

ESTTA Tracking number: **ESTTA1158172**

Filing date: **09/08/2021**

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

Proceeding	91264619
Party	Plaintiff Societe des Produits Nestle S.A.
Correspondence Address	THOMAS A POLCYN THOMPSON COBURN LLP ONE US BANK PLAZA ST. LOUIS, MO 63101 UNITED STATES Primary Email: ipdocket@thompsoncoburn.com Secondary Email(s): snaruo@thompsoncoburn.com, hal-shathir@thompsoncoburn.com, tpolcyn@thompsoncoburn.com, knorris@thompsoncoburn.com 314-552-6000
Submission	Motion to Join/Substitute Party
Filer's Name	Hadi S. Al-Shathir
Filer's email	hal-shathir@thompsoncoburn.com, knorris@thompsoncoburn.com, ipdocket@thompsoncoburn.com
Signature	/HSA/
Date	09/08/2021
Attachments	motion.pdf(135567 bytes) Exhibit A.pdf(264189 bytes) Exhibit B.pdf(40168 bytes)

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

Société des Produits Nestlé S.A., :
Opposer, :
 : Opposition No. 91264619
v. :
 : Directed to U.S. Ser. No. 79270986
Zakrytoe Aktsionernoe Obschestvo :
"Nauchno Proizvodstvennaya Firma :
"Biopharmtox", Mealberry GmbH, :
Applicants. :

CONSENT MOTION TO JOIN MEALBERRY GMBH

Opposer Société des Produits Nestlé S.A. ("Nestlé") moves to join Mealberry GmbH as a defendant in this opposition proceeding.

In support of this consent motion, Nestlé states:

(1) On August 24, 2020, Nestlé opposed U.S. Serial No. 79/270,986 for the mark LITTLE ONE, which is an extension of protection of International Registration No. 1064700. At the time the opposition was filed, International Registration No. 1064700 was owned by Zakrytoe Aktsionernoe Obschestvo "Nauchno Proizvodstvennaya Firma "Biopharmtox".

(2) Nestlé recently learned that International Registration No. 1064700 was assigned to Mealberry GmbH earlier this year. Documents evidencing the transfer of ownership are attached as Exhibit A.

(3) Per TBMP §512.01, if a mark that is the subject of an opposition proceeding is assigned, the assignee may be joined upon motion granted by the Board.

(4) On September 6, 2021, counsel for defendants, Alex Lazouski, consented to joinder of Mealberry GmbH as a defendant in this opposition proceeding. Mr. Lazouski's consent is attached as Exhibit B.

ACCORDINGLY, for the above reasons, Nestlé respectfully requests joinder of Mealberry GmbH as a defendant in this opposition proceeding.

Respectfully submitted,

/s/ Hadi S. Al-Shathir

Thomas A. Polcyn
Hadi S. Al-Shathir
Thompson Coburn LLP
One US Bank Plaza
Saint Louis, MO 63101
Telephone: 314-552-6000
tpolcyn@thompsoncoburn.com
hal-shathir@thompsoncoburn.com

Attorneys for Société des Produits Nestlé S.A.

Certificate Of Service

I hereby certify that on September 8, 2021, a copy of this Consent Motion to Join Mealberry GmbH was served via email on:

Alexander Lazouski
Lazouski IP LLC
14726 Bowfin Ter, Suite 1
Lakewood Ranch, Florida 34202
al@lzlzlawoffice.com
info@lzlzlawoffice.com

/s/ Hadi S. Al-Shathir

EXHIBIT A

Generated on: This page was generated by TSDR on 2021-09-08 15:01:23 EDT

Mark: LITTLE ONE

LITTLE ONE

US Serial Number: 79270986

Application Filing Date: Oct. 01, 2019

Register: Principal

Mark Type: Trademark

TM5 Common Status
Descriptor:



LIVE/APPLICATION/Opposition Pending

The pending trademark application has been examined by the Office and was published for opposition, at which time one or more oppositions were filed but they have not yet been decided.

