

ESTTA Tracking number: **ESTTA1199052**

Filing date: **03/26/2022**

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	Carma Laboratories, Inc.
Granted to date of previous extension	03/27/2022
Address	5801 WEST AIRWAYS AVENUE FRANKLIN, WI 53132 UNITED STATES
Attorney information	THOMAS A. AGNELLO MICHAEL BEST & FRIEDRICH LLP 790 N. WATER ST., SUITE 2500 MILWAUKEE, WI 53202 UNITED STATES Primary email: mkeipdocket@michaelbest.com Secondary email(s): taagnello@michaelbest.com, mekouba@michaelbest.com 4142716560
Docket no.	019427-9293

Applicant information

Application no.	88191645	Publication date	09/28/2021
Opposition filing date	03/26/2022	Opposition period ends	03/27/2022
Applicant	NAZ Holdings, LLC 1225 WEST MAIN STREET #101-272 MESA, AZ 85201 UNITED STATES		

Goods/services affected by opposition

<p>Class 003. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Electronic cigarette liquid comprised of non-consumable essential oils, used to refill electronic cigarette cartridges; electronic cigarette cartridges sold filled with electronic cigarette liquids comprised of non-consumable essential oils; non-consumable essential oils; nonconsumable essential oils derived from hemp; all of the aforementioned containing CBD; electronic cigarette liquid comprised of flavorings in liquid form consisting of non-consumable essential oils used to refill electronic cigarette cartridges, derived in whole or in part of hemp; electronic cigarette liquid comprised of non-consumable essential oils derived in whole or in part of hemp; all of the foregoing goods that contain hemp and CBD are derived from hemp with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis, and none of the foregoing containing cannabis or cannabis extracts or derivatives with a delta-9 THC concentration of more than 0.3 percent on a dry weight basis</p>
<p>Class 034. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Electronic cigarette liquid comprised of fla-</p>

avorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; electronic cigarette cartridges sold filled with chemical flavorings in liquid form; all of the aforementioned containing CBD; electronic cigarette liquid comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges, derived in whole or in part of hemp; chemical flavorings in liquid form used to refill electronic cigarette cartridges, derived in whole or in part of hemp; electronic cigarette liquid comprised of flavorings in liquid form, other than essential oils, derived in whole or in part of hemp; hemp based extracts for vaping in the nature of cartridges sold filled with chemical flavorings in liquid form for electronic cigarettes; all of the foregoing goods that contain hemp and CBD are derived from hemp with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis, and none of the foregoing containing cannabis or cannabis extracts or derivatives with a delta-9 THC concentration of more than 0.3 percent on a dry weight basis

Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols	Trademark Act Section 2(a)

Marks cited by opposer as basis for opposition

U.S. application/ registration no.	NONE	Application date	NONE
Register	NONE		
Registration date	NONE		
Mark	CARMA LABS		
Goods/services	Lip care and personal care products such as lip balm, creams and lotions for face and body care, medicated lip balm, cold sore treatment preparations, and medicated skin care preparations		

U.S. application/ registration no.	NONE	Application date	NONE
Register	NONE		
Registration date	NONE		
Mark	CARMA LABORATORIES		
Goods/services	Lip care and personal care products such as lip balm, creams and lotions for face and body care, medicated lip balm, cold sore treatment preparations, and medicated skin care preparations		

Attachments	Notice of Opposition - KARMALABS - 03 26 2022.pdf(120243 bytes)
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Signature	/Thomas A. Agnello/
Name	THOMAS A. AGNELLO
Date	03/26/2022

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

Carma Laboratories, Inc.,

Opposer,

v.

NAZ Holdings, LLC,

Applicant.

Opposition No. _____

Application No. 88191645

Mark: KARMALABS

Filed: December 20, 2018

NOTICE OF OPPOSITION

Carma Laboratories, Inc. (“Opposer” or “Carma Labs”), a Wisconsin corporation with an address at 5801 West Airways Avenue, Franklin, Wisconsin 53132, believes that it will be damaged by registration of the KARMALABS mark (“Applicant’s Mark”) in Application No. 88191645 (the “Application”) filed by NAZ Holdings, LLC (“Applicant”) and hereby timely opposes the Application.

The grounds for opposition are as follows:

1. Upon information and belief, Applicant is an Arizona limited liability company with an address at 1225 West Main Street #101-272, Mesa, Arizona 85201.

2. On December 20, 2018, Applicant filed the Application to register Applicant’s Mark for the following goods in Classes 3 and 34 (collectively referred to as “Applicant’s Goods”):

Class 3: Electronic cigarette liquid comprised of non-consumable essential oils, used to refill electronic cigarette cartridges; electronic cigarette cartridges sold filled with electronic cigarette liquids comprised of non-consumable essential oils; non-consumable essential oils; nonconsumable essential oils derived from hemp; all of the aforementioned containing CBD; electronic cigarette liquid comprised of flavorings in liquid form consisting of non-consumable essential oils used to refill electronic cigarette cartridges, derived in whole or in part of hemp; electronic cigarette liquid comprised of non-consumable essential oils derived in whole or in part of hemp; all of the foregoing goods that contain hemp and CBD are derived from hemp with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis, and none of the foregoing containing cannabis or cannabis extracts or derivatives with a delta-9 THC concentration of more than 0.3 percent on a dry weight basis.

