

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	KIND Management Inc.
Granted to date of previous extension	06/02/2024
Address	3 TIMES SQUARE NEW YORK, NY 10036 UNITED STATES
Attorney information	ROBERT H. NEWMAN REED SMITH LLP P.O. BOX 488 IP DOCKETING DEPT. PITTSBURGH, PA 15230 UNITED STATES Primary email: ptoipinbox@reedsmith.com Secondary email(s): rnewman@reedsmith.com, jburstein@reedsmith.com, karmellino@reedsmith.com (312) 207-2408
Docket no.	

Applicant information

Application no.	97438112	Publication date	12/05/2023
Opposition filing date	06/03/2024	Opposition period ends	06/02/2024
Applicant	Vitality, LLC SUITE 203 700 OLD HICKORY BOULEVARD BRENTWOOD, TN 37027 UNITED STATES		

Goods/services affected by opposition

<p>Class 032. First Use: Jul 1, 2021 First Use In Commerce: Jul 1, 2021 All goods and services in the class are opposed, namely: Smoothies; Fruit beverages; Fruit juice; Fruit juices; Fruit smoothies; Fruit juice beverages; Fruit-based beverages; Green vegetable juice beverages; Herbal juices; Smoothies containing grains and oats; Vegetable-fruit juices; Vegetable juice; Vegetable juices; Vegetable smoothies; Mixed fruit juices; Non-alcoholic beverages containing fruit juices; Non-alcoholic fruit juice beverages</p>
<p>Class 043. First Use: Jul 1, 2021 First Use In Commerce: Jul 1, 2021 All goods and services in the class are opposed, namely: Restaurant services; Restaurant services featuring superfood bowls, grain bowls, wraps, salads, smoothies, toasts; Restaurant services, namely, providing of food and beverages for consumption on and off the premises; Restaurant and caf�� services</p>

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.	2984772	Application date	06/14/2004
Register	Principal		
Registration date	08/16/2005	Foreign priority date	NONE
Word mark	KIND		
Design mark	KIND		
Description of mark	NONE		
Goods/services	Class 030. First use: First Use: Jun 14, 2004 First Use In Commerce: Jun 14, 2004 Ready to eat, cereal derived food bars containing nuts		

U.S. registration no.	4161495	Application date	11/20/2007
Register	Principal		
Registration date	06/19/2012	Foreign priority date	NONE
Word mark	KIND		
Design mark	KIND		
Description of mark	NONE		
Goods/services	Class 025. First use: First Use: May 31, 2011 First Use In Commerce: Sep 26, 2011 Clothing and apparel, namely, T-shirts, sweatshirts, caps, [vests,] jackets Class 029. First use: First Use: Jun 14, 2004 First Use In Commerce: Jun 14, 2004 Sweet snacks, namely, fruit based snack food, dried fruit mixes; snack mixes consisting primarily of processed fruits and processed nuts; nutrition bars, namely, nut and seed based snack bars; fruit based snack food bars also containing grains, cereals, dried fruit, fruit juice; nut based snack food Class 030. First use: First Use: Jun 8, 2011 First Use In Commerce: Jun 8, 2011 Snacks, namely, cereal based snack food; cereal based snack food bars, granola based snack food bars, grain based snack food; Snack foods, namely, granola based mixes, rice based snack food, whole grain based snack food		

U.S. registration no.	6548607	Application date	04/26/2019
Register	Principal		
Registration date	11/02/2021	Foreign priority date	NONE

Word mark	KIND
Design mark	KIND
Description of mark	NONE
Goods/services	Class 032. First use: First Use: Jul 20, 2020 First Use In Commerce: Jul 20, 2020 Smoothies; smoothies served in bowls

U.S. registration no.	4898735	Application date	08/14/2015
Register	Principal		
Registration date	02/09/2016	Foreign priority date	NONE
Word mark	KIND		
Design mark	KIND		
Description of mark	NONE		
Goods/services	Class 035. First use: First Use: Mar 29, 2005 First Use In Commerce: Mar 29, 2005 Online retail store services and mail order services featuring snack foods, snack-related gift sets and apparel		

U.S. application no.	88214600	Application date	12/03/2018
Registration date	NONE	Foreign priority date	NONE
Word mark	KIND		
Design mark	KIND		
Description of mark	NONE		
Goods/services	Class 043. First use: First Use: None First Use In Commerce: None Restaurant services; caf� services; pop-up restaurant services		

Attachments	76596770#TMSN.png(bytes) 77333800#TMSN.png(bytes) 88982980#TMSN.png(bytes) 86724964#TMSN.png(bytes) 88214600#TMSN.png(bytes) Notice of Opposition - EAT WELL BE KIND - 97438112.pdf(446201 bytes)
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Signature	/Robert H. Newman/
Name	Robert H. Newman

Date	06/03/2024
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 97/438,112
Filed on June 1, 2022
For the mark **EAT WELL, BE KIND**
Published in the *Official Gazette* on December 5, 2023

KIND Management Inc.,

Opposer,

v.

Vitality, LLC

Applicant.

Opposition No.: _____

NOTICE OF OPPOSITION

KIND Management Inc. (“Kind” or “Opposer”), a Delaware corporation, having its principal place of business at 3 Times Square, New York, New York 10036, believes that it will be damaged by registration of the mark EAT WELL, BE KIND, as identified in U.S. Trademark Application Serial No. 97/438,112 (the “Application”) filed by Vitality, LLC (“Applicant”), and hereby opposes the same. As grounds for the opposition, Kind alleges as follows:

1. Opposer Kind, through its predecessors-in-interest, has sold snack food bars and other foods under the KIND trademark since 2004. Opposer has sold more than one billion dollars’ worth of KIND-branded products at more than 100,000 retail locations throughout the United States. Opposer is well-recognized and well-regarded as a producer of premium-quality goods. Opposer promotes and sells KIND products, including protein bars, through its website at www.kindsnacks.com.

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