Status: An opposition after publication is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Sep. 08, 2020

Publication Date: May 05, 2020

Mark Information

Mark Literal Elements: LITTLE ONE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

International Registration Number: 1064700

International Registration Date: Nov. 26, 2010

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Live animals; fruit, fresh; vegetables, fresh; grains namely, grains for animal consumption, agricultural grains for planting; unprocessed grains for eating; animal foodstuffs; edible chews for animals; beverages for animals; pet food; bird food; dog biscuits; stall food for animals; food for animals being strengthening animal forage; fresh chicory roots; roots for food, namely, roots for animal consumption; groats for poultry; yeast for animals for animal fodder; peanut cake for animals; maize cake for cattle; cattle cake being animal food; rape cake for cattle; raw sugar cane bagasses; cereal seeds, unprocessed; unprocessed grains; grains for animal consumption; fodder, namely, lime for animal forage; peanut meal for animals; fodder, namely, flax meal; meal for animals, namely, animal feed; fish meal for animal consumption; straw mulch; malt

International Class(es): 031 - Primary Class

U.S Class(es): 001, 046

Class Status: ACTIVE

Basis: 66(a)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Filed ITU: No

Currently ITU: No

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: Yes

Filed 66A: Yes

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: Mealberry GmbH

Owner Address: Am Wasserturm 4
08233 Treuen
GERMANY

Legal Entity Type: Private Limited Company

State or Country GERMANY
Where Organized:

Attorney/Correspondence Information

Attorney of Record - None

Correspondent

Correspondent Name/Address: ALEXANDER LAZOUSKI
LAZOUSKI IP LLC
14726 BOWFIN TER
SUITE 1
LAKEWOOD RANCH, NEW YORK UNITED STATES 48304

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
May 01, 2021	CHANGE OF OWNER RECEIVED FROM IB	
Apr. 18, 2021	NOTIFICATION OF POSSIBLE OPPOSITION - PROCESSED BY IB	
Mar. 31, 2021	NOTIFICATION OF POSSIBLE OPPOSITION SENT TO IB	
Mar. 31, 2021	NOTIFICATION OF POSSIBLE OPPOSITION CREATED, TO BE SENT TO IB	
Dec. 10, 2020	INTERNATIONAL REGISTRATION RENEWED	
Oct. 03, 2020	REFUSAL PROCESSED BY IB	
Sep. 08, 2020	OPPOSITION INSTITUTED NO. 999999	264619
Sep. 05, 2020	OPPOSITION NOTICE (IB REFUSAL) SENT TO IB	
Aug. 25, 2020	OPPOSITION NOTICE (IB REFUSAL) CREATED	
Jun. 02, 2020	EXTENSION OF TIME TO OPPOSE RECEIVED	
May 05, 2020	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
May 05, 2020	PUBLISHED FOR OPPOSITION	
Apr. 15, 2020	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Mar. 30, 2020	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 13, 2020	TEAS/EMAIL CORRESPONDENCE ENTERED	70884
Mar. 13, 2020	CORRESPONDENCE RECEIVED IN LAW OFFICE	70884
Mar. 13, 2020	ASSIGNED TO LIE	70884
Mar. 09, 2020	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Feb. 21, 2020	REFUSAL PROCESSED BY IB	
Feb. 04, 2020	NON-FINAL ACTION MAILED - REFUSAL SENT TO IB	
Feb. 04, 2020	REFUSAL PROCESSED BY MPU	73787
Jan. 09, 2020	NON-FINAL ACTION (IB REFUSAL) PREPARED FOR REVIEW	
Jan. 08, 2020	NON-FINAL ACTION WRITTEN	68603
Jan. 03, 2020	ASSIGNED TO EXAMINER	68603
Nov. 12, 2019	APPLICATION FILING RECEIPT MAILED	
Nov. 08, 2019	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Oct. 31, 2019	SN ASSIGNED FOR SECT 66A SUBSEQ DESIG FROM IB	

International Registration Information (Section 66a)

International Registration Number: 1064700
International Registration Date: Nov. 26, 2010
Intl. Registration Status: REQUEST FOR EXTENSION OF PROTECTION PROCESSED
Date of International Registration Status: Oct. 31, 2019
Notification of Designation Date: Oct. 31, 2019
Date of Automatic Protection: Apr. 30, 2021
International Registration Renewal Date: Nov. 26, 2030
First Refusal Flag: Yes

TM Staff and Location Information

TM Staff Information

TM Attorney: EVANKO, PATRICIA MALES
Law Office Assigned: LAW OFFICE 119

File Location

Current Location: PUBLICATION AND ISSUE SECTION
Date in Location: Apr. 01, 2020

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: [91264619](#)
Filing Date: Aug 24, 2020
Status: Pending
Status Date: Sep 03, 2021
Interlocutory Attorney: JENNIFER KRISP

