

ESTTA Tracking number: **ESTTA1256233**

Filing date: **12/22/2022**

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	Synergy Global Exchange, Inc.		
Entity	Corporation	Citizenship	California
Address	324 SOUTH BEVERLY DRIVE SUITE 1218 BEVERLY HILLS, CA 90212 UNITED STATES		
Attorney information	CHELSEA BERNARD CONKLE, KREMER & ENGEL, PLC 3130 WILSHIRE BLVD., SUITE 500 SANTA MONICA, CA 90403 UNITED STATES Primary email: c.bernard@conklelaw.com Secondary email(s): tm@conklelaw.com 310-998-9100		
Docket no.	3692.002		

Applicant information

Application no.	87639443	Publication date	11/22/2022
Opposition filing date	12/22/2022	Opposition period ends	12/22/2022
Applicant	Sakara Life, Inc. SUITE 210 580 BROADWAY NEW YORK, NY 10012 UNITED STATES		

Goods/services affected by opposition


Class 005. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Dietary supplements; food supplements; nutritional supplements; vitamin and mineral supplements; plant-based dietary and nutritional supplements; powdered nutritional supplement drink mix; dietary supplement drink mix
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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 no.	6547883	Application date	04/11/2017
Register	Principal		

Registration date	11/02/2021	Foreign priority date	NONE
Word mark	BIOTIC BEAUTY		
Design mark			
Description of mark	NONE		
Goods/services	Class 003. First use: First Use: Mar 1, 2021 First Use In Commerce: Mar 1, 2021 Deodorants and antiperspirants		

Attachments	87407523#TMSN.png(bytes) 9999 Opposition to BEAUTYBIOTICS .pdf(139901 bytes)
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Signature	/Chelsea Bernard/
Name	Chelsea Bernard
Date	12/22/2022

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

Synergy Global Exchange, Inc.

Opposer,

v.

Sakara Life, Inc.

Applicant.

OPPOSITION No. _____

Serial No. 87/639,443

Mark: BEAUTYBIOTICS

NOTICE OF OPPOSITION

Opposer Synergy Global Exchange, Inc. (“Opposer” or “Synergy”) believes that it will be damaged by registration of the trademark which is the subject of Application Serial No. 87/639,443, filed by Sakara Life, Inc. (“Applicant”) on October 10, 2017 and published for opposition on November 22, 2022, and therefore opposes the registration of that mark.

The grounds for this opposition are as follows:

1. Opposer is a corporation duly organized and existing under the laws of the state of California with a principal place of business at 324 S. Beverly Drive, Suite 1218, Beverly Hills California 90212.
2. Applicant Sakara Life, Inc., upon information and belief, is a corporation duly organized under the laws of the state of Delaware with a principal place of business at 580 Broadway, Suite 210, New York, New York 10012.
3. Opposer distributes and sells deodorant and supplements in the United States under the mark “BIOTIC BEAUTY.”

4. Opposer is the owner of U.S. Trademark Registration No. 6,547,883 for the standard character mark BIOTIC BEAUTY in Internal Class 003 for “Deodorants and antiperspirants” (the “BIOTIC BEAUTY Mark”). Opposer applied for registration of the BIOTIC BEAUTY Mark on an intent-to-use basis on April 11, 2017. Opposer first began using its BIOTIC BEAUTY Mark in commerce in the United States on March 1, 2021, and the Mark was registered on November 2, 2021.

5. Opposer sells its products in connection with the BIOTIC BEAUTY Mark online through its own website and features the BIOTIC BEAUTY Mark in its advertising, marketing and promotional materials.

6. Opposer has used, advertised, promoted and offered Opposer’s goods bearing the BIOTIC BEAUTY Mark to the public. Upon information and belief, Opposer’s customers and the public in general have come to associate Opposer’s BIOTIC BEAUTY Mark with Opposer and/or the goods sold by Opposer by virtue of Opposer’s advertising, marketing and promotional efforts.

7. Applicant seeks to register, on an intent-to-use basis, the standard character mark BEAUTYBIOTICS for use with “Dietary supplements; food supplements; nutritional supplements; vitamin and mineral supplements; plant-based dietary and nutritional supplements; powdered nutritional supplement drink mix; dietary supplement drink mix” in International Class 005.

8. Upon information and belief, neither Applicant nor any predecessor of Applicant have used BEAUTYBIOTICS as a trademark in any way in the United States prior to Applicant’s filing of its intent-to-use application on October 10, 2017.

9. Applicant's filing date for the BEAUTYBIOTICS mark of October 10, 2017 is after Opposer's filing date of April 11, 2017 for Opposer's BIOTIC BEAUTY Mark.

10. Opposer has standing to oppose the mark in the Application because registration of that mark could limit or harm Opposer's exclusive right to use and register its marks, could be cited by a future Examiner against Opposer, or could be used by Applicant against Opposer. Opposer would be greatly damaged by the registration of Applicant's BEAUTYBIOTICS mark for the goods described in Applicant's application.

11. Applicant's proposed BEAUTYBIOTICS mark is confusingly and deceptively similar to Opposer's BIOTIC BEAUTY Mark, such that ordinary consumers are likely to be confused and deceived and falsely led to believe that Applicant's prospective goods bearing and offered under the BEAUTYBIOTICS mark are sponsored by, authorized by, licensed by or associated with Opposer. This likelihood of confusion violates Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

12. Applicant's BEAUTYBIOTICS mark is confusingly similar in appearance, sound, connotation, and commercial impression to Opposer's BIOTIC BEAUTY mark. Given the similarities of the parties' respective marks and the similarities of the parties' respective goods, Applicant's proposed BEAUTYBIOTICS mark so resembles the BIOTIC BEAUTY mark as to be likely to cause confusion, to cause mistake, and to deceive.

13. The goods and services for which Applicant seeks registration are closely related to the goods offered by Opposer under its BIOTIC BEAUTY mark. Applicant purportedly intends to sell various supplements under the applied-for mark. Applicant's intended supplement products are closely related to the goods identified and sold under Opposer's BIOTIC BEAUTY mark.

Applicant's goods could easily be encountered by the same purchasers as Opposer's under circumstances that could give rise to the mistaken belief that Applicant's goods come from a common source, given the close similarity of the marks and the similarity of the goods at issue.

14. Applicant's application is unrestricted as to consumers or channels of trade. As a result, it is presumed that Applicant's goods and services will be offered to all consumers, including consumers of Opposer's goods, and through all channels of trade, including channels of trade that are the same as or similar to Opposer's.

15. Indeed, given that Applicant's goods are similar to Opposer's goods, Applicant's goods will undoubtedly be marketed and sold in the same or similar channels of trade as Opposer's goods.

16. The registration of Applicant's alleged mark is inconsistent with Opposer's prior rights in its BIOTIC BEAUTY Mark, and would harm, damage or destroy Opposer's investment and goodwill in its BIOTIC BEAUTY Mark.

WHEREFORE, Opposer prays that this Opposition be sustained, Applicant's application denied and the BEAUTYBIOTICS mark refused registration.

Dated: December 22, 2022

By: /Chelsea Bernard/

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Attorney for Synergy Global Exchange, Inc.

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