified in the Applicant’s trademark application for the Applicant’s PŪRE ENERGY Mark are similar to the goods in the registration for the PUREENERGY Mark.
10. On information and belief, the Applicant’s PŪRE ENERGY Mark in connection with the specified goods are promoted in the same channels of trade, to the same potential

purchasers, and use the same advertising media and channels as those in connection with the PUREENERGY Mark.

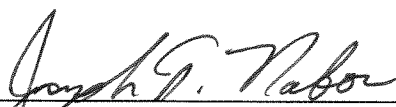
11. The Applicant's PŪRE ENERGY Mark is confusingly similar to the PUREENERGY Mark.
12. If Applicant is granted registration of its PŪRE ENERGY Mark as set forth Application No. 88136737, Applicant will thereby obtain the *prima facie* exclusive right to use such mark, and such registrations will damage, impair, diminish, and dilute ChromaDex's goodwill and rights in its PUREENERGY Mark causing irreparable injury to the Opposer.
13. Applicant's PŪRE ENERGY Mark is likely to cause confusion, mistake, or deception that Applicant's goods are those of ChromaDex or are otherwise endorsed, sponsored, or approved by ChromaDex, resulting in damage to the Opposer.

PRAYER FOR RELIEF

WHEREFORE, the Opposer ChromaDex Inc. respectfully request that Application No. 88136737 be rejected; and, that registration of the Applicant's PŪRE ENERGY Mark be refused.

Respectfully submitted,

July 3, 2019



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Exhibit A



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Purenergy

Word Mark	PUREENERGY
Goods and Services	IC 001. US 001 005 006 010 026 046. G & S: Phytochemicals for use in the manufacturing of dietary supplements, nutritional products, pharmaceuticals and cosmetics. FIRST USE: 20130200. FIRST USE IN COMMERCE: 20130200
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85857505
Filing Date	February 22, 2013
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	July 2, 2013
Registration Number	4512267
Registration Date	April 8, 2014
Owner	(REGISTRANT) ChromaDex Inc. CORPORATION CALIFORNIA Suite G 10005 Muirlands Irvine CALIFORNIA 92618
Attorney of Record	Joseph T. Nabor
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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