Defendant

Name: Zakrytoe Aktsionernoe Obschestvo "Nauchno Proizvodstvennaya Firma "Biopharmtox"
Correspondent Address: ALEXANDER LAZOUSKI
 LAZOUSKI IP LLC
 14726 BOWFIN TER, SUITE 1
 LAKEWOOD RANCH NY UNITED STATES , 48304
Correspondent e-mail: al@lzlawoffice.com , info@lzlawoffice.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
LITTLE ONE	Opposition Pending	79270986	

Plaintiff(s)

Name: Societe des Produits Nestle S.A.
Correspondent Address: THOMAS A POLCYN
 THOMPSON COBURN LLP
 ONE US BANK PLAZA
 ST. LOUIS MO UNITED STATES , 63101
Correspondent e-mail: ipdocket@thompsoncoburn.com , snaruo@thompsoncoburn.com , hal-shathir@thompsoncoburn.com , tpolcyn@thompsoncoburn.com , knorris@thompsoncoburn.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
ONE	Registered	86767587	4951377

Prosecution History

Entry Number	History Text	Date	Due Date
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1	FILED AND FEE	Aug 24, 2020	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Sep 08, 2020	Oct 18, 2020
3	INSTITUTED	Sep 08, 2020	
4	ANSWER	Oct 19, 2020	
5	P MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Dec 14, 2020	
6	SUSPENDED	Dec 14, 2020	
7	P MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Mar 01, 2021	
8	SUSPENDED	Mar 01, 2021	
9	D MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Apr 30, 2021	
10	SUSPENDED	Apr 30, 2021	
11	P MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Jul 01, 2021	
12	SUSPENDED	Jul 01, 2021	
13	P MOT FOR EXT W/ CONSENT	Sep 03, 2021	
14	EXTENSION OF TIME GRANTED	Sep 03, 2021	

Type of Proceeding: Extension of Time

Proceeding Number: [79270986](#)

Filing Date: Jun 02, 2020

Status: Terminated

Status Date: Sep 08, 2020

Interlocutory Attorney:

Defendant

Name: ZAKRYTOE AKTSIONERNOE OBSHESTVO "NAUCHNO PROIZVODSTVENNAYA FIRMA "BIOPHARMTOX"

Correspondent Address: ALEXANDER LAZOUSKI
LAZOUSKI IP LLC
SUITE 1, 14726 BOWFIN TER.
LAKEWOOD RANCH NY UNITED STATES , 48304

Correspondent e-mail: al@lzlawoffice.com , info@lzlawoffice.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
LITTLE ONE	Opposition Pending	79270986	

Potential Opposer(s)

Name: Societe des Produits Nestle S.A.

Correspondent Address: PAMELA MILLER
NESTLE PURINA PETCARE COMPANY
CHECKERBOARD SQUARE LEGAL IP, 9T
ST. LOUIS MO UNITED STATES , 63164

Correspondent e-mail: TMOffice@purina.nestle.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
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Prosecution History

Entry Number	History Text	Date	Due Date
1	FIRST 90-DAY REQUEST TO EXT TIME TO OPPOSE	Jun 02, 2020	
2	EXT GRANTED	Jun 02, 2020	

NEW HOLDER/REPRESENTATIVE OF AN INTERNATIONAL REGISTRATION

SERIAL NUMBER: 79270986

The table below presents the data as entered.

Input Field	Entered
OVERVIEW	
INTERNATIONAL REGISTRATION NUMBER	1064700
EFFECTIVE DATE OF MODIFICATION	04/08/2021
NOTIFICATION DATE	04/29/2021
HOLDER DETAILS	
CLIENT IDENTIFIER	1310938
NOTIFICATION LANGUAGE	ENGLISH
NAME	Mealberry GmbH
ADDRESS	Am Wasserturm 4 08233 Treuen
COUNTRY	Germany
ENTITLEMENT NATIONALITY OF APPLICANT/TRANSFEREE/HOLDER	Germany
LEGAL NATURE	Private Limited Company
LEGAL NATURE: PLACE INCORPORATED	Germany
CORRESPONDENCE INDICATOR	YES
REPRESENTATIVE GROUP	
CLIENT IDENTIFIER	1116525
NAME	Uskov & Partners, Law Firm
ADDRESS	Ploshchad Konstitutsii, 7, office 616 RU-196191 Saint Petersburg
COUNTRY	Russian Federation
PREVIOUS HOLDER DETAILS	
CLIENT IDENTIFIER	761577
NAME	ZAKRYTOE AKTSIONERNOE OBSHESTVO "NAUCHNO PROIZVODSTVENNAYA FIRMA "BIOPHARMTOX"
ADDRESS	Prospect Solidarnosti, 6 ST. PETERSBURG
COUNTRY	Russian Federation
MISCELLANEOUS INFORMATION	
IB DOCUMENT ID	1434725201

