

PTO Form 1960 (Rev 9/2007)

OMB No. xxx-xxxx (Exp. x/xxxx)

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	76678969
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 110
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	
<p>The following Request for Reconsideration responds to the Final Office Action mailed January 2, 2008.</p> <p>In the Office Action, the Examining Attorney has maintained her refusal to register the Applicant's mark under Trademark Act Section 2(d) based on the contention that the proposed mark, when used on or in connection with the identified goods, so resembles the mark in U.S. Registration No. 2,132,830 ("the cited mark") that confusion is likely.</p> <p>The Applicant seeks the reconsideration of the refusal on a variety of bases, including that the Examining Attorney has continued to fail to conduct a complete analysis of all the <u>duPont</u> factors relevant to a determination of likelihood of confusion. The issuance of the Final Office Action by the Examining Attorney is accordingly premature. TMEP §714.06.</p> <p>Specifically, with respect to the issue of likelihood of confusion analysis, the TMEP, Section 1207.01, instructs that all of the relevant factors identified in <u>In re E.I. duPont de Nemours Co.</u>, 476 F2d 1357, 177 USPQ 563 (CCPA 1973) must be considered in order to determine whether a refusal under Section 2(d) is warranted or not. With the prior Response, the Applicant submitted TESS records, and, therefore submitted relevant evidence of other "similar marks in use on similar goods." Regarding which the <u>duPont</u> factors are <u>relevant</u> or not, the TMEP instructs that while "the issue of likelihood of confusion typically revolves around the similarity or dissimilarity of the marks and the relatedness of the goods or services," another one of the <u>duPont</u> factors that is also usually "most relevant" is "[t]he number and nature of similar marks in use on similar goods." [1] TMEP §1207.01.</p> <p>In the Office Action, the Examining Attorney only summarily addresses the information provided by the Applicant showing that additional similar marks are in use on similar goods. The Examining Attorney states that the TESS evidence does not show that there is a crowded field of ML marks in use on the goods the Examining Attorney states are related. It is not clear how many marks are enough for the Examining Attorney to show a crowded field. Because the Examining Attorney does not appear to have conducted the analysis required for the additional <u>duPont</u> Factor, the Applicant submits herewith additional information showing additional marks containing the letters "ML" for use on related goods.</p> <p>From a review of all relevant evidence made of record, and based on the Examining Attorney's opinion of similarity of marks and similarity of goods and services, it is clear that there are many similar marks registered for similar goods and services and that confusion is</p>	

not likely.

Regarding the duPont analysis, and specifically the first duPont factor - the similarity of the cited mark and the Applicant's mark: the Examining Attorney recognizes that the cited mark is different from the Applicant's mark - the cited mark includes entire words not found in the Applicant's mark. However, the Examining Attorney observes that the two marks share only the letters "ML" and points to the general rule in TMEP §1207.(b)(iii) that the mere deletion of a term from a registered mark does not obviate the similarity between the marks nor does it overcome the likelihood of confusion under Section 2(d). Yet the Examining Attorney fails to observe and consider that the TMEP (in the same section) cautions that this general rule does not apply if "(2) the matter common to the marks is not likely to be perceived by purchasers as distinguishing source because it is merely descriptive or diluted. [emphasis added] [citations omitted]" TMEP 1207.01(b)(iii). As discussed previously, and again here, the "ML" component is common to many marks used on goods that the Examining Attorney has opined are related. On this point the TMEP - citing to Federal Circuit case law - provides "[i]f the evidence establishes that the consuming public is exposed to third-party use of similar marks on similar goods, this evidence is "relevant to show that a mark is relatively weak and entitled to only a narrow scope of protection. Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée en 1772, 396 F.3d 1369, 1373, 73 USPQ2d 1689, 1693 (Fed. Cir. 2005)." TMEP §1207.01(d)(iii).

The Examining Attorney contends that the prominent element of the of the cited mark is the stylized "ML" component yet wholly fails to mention at all that the bulk of the cited mark are the two, easily pronounceable words - "MARK LEES". The Examining Attorney does not opine why consumers would somehow not consider those easy to read and easy to pronounce words at all to distinguish the source of the goods particularly when, as clearly demonstrated in the prior Response, and again here, the ML component is common to many marks used on the related goods. Again, just some of the additional registered marks that are relevant to the duPont analysis are "MLE", "MLUXE", and "M'LIS", all of which are used on personal care products.

Regarding the second duPont factor – the relatedness of the goods or services –, the Examining Attorney opined that the "respective goods" are "related personal care and skin care products". [2]

Again, regarding the third duPont factor, the Examining Attorney provides no evidence that she sought to determine whether and to what extent other similar marks are in use on similar goods. As to these other marks, the Applicant submitted evidence with the prior Response of registered marks all bearing the letters "ML" in the same prefatory position as the cited mark. They are as follows: "MLE", "MLUXE", and "M'LIS". According to the Examining Attorney's definition of similarity - only the first two letters of the marks need be identical to be sufficiently similar -, the marks are similar. The cited mark and the additional marks identified here all are used on the same or similar goods. Specifically, these previously submitted marks are as follows:

Mark	Registration No.	Owner	Goods/Services
E	3320567	NEOPHARM CO. LTD.	Bleaching preparations and fabric softeners, soap powders, and rinse for laundry use; general purpose cleaning, polishing, and abrasive liquids and powders, soaps, perfumery, essential oils, cosmetics, hair lotions; dentifrices
MLUXE	3190546	Mudlark Papers, Inc.	Personal care products, namely, shampoo and conditioner, shower gel, milk bath, body wash, scented body spray, body lotion, hand and body cream, hand and body soaps, bath salts, bath oil beads, talcum powder, dentifrices; gift baskets

			and boxed gift sets consisting of personal care products, namely, shampoo and conditioner, shower gel, milk bath, body wash, scented body spray, body lotion, hand and body cream, hand and body soaps, bath salts, bath oil beads, talcum powder, dentifrices.
IS	2763224	M'LIS Company, Inc.	Facial cream; facial cleansing cream; facial cleansing lotion; facial cleanser; facial scrubs; facial emollients; facial scrubs, namely, facial exfoliants; facial lotion; facial moisturizer; facial emollients, namely facial softeners; facial toner; facial soap; essential oils for personal use, namely, facial oil; facial nourishing cream; facial cream, namely, face lift glycolic acid treatment; facial lotion, namely, face lift glycolic acid treatment; facial masks; face lift masks; facial mask activators; skin cream; skin cleansing cream; skin cleansing lotion; skin cleanser; skin emollients; skin scrubs, namely, skin exfoliants; skin lotion; skin moisturizer; skin emollients, namely, skin softeners; skin toner; skin soap; essential oils for personal use, namely, skin oil; skin nourishing cream; skin cellulite cream; body masks; body mask activators; body wrap cream; essential oils for personal use, namely, body oil; bath oil; and massage oil.

Again, printouts from the TESS database of these additional marks are attached as Exhibit A hereto.

