

ESTTA Tracking number: **ESTTA1405885**
Filing date: **01/03/2025**

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	BHP Holdings, Inc.
Granted to date of previous extension	01/04/2025
Address	18538 142ND AVE NE WOODINVILLE, WA 98072 UNITED STATES
Attorney information	LISA A. FERRARI COZEN O'CONNOR 3 WTC, 175 GREENWICH STREET 55TH FLOOR NEW YORK, NY 10007 UNITED STATES Primary email: lferrari@cozen.com Secondary email(s): phipdocketing@cozen.com, mmcnuilty@cozen.com, llinford@cozen.com, cmenth@cozen.com (212) 297-2699
Docket no.	150119.835

Applicant information

Application no.	98447715	Publication date	11/05/2024
Opposition filing date	01/03/2025	Opposition period ends	01/04/2025
Applicant	BioMed United LLC 3101 OCEAN PARK BLVD STE 100 SANTA MONICA, CA 90405 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; Gummy vitamins


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. registration no.	4611361	Application date	12/10/2013
Register	Principal		

Registration date	09/23/2014	Foreign priority date	NONE
Word mark	ZEOBIND		
Design mark			
Description of mark	NONE		
Goods/services	Class 005. First use: First Use: Jan 15, 2014 First Use In Commerce: Jan 15, 2014 Dietary supplements		

U.S. registration no.	4889799	Application date	06/27/2012
Register	Principal		
Registration date	01/19/2016	Foreign priority date	NONE
Word mark	BIOKIND		
Design mark			
Description of mark	NONE		
Goods/services	<p>Class 003. First use: First Use: Nov 18, 2015 First Use In Commerce: Nov 18, 2015 [Anti-aging creams; Bar soap; Bath herbs;] Body and beauty care cosmetics; Cosmetic preparations for skin care; [Cosmetic sunscreen preparations; Cosmetics and cosmetic preparations;] Deodorants; [Facial washes; Hand cleaning preparations; Lip balm; Liquid soaps;] Massage oils; Moisturizing preparations for the skin; Oils for cosmetic purposes; [Oils for hair conditioning;] Skin and body topical lotions, creams and oils for cosmetic use [; Soaps]</p> <p>Class 005. First use: First Use: Nov 19, 2015 First Use In Commerce: Nov 19, 2015 [Anti-itch cream]</p> <p>Class 035. First use: First Use: Nov 18, 2015 First Use In Commerce: Nov 18, 2015 On-line retail store services featuring personal care products; On-line wholesale store services featuring personal care products</p>		

Attachments	86140130#TMSN.png(bytes) 85663493#TMSN.png(bytes) ZEOKIND_Notice of Opposition FINAL.pdf(1034852 bytes)
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Signature	/LISA A. FERRARI/
Name	LISA A. FERRARI
Date	01/03/2025

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

BHP HOLDINGS, INC.,)	
)	Opposition No.: _____
Opposer,)	
)	App. No.: 98447715
v.)	
)	
BIOMED UNITED LLC,)	
)	Mark: ZEOKIND
Applicant.)	

NOTICE OF OPPOSITION

Opposer, BHP Holdings, Inc. (“BHP” or “Opposer”), a Washington corporation with its principal place of business located at 18538 142nd Avenue Northeast, Woodinville, WA 98072, believes it will be damaged by and opposes registration for the mark **ZEOKIND** (“Challenged Mark”), Serial No. 98447715, filed on March 13, 2024, and published on November 5, 2024. Pursuant to 15 U.S.C. § 1063(a) and 37 C.F.R. § 2.101, BHP hereby files this Notice of Opposition against the Challenged Mark and BioMed United LLC (“Applicant”) on the following grounds:

1. Applicant is identified as a California limited liability company having an address of 3101 Ocean Park Blvd., Ste 100, Santa Monica, CA 90405.
2. On March 13, 2024, Applicant filed an application with the United States Patent and Trademark Office to register the Challenged Mark in connection with “Dietary supplements; Gummy vitamins” in International Class 5 (“Applicant’s Goods”), on an intent-to-use basis (the “Challenged Application”).
3. The Challenged Application published for opposition on November 5, 2024.
4. On December 3, 2024, BHP filed a First 30-Day Request for Extension of Time to Oppose the Challenged Application with the Trademark Trial and Appeal Board (“TTAB” or “Board”). The Board granted BHP’s First 30-Day Request for Extension of Time to Oppose on

December 3, 2024.