OFFICE REFERENCE
TRANSACTION TYPE

79270986
TRN - TRANSFER

1064700- LITTLE ONE

Full details / English

Current Status

180 [Expected expiration date of the registration/renewal](#)

26.11.2030

151 [Date of the registration](#)

26.11.2010

270 [Language of the application](#)

English

732 [Name and address of the holder of the registration](#)

Mealberry GmbH
Am Wasserturm 4
08233 Treuen (DE)

811 [Contracting State of which the holder is a national](#)

DE

842 [Legal nature of the holder \(legal entity\) and State, and, where applicable, territory within that State where the legal entity is organized](#)

Private Limited Company, Germany

740 [Name and address of the representative](#)

Uskov & Partners, Law Firm
Ploshchad Konstitutsii, 7,
office 616
RU-196191 Saint Petersburg (RU)

540 [Mark](#)

LITTLE ONE

541 [Reproduction of the mark where the mark is represented in standard characters](#)

511 [International Classification of Goods and Services for the Purposes of the Registration of Marks \(Nice Classification\) - NCL\(9\)](#)

31 Live animals; fruit, fresh; vegetables, fresh; grains (seeds); plants; flowers, natural; animal foodstuffs; edible chews for animals; beverages for animals; pet food; bird food; dog biscuits; stall food for animals; strengthening animal forage; chicory roots; roots for food; nettles; groats for poultry; additives to fodder, not for medical purposes; yeast for animals; peanut cake for animals; maize cake for cattle; cattle cake; rape cake for cattle; bagasses of cane (raw material); cereal seeds, unprocessed; grains (cereals); grains for animal consumption; lime for animal forage; peanut meal for animals; flax meal (fodder); meal for animals; fishmeal for animal consumption; straw mulch; malt.

822 [Basic registration](#)

RU, 20.10.2009, 391947

832 [Designation\(s\) under the Madrid Protocol](#)

CA - DK - EE - GB - GE - GR - ID - IL - KR - LT - MX - SE - SG - TH - TM - TR - US

834 [Designation\(s\) under the Madrid Protocol by virtue of Article 9sexies](#)

AM - AT - AZ - BG - BX - BY - CH - CY - CZ - DE - EG - ES - FR - HR - HU - IR - IT - KZ - LV - PL - PT - RO - SI - SK - TJ - UA

527 [Indications regarding use requirements](#)

GB - SG - US

Transaction History

expand none

https://www3.wipo.int/madrid/monitor/en/

Accessed on September 8, 2021

No.	Event	App. No.	Office	Priority Date	Pub. Date	Pub. No.	Final Date
1392089601	Refusal	1064700	CH	07/10/2020	22/10/2020	2020/41	
1396850901	Grant of protection	1064700	TJ	19/10/2020	20/10/2020	2020/43	
	Grant of protection	1064700	CY	27/10/2020	29/10/2020	2020/44	
	Grant of protection	1064700	CY			Abandoned	22/10/2020
13983	1434725201	1064700 (LITTLE ONE).		2020	10/12/2020	2020/48	
140118	(770) Name and address of the previous holder (in case of change in ownership) ZAKRYTOE AKTSIONERNOE OBSHCHESTVO "NAUCHNO PROIZVODSTVENNAYA FIRMA "BIOPHARMTOX" Prospect Solidarnosti, 6 ST. PETERSBURG (RU (Russian Federation))			2020	10/11/2020	2020/46	
14304	(732) Name and address of the holder of the registration Mealberry GmbH Am Wasserturm 4 08233 Treuen (DE (Germany))			2020	07/12/2020	2020/49	
14347	(811) Contracting State of which the holder is a national DE (Germany)			2021	25/02/2021	2021/6	
14347	(842) Legal nature of the holder (legal entity) and State, and, where applicable, territory within that State where the legal entity is organized Private Limited Company, Germany			2021	29/04/2021	2021/15	
14382	(740) Name and address of the representative Uskov & Partners, Law Firm Ploshchad Konstitutsii, 7, office 618 RU-196191 Saint Petersburg (RU (Russian Federation))			2021	01/03/2021	2021/8	
14392	(580) Date of receipt by the International Bureau 08.04.2021			2021	20/04/2021	2021/16	
14425				2021	20/04/2021	2021/16	
1443599701	Refusal	1064700	TH	12/03/2021	14/03/2021	2021/10	
1444512701	Final Decision	1064700	CH	08/04/2021	12/04/2021	2021/14	
1445751801	Grant of protection	1064700	TM	12/04/2021	13/04/2021	2021/15	
1450229801	Opposition Period Extension	1064700	US	01/04/2021	02/04/2021	2021/13	