To further demonstrate that the "ML" component is commonly used to identify the source of personal care products, additional marks located by an examination of the TESS database are provided here. These marks should have been located and considered by the Examining Attorney under the required complete duPont analysis. Some of the additional registered marks are as follows:

Mark	Registration No.	Goods
Word & design	2335027	Almond milk for cosmetic purposes; essential oils for personal use and for use as ingredients in the manufacture of cosmetic preparations, namely, almond oil, bergamot oil, citron oil, jasmine oil, lavender oil, lemon oil, mint oil, and rose oil; almond soap; perfumes containing amber; anti-perspirant soap; anti-perspirants; aromatherapy oils; non-medicated bath salts; beauty masks; hair bleaching preparations; skin cleansing milk for toilet purposes; cosmetics, namely, non-medicated skin creams and lotions, face and body powder, eye make-up, blusher, foundation make-up, eyebrow pencils, lipstick, lip gloss, make-up and make-up removers; deodorant soap; deodorants for personal use; cosmetic dyes, namely, hair dyes; eau-de-cologne; stencils for applying eye make-up; eyebrow cosmetics, namely, eyebrow pencils; adhesives for affixing false eyelashes; false eyelashes; false nails; perfumes consisting primarily of flower extracts; hair care preparations, namely, shampoos and conditioners, hair colorants and dyes and hair waving lotions; incense; ionone perfumes; petroleum jelly for cosmetic purposes; lavender water; sachets for perfuming linen; premoistened cosmetic tissues; medicated soap; skin cleansing milk for toilet purposes; oils for toilet purposes, namely, body oil and bath oil; perfumery, namely, perfumes and eau de cologne; pumice stones for personal use; scented water; scented wood; shaving soap; antiseptic shaving stones; soap; cakes of soap; disinfectant soap; soap for foot perspiration; talcum powder; toilet water.
AVI	3193532	Bath crystals; Bath gels; Bath salts; Bath soaps in liquid, solid or

gel form; Beauty masks; Body cream soap; Body masks; Body scrub; Cream soaps; Facial beauty masks; Facial masks; Facial scrubs; Granulated soaps; Hand soaps; Liquid bath soaps; Liquid soap used in foot bath; Liquid soaps; Liquid soaps for hands, face and body; Perfumed soaps; Shower and bath gel; Skin masks; Skin soap; Soaps for body care; Soaps for personal use

Printouts from the TESS database of these additional marks are attached as Exhibit B hereto.

Because pending applications are relevant to analysis,[3] the TESS database was examined also for marks that are the subject of pending applications for use on personal care products. These added marks include:

Mark	Application Serial No.	Goods
LA	77/414,962	Fragrances, colognes, hair care products, skin care products, personal grooming products, personal care products
AB	78/622,092	Non-medicated herbal preparations, namely, cosmetic products, namely, skin creams, skin cleansers, skin exfoliants, skin lotions, sunscreens, anti-aging and anti-wrinkle creams, anti-aging and anti-wrinkle serums, skin toners, creams for age spots and for skin lightening; deodorants, antiperspirants, perfumes, colognes, essential oils for personal use, anti-cellulite gel, body oils, beauty gels, hand and body lotions and creams, heel balms, lip balms, nail and cuticle moisturizers, bath oils, foam baths, body scrubs, shower gels, baby oils and non-medicated face and body balms, moisturizing and cleansing creams and face and body lotions, hand soaps, face soaps, body soaps, cosmetics, make-up removers, shampoos, hair lotions and conditioners, shaving foams, after-shave creams and lotions, sun care lotions and gels, facial masks, gels for softening and firming the skin in international class 3; Non-medicated acne control creams featuring salicylic acid in international class 5
MLOGIC & Ign	77/420,581	After shave lotions; After sun creams; Anti-aging creams; Anti-perspirants; Anti-wrinkle creams; Aromatherapy body care products, namely, body lotion, shower gel, cuticle cream, shampoo, conditioner, non-medicated lip balm, soap, body polish, body and foot scrub and non-medicated foot cream; Aromatherapy inhaler sold filled with aromatherapy essential oils; Aromatherapy lotions; Aromatherapy oils; Bath oils for cosmetic purposes; Bath soaps in liquid, solid or gel form; Beauty creams for body care; Beauty lotions; Beauty serums; Body and beauty care cosmetics; Body creams; Body emulsions; Body lotions; Body oils; Body sprays; Body washes; Cleansing creams; Concealers for skin blemishes; Cosmetic oils; Cosmetic preparations for body care; Cosmetics; Cosmetics and cosmetic preparations; Cosmetics and make-up; Cuticle cream; Essential oils; Essential oils for personal use; Essential oils for use in manufacturing of natural cosmetics; Exfoliant creams; Face and body creams; Face and body lotions; Facial cleansers; Facial creams; Facial emulsions; Facial lotion; Facial washes; Hand creams; Hand lotions; Lip balm; Lip balm; Lip cream; Lotions for cosmetic purposes; Lotions for face and body care; Non-medicated bath preparations; Non-medicated foot cream; Non-medicated foot lotions; Non-medicated lip care preparations; Non-medicated ointments for the prevention and treatment of sunburn; Non-medicated preparations all for the care of skin, hair and scalp; Non-medicated skin care preparations; Non-medicated skin care preparations, namely, creams, lotions, gels, toners, cleaners and peels; Nutritional oils for cosmetic purposes; Oils for cosmetic

		purposes; Perfume oils for the manufacture of cosmetic preparations; Scented body lotions and creams; Shower and bath gel. Skin and body topical lotions, creams and oils for cosmetic use; Skin care preparations, namely, body balm; Skin cleansing cream; Skin cleansing lotion; Skin conditioners; Skin creams; Skin lotions; Skin moisturizer; Tanning and after-sun milks, gels and oils; Wrinkle resistant cream
LINE	77/017,727	Personal care products, namely, non-medicated ointments in the nature of diaper rash ointment and ointments for the prevention and treatment of sunburn, shampoos, hair conditioners, soaps, body lotions, deodorants, and shaving preparations in international class 3; Non-prescription medicines, namely, aspirin; and non medicated ointments, namely, anti-itch ointment in international class 5

Printouts from the TESS database of these added marks are attached as Exhibit C hereto.

Therefore, in light of all of the relevant evidence, at least five similar registered marks and four marks that use the subject of the pending applications exist in what the Examining Attorney has determined is the relevant marketplace. Each of the marks is owned by a different business. In such a situation, the courts have widely recognized that, when many different sources use the same term for the same or similar goods or services, even small differences - such as those between the Applicant's mark and the cited mark in this case - are sufficient to distinguish the marks as a whole. In re Broadway Chicken, Inc., 38 USPQ2d 1559 (TTAB 1996)[4]; General Mills, Inc. v. Health Valley Foods, 24 USPQ2d 1270, 1277 (TTAB 1992)[5]; In re Hamilton Bank, 222 USPQ 174 (TTAB 1984)[6]; Melaro v. Pfizer, Inc., 214 USPQ 645, 649 (TTAB 1982)[7]; Cutter Laboratories, Inc. v. Air Products and Chemicals, Inc., 189 USPQ 108, 110 (TTAB 1975)[8]. On this same point, the TMEP observes that third-party registrations show that the public will look to other elements to distinguish the source of the goods or services. TMEP §1207.01(d)(iii). This is the Applicant's contention.