5. BHP is a leading manufacturer of a wide range of high-quality dietary and nutritional supplements and personal care products (the “BHP Goods”). BHP has manufactured and sold such products since at least 2001.

6. Over the many years in which it has operated, BHP has expended significant time, energy, and resources in the promotion of its dietary and nutritional supplements and personal care products.

7. BHP owns the trademark ZEOBIND (the “ZEOBIND Mark”) for dietary supplements, and has made continuous and substantially exclusive use of the ZEOBIND Mark on or in connection with dietary supplements.

8. In connection with this use, BHP owns United States federal Trademark Registration No. 4611361 for the mark ZEOBIND for “Dietary supplements” in International Class 5, which registered on September 23, 2014 and has a first use date of at least as early as January 15, 2014.

9. BHP also owns the trademark BIOKIND (the “BIOKIND Mark”) for cosmetic preparations and personal care products, and has made continuous and substantially exclusive use of the BIOKIND Mark on or in connection with such goods.

10. In connection with this use, BHP owns United States federal Trademark Registration No. 4889799 for the mark BIOKIND for “Body and beauty care cosmetics; Cosmetic preparations for skin care; Deodorants; Massage oils; Moisturizing preparations for the skin; Oils for cosmetic purposes; Skin and body topical lotions, creams and oils for cosmetic use” in International Class 5 and “On-line retail store services featuring personal care products; On-line wholesale store services featuring personal care products” in International Class 35, which

registered on January 19, 2016 and has a first use date of at least as early as November 18, 2015.

11. The two aforementioned registrations have each attained incontestable status pursuant to 15 U.S.C. §§ 1065 and 1115.

12. As a result of BHP's extensive and continuous use of its ZEOBIND and BIODIND Marks, as well as BHP's investment of significant time, effort, and expense in advertising, promoting, and popularizing the ZEOBIND and BIODIND Marks in the United States and other countries, BHP's ZEOBIND and BIODIND Marks have become well-known to a significant portion of the relevant consuming public, who identify BHP as the source of the BHP Goods offered under the ZEOBIND and BIODIND Marks, respectively. BHP has established significant goodwill in the ZEOBIND and BIODIND Marks, and the ZEOBIND and BIODIND Marks and associated goodwill are valuable assets of BHP.

13. For ten years, BHP has marketed, used, and extensively advertised the BHP Goods under the ZEOBIND and BIODIND Marks throughout the United States.

14. BHP began using the ZEOBIND and BIODIND Marks in connection with the BHP Goods nearly ten years before Applicant filed the Challenged Application and began using the Challenged Mark. Thus, BHP's ZEOBIND and BIODIND Marks have substantial priority over the Challenged Mark.

15. The Challenged Mark interferes with BHP's current or planned business because BHP is in the business of manufacturing and selling dietary and nutritional supplements and personal care products, which are identical or highly similar goods to Applicant's Goods.

16. If the Challenged Application matures to registration, Applicant will obtain a *prima facie* exclusive right to use the Challenged Mark in connection with Applicant's Goods, which will contribute to the damage and injury BHP will suffer.

17. Applicant's Challenged Mark is highly visually and phonetically similar to both BHP's ZEOBIND Mark and BIODIND Mark. The Challenged Mark fully encompasses both "ZEO" and "KIND". Indeed, the Challenged Mark is one letter away from BHP's ZEOBIND Mark, as it simply replaces the "B" with a "K". This one letter difference fails to meaningfully distinguish this mark, especially considering BHP's BIODIND Mark, which includes the "KIND" portion of the Challenged Mark.

18. Applicant's Goods are identical or highly similar to the BHP Goods, and Applicant's intended use of the Challenged Mark is confusingly similar to BHP's use of its ZEOBIND and BIODIND Marks. Specifically, BHP offers dietary and nutritional supplements under its ZEOBIND Mark, and has an active U.S. trademark registration for the ZEOBIND Mark that explicitly covers dietary supplements in International Class 5. These are the same goods identified in the Challenged Application. Moreover, BHP offers highly similar cosmetic preparations and personal care products under its BIODIND Mark.

