

ESTTA Tracking number: **ESTTA806800**

Filing date: **03/13/2017**

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	Dr. Barry Sears Ph.D
Granted to Date of previous extension	03/11/2017
Address	200 Corporate Place Suite 7 Peabody, MA 01960 UNITED STATES

Attorney information	Craig M. Scott Hinckley, Allen & Snyder LLP 28 State Street Boston, MA 02109 UNITED STATES tmducket@hinckleyallen.com, cscott@hinckleyallen.com, amontgomery@hinckleyallen.com Phone:617-345-9000
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Applicant Information

Application No	87224246	Publication date	01/10/2017
Opposition Filing Date	03/13/2017	Opposition Period Ends	03/11/2017
Applicant	Drinkwel, LLC 2882 Walnut Ave, Ste C Tustin Ranch, CA 92780 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Dietary and nutritional supplements; Electrolyte replacement solutions
Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Isotonic beverages; Preparations for making beverages, namely, sports drinks and isotonic beverages; Sports drinks

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.	2689749	Application Date	05/22/2000
Registration Date	02/25/2003	Foreign Priority	NONE

		Date	
Word Mark	ZONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1995/05/00 First Use In Commerce: 1995/05/00 Publications, namely a series of books in the field of diet and nutrition		


U.S. Registration No.	3254087	Application Date	09/17/2003
Registration Date	06/19/2007	Foreign Priority Date	NONE
Word Mark	ZONE LABS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2003/11/00 First Use In Commerce: 2003/11/00 [non-medicated skin care preparations and cosmetics] Class 005. First use: First Use: 2003/11/00 First Use In Commerce: 2003/11/00 vitamins, nutritional supplements, and nutritional food bars		

U.S. Registration No.	3080411	Application Date	09/18/2003
Registration Date	04/11/2006	Foreign Priority Date	NONE
Word Mark	ZONE LABS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2003/11/00 First Use In Commerce: 2003/11/00 on-line retail store, and mail order services featuring vitamins and nutritional supplements, nutritional food bars, health foods, edible oils and fats, non-medicated skin care preparations and cosmetics, and printed publications in the fields of diet, health and nutrition		


U.S. Registration No.	3074327	Application Date	09/18/2003
Registration Date	03/28/2006	Foreign Priority Date	NONE
Word Mark	DR. SEARS ZONE LABS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2003/11/00 First Use In Commerce: 2003/11/00 non-medicated skin care preparations and cosmetics Class 005. First use: First Use: 2003/11/00 First Use In Commerce: 2003/11/00 vitamins, nutritional supplements, and nutritional food bars for use as a nutritional supplement or meal replacement		

U.S. Registration	3074328	Application Date	09/18/2003
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No.			
Registration Date	03/28/2006	Foreign Priority Date	NONE
Word Mark	DR. SEARS ZONE LABS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2003/11/00 First Use In Commerce: 2003/11/00 On-line retail store and mail order services featuring vitamins and nutritional supplements, nutritional food bars, health foods, edible oils and fats, non-medicated skin care preparations and cosmetics, and printed publications in the fields of diet, health and nutrition		

U.S. Registration No.	3059308	Application Date	10/03/2003
Registration Date	02/14/2006	Foreign Priority Date	NONE
Word Mark	DR. SEARS ZONE		
Design Mark	 <p>The logo features the words "Dr. Sears" in a serif font above the word "ZONE" in a large, bold, sans-serif font. The letter "O" in "ZONE" overlaps the letter "Z".</p>		
Description of Mark	The mark is comprised of the stylized words "Dr. Sears" above the word "ZONE," with the letter "O" overlapping the letter "Z," in "ZONE."		
Goods/Services	<p>Class 041. First use: First Use: 2004/05/21 First Use In Commerce: 2004/05/21 educational services, namely, conducting workshops, seminars and classes in the fields of diet, health and nutrition; providing on-line magazines, newsletters, bulletins, in the fields of diet, health, and nutrition; providing on-line newsletters in the fields of diet, health and nutrition by e-mail</p> <p>Class 043. First use: First Use: 2005/01/28 First Use In Commerce: 2005/01/28 [catering services; restaurant, cafe and snack bar services]</p> <p>Class 044. First use: First Use: 2004/05/21 First Use In Commerce: 2004/05/21 computer services, namely, providing counseling services, information, and educational information in the fields of health and nutrition via the Internet; counseling services in the field of diet, health and nutrition, providing information in the fields of diet, health, and nutrition via e-mail</p>		

U.S. Registration No.	3066468	Application Date	01/24/2005
Registration Date	03/07/2006	Foreign Priority Date	NONE
Word Mark	DR. SEARS ZONE		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2003/11/00 First Use In Commerce: 2003/11/00 [Retail store,] catalog and mail orderservices featuring vitamins and nutritional supplements, nutritional food bars,health foods, and publications in the fields of diet, health and nutrition		

U.S. Registration No.	3161339	Application Date	01/24/2005
Registration Date	10/24/2006	Foreign Priority Date	NONE

Word Mark	ZONE		
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Design Mark			
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Description of Mark	NONE		
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Goods/Services	Class 035. First use: First Use: 2003/11/00 First Use In Commerce: 2003/11/00 Retail store, catalog ordering and mailorder services featuring vitamins and nutritional supplements, nutritional foodbars, health foods, computer software and publications in the fields of diet, health and nutrition		
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U.S. Registration No.	3176214	Application Date	04/29/2005
Registration Date	11/28/2006	Foreign Priority Date	NONE

Word Mark	DR. SEARS ZONEDIET		
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2004/05/21 First Use In Commerce: 2004/05/21 Providing online magazines and newsletters in the fields of diet, health, and nutrition; providing online newsletters in the fields of diet, health and nutrition by e-mail

U.S. Registration No.	3144743	Application Date	05/13/2005
Registration Date	09/19/2006	Foreign Priority Date	NONE
Word Mark	DR. SEARS ZONELABS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2003/11/00 First Use In Commerce: 2003/11/00 [Non-medicated skin care preparations and cosmetics] Class 005. First use: First Use: 2003/11/00 First Use In Commerce: 2003/11/00 Vitamins; nutritional supplements; protein based nutrient dense meal replacement bars; meal replacement drink mix Class 035. First use: First Use: 2003/11/00 First Use In Commerce: 2003/11/00 Retail store, catalog and mail order services featuring vitamins and nutritional supplements, nutritional food bars, health foods, computer software and publications in the fields of diet, health and nutrition		

U.S. Registration No.	3171421	Application Date	12/30/2005
Registration Date	11/14/2006	Foreign Priority Date	NONE
Word Mark	DR. SEARS ZONE		

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