Such differences clearly exist between the Applicant's mark and the cited mark (as the Examining Attorney recognized given her finding that the marks are not identical). The cited mark is directed to a stylized design and includes words - those are, "MARK LEES" - that are not at all found in the Applicant's mark.

In light of the many "ML" marks used by different owners in what the Examining Attorney has opined is the relevant marketplace, and given the differences between these many "ML" marks, confusion is not likely. The ML component will not be viewed by consumers as identifying a single source in what the Examining Attorney contends is the relevant marketplace.

#### REQUEST FOR RECONSIDERATION

Applicant requests reconsideration of the present application. Applicant believes in light of the arguments above, the application is now in condition for allowance.

A Notice of Appeal is being filed concurrently with the Trademark Trial and Appeal Board. Applicant is also submitting the filing fee of \$100.00 to the TTAB.

If for any reason, the Examining Attorney denies this Request for Reconsideration, the undersigned can be reached at 312-673-0360.

[1] Soft copies of the registrations or the complete electronic equivalent (i.e., printouts or electronic copies of the

registrations taken from the electronic search records of the USPTO) submitted with a Response to an Office Action are considered to be made of record. Raccioppi v. Apogee Inc., 47 USPQ2d 1368, 1370 (TTAB 1998); In re Volvo Cars of North America Inc., 46 USPQ2d 1455 (TTAB 1998); In re Broadway Chicken Inc., 38 USPQ2d 1559, 1560 n.6 (TTAB 1996); In re Smith & Mehaffey, 31 USPQ2d 1531, 1532 n. 3 (TTAB 1994); Weyerhaeuser Co. v. Katz, 24 USPQ2d 1230, 1231-32 (TTAB 1992).

[2] The Examining Attorney appears to misquote from TMEP §1207.01(b) with respect to her analysis of the second duPont factor. TMEP §1207.01(b) provides "[w]here the goods are identical," the degree of similarity [between the marks] necessary to support a conclusion of likely confusion declines. [emphasis added]" The Examining Attorney recognized in the first Office Action that the goods on which the Applicant uses the mark and the goods on which the cited mark is used are merely related, not identical.

[3] In General Mills, Inc. v. Health Valley Foods, 24 USPQ2d 1270, 1277 (TTAB 1992), the TTAB considered the many third-party registrations and applications directed to marks that comprise, in part, the term "FIBER". The TTAB stated that such registrations and applications "show the sense in which the "Fiber" is employed in the marketplace, similar to a dictionary definition" and held that "we do not believe there is any doubt but that the field of "FIBER" marks for foods (including cereals) is a crowded field." *Id.* The TTAB found that evidence of the "FIBER" crowded market suggests that consumers are accustomed to distinguish between different "FIBER" marks even on the basis of small differences. 24 USPQ2d at 1278. Accordingly, the TTAB held that the duPont factors favored the Applicant and found that confusion was not likely between the two marks. *Id.*

[4] In In re Broadway Chicken, Inc., 38 USPQ2d 1559 (TTAB 1996), evidence was submitted by the Applicant to show that many third party registrations and uses existed for marks that included the term "Broadway". The TTAB found that "[e]vidence of widespread third-party use, in a particular field, of marks containing a certain shared term is competent to suggest that purchasers have been conditioned to look to other elements of the marks as a means of distinguishing the source of goods or services in the field." 38 USPQ2d at 1565 - 66. Accordingly, the TTAB reversed the Examining Attorney's refusal to register under Section 2(d) the mark "Broadway Chicken" in light of the cited registrations for "Broadway Pizza" and "Broadway Pizza & Bar".

[5] In General Mills, Inc. v. Health Valley Foods, 24 USPQ2d 1270, 1277 (TTAB 1992), General Mills ("GM") opposed the registration of "FIBER 7 FLAKES" by Health Valley Foods in light of GM's registration of "FIBER ONE", also for cereal. The TTAB considered the many third-party registrations and applications directed to marks that comprise, in part, the term "FIBER". The TTAB stated that such registrations and applications "show the sense in which the "Fiber" is employed in the marketplace, similar to a dictionary definition" and held that "we do not believe there is any doubt but that the field of "FIBER" marks for foods (including cereals) is a crowded field." *Id.* The TTAB found that evidence of the "FIBER" crowded market suggests that consumers are accustomed to distinguish between different "FIBER" marks even on the basis of small differences. 24 USPQ2d at 1278. Accordingly, the TTAB held that the duPont factors favored the Applicant and found that confusion was not likely between the two marks. *Id.*

[6] In In re Hamilton Bank, 222 USPQ 174 (TTAB 1984), the TTAB held that the refusal to register under Section 2(d) to be improper after finding that the many registrations not cited by the Examining Attorney for marks containing the common term or feature "key" for the same or closely related goods or services were competent evidence to show that the remaining portions of the marks are sufficient to distinguish the marks as a whole from one another. 222 USPQ at 179.

[7] In Melaro et. al. v. Pfizer Inc., 214 USPQ 645, 649 (TTAB 1982), the TTAB stated that a large number of registrations of marks that include a certain component indicates that the Trademark Office treats that component as weak, and not subject to exclusive appropriation in the given field. The TTAB recognized that the mere fact that each of the two marks that were before the TTAB contained the common term "SILK" is not a sufficient basis in and of itself upon which to predicate a holding of likelihood of confusion. The TTAB held that the marks must be considered in their entirety and when this was done, the marks "POLYSILK" and "SILKSTICK" were sufficiently removed by the addition of the components ("POLY" and "STICK") from the petitioner's mark "SILK", *per se*, to avoid any confusion of purchasers as to the source of the products sold thereunder.

[8] The TTAB in Cutter Labs Inc. v. Air Products and Chem., Inc., 189 USPQ 108, 110 (TTAB 1975) found that the many third party registrations of marks containing the component "FLEX" to be competent evidence to suggest that the Registrant and the Applicant adopted and used the term "FLEX" for the same purpose and that the inclusion of the "FLEX" component in each mark to be an insufficient basis to predicate a holding of a likelihood of confusion. The TTAB found that the difference between the marks to be sufficient to be distinguishable by purchasers so as to preclude a likelihood that the purchasers will mistakenly assume that the products sold thereunder emanate from a common source.