19. BHP has not licensed or permitted Applicant to use or apply for registration of the Challenged Mark.

20. Applicant knew or should have known that its conduct would injure BHP.

21. By reason of all of the foregoing, BHP would be greatly damaged by the registration of the Challenged Mark.

COUNT I - LIKELIHOOD OF CONFUSION
15 U.S.C. § 1052(d)

22. BHP repeats and realleges the allegations in the foregoing paragraphs as though fully set forth herein.

23. BHP has used the ZEOBIND and BIODIND Marks in commerce prior to Applicant's application to register the Challenged Mark.

24. BHP's ZEOBIND and BIODIND Marks represent the exceedingly valuable goodwill of BHP and its high-quality dietary and nutritional supplement and personal care products.

25. BHP's ZEOBIND and BIODIND Marks are inherently distinctive.

26. BHP's ZEOBIND and BIODIND Marks and Applicant's Challenged Mark are highly similar in sound, appearance and overall commercial impression, and are confusingly similar.

27. Applicant's Challenged Mark is highly visually and phonetically similar to both BHP's ZEOBIND Mark and BIODIND Mark. The Challenged Mark fully encompasses both "ZEO" and "KIND". Indeed, the Challenged Mark is one letter away from BHP's ZEOBIND Mark, as it simply replaces the "B" with a "K". This one letter difference fails to meaningfully distinguish this mark, especially considering BHP's BIODIND Mark, which includes the "KIND" portion of the Challenged Mark.

28. Applicant's Goods are "Dietary supplements; Gummy vitamins", which are identical and highly related to the BHP Goods.

29. Applicant's Goods will travel in the same or similar channels of trade as the BHP Goods and would be used or perceived by the same class of consumers.

30. Due to the similarity between Applicant's Challenged Mark and BHP's ZEOBIND and BIODIND Marks, and the similarity of the respective goods offered therewith, members of the public will likely believe that Applicant's Goods bearing the Challenged Mark are sponsored by, affiliated with, or emanate from BHP, thereby resulting in a likelihood of confusion as to the source of Applicant's Goods. Consumers are likely to purchase Applicant's Goods, incorrectly assuming that Applicant's Goods emanate from BHP.

31. Registration of Applicant's Challenged Mark in connection with Applicant's Goods would thereby provide Applicant with a *prima facie* exclusive right to use the Challenged Mark, and such registration would be the source of irreparable damage and injury to BHP and would restrict and impair BHP's right to use, develop and expand the use of its ZEOBIND and BIODIND Marks or BHP Goods and would otherwise cause injury and damage to BHP and its ZEOBIND and BIODIND Marks, as well as cause injury and damage to BHP's goodwill and reputation.

32. Accordingly, the Opposition should be sustained in BHP's favor and the Application to register the Challenged Mark for Applicant's Goods should be refused registration under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

BHP hereby gives notice that it will rely on its United States trademark registrations identified herein in this Opposition, and in any appeal hereof, as evidence in support. Printouts from the U.S. Patent and Trademark Office website showing the current status of these registrations are attached hereto as Exhibit A and Exhibit B.

WHEREFORE, Opposer BHP Holdings, Inc. respectfully requests that this opposition be sustained in its entirety and that registration of the Challenged Mark shown in U.S. Trademark Application Serial No. 98447715 be refused.

Respectfully submitted,

COZEN O'CONNOR

Date: January 3, 2025

By: /Lisa A. Ferrari/

Lisa A. Ferrari

3 WTC

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Attorneys for Opposer BHP Holdings, Inc.

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that on January 3, 2025, a copy of the foregoing **NOTICE OF OPPOSITION**, with attached **EXHIBITS A** and **B**, is being electronically filed with the United States Patent and Trademark Office, Trademark Trial and Appeal Board, at <http://estta.uspto.gov/>.

/Madison McNulty/
Madison McNulty

EXHIBIT A

For assistance with TSDR, email teas@uspto.gov and include your serial number, the document you are looking for, and a screenshot of any error messages you have received.

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Mark: ZEOBIND

ZEOBIND

US Serial Number: 86140130

Application Filing Date: Dec. 10, 2013

US Registration Number: 4611361

Registration Date: Sep. 23, 2014

Register: Principal

Mark Type: Trademark

TM5 Common Status

Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: The registration has been renewed.

Status Date: Mar. 14, 2024

Publication Date: Apr. 29, 2014

Notice of Allowance Date: Jun. 24, 2014

Mark Information

Mark Literal Elements: ZEOBIND

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Dietary supplements

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

First Use: Jan. 15, 2014

Use in Commerce: Jan. 15, 2014

Basis Information (Case Level)

Current Owner(s) Information

Owner Name: BHP HOLDINGS, INC.

