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01/03/2022

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

Proceeding no.	91265174	
Party	Plaintiff Eden Foods, Inc.	
Correspondence address	CHRISTOPHER KELLY WILEY REIN LLP 1776 K STREET, N.W. WASHINGTON, DC 20006 UNITED STATES Primary email: ckelly@wiley.law Secondary email(s): bdavis@wiley.law, tmdocket@wiley.law 202-719-7000	
Submission	Plaintiff's Notice of Reliance	
Filer's name	Adrienne J. Kosak	
Filer's email	akosak@wiley.law	
Signature	/Adrienne J. Kosak/	
Date	01/03/2022	
Attachments	Fourth Notice of Reliance.pdf(117309 bytes) NOR 4 Doc 1.pdf(1106076 bytes) NOR 4 Doc 2.pdf(556882 bytes) NOR 4 Doc 3.pdf(902352 bytes)	



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

EDEN FOODS, INC.,	)	
Opposer,	)	
v. SMOOTH LOUNGE,	) Opp. No.: ) Serial No.: ) Mark:	91265174 88888081 <b>ADAM &amp; EDEN</b> <b>FORMULATIONS</b>
Applicant.	)	

## **OPPOSER'S FOURTH NOTICE OF RELIANCE**

Pursuant to 37 C.F.R. § 2.122(e), Opposer Eden Foods, Inc. ("Opposer") gives notice of its reliance upon the attached printouts of publicly available Internet web sites of third parties. These materials are considered self-authenticating, and as such, require no extrinsic evidence of authenticity as a condition to admissibility.

These materials are relevant to this opposition because they undermine Applicant's assertions in its Sixth Notice of Reliance that the third-party uses therein "show[] the lack of strength of the term 'eden.'" These are examples of the full versions of the truncated pages appearing in Applicant's Sixth Notice of Reliance, demonstrating the very limited time that the purported third-party marks have been in use.

The following printouts of websites are attached hereto:

- Printouts from the website <a href="https://www.amazon.com/Berberine-Capsules-Metabolic-Support-Anti-Inflammatory/dp/B088WQ9X6M">https://www.amazon.com/Berberine-Capsules-Metabolic-Support-Anti-Inflammatory/dp/B088WQ9X6M</a>;
- Printouts from the website https://www.amazon.com/dp/B09CY4RWF6; and
- Printouts from the website <a href="https://www.amazon.com/Booster-Organic-Elderberry-Gummies-Vitamin/dp/B08H4RJH4M?th=1">https://www.amazon.com/Booster-Organic-Elderberry-Gummies-Vitamin/dp/B08H4RJH4M?th=1</a>.



Respectfully submitted,

EDEN FOODS, INC.

Dated: January 3, 2022

By: /Adrienne J. Kosak/ Christopher Kelly Adrienne J. Kosak Wiley Rein LLP 1776 K Street, N.W. Washington, D.C. 20006 (202) 719-7000

Attorneys for Eden Foods, Inc.



### **CERTIFICATE OF SERVICE**

I hereby certify that on this 3<sup>rd</sup> day of January, 2022, I served the foregoing FOURTH NOTICE OF RELIANCE by causing a copy thereof to be sent via electronic mail to the following address:

Jeffrey Sturman Sturman Law LLC 8700 E. Jefferson Ave., PO Box 371706 Denver, CO 80237 tm-docket@sturmanlaw.com

/Adrienne J. Kosak/
Adrienne J. Kosak



Send to Adrienne Charlotte 28210

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- Helps Strengthen Immune System Health -Berberine also helps strengthen your immune and cardiovascular systems which can affect things like liver triglycerides, cholesterol, insulin sensitivity, and glucose metabolism.
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