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<b>SIGNATORY'S POSITION</b>	Attorney of Record
<b>DATE SIGNED</b>	07/02/2008
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<b>CONCURRENT APPEAL NOTICE FILED</b>	NO
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PTO Form 1980 (Rev 9/2007)

OMB No. xxx-xxxx (Exp. x/xxxx)

## Request for Reconsideration after Final Action

### To the Commissioner for Trademarks:

Application serial no. 76678969 has been amended as follows:

#### ARGUMENT(S)

**In response to the substantive refusal(s), please note the following:**

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The Applicant seeks the reconsideration of the refusal on a variety of bases, including that the Examining Attorney has continued to fail to conduct a complete analysis of all the duPont factors relevant to a determination of likelihood of confusion. The issuance of the Final Office Action by the Examining Attorney is accordingly premature. TMEP §714.06.

Specifically, with respect to the issue of likelihood of confusion analysis, the TMEP, Section 1207.01, instructs that all of the relevant factors identified in In re E.I. duPont de Nemours Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973) must be considered in order to determine whether a refusal under Section 2(d) is warranted or not. With the prior Response, the Applicant submitted TESS records, and, therefore submitted relevant evidence of other "similar marks in use on similar goods." Regarding which the duPont factors are relevant or not, the TMEP instructs that while "the issue of likelihood of confusion typically revolves around the similarity or dissimilarity of the marks and the relatedness of the goods or services," another one of the duPont factors that is also usually "most relevant" is "[t]he number and nature of similar marks in use on similar goods." [1] TMEP §1207.01.

In the Office Action, the Examining Attorney only summarily addresses the information provided by the Applicant showing that additional similar marks are in use on similar goods. The Examining Attorney states that the TESS evidence does not show that there is a crowded field of ML marks in use on the goods the Examining Attorney states are related. It is not clear how many marks are enough for the Examining Attorney to show a crowded field. Because the Examining Attorney does not appear to have conducted the analysis required for the additional duPont Factor, the Applicant submits herewith additional information showing additional marks containing the letters "ML" for use on related goods.

From a review of all relevant evidence made of record, and based on the Examining Attorney's opinion of similarity of marks and similarity of goods and services, it is clear that there are many similar marks registered for similar goods and services and that confusion is not likely.

Regarding the duPont analysis, and specifically the first duPont factor - the similarity of the cited mark and the Applicant's mark: the Examining Attorney recognizes that the cited mark is different from the Applicant's mark - the cited mark includes entire words not found in the Applicant's mark. However, the Examining Attorney observes that the two marks share only the letters "ML" and points to the general rule in TMEP §1207.(b)(iii) that the mere deletion of a term from a registered mark does not obviate the similarity between the marks nor does it overcome the likelihood of confusion under Section 2(d). Yet the Examining Attorney fails to observe and consider that the TMEP (in the same section) cautions that this general rule does not apply if "(2) the matter common to the marks is not likely to be perceived by purchasers as distinguishing source because it is merely descriptive or diluted. [emphasis

added] [citations omitted]" TMEP 1207.01(b)(iii). As discussed previously, and again here, the "ML" component is common to many marks used on goods that the Examining Attorney has opined are related. On this point the TMEP - citing to Federal Circuit case law - provides "[i]f the evidence establishes that the consuming public is exposed to third-party use of similar marks on similar goods, this evidence is "relevant to show that a mark is relatively weak and entitled to only a narrow scope of protection. Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée en 1772, 396 F.3d 1369, 1373, 73 USPQ2d 1689, 1693 (Fed. Cir. 2005)." TMEP §1207.01(d)(iii).

The Examining Attorney contends that the prominent element of the of the cited mark is the stylized "ML" component yet wholly fails to mention at all that the bulk of the cited mark are the two, easily pronounceable words - "MARK LEES". The Examining Attorney does not opine why consumers would somehow not consider those easy to read and easy to pronounce words at all to distinguish the source of the goods particularly when, as clearly demonstrated in the prior Response, and again here, the ML component is common to many marks used on the related goods. Again, just some of the additional registered marks that are relevant to the duPont analysis are "MLE", "MLUXE", and "M'LIS", all of which are used on personal care products.

Regarding the second duPont factor - the relatedness of the goods or services -, the Examining Attorney opined that the "respective goods" are "related personal care and skin care products". [2]

Again, regarding the third duPont factor, the Examining Attorney provides no evidence that she sought to determine whether and to what extent other similar marks are in use on similar goods. As to these other marks, the Applicant submitted evidence with the prior Response of registered marks all bearing the letters "ML" in the same prefatory position as the cited mark. They are as follows: "MLE", "MLUXE", and "M'LIS". According to the Examining Attorney's definition of similarity - only the first two letters of the marks need be identical to be sufficiently similar -, the marks are similar. The cited mark and the additional marks identified here all are used on the same or similar goods. Specifically, these previously submitted marks are as follows:

	Registration No.	Owner	Goods/Services
	3320567	NEOPHARM CO. LTD.	Bleaching preparations and fabric softeners, soap powders, and rinse for laundry use; general purpose cleaning, polishing, and abrasive liquids and powders, soaps, perfumery, essential oils, cosmetics, hair lotions; dentifrices
IXE	3190546	Mudlark Papers, Inc.	Personal care products, namely, shampoo and conditioner, shower gel, milk bath, body wash, scented body spray, body lotion, hand and body cream, hand and body soaps, bath salts, bath oil beads, talcum powder, dentifrices; gift baskets and boxed gift sets consisting of personal care products, namely, shampoo and conditioner, shower gel, milk bath, body wash, scented body spray, body lotion, hand and body cream, hand and body soaps, bath salts, bath oil beads, talcum powder, dentifrices.
S	2763224	M'LIS Company, Inc.	Facial cream; facial cleansing cream; facial cleansing lotion; facial cleanser; facial scrubs; facial emollients; facial scrubs, namely, facial exfoliants; facial lotion; facial moisturizer; facial emollients, namely facial softeners; facial toner; facial soap; essential oils for personal use, namely, facial oil; facial nourishing cream; facial cream, namely, face lift glycolic acid treatment; facial lotion, namely, face lift glycolic acid treatment; facial masks; face lift masks; facial mask activators; skin cream; skin cleansing cream; skin cleansing lotion; skin

		cleanser; skin emollients; skin scrubs, namely, skin exfoliants; skin lotion; skin moisturizer; skin emollients, namely, skin softeners; skin toner; skin soap; essential oils for personal use, namely, skin oil; skin nourishing cream; skin cellulite cream; body masks; body mask activators; body wrap cream; essential oils for personal use, namely, body oil; bath oil; and massage oil.
--	--	--

Again, printouts from the TESS database of these additional marks are attached as Exhibit A hereto.