EXHIBIT B

From: Alex Lazouski <al@lzlzlawoffice.com>
Sent: Monday, September 6, 2021 11:18 AM
To: Al-Shathir, Hadi S.
Subject: RE: MEET AND CONFER - Nestle v. Biopharmtox, TTAB Opp. 91264619

RECEIVED FROM EXTERNAL SENDER - USE CAUTION

Hi Hadi,

I consent.

Please confirm safe receipt of this email.

Best regards,

Alex

Alex Lazouski, Esq. *



14726 Bowfin Ter., Suite 1, Lakewood Ranch, FL 34202
Phone: +1 (201) 645-5616, Skype: lzlzlawoffice
Email: al@lzlzlawoffice.com, Website: www.lzlzlawoffice.com

** Licensed to practice law in the state of New York. Not admitted in Florida.*

CONFIDENTIAL AND PRIVILEGED INFORMATION IMPORTANT: The enclosed message and any attachments are intended for the addressee only and are privileged and confidential. If you are not the addressee, then please **DO NOT** read, copy or distribute the message or any attachment. Please reply to the sender that you received the message in error and delete it. Thank you.

From: Al-Shathir, Hadi S. <HAI-Shathir@thompsoncoburn.com>
Sent: Friday, September 3, 2021 3:04 PM
To: Alex Lazouski <al@lzlzlawoffice.com>
Subject: RE: MEET AND CONFER - Nestle v. Biopharmtox, TTAB Opp. 91264619

Thanks, Alex. Service copy of motion to extend below.

Also, I noticed that the IR has been assigned to Mealberry. I am going to file a motion to join Mealberry as a defendant in this case. Do you consent to joinder of Mealberry?

ESTTA Tracking number: **ESTTA1157477**

Filing date:

09/03/2021

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

Proceeding No.	91264619
Filing Party	Plaintiff Societe des Produits Nestle S.A.
Other Party	Defendant Zakrytoe Aktsionernoe Obschestvo "Nauchno Proizvodstvennaya Firma "Biopharmtox"
Pending Motion	There is no motion currently pending and no other motion is being filed concurrent with this consent motion.

Consent Motion to Extend

The Expert Disclosures Due is currently set to close on 09/17/2021. Societe des Produits Nestle S.A. requests that such date be extended for 60 days, or until 11/16/2021, and that all subsequent dates be reset accordingly.

Time to Answer	10/18/2020 (CLOSED)
Deadline for Discovery Conference	11/17/2020 (CLOSED)
Discovery Opens	11/17/2020 (CLOSED)
Initial Disclosures Due	01/17/2021 (CLOSED)
Expert Disclosures Due	11/16/2021
Discovery Closes	12/16/2021
Plaintiff's Pretrial Disclosures Due	01/30/2022
Plaintiff's 30-day Trial Period Ends	03/16/2022
Defendant's Pretrial Disclosures Due	03/31/2022
Defendant's 30-day Trial Period Ends	05/15/2022
Plaintiff's Rebuttal Disclosures Due	05/30/2022
Plaintiff's 15-day Rebuttal Period Ends	06/29/2022
Plaintiff's Opening Brief Due	08/28/2022
Defendant's Brief Due	09/27/2022
Plaintiff's Reply Brief Due	10/12/2022
Request for Oral Hearing (optional) Due	10/22/2022

The grounds for this request are as follows:

- *Parties are engaged in settlement discussions*

Societe des Produits Nestle S.A. has secured the express consent of all other parties to this proceeding for the extension and resetting of dates requested herein.

Certificate of Service

The undersigned hereby certifies that a copy of this submission has been served upon all parties, at their address of record by Email on this date.

Respectfully submitted,

/HSA/

Hadi S. Al-Shathir

hal-shathir@thompsoncoburn.com, knorris@thompsoncoburn.com, ipdocket@thompsoncoburn.com

09/03/2021

Hadi S. Al-Shathir

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