Class 34: Electronic cigarette liquid comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; electronic cigarette cartridges sold filled with chemical flavorings in

liquid form; all of the aforementioned containing CBD; electronic cigarette liquid comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges, derived in whole or in part of hemp; chemical flavorings in liquid form used to refill electronic cigarette cartridges, derived in whole or in part of hemp; electronic cigarette liquid comprised of flavorings in liquid form, other than essential oils, derived in whole or in part of hemp; hemp based extracts for vaping in the nature of cartridges sold filled with chemical flavorings in liquid form for electronic cigarettes; all of the foregoing goods that contain hemp and CBD are derived from hemp with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis, and none of the foregoing containing cannabis or cannabis extracts or derivatives with a delta-9 THC concentration of more than 0.3 percent on a dry weight basis.

3. The Application was filed on an intent-to-use basis.

4. Carma Labs is the owner of the famous CARMEX brand of lip balm and personal care products and has for many years used the trade name “Carma Laboratories, Inc.,” the abbreviated name “Carma Labs,” and the trademark CARMA LABS (the “CARMA LABS Name and Mark”) in connection with its CARMEX products.

5. Since at least as early as 1937, Carma Labs and its predecessors have used the “Carma Laboratories” trade name in connection with lip care and personal care products such as lip balm, creams and lotions for face and body care, medicated lip balm, cold sore treatment preparations, and medicated skin care preparations (“Opposer’s Goods”), including on product packaging and advertising materials as well as on Carma Labs’ website.

6. The CARMA LABS Name and Mark has been used extensively and publicly and substantial sales of Opposer’s Goods have been made under the CARMA LABS Name and Mark. In fact, more than 170 Carma Labs products are sold every minute in more than 60 jurisdictions worldwide, including throughout the United States, and each such product bears the name “Carma Laboratories.” Coupled with Carma Labs’ use of the CARMA LABS Name and Mark on associated advertising and promotional materials, consumers have for more than 80 years recognized the CARMA LABS Name and Mark as the source of Carma Labs’ products.

7. As a result of such use and promotion, Carma Labs has created substantial goodwill identified with its well-known CARMA LABS Name and Mark resulting in strong common law and trade name rights throughout the United States, including in Arizona where Applicant is located, and

the CARMA LABS Name and Mark points uniquely and unmistakably to Carma Labs throughout the United States.

8. Opposer has priority with respect to the marks at issue because the CARMA LABS Name and Mark was used in the United States long before Applicant filed its intent-to-use Application and long before any adoption by Applicant of the KARMALABS name.

9. Upon information and belief, Applicant knew about the CARMA LABS Name and Mark before Applicant filed its Application.

10. Applicant's Mark and CARMA LABS differ by only one letter, are aurally identical, and are substantially identical in appearance and commercial impression.

11. Applicant's Mark is confusingly similar to the CARMA LABS Name and Mark in appearance, sound, and commercial impression.

12. Applicant's Goods are closely related or complementary to Opposer's Goods.

13. Applicant's Goods include essential oils and the cannabis related substances hemp, cannabidiol ("CBD"), and tetrahydrocannabinol ("THC") which are commonly found in lip balm and personal care products, such as creams and lotions.

14. Based on the similarities in the parties' marks and goods, consumers and potential consumers are likely to believe that Applicant's Goods originate from Opposer or are otherwise endorsed, sponsored, approved by, connected to, affiliated with, or associated with Opposer, resulting in a likelihood of confusion in the marketplace and damage to Opposer.

15. If Applicant is granted registration of Applicant's Mark, it would thereby obtain at least a prima facie exclusive right to use its alleged mark. This would be a source of further damage and injury to Opposer.

GROUND I
PRIORITY AND LIKELIHOOD OF CONFUSION

16. Opposer incorporates paragraphs 1-15 as if fully set forth herein.

17. Registration of Applicant's Mark will cause irreparable damage to Opposer under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

GROUND II
FALSE ASSOCIATION

18. Opposer incorporates paragraphs 1-17 as if fully set forth herein.

19. Upon information and belief, by applying for or adopting Applicant's Mark, Applicant intends to create a false association or connection between Applicant and Opposer.

20. Opposer is neither connected with Applicant nor with the activities performed by Applicant or intended to be performed by Applicant under Applicant's Mark.

21. Because of the similarities between Applicant's Mark and the CARMA LABS Name and Mark, coupled with the well-known nature of the CARMA LABS Name and Mark, and the relatedness of the parties' goods, registration of Applicant's Mark would result in the public presuming or recognizing Applicant's Mark as pointing uniquely to Opposer. Such presumption or recognition would create a false association between Applicant and Opposer, which would irreparably harm Opposer's reputation.

22. Registration of Applicant's Mark will cause irreparable damage to Opposer under Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), because Applicant's Mark falsely suggests a connection with Opposer's name or identity.

WHEREFORE, Opposer requests that this opposition be sustained, and that the registration sought by Applicant be refused.

Respectfully submitted,

CARMA LABORATORIES, INC.

By its Attorneys,

Date: March 26, 2022

/Electronically signed by Thomas A. Agnello
Thomas A. Agnello
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CERTIFICATE OF MAILING

I hereby certify that this Notice of Opposition is being filed electronically via ESTTA on
March 26, 2022.

/Electronically signed by Thomas A. Agnello/
Thomas A. Agnello