To further demonstrate that the "ML" component is commonly used to identify the source of personal care products, additional marks located by an examination of the TESS database are provided here. These marks should have been located and considered by the Examining Attorney under the required complete duPont analysis. Some of the additional registered marks are as follows:

k	Registration No.	Goods
& design	2335027	Almond milk for cosmetic purposes; essential oils for personal use and for use as ingredients in the manufacture of cosmetic preparations, namely, almond oil, bergamot oil, citron oil, jasmine oil, lavender oil, lemon oil, mint oil, and rose oil; almond soap; perfumes containing amber; anti-perspirant soap; anti-perspirants; aromatherapy oils; non-medicated bath salts; beauty masks; hair bleaching preparations; skin cleansing milk for toilet purposes; cosmetics, namely, non-medicated skin creams and lotions, face and body powder, eye make-up, blusher, foundation make-up, eyebrow pencils, lipstick, lip gloss, make-up and make-up removers; deodorant soap; deodorants for personal use; cosmetic dyes, namely, hair dyes; eau-de-cologne; stencils for applying eye make-up; eyebrow cosmetics, namely, eyebrow pencils; adhesives for affixing false eyelashes; false eyelashes; false nails; perfumes consisting primarily of flower extracts; hair care preparations, namely, shampoos and conditioners, hair colorants and dyes and hair waving lotions; incense; ionone perfumes; petroleum jelly for cosmetic purposes; lavender water; sachets for perfuming linen; premoistened cosmetic tissues; medicated soap; skin cleansing milk for toilet purposes; oils for toilet purposes, namely, body oil and bath oil; perfumery, namely, perfumes and eau de cologne; pumice stones for personal use; scented water; scented wood; shaving soap; antiseptic shaving stones; soap; cakes of soap; disinfectant soap; soap for foot perspiration; talcum powder; toilet water.
AVI	3193532	Bath crystals; Bath gels; Bath salts; Bath soaps in liquid, solid or gel form; Beauty masks; Body cream soap; Body masks; Body scrub; Cream soaps; Facial beauty masks; Facial masks; Facial scrubs; Granulated soaps; Hand soaps; Liquid bath soaps; Liquid soap used in foot bath; Liquid soaps; Liquid soaps for hands, face and body; Perfumed soaps; Shower and bath gel; Skin masks; Skin soap; Soaps for body care; Soaps for personal use

Printouts from the TESS database of these additional marks are attached as Exhibit B hereto.

Because pending applications are relevant to analysis,[3] the TESS database was examined also for marks that are the subject of pending applications for use on personal care products. These added marks include:

c	Application Serial No.	Goods
A	77/414,962	Fragrances, colognes, hair care products, skin care products, personal grooming products, personal care products

B	78/622,092	Non-medicated herbal preparations, namely, cosmetic products, namely, skin creams, skin cleansers, skin exfoliants, skin lotions, sunscreens, anti-aging and anti-wrinkle creams, anti-aging and anti-wrinkle serums, skin toners, creams for age spots and for skin lightening; deodorants, antiperspirants, perfumes, colognes, essential oils for personal use, anti-cellulite gel, body oils, beauty gels, hand and body lotions and creams, heel balms, lip balms, nail and cuticle moisturizers, bath oils, foam baths, body scrubs, shower gels, baby oils and non-medicated face and body balms, moisturizing and cleansing creams and face and body lotions, hand soaps, face soaps, body soaps, cosmetics, make-up removers, shampoos, hair lotions and conditioners, shaving foams, after-shave creams and lotions, sun care lotions and gels, facial masks, gels for softening and firming the skin in international class 3; Non-medicated acne control creams featuring salicylic acid in international class 5
LOGIC & jn	77/420,581	After shave lotions; After sun creams; Anti-aging creams; Anti-perspirants; Anti-wrinkle creams; Aromatherapy body care products, namely, body lotion, shower gel, cuticle cream, shampoo, conditioner, non-medicated lip balm, soap, body polish, body and foot scrub and non-medicated foot cream; Aromatherapy inhaler sold filled with aromatherapy essential oils; Aromatherapy lotions; Aromatherapy oils; Bath oils for cosmetic purposes; Bath soaps in liquid, solid or gel form; Beauty creams for body care; Beauty lotions; Beauty serums; Body and beauty care cosmetics; Body creams; Body emulsions; Body lotions; Body oils; Body sprays; Body washes; Cleansing creams; Concealers for skin blemishes; Cosmetic oils; Cosmetic preparations for body care; Cosmetics; Cosmetics and cosmetic preparations; Cosmetics and make-up; Cuticle cream; Essential oils; Essential oils for personal use; Essential oils for use in manufacturing of natural cosmetics; Exfoliant creams; Face and body creams; Face and body lotions; Facial cleansers; Facial creams; Facial emulsions; Facial lotion; Facial washes; Hand creams; Hand lotions; Lip balm; Lip balm; Lip cream; Lotions for cosmetic purposes; Lotions for face and body care; Non-medicated bath preparations; Non-medicated foot cream; Non-medicated foot lotions; Non-medicated lip care preparations; Non-medicated ointments for the prevention and treatment of sunburn; Non-medicated preparations all for the care of skin, hair and scalp; Non-medicated skin care preparations; Non-medicated skin care preparations, namely, creams, lotions, gels, toners, cleaners and peels; Nutritional oils for cosmetic purposes; Oils for cosmetic purposes; Perfume oils for the manufacture of cosmetic preparations; Scented body lotions and creams; Shower and bath gel. Skin and body topical lotions, creams and oils for cosmetic use; Skin care preparations, namely, body balm; Skin cleansing cream; Skin cleansing lotion; Skin conditioners; Skin creams; Skin lotions; Skin moisturizer; Tanning and after-sun milks, gels and oils; Wrinkle resistant cream
LINE	77/017,727	Personal care products, namely, non-medicated ointments in the nature of diaper rash ointment and ointments for the prevention and treatment of sunburn, shampoos, hair conditioners, soaps, body lotions, deodorants, and shaving preparations in international class 3; Non-prescription medicines, namely, aspirin; and non medicated ointments, namely, anti-itch ointment in international class 5

Printouts from the TESS database of these added marks are attached as Exhibit C hereto.

Therefore, in light of all of the relevant evidence, at least five similar registered marks and four marks that use the subject of the pending applications exist in what the Examining

Attorney has determined is the relevant marketplace. Each of the marks is owned by a different business. In such a situation, the courts have widely recognized that, when many different sources use the same term for the same or similar goods or services, even small differences - such as those between the Applicant's mark and the cited mark in this case - are sufficient to distinguish the marks as a whole. *In re Broadway Chicken, Inc.*, 38 USPQ2d 1559 (TTAB 1996)[4]; *General Mills, Inc. v. Health Valley Foods*, 24 USPQ2d 1270, 1277 (TTAB 1992)[5]; *In re Hamilton Bank*, 222 USPQ 174 (TTAB 1984)[6]; *Melaro v. Pfizer, Inc.*, 214 USPQ 645, 649 (TTAB 1982)[7]; *Cutter Laboratories, Inc. v. Air Products and Chemicals, Inc.*, 189 USPQ 108, 110 (TTAB 1975)[8]. On this same point, the TMEP observes that third-party registrations show that the public will look to other elements to distinguish the source of the goods or services. TMEP §1207.01(d)(iii). This is the Applicant's contention.

Such differences clearly exist between the Applicant's mark and the cited mark (as the Examining Attorney recognized given her finding that the marks are not identical). The cited mark is directed to a stylized design and includes words - those are, "MARK LEES" - that are not at all found in the Applicant's mark.

