

ESTTA Tracking number: **ESTTA1276706**

Filing date: **04/05/2023**

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 | Rootine LLC |
| Granted to date of previous extension | 04/05/2023 |
| Address | 270 CONVENT AVE. APT 4 NEW YORK, NY 10038 UNITED STATES |
| Attorney information | ELIZABETH OLINER OLINER LAW 345 GROVE STREET, 2ND FLOOR SAN FRANCISCO, CA 94102 UNITED STATES Primary email: liz@olinerlaw.com Secondary email(s): trademarks@olinerlaw.com 6505495298 |
| Docket no. | |

Applicant information

| | | | |
|------------------------|--|------------------------|------------|
| Application no. | 90357631 | Publication date | 12/06/2022 |
| Opposition filing date | 04/05/2023 | Opposition period ends | 04/05/2023 |
| Applicant | Claya Inc 4322 LEALAND LANE NASHVILLE, TN 37204 UNITED STATES | | |

Goods/services affected by opposition

Class 005. First Use: Apr 1, 2018 First Use In Commerce: Apr 1, 2018
All goods and services in the class are opposed, namely: personalized multivitamin and micronutrients nutritional supplements, namely, supplements tailored to biometric data, health data, DNA, blood levels, and lifestyle

Grounds for opposition

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

Mark cited by opposer as basis for opposition

| | | | |
|-----------------------|-----------|------------------|------------|
| U.S. registration no. | 6157123 | Application date | 01/28/2020 |
| Register | Principal | | |

| | | | |
|---------------------|---|-----------------------|------|
| Registration date | 09/22/2020 | Foreign priority date | NONE |
| Word mark | ROUTINE | | |
| Design mark | | | |
| Description of mark | NONE | | |
| Goods/services | Class 003. First use: First Use: 2015 First Use In Commerce: 2015 Cosmetics; Shea butter for cosmetic purposes | | |

| | |
|-------------|---|
| Attachments | Exhibit 1 - Google Ad.pdf(134998 bytes) Routine Opposition as filed.pdf(62065 bytes) |
|-------------|---|

| | |
|-----------|------------------|
| Signature | /ejo/ |
| Name | ELIZABETH OLINER |
| Date | 04/05/2023 |

Ad · <https://www.rootine.co/>



Rootine - Rootine.com

Daily multivitamins work best when they're 100% custom formulated for your body. Rootine gives you only the nutrients you need, and none that you don't.

[Learning Center](#)

[Nutrigenetic Science](#)

[Contact Us](#)

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

ROOTINE LLC

USPTO Application No. 90357631

Petitioner,

Mark: ROOTINE

v.

Claya Inc

Applicant

Notice of Opposition

1. On information and belief, Claya Inc (“Applicant”) is a Delaware corporation that has filed USPTO Application No. 90357631 (the “Application”) to register the mark ROOTINE for “personalized multivitamin and micronutrients nutritional supplements, namely, supplements tailored to biometric data, health data, DNA, blood levels, and lifestyle” in International Trademark Class 5; and “Advisory of Plans Relating to Nutrition, namely, advising on vitamin and supplement dosage based on biometric data and tracking cellular health” in Class 44.
2. ROOTINE LLC (“Petitioner”) is an New York Limited Liability Company and the owner of USPTO Registration No. 6157123 for the following goods: “Cosmetics; Shea butter for cosmetic purposes” in Trademark Class 3 (the “ROOTINE Registration”).

3. The petitioner operates the following website: <https://routine.com>
4. Petitioner's ROOTINE products are primarily sold via their website. Petitioner advertises online and via social media platforms.
5. On information and belief, Applicant filed its Application on December 3, 2020, and claimed first use anywhere dates of April 1, 2018, and first use in commerce of September 16, 2018, in both Classes 5 and 44.
6. Petitioner first filed the Application that matured into USPTO Registration No. 6157123 on January 28, 2020, and claimed first use anywhere date of 2015, and first use in commerce dates of January 2017.
7. Petitioner's filing date is earlier than Applicant's filing date or any date of use which Applicant has claimed.
8. Petitioner has been using the name ROOTINE on products on store shelves and online continuously since 2015.
9. On information and belief, Applicant operates the following website:
<https://routine.co>
10. Several of Petitioner's customers have reported confusion with Applicant's company, and vice versa.
11. Petitioner and Applicant operate in the same industry and these products have the potential to share shelf space. For example, Petitioner has been approached by The Vitamin Shoppe with the proposal of potentially stocking their skincare goods.
12. Applicant's use could easily lead consumers to believe the goods originate from the same source.

13. Applicant has already done substantial damage to Petitioner's brand by calling their product "routine".
14. It appears that Applicant has intentionally tried to cause confusion and cannibalize Petitioner's business. One example is the Google Ads that Applicant runs where they put Petitioner's domain "Routine.com" as their ad headline. When customers click "routine.com" they are re-directed to routine.co (Applicant's) website. (See Exhibit 1)
15. Both the Applicant and Petitioner offer highly related goods with the same dominant term – ROUTINE.
16. The Applicant's Application is likely to cause confusion, or to cause mistake, or to deceive. 15 U.S.C. § 1052(d).
17. In fact, actual confusion between Applicant's and Petitioner's brand has already been occurring. Online search engines are confusing the two companies as previously described.
18. Moreover, Petitioner is being damaged because the Application, if granted, would create statutory rights in violation of Petitioner's established rights.

WHEREFORE, Petitioner prays that judgment be entered, refusing the Application and for such other and further relief that the Board finds just and proper.

Respectfully submitted,

Elizabeth Oliner

By: /EJO/
Elizabeth J. Oliner
650 549 5298

liz@olinerlaw.com

Date: April 5, 2023