

ESTTA Tracking number: **ESTTA1313279**
Filing date: **10/02/2023**

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	Troop Nutrition, Inc.
Granted to date of previous extension	09/30/2023
Address	16192 COASTAL HIGHWAY LEWES, DE 19958 UNITED STATES
Attorney information	MATTHEW G. MILLER LERNER DAVID LLP 20 COMMERCE DRIVE CRANFORD, NJ 07016 UNITED STATES Primary email: mmiller@lernerdavid.com Secondary email(s): litigation@lernerdavid.com 9086545000
Docket no.	

Applicant information

Application no.	97591430	Publication date	09/12/2023
Opposition filing date	10/02/2023	Opposition period ends	10/12/2023
Applicant	BW Essentials LLC 13217 WHITTIER BLVD. UNIT B WHITTIER, CA 90602 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. Dietary Supplements in the form of gummies, capsules, and powder. Dietary Supplements for sleep and relaxation and mood enhancement. Dietary Supplements using natural nootropic ingredients. Nutritional Supplements. Nutritional Supplements in the form of gummies, capsules, and powder

Applicant information

Application no.	97591423	Publication date	09/12/2023
Opposition filing date	10/02/2023	Opposition period ends	10/12/2023
Applicant	BW Essentials LLC 13217 WHITTIER BLVD. UNIT B WHITTIER, CA 90602		

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; Dietary supplements in the form of gummies, capsules, and powder; Dietary supplements for sleep and relaxation and mood enhancement; Dietary supplements using natural nootropic ingredients; Nutritional supplements; Nutritional supplements in the form of gummies, capsules, and powder

Applicant information

Application no.	97834082	Publication date	09/12/2023
Opposition filing date	10/02/2023	Opposition period ends	10/12/2023
Applicant	BW Essentials LLC 13217 WHITTIER BLVD. UNIT B WHITTIER, CA 90602 UNITED STATES		

Goods/services affected by opposition

Class 005. First Use: Oct 12, 2022 First Use In Commerce: Oct 12, 2022
 All goods and services in the class are opposed, namely: Dietary supplements; Dietary supplements for sleep, relaxation, and mood enhancement; Dietary supplements in the form of gummies, capsules, oil, and powder; Dietary and nutritional supplements; Dietary and nutritional supplements containing natural nootropic ingredients

Applicant information

Application no.	97834056	Publication date	08/01/2023
Opposition filing date	10/02/2023	Opposition period ends	09/30/2023
Applicant	BW Essentials LLC 13217 WHITTIER BLVD. UNIT B WHITTIER, CA 90602 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; Dietary supplements for sleep, relaxation, and mood enhancement; Dietary supplements in the form of gummies, capsules, oil, and powder; Dietary and nutritional supplements; Dietary and nutritional supplements containing natural nootropic ingredients

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. application no.	90731049	Application date	05/24/2021
Registration date	NONE	Foreign priority date	NONE
Word mark	TROOP		

Design mark	
Description of mark	NONE
Goods/services	Class 005. First use: First Use: None First Use In Commerce: None dietary and nutritional supplements containing mushroom extract; nutritional supplement bars containing mushroom extract; powdered drink mix containing mushroom extract for use as a nutritional supplement Class 030. First use: First Use: None First Use In Commerce: None protein-enriched coffee containing mushroom extract

U.S. application no.	97753680	Application date	01/13/2023
Registration date	NONE	Foreign priority date	NONE
Word mark	TROOP		
Design mark			
Description of mark	The mark consists of stylized letters TROOP with the two Os in the word TROOP interlocking.		
Goods/services	Class 005. First use: First Use: Jan 21, 2022 First Use In Commerce: Jan 21, 2022 dietary and nutritional supplements containing mushroom extract Class 030. First use: First Use: None First Use In Commerce: None protein-enriched coffee containing mushroom extract Class 035. First use: First Use: Jan 20, 2022 First Use In Commerce: Jan 20, 2022 providing an online retail store featuring dietary and nutritional supplements containing mushroom extract		

Attachments	Notice of Opposition - TROOMY10-2-23.pdf(97665 bytes)
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Signature	/Matthew G. Miller/
Name	MATTHEW G. MILLER
Date	10/02/2023

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

TROOP NUTRITION, INC.,	:	
	:	Serial Nos. 97/591,430; 97/591,423;
	:	97/834,056; and 97/834,082
	:	
Opposer,	:	
	:	Filed: September 14, 2022 and March 10, 2023
v.	:	
	:	Published: August 01, 2023 and September 12, 2023
BW ESSENTIALS LLC,	:	
	:	Opposition No. _____
Applicant.	:	
_____	:	X