In light of the many "ML" marks used by different owners in what the Examining Attorney has opined is the relevant marketplace, and given the differences between these many "ML" marks, confusion is not likely. The ML component will not be viewed by consumers as identifying a single source in what the Examining Attorney contends is the relevant marketplace.

#### REQUEST FOR RECONSIDERATION

Applicant requests reconsideration of the present application. Applicant believes in light of the arguments above, the application is now in condition for allowance.

A Notice of Appeal is being filed concurrently with the Trademark Trial and Appeal Board. Applicant is also submitting the filing fee of \$100.00 to the TTAB.

If for any reason, the Examining Attorney denies this Request for Reconsideration, the undersigned can be reached at 312-673-0360.

[1] Soft copies of the registrations or the complete electronic equivalent (*i.e.*, printouts or electronic copies of the registrations taken from the electronic search records of the USPTO) submitted with a Response to an Office Action are considered to be made of record. *Raccioppi v. Apogee Inc.*, 47 USPQ2d 1368, 1370 (TTAB 1998); *In re Volvo Cars of North America Inc.*, 46 USPQ2d 1455 (TTAB 1998); *In re Broadway Chicken Inc.*, 38 USPQ2d 1559, 1560 n.6 (TTAB 1996); *In re Smith & Mehaffey*, 31 USPQ2d 1531, 1532 n. 3 (TTAB 1994); *Weyerhaeuser Co. v. Katz*, 24 USPQ2d 1230, 1231-32 (TTAB 1992).

[2] The Examining Attorney appears to misquote from TMEP §1207.01(b) with respect to her analysis of the second duPont factor. TMEP §1207.01(b) provides "[w]here the goods are identical," the degree of similarity [between the marks] necessary to support a conclusion of likely confusion declines. [emphasis added]" The Examining Attorney recognized in the first Office Action that the goods on which the Applicant uses the mark and the goods on which the cited mark is used are merely related, not identical.

[3] In *General Mills, Inc. v. Health Valley Foods*, 24 USPQ2d 1270, 1277 (TTAB 1992), the TTAB considered the many third-party registrations and applications directed to marks that comprise, in part, the term "FIBER". The TTAB stated that such registrations and applications "show the sense in which the "Fiber" is employed in the marketplace, similar to a dictionary definition" and held that "we do not believe there is any doubt but that the field of "FIBER" marks for foods (including cereals) is a crowded field." *Id.* The TTAB found that evidence of the "FIBER" crowded market suggests that consumers are accustomed to distinguish between different "FIBER" marks even on the basis of small differences. 24 USPQ2d at 1278. Accordingly, the TTAB held that the duPont factors favored the Applicant and found that confusion was not likely between the two marks. *Id.*

[4] In *In re Broadway Chicken, Inc.*, 38 USPQ2d 1559 (TTAB 1996), evidence was submitted by the Applicant to show that many third party registrations and uses existed for marks that included the term "Broadway". The TTAB found that "[e]vidence of widespread third-party use, in a particular field, of marks containing a certain shared term is competent to

suggest that purchasers have been conditioned to look to other elements of the marks as a means of distinguishing the source of goods or services in the field." 38 USPQ2d at 1565 - 66. Accordingly, the TTAB reversed the Examining Attorney's refusal to register under Section 2(d) the mark "Broadway Chicken" in light of the cited registrations for "Broadway Pizza" and "Broadway Pizza & Bar".

[5] In General Mills, Inc. v. Health Valley Foods, 24 USPQ2d 1270, 1277 (TTAB 1992), General Mills ("GM") opposed the registration of "FIBER 7 FLAKES" by Health Valley Foods in light of GM's registration of "FIBER ONE", also for cereal. The TTAB considered the many third-party registrations and applications directed to marks that comprise, in part, the term "FIBER". The TTAB stated that such registrations and applications "show the sense in which the "Fiber" is employed in the marketplace, similar to a dictionary definition" and held that "we do not believe there is any doubt but that the field of "FIBER" marks for foods (including cereals) is a crowded field." *Id.* The TTAB found that evidence of the "FIBER" crowded market suggests that consumers are accustomed to distinguish between different "FIBER" marks even on the basis of small differences. 24 USPQ2d at 1278. Accordingly, the TTAB held that the duPont factors favored the Applicant and found that confusion was not likely between the two marks. *Id.*

[6] In In re Hamilton Bank, 222 USPQ 174 (TTAB 1984), the TTAB held that the refusal to register under Section 2 (d) to be improper after finding that the many registrations not cited by the Examining Attorney for marks containing the common term or feature "key" for the same or closely related goods or services were competent evidence to show that the remaining portions of the marks are sufficient to distinguish the marks as a whole from one another. 222 USPQ at 179.

[7] In Melaro et. al. v. Pfizer Inc., 214 USPQ 645, 649 (TTAB 1982), the TTAB stated that a large number of registrations of marks that include a certain component indicates that the Trademark Office treats that component as weak, and not subject to exclusive appropriation in the given field. The TTAB recognized that the mere fact that each of the two marks that were before the TTAB contained the common term "SILK" is not a sufficient basis in and of itself upon which to predicate a holding of likelihood of confusion. The TTAB held that the marks must be considered in their entirety and when this was done, the marks "POLYSILK" and "SILKSTICK" were sufficiently removed by the addition of the components ("POLY" and "STICK") from the petitioner's mark "SILK", *per se*, to avoid any confusion of purchasers as to the source of the products sold thereunder.

[8] The TTAB in Cutter Labs Inc. v. Air Products and Chem., Inc., 189 USPQ 108, 110 (TTAB 1975) found that the many third party registrations of marks containing the component "FLEX" to be competent evidence to suggest that the Registrant and the Applicant adopted and used the term "FLEX" for the same purpose and that the inclusion of the "FLEX" component in each mark to be an insufficient basis to predicate a holding of a likelihood of confusion. The TTAB found that the difference between the marks to be sufficient to be distinguishable by purchasers so as to preclude a likelihood that the purchasers will mistakenly assume that the products sold thereunder emanate from a common source.

## EVIDENCE

Evidence in the nature of Printouts from TESS database has been attached.

