

ESTTA Tracking number: **ESTTA1339986**
Filing date: **02/13/2024**

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	Harvest Enterprises, Inc.
Granted to date of previous extension	03/02/2024
Address	1155 W. RIO SALADO PARKWAY TEMPE, AZ 85281 UNITED STATES

Attorney information	JEREMY KAPTEYN KW LAW, LLP 6122 N 7TH STREET, STE D PHOENIX, AZ 85014 UNITED STATES Primary email: jeremy@kwlaw.co 6026097366
Docket no.	4020-00028

Applicant information

Application no.	97239733	Publication date	01/02/2024
Opposition filing date	02/13/2024	Opposition period ends	03/02/2024
Applicant	Cosmic Harvest, LLC 125 S.R. 43, SUITE A HARTVILLE, OH 44632 UNITED STATES		

Goods/services affected by opposition

Class 001. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Plant extracts, namely, hemp seed oil and cannabinoid extracts, other than essential oils, all of the foregoing derived solely from hemp with a delta-9 tetrahydrocannabinol (THC) concentration of no more than 0.3 percent on a dry weight basis, the foregoing used in the manufacture of non-medicated cosmetics
Class 005. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: Dietary and nutritional supplements containing herbal extracts derived solely from hemp with a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis; none of the foregoing containing any CBD
Class 035. First Use: None First Use In Commerce: None All goods and services in the class are opposed, namely: On-line retail store services featuring dietary supplements and non-medicated cosmetics; On-line wholesale store services featuring dietary supplements and non-medicated cosmetics; any goods being provided through the services containing hemp solely derived from hemp with a delta-9 tetrahydrocannabinol (THC) concentration of no more than 0.3 percent on a dry weight basis; none of the foregoing dietary supplements containing

any CBD

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.	5154042	Application date	01/22/2016
Register	Principal		
Registration date	03/07/2017	Foreign priority date	NONE
Word mark	HARVEST		
Design mark			
Description of mark	NONE		
Goods/services	Class 035. First use: First Use: Jun 2, 2012 First Use In Commerce: Apr 2, 2013 Retail pharmacy services in the field of botanical medicines		

U.S. registration no.	5279159	Application date	01/25/2016
Register	Principal		
Registration date	09/05/2017	Foreign priority date	NONE
Word mark	HARVEST		
Design mark			
Description of mark	The mark consists of a circular logo, reminiscent of a windmill, using a variation of grey, yellow, and orange. The stylized word "HaRVest" appears in the color black or dark grey. The color white appears as background and is not part of the mark.		
Goods/services	Class 035. First use: First Use: Jun 2, 2012 First Use In Commerce: Apr 2, 2013 Retail pharmacy services in the field of botanical medicines		

U.S. registration no.	7204200	Application date	08/02/2018
Register	Principal		
Registration date	10/31/2023	Foreign priority date	NONE
Word mark	HARVEST		
Design mark			
Description of mark	NONE		
Goods/services	Class 035. First use: First Use: May 11, 2013 First Use In Commerce: May 11, 2013 Providing a website with consumer information in the field of cannabis; providing a website with consumer information regarding cannabis products		

U.S. registration no.	7282669	Application date	08/02/2018
Register	Principal		

Registration date	01/23/2024	Foreign priority date	NONE
Word mark	HARVEST		
Design mark			
Description of mark	NONE		
Goods/services	Class 041. First use: First Use: May 11, 2013 First Use In Commerce: May 11, 2013 Providing information and news in the field of current events relating to the cannabis industry; providing a website featuring blogs, non-downloadable articles and news in the field of current events relating to the cannabis industry		

U.S. registration no.	7282670	Application date	08/02/2018
Register	Principal		
Registration date	01/23/2024	Foreign priority date	NONE
Word mark	HARVEST		
Design mark			
Description of mark	NONE		
Goods/services	Class 044. First use: First Use: May 11, 2013 First Use In Commerce: May 11, 2013 Providing online health and wellness information in the field of cannabis and cannabis-derived products		

Attachments	Notice of Opposition - Cosmic Harvest.pdf(2789021 bytes)
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Signature	/jkapteyn/
Name	JEREMY KAPTEYN
Date	02/13/2024

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

In the Matter of Application Serial No. 97/239,733

Opposition No.

For the mark: COSMIC HARVEST

Published: January 2, 2024

Harvest Enterprises, Inc.,

Opposer,

v.

Cosmic Harvest, LLC,

Applicant.

NOTICE OF OPPOSITION

Opposer, Harvest Enterprises, Inc., believes that it will be damaged by the issuance of a registration for the proposed mark shown in Application Serial No. 97/239,733. Opposer hereby opposes same pursuant to Section 13(a) of the Lanham Trademark Act of 1946 (“Lanham Act”), 15 U.S.C. § 1063(a).

As grounds for opposition, Opposer alleges as follows:

1. Opposer, itself and through affiliated companies (collectively, “Harvest”), is a vertically integrated cannabis company with operations across the United States that include cannabis cultivation, product manufacturing, and retail store operations.

2. Harvest operates a number of HARVEST-branded retail stores and provides a range of related services (collectively, the “Harvest Services”) under the mark HARVEST in various forms and designs (the “HARVEST Marks”).

3. Harvest has used the HARVEST Marks in interstate commerce in the United States continuously since at least April 2, 2013, in connection with the provision, offering for sale, sale, marketing, advertising, and promotion of its Harvest Services. Attached hereto as Exhibit 1 are copies of representative samples of Harvest’s Harvest website available at <www.harvesthoc.com> showing Harvest’s use of the HARVEST Marks in connection with these services.

4. Harvest, through affiliated company Harvest Dispensaries, Cultivations & Productions Facilities LLC, is the owner of United States Trademark Registration Nos. 5,154,042 and 5,279,159, 7,204,200, 7,282,669, and 7,282,670 for the mark HARVEST (the “Harvest Registrations”). The Harvest Registrations are valid and subsisting on the Principal Register in the United States Patent and Trademark Office. Attached as Exhibit 2 is a true and correct printout from the United States Patent and Trademark Office electronic database showing the current status and title of the Harvest Registrations and the Harvest Applications as of February 13, 2024.

5. Harvest has expended substantial time, money, and resources marketing, advertising, and promoting the services provided under the HARVEST Marks, spending tens of millions of dollars on the marketing, advertising, and promotion of the services provided under the HARVEST Marks in the United States.

6. Harvest has provided services under its HARVEST Marks in connection with retail sales revenue of hundreds of millions of dollars per year.

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