Owner Address: 18538 142nd Ave NE
Woodinville, WASHINGTON UNITED STATES 98072

Legal Entity Type: CORPORATION

State or Country Where Organized: WASHINGTON

Attorney/Correspondence Information

Prosecution History

Feedback

TM Staff and Location Information**Assignment Abstract Of Title Information****Summary**[Conveyance Filter](#)

Total Assignments: 1

Registrant: BioPure Healing Products, LLC

Assignment 1 of 1

Conveyance: ENTITY CONVERSION

Reel/Frame: [6264/0796](#)

Pages: 5

Date Recorded: Feb. 02, 2018

Supporting Documents: [assignment-tm-6264-0796.pdf](#)**Assignor**Name: [BIOPURE HEALING PRODUCTS, LLC](#)

Execution Date: Jan. 16, 2018

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: WASHINGTON

AssigneeName: [BHP HOLDINGS, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: WASHINGTON

Address: 15315 NORTHEAST 90TH STREET
REDMOND, WASHINGTON 98052**Correspondent**

Correspondent Name: LORRAINE LINFORD

Correspondent Address: 701 FIFTH AVENUE
SUITE 5400
SEATTLE, WA 98104**Domestic Representative - Not Found**[Proceedings - Click to Load](#)

EXHIBIT B

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Mark: BLOKIND

BLOKIND

US Serial Number: 85663493

Application Filing Date: Jun. 27, 2012

US Registration Number: 4889799

Registration Date: Jan. 19, 2016

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark, Service Mark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: A partial Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Jul. 08, 2022

Publication Date: Sep. 25, 2012

Notice of Allowance Date: Nov. 20, 2012

Mark Information

Mark Literal Elements: BLOKIND

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: [Anti-aging creams; Bar soap; Bath herbs;] Body and beauty care cosmetics; Cosmetic preparations for skin care; [Cosmetic sunscreen preparations; Cosmetics and cosmetic preparations;] Deodorants; [Facial washes; Hand cleaning preparations; Lip balm; Liquid soaps;] Massage oils; Moisturizing preparations for the skin; Oils for cosmetic purposes; [Oils for hair conditioning;] Skin and body topical lotions, creams and oils for cosmetic use [; Soaps]

International Class(es): 003 - Primary Class

U.S Class(es): 001, 004, 006, 050, 051, 052

Class Status: ACTIVE

First Use: Nov. 18, 2015

Use in Commerce: Nov. 18, 2015

For: [Anti-itch cream]

International Class(es): 005 - Primary Class

U.S Class(es): 005, 006, 018, 044, 046, 051, 052

Class Status: SECTION 8 - CANCELLED

First Use: Nov. 19, 2015

Use in Commerce: Nov. 19, 2015

For: On-line retail store services featuring personal care products; On-line wholesale store services featuring personal care products

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Feedback

First Use: Nov. 18, 2015

Use in Commerce: Nov. 18, 2015

Basis Information (Case Level)**Current Owner(s) Information**

Owner Name: BHP HOLDINGS, INC.

Owner Address: 18538 142nd Ave NE
WOODINVILLE, WASHINGTON UNITED STATES 98072

Legal Entity Type: CORPORATION

State or Country Where Organized: WASHINGTON

Attorney/Correspondence Information**Prosecution History****TM Staff and Location Information****Assignment Abstract Of Title Information****Summary**[Conveyance Filter](#)

Total Assignments: 1

Registrant: BIOPURE HEALING PRODUCTS, LLC

Assignment 1 of 1

Conveyance: ENTITY CONVERSION

Reel/Frame: [6384/0456](#)

Pages: 20

Date Recorded: Jul. 18, 2018

Supporting Documents: [assignment-tm-6384-0456.pdf](#)**Assignor**Name: [BIOPURE HEALING PRODUCTS, LLC](#)

Execution Date: Jan. 16, 2018

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: WASHINGTON

AssigneeName: [BHP HOLDINGS, INC.](#)

Legal Entity Type: CORPORATION

State or Country Where Organized: WASHINGTON

Address: 18538 NE 142ND STREET
WOODINVILLE, WASHINGTON 98072

Feedback

Correspondent

Correspondent Name: LORRAINE LINFORD

Correspondent Address: 701 FIFTH AVENUE
SUITE 5400
SEATTLE, WA 98104**Domestic Representative - Not Found****Proceedings - Click to Load**