### Original PDF file:

[http://tgate/PDF/RFR/2008/07/02/20080702184159692239-76678969-003\\_001/evi\\_678994234-183649487\\_Exhibit\\_A\\_00051968\\_.PDF](http://tgate/PDF/RFR/2008/07/02/20080702184159692239-76678969-003_001/evi_678994234-183649487_Exhibit_A_00051968_.PDF)

**Converted PDF file(s) (7 pages)**

Evidence-1

Evidence-2

Evidence-3

Evidence-4

Evidence-5

Evidence-6

Evidence-7

### Original PDF file:

[http://tgate/PDF/RFR/2008/07/02/20080702184159692239-76678969-003\\_002/evi\\_678994234-183649487\\_Exhibit\\_B\\_00051969\\_.PDF](http://tgate/PDF/RFR/2008/07/02/20080702184159692239-76678969-003_002/evi_678994234-183649487_Exhibit_B_00051969_.PDF)

**Converted PDF file(s) (5 pages)**

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Evidence-3

Evidence-4

Evidence-5

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**Converted PDF file(s) (9 pages)**

Evidence-1

Evidence-2

Evidence-3

Evidence-4

Evidence-5

Evidence-6

Evidence-7

Evidence-8

Evidence-9

**SIGNATURE(S)**

**Request for Reconsideration Signature**

Signature: /ccv/ Date: 07/02/2008

Signatory's Name: Charles C. Valauskas

Signatory's Position: Attorney of Record

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 76678969

Internet Transmission Date: Wed Jul 02 18:41:59 EDT 2008

TEAS Stamp: USPTO/RFR-67.89.94.234-20080702184159692

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68da7ab6-N/A-N/A-20080702183649487889

# Exhibit A



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# MLE

<b>Word Mark</b>	MLE
<b>Goods and Services</b>	IC 003. US 001 004 006 050 051 052. G & S: Bleaching preparations and fabric softeners, soap powders, and rinse for laundry use; general purpose cleaning, polishing, and abrasive liquids and powders, soaps, perfumery, essential oils, cosmetics, hair lotions; dentifrices. FIRST USE: 20041200. FIRST USE IN COMMERCE: 20070100
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Trademark Search Facility Classification Code</b>	LETTER-3-OR-MORE MLE Combination of three or more letters as part of the mark
<b>Serial Number</b>	78738083
<b>Filing Date</b>	October 21, 2005
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	January 16, 2007
<b>Registration</b>	3320567

Number

Registration Date October 23, 2007

Owner (REGISTRANT) NEOPHARM CO., LTD. CORPORATION REPUBLIC OF KOREA 307 BVC, KRIBB 52 Oaun-dong, Yooseng-gu Daejeon-shi REPUBLIC OF KOREA 305-806

Attorney of Record Thomas R. FitzGerald, Esq.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE



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# MLUXE

**Word Mark** MLUXE  
**Goods and Services** IC 003. US 001 004 006 050 051 052. G & S: Personal care products, namely, shampoo and conditioner, shower gel, milk bath, body wash, scented body spray, body lotion, hand and body cream, hand and body soaps, bath salts, bath oil beads, talcum powder, dentifrices; gift baskets and boxed gift sets consisting of personal care products, namely, shampoo and conditioner, shower gel, milk bath, body wash, scented body spray, body lotion, hand and body cream, hand and body soaps, bath salts, bath oil beads, talcum powder, dentifrices. FIRST USE: 20050516. FIRST USE IN COMMERCE: 20050516

**Standard Characters Claimed**  
**Mark Drawing Code** (4) STANDARD CHARACTER MARK  
**Serial Number** 76638256  
**Filing Date** May 11, 2005  
**Current Filing Basis** 1A  
**Original Filing Basis** 1B  
**Published for Opposition** October 17, 2006  
**Registration Number** 3190546

Registration Date January 2, 2007  
Owner (REGISTRANT) Mudlark Papers, Inc. CORPORATION ILLINOIS 375 W. South Frontage Road, Suite E Bollingbrook ILLINOIS 60440  
Attorney of Record Charles C. Valauskas  
Type of Mark TRADEMARK  
Register PRINCIPAL  
Live/Dead Indicator LIVE



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Word Mark M/LIS

Goods and Services IC 003. US 001 004 006 050 051 052. G & S: facial cream; facial cleansing cream; facial cleansing lotion; facial cleanser; facial scrubs; facial emollients; facial scrubs, namely, facial exfoliants; facial lotion; facial moisturizer; facial emollients, namely facial softeners; facial toner; facial soap; essential oils for personal use, namely, facial oil; facial nourishing cream; facial cream, namely, face lift glycolic acid treatment; facial lotion, namely, face lift glycolic acid treatment; facial masks; face lift masks; facial mask activators; skin cream; skin cleansing cream; skin cleansing lotion; skin cleanser; skin emollients; skin scrubs, namely, skin exfoliants; skin lotion; skin moisturizer; skin emollients, namely, skin softeners; skin toner; skin soap; essential oils for personal use, namely, skin oil; skin nourishing cream; skin cellulite cream; body masks; body mask activators; body wrap cream; essential oils for personal use, namely, body oil; bath oil; and massage oil. FIRST USE: 19930225. FIRST USE IN COMMERCE: 19930225

IC 005. US 006 018 044 046 051 052. G & S: nutritional supplements; herbal supplements; vitamin supplements; mineral supplements; vitamins; minerals; amino acids for use as dietary supplements; dietary supplements, namely, natural oils; herbal supplements, namely, detoxification formulations, and herbal cleansers; and dietary supplements, namely naturally occurring substances and preparations for use in detoxification, cleansing, restoring health and contouring of the body, and in the treatment of dry skin, wrinkled skin, premature wrinkling, damaged skin, acne, blackheads, blemishes, enlarged pores, clogging of the pores, dead skin cells, excess oils, oxidation conditions, facial conditions, skin conditions, scar tissue formation, damaged hair, hair conditions, scalp conditions, bacteria conditions, fungus conditions, excess weight, excess fat, water-weight gain, water retention, excess cellulite, headaches, nasal congestion, allergies, mental confusion, stress, nervous tension, chemical dependencies, abdominal cramps, stomach distress, intestinal distress, gastrointestinal pressure, blood conditions, lymphatic conditions, colon conditions, bowel conditions, intestine conditions, digestive irregularities, digestive conditions, constipation, dietary deficiencies, nutritional deficiencies,

waste elimination condllions, body toxins, body odor, blood circulatory conditions, cholesterol, edema, swelling, inflammation, infections, yeast infections, parasites, premenstrual conditions, menstrual condllions, post menstrual syndrome, hormonal imbalance, inflammation of the joints, arthritis, osteoporosis, conditions of the joints, insufficient growth, metabolic conditions, premature aging, conditions associated with aging, low energy, and poor health. FIRST USE: 19930225. FIRST USE IN COMMERCE: 19930225

Mark  
 Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM  
 Serial Number 76180419  
 Filing Date December 13, 2000  
 Current Filing Basis 1A  
 Original Filing Basis 1A  
 Published for Opposition June 24, 2003  
 Registration Number 2763224  
 Registration Date September 16, 2003  
 Owner (REGISTRANT) M'Lis Company, Inc., The CORPORATION UTAH 1780 West 500 South Salt Lake City UTAH 84104  
 Attorney of Record Lester K Essig  
 Type of Mark TRADEMARK  
 Register PRINCIPAL  
 Live/Dead Indicator LIVE



