

ESTTA Tracking number: **ESTTA1135713**

Filing date: **05/22/2021**

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	SUNDIA CORPORATION		
Entity	Corporation	Citizenship	California
Address	340 S. LEMON AVE. #8093N WALNUT, CA 91789 UNITED STATES		

Attorney information	THOMAS D. FOSTER TDFOSTER - INTELLECTUAL PROPERTY LAW 11622 EL CAMINO REAL, SUITE 100 SAN DIEGO, CA 92130 UNITED STATES Primary Email: foster@tdfoster.com 8589222170		
Docket Number	6218.084-00		

**Applicant Information**

Application No.	88954244	Publication date	05/11/2021
Opposition Filing Date	05/22/2021	Opposition Period Ends	06/10/2021
International Registration No.	NONE	International Registration Date	NONE
Applicant	Weifang Sunshine Food Co., Ltd. NO. 5166 EAST DONGFENG STREET WEIFANG, SHANDONG, 261061 CHINA		

**Goods/Services Affected by Opposition**


Class 029. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Preserved fruit; canned vegetables; jams; frozen fruit; fruit preserved with sugar; stewed fruit; fruit pulp; fruit-based snack foods; fruit jellies
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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.	3131175	Application Date	03/11/2005
Registration Date	08/15/2006	Foreign Priority	NONE


		Date	
Word Mark	SUNDIA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 031. First use: First Use: 2005/06/04 First Use In Commerce: 2005/06/04 fresh produce, namely, fresh fruits [ and vegetables ] Class 032. First use: First Use: 2005/06/04 First Use In Commerce: 2005/06/04 Fruit juice		
U.S. Registration No.	3108148	Application Date	02/08/2005
Registration Date	06/20/2006	Foreign Priority Date	NONE
Word Mark	SUNDIA		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 031. First use: First Use: 2005/06/04 First Use In Commerce: 2005/06/04 fresh watermelon		

U.S. Registration No.	3601003	Application Date	10/09/2007
Registration Date	04/07/2009	Foreign Priority Date	NONE

Word Mark	SUNDIA TRUE FRUIT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2006/11/01 First Use In Commerce: 2007/04/01 Canned fruits; Canned or bottled fruits; Cut fruits; Fruit and vegetable salads; [ Fruit chips; ] Fruit salads; Fruit-based snack food; Processed fruits; Processed [ vegetables and ] fruits; Sliced fruits		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		

Design Mark	
Goods/Services	Fruit salads; Fruit-based snack food; Processed fruits; Processed fruits; Sliced fruits

Attachments	78585729#TMSN.png( bytes ) 78563269#TMSN.png( bytes ) 77299588#TMSN.png( bytes ) 6218.084-00 20210522 LEAF LOGO.jpg 6218.084-00 20210522 NOTICE OF OPPOSITION.pdf(329284 bytes )
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Signature	/Thomas D. Foster/
Name	Thomas D. Foster
Date	05/22/2021

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

SUNDIA CORPORATION	)	Opposition No. _____
Opposer,	)	
	)	In the Matter of U.S. Trademark
	)	Application Serial No. 88954244
v.	)	
	)	Mark: SUNFRUIT & Leaf Logo
WEIFANG SUNSHINE FOOD CO., LTD.	)	
Applicant.	)	Date Pub.: May 11, 2021
	)	

**NOTICE OF OPPOSITION**

In the matter of trademark application Serial No. 88954244 for the mark SUNFRUIT & Leaf Logo filed on June 8, 2020 by Weifang Sunshine Food Co., Ltd. ("Applicant") and published for opposition on May 11, 2021, SUNDIA CORPORATION ("Opposer") believes that it will be damaged by registration of the mark and hereby opposes registration of the same.

Opposer is a corporation of California having a principal place of business at 340 S. Lemon Ave. #8093N Walnut CALIFORNIA 91789.

As grounds for opposition, Opposer alleges that:

1. Opposer manufactures fruit and vegetable products such as True Fruit, ready-to-eat fruit cups for health-conscious consumers and is one of the fastest growing produce brands in North America.
2. Opposer has continuously distributed its products throughout the United States since at least 2005.
3. Opposer is the owner of the following "SUNDIA" US trademark registrations for its goods:

3131175 SUNDIA

3108148 SUNDIA

3601003 SUNDIA TRUE FRUIT

4. Opposer is also the owner of the following common law “LEAF” logo mark for its goods, namely Fruit salads; Fruit-based snack food; Processed fruits; Processed fruits; Sliced fruits, which use can be seen on its website: <http://www.truebrandsnacks.com/products/> and the specimens submitted on May 7, 2019 in the renewal of U.S. Trademark Reg. No. 3601003.



5. Among the goods provided under the SUNDIA and LEAF Logo marks are “Canned fruits; Canned or bottled fruits; Cut fruits; Fruit and vegetable salads; Fruit salads; Fruit-based snack food; Processed fruits; Processed fruits; Sliced fruits” in Class 29; “Fresh watermelon; fresh produce, namely, fresh fruits” in Class 031; and “Fruit juice” in Class 32.

6. Opposer's SUNDIA registrations identified above are incontestable.

7. Opposer's use of the SUNDIA and LEAF logo marks have been continuous and have not been abandoned.

8. Applicant filed application Serial No. 88/954,244 for registration on the principal register on June 8, 2020. The application was based on Foreign Registration, namely China registration number 15342855, for the use of the following SUNFRUIT and Leaf Logo mark on “Preserved fruit; canned vegetables; jams; frozen fruit; fruit preserved with sugar; stewed fruit; fruit pulp; fruit-based snack foods; fruit jellies” in Class 029.



9. Applicant's use and filing dates are well after Opposer's date of first use of its SUNDIA and LEAF logo marks.

10. Applicant's SUNFRUIT and Leaf Logo mark is similar to Opposer's SUNDIA and LEAF logo marks.
11. The Class 29 goods recited in the '244 application are closely related to Opposer's goods provided under the SUNDIA and LEAF logo marks.
12. Registration of Applicant's SUNFRUIT and Leaf Logo mark to identify its goods in Class 29 is likely to cause confusion, mistake and deception as to the source, origin, sponsorship or association of the goods and will damage Opposer in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).
13. The grant of a registration to Applicant for Applicant's SUNFRUIT and Leaf Logo mark for its goods in Class 29 is inconsistent with and in derogation of Opposer's prior rights and would therefor cause damage and injury to Opposer and deception and confusion of the public.
- WHEREFORE, Opposer prays that the Opposition be sustained and that registration of Applicant's SUNFRUIT and Leaf Logo mark be refused.

Respectfully submitted:

Date: May 22, 2021

SUNDIA CORPORATION

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#### **CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that the NOTICE OF OPPOSITION is being transmitted electronically to the Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, via the ESTTA system, on the date identified below.

Date: May 22, 2021

/Thomas D. Foster/  
Thomas D. Foster, Esq