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Troop Nutrition, Inc., a Delaware corporation, having an address at 16192 Coastal Highway, Lewes DE 19958, believes it will be damaged by the registration of the marks shown in application Serial Nos. 97/834,082; 97/591,430; 97/591,423; 97/834,056 (the “Applications”) and hereby opposes registration of such mark. The specific grounds for such opposition are as follows:

1. On September 14, 2022, BW Essentials LLC (“Applicant”) filed for registration of the mark TROOMY NOOTROPICS, in stylized form, which published on September 12, 2023, in connection with the following goods in International Class 005: “Dietary supplements; Dietary supplements in the form of gummies, capsules, and powder; Dietary supplements for sleep and relaxation and mood enhancement; Dietary supplements using natural nootropic ingredients; Nutritional supplements; Nutritional supplements in the form of gummies, capsules, and powder”.
2. On September 14, 2022, Applicant filed for registration of the mark TROOMY, in

stylized form, which published on September 12, 2023, in connection with the following goods in International Class 005: “Dietary supplements; Dietary supplements in the form of gummies, capsules, and powder; Dietary supplements for sleep and relaxation and mood enhancement; Dietary supplements using natural nootropic ingredients; Nutritional supplements; Nutritional supplements in the form of gummies, capsules, and powder.”

3. On March 10, 2023, Applicant filed for registration of the mark TROOMY, in standard characters, which published on August 1, 2023, in connection with the following goods in International Class 005: “Dietary supplements; Dietary supplements for sleep, relaxation, and mood enhancement; Dietary supplements in the form of gummies, capsules, oil, and powder; Dietary and nutritional supplements; Dietary and nutritional supplements containing natural nootropic ingredients.”

4. On March 10, 2023, Applicant filed for registration of the mark TROOMY NOOTROPICS, in standard characters, which published on September 12, 2023, in connection with the following goods in International Class 005: “Dietary supplements; Dietary supplements for sleep, relaxation, and mood enhancement; Dietary supplements in the form of gummies, capsules, oil, and powder; Dietary and nutritional supplements; Dietary and nutritional supplements containing natural nootropic ingredients.”

5. Opposer owns and uses the mark TROOP in connection with goods and services offered in interstate commerce in the United States.

6. Opposer has been using the mark TROOP since at least as early as March 23, 2022, well before Applicant filed the Applications for registration.

7. Opposer is the owner of, *inter alia*, United States Trademark Application No. 90/731,049 for the mark TROOP in standard characters, for use in connection with dietary

and nutritional supplements containing mushroom extract; nutritional supplement bars containing mushroom extract; powdered drink mix containing mushroom extract for use as a nutritional supplement in Class 005, and protein-enriched coffee containing mushroom extract in Class 030.

8. Opposer is the owner of, *inter alia*, United States Trademark Application No. 97/753,680 for the mark TROOP both in stylized form, for use in connection with dietary and nutritional supplements containing mushroom extract; nutritional supplement bars containing mushroom extract; powdered drink mix containing mushroom extract for use as a nutritional supplement in Class 005; protein-enriched coffee containing mushroom extract in Class 030; and providing an online retail store featuring dietary and nutritional supplements containing mushroom extract in Class 035.

9. As a result of promotion of its goods and services throughout the United States, Opposer has built up highly valuable goodwill in its TROOP marks. Such goodwill has become closely and uniquely identified and associated with Opposer prior to the filing of the Application by Applicant and prior to any use of the TROOMY and/or TROOMY NOOTROPICS marks in the United States by Applicant.

10. Applicant's TROOMY and/or TROOMY NOOTROPICS marks so resembles Opposer's TROOP marks as to result in a likelihood of confusion.

11. Applicant's TROOMY and/or TROOMY NOOTROPICS marks will be used for related and confusingly similar goods and services in the United States such that the marks are likely to be confused.

12. Opposer will suffer harm as a result of the confusion likely to arise from the registration of the Application and from Opposer's prior and ongoing use of the TROOMY and/or

TROOMY NOOTROPICS marks.

13. Accordingly, Applicant's marks should be denied registration under Section 2(d) of the Trademark Act (15 U.S.C. § 1052(d)).

14. This opposition is timely in accordance with TBMP § 202.01.

15. Please charge the fee of \$2,400.00 for this Notice of Opposition in one class to Deposit Account No. 12-1095. The undersigned is authorized to make charges to said deposit account.

WHEREFORE, Opposer requests that the Board refuse registration of Application Serial Nos. 97/834,082; 97/591,430; 97/591,423; 97/834,056, and that this Opposition be sustained.

Respectfully submitted,

LERNER DAVID LLP
Attorneys for Opposer
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Dated: October 2, 2023

By /Matthew G. Miller/
Matthew G. Miller