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

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	Hofseth BioCare ASA
Granted to Date of previous extension	09/08/2021
Address	MOLOVEGEN 6 Ã#LESUND, 6004 NORWAY

Attorney information	DAVID P. COOPER KOLISCH HARTWELL, P.C. 520 S.W. YAMHILL ST., SUITE 300 PORTLAND, OR 97204 UNITED STATES Primary Email: docketing@khpatent.com Secondary Email(s): mandi@khpatent.com (503) 224-6655
Docket Number	ZCO401OPP

Applicant Information

Application No.	90089335	Publication date	05/11/2021
Opposition Filing Date	09/08/2021	Opposition Period Ends	09/08/2021
Applicant	Happy Go Healthy, Ltd. 2407 ASHLAND AVENUE CINCINNATI, OH 45206 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Dietary supplements for pets
Class 031. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Pet food

Grounds for Opposition

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

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	90688435	Application Date	05/03/2021

Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BRILLIANT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2019/05/31 First Use In Commerce: 2019/05/31 dietary supplements for animals and other related goods and services		

U.S. Application No.	90688443	Application Date	05/03/2021
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BRILLIANT SALMON OIL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2019/05/31 First Use In Commerce: 2019/05/31 dietary supplements for animals and other related goods and services		

U.S. Application No.	90694817	Application Date	05/06/2021
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BRILLIANT		

Design Mark	
Description of Mark	The mark consists of a stylized form ofthe word Brilliant with stylized light rays positioned to the upper left of theB.
Goods/Services	Class 005. First use: First Use: 0 First Use In Commerce: 0 dietary supplements for animals and other related goods and services

Attachments	90688435#TMSN.png(bytes) 90688443#TMSN.png(bytes) 90694817#TMSN.png(bytes) 20210908 Statement of Basis for Opposition ZCO401OPP.pdf(11990 bytes)

Signature	/ David P. Cooper /
Name	DAVID P. COOPER
Date	09/08/2021

STATEMENT OF BASIS FOR OPPOSITION

1. Opposer, Hofseth BioCare, ASA ("HBC") has established broad rights in its BRILLIANT trademarks for animal dietary supplements by continuously using them for over two years, beginning at least as early as May 31, 2019.

2. HBC is the owner of the following three U.S. Trademark Applications for registrations of its BRILLIANT trademarks:

(i) U.S. Trademark App. No. 90/688,435 for BRILLIANT for dietary supplements for animals and other related goods and services, based on use of the mark in the U.S. since at least as early as May 31, 2019;

(ii) U.S. Trademark App. No. 90/688,443 for BRILLIANT SALMON OIL for dietary supplements for animals and other related goods and services, based on use of the mark in the U.S. since at least as early as May 31, 2019; and

(iii) U.S. Trademark App. No. 90/694,817 for

for dietary supplements for animals and other related goods and services, based on intent to use the mark in the U.S. filed on May 6, 2021.

3. HBC's rights in its BRILLIANT marks are longstanding and well-established, as common law marks and HBC expects to receive federal registrations for them within six months to a year.

4. On information and belief, applicant Happy Go Healthy, Ltd. began its unauthorized use of BRILLIANT BITES and BRILLIANT after HBC established its rights in its BRILLIANT trademarks.

5. Applicant is currently misappropriating HBC's BRILLIANT trademarks for animal dietary supplements, including products containing salmon oil supplements, for example at www.happygohealthypets.com.

6. Applicant has operated a website at the URL noted in the preceding paragraph since about 2018 but, on information and belief, has only begun using BRILLIANT BITES for animal dietary supplements since about February 2021, almost two years after HBC established its BRILLIANT trademark rights.

7. Applicant's use of its mark BRILLIANT BITES has created, and is likely to continue to create, consumer confusion and harm to HBC's brand and reputation, and dilution of HBC's BRILLIANT trademarks. The confusion, harm and dilution will be among customers, potential customers, and others in the market for animal dietary supplements who are mistaken as to the origin of each party's goods, or who mistakenly believe HBC and Defendant are commonly owned, operated, or otherwise affiliated. Pertinent consumers have been, and are likely to continue being, confused as to the origin, sponsorship, authorization and/or approval by HBC of Defendant's company and products.