# Exhibit B



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**Word Mark** JML

**Goods and Services** IC 003. US 001 004 006 050 051 052. G & S: Almond milk for cosmetic purposes; essential oils for personal use and for use as ingredients in the manufacture of cosmetic preparations, namely, almond oil, bergamot oil, citron oil, jasmine oil, lavender oil, lemon oil, mint oil, and rose oil; almond soap; perfumes containing amber; anti-perspirant soap; anti-perspirants; aromatherapy oils; non-medicated bath salts; beauty masks; [ hair bleaching preparations; ] skin cleansing milk for toilet purposes; cosmetics, namely, non-medicated skin creams and lotions, face and body powder, [ eye make-up, blusher, foundation make-up, eyebrow pencils, lipstick, lip gloss, make-up and make-up removers; ] deodorant soap; deodorants for personal use; [ cosmetic dyes, namely, hair dyes; ] eau-de-cologne; [ stencils for applying eye make-up; eyebrow cosmetics, namely, eyebrow pencils; adhesives for affixing false eyelashes; false eyelashes; false nails; ] perfumes consisting primarily of flower extracts; hair care preparations, namely, shampoos and conditioners, [ hair colorants and dyes and hair waving lotions; ] incense; ionone perfumes; petroleum jelly for cosmetic purposes; lavender water; sachets for perfuming linen; premoistened cosmetic tissues; medicated soap; skin cleansing milk for toilet purposes; oils for toilet purposes, namely, body oil and bath oil; perfumery, namely, perfumes and eau de cologne; pumice stones for personal use; scented water; scented wood; shaving soap; antiseptic shaving stones; soap; cakes of soap; [ disinfectant soap; soap for foot perspiration; ] talcum powder; toilet water. FIRST USE: 19941000. FIRST USE IN COMMERCE: 19980300

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design** 26.09.20 - Squares inside one another

**Search Code** 26.09.21 - Squares that are completely or partially shaded

**Serial Number** 75595788

**Filing Date** November 25, 1998  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** January 4, 2000  
**Registration Number** 2335027  
**Registration Date** March 28, 2000  
**Owner** (REGISTRANT) Jo Malone Limited COMPANY CANADA The Old Imperial Laundry Warriner Gardens London SW11 4XW ENGLAND  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR).  
**Live/Dead Indicator** LIVE

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# AMLAVI

**Word Mark** AMLAVI  
**Goods and Services** IC 003. US 001 004 006 050 051 052. G & S: Bath crystals; Bath gels; Bath salts; Bath soaps in liquid, solid or gel form; Beauty masks; Body cream soap; Body masks; Body scrub; Cream soaps; Facial beauty masks; Facial masks; Facial scrubs; Granulated soaps; Hand soaps; Liquid bath soaps; Liquid soap used in foot bath; Liquid soaps; Liquid soaps for hands, face and body; Perfumed soaps; Shower and bath gel; Skin masks; Skin soap; Soaps for body care; Soaps for personal use. FIRST USE: 20021101. FIRST USE IN COMMERCE: 20021101

**Standard Characters Claimed**  
**Mark Drawing Code** (4) STANDARD CHARACTER MARK  
**Serial Number** 78824074  
**Filing Date** February 27, 2006  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** October 17, 2006  
**Registration Number** 3193532  
**Registration** January 2, 2007

Date  
Owner (REGISTRANT) The Double Edge, Inc. CORPORATION COLORADO 945 Pennsylvania St. Denver  
COLORADO 80203  
Type of Mark TRADEMARK  
Register PRINCIPAL  
Live/Dead Indicator LIVE

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# MLAB

**Word Mark** MLAB

**Goods and Services** IC 003. US 001 004 006 050 051 052. G & S: Non-medicated herbal preparations, namely, cosmetic products, namely, skin creams, skin cleansers, skin exfoliants, skin lotions, sunscreens, anti-aging and anti-wrinkle creams, anti-aging and anti-wrinkle serums, skin toners, creams for age spots and for skin lightening; deodorants, antiperspirants, perfumes, colognes, essential oils for personal use, anti-cellulite gel, body oils, beauty gels, hand and body lotions and creams, heel balms, lip balms, nail and cuticle moisturizers, bath oils, foam baths, body scrubs, shower gels, baby oils and non-medicated face and body balms, moisturizing and cleansing creams and face and body lotions, hand soaps, face soaps, body soaps, cosmetics, make-up removers, shampoos, hair lotions and conditioners, shaving foams, after-shave creams and lotions, sun care lotions and gels, facial masks, gels for softening and firming the skin

IC 005. US 006 018 044 046 051 052. G & S: Non-medicated acne control creams featuring salicylic acid

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 78622092

**Filing Date** May 4, 2005

**Current Filing Basis** 1B

**Original Filing**

**Basis** 1B  
**Published for Opposition** April 18, 2006  
**International Registration Number** 0908872  
**Owner** (APPLICANT) Milbar Labs, Inc. CORPORATION CONNECTICUT 20 Commerce Street East Haven CONNECTICUT 06512  
**Attorney of Record** Francis J. Duffin  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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# TMLA

<b>Word Mark</b>	TMLA
<b>Goods and Services</b>	IC 003. US 001 004 006 050 051 052. G & S: FRAGRANCES, COLOGNES, HAIR CARE PRODUCTS, SKIN CARE PRODUCTS, PERSONAL GROOMING PRODUCTS, PERSONAL CARE PRODUCTS
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	77414962
<b>Filing Date</b>	March 6, 2008
<b>Current Filing Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Owner</b>	(APPLICANT) Michele Kaplan INDIVIDUAL UNITED STATES 14151 Beresford Road Beverly Hills CALIFORNIA 90210
<b>Attorney of Record</b>	Stephen J. Strauss
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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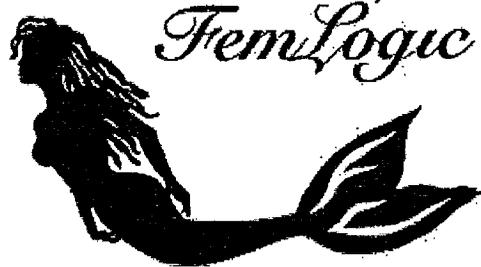
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Word Mark FEMLOGIC

Goods and Services IC 003. US 001 004 006 050 051 052. G & S: After shave lotions; After sun creams; Anti-aging creams; Anti-perspirants; Anti-wrinkle creams; Aromatherapy body care products, namely, body lotion, shower gel, cuticle cream, shampoo, conditioner, non-medicated lip balm, soap, body polish, body and foot scrub and non-medicated foot cream; Aromatherapy inhaler sold filled with aromatherapy essential oils; Aromatherapy lotions; Aromatherapy oils; Bath oils for cosmetic purposes; Bath soaps in liquid, solid or gel form; Beauty creams for body care; Beauty lotions; Beauty serums; Body and beauty care cosmetics; Body creams; Body emulsions; Body lotions; Body oils; Body sprays; Body washes; Cleansing creams; Concealers for skin blemishes; Cosmetic oils; Cosmetic preparations for body care; Cosmetics; Cosmetics and cosmetic preparations; Cosmetics and make-up; Cuticle cream; Essential oils for personal use; Essential oils for use in manufacturing of natural cosmetics; Exfoliant creams; Face and body creams; Face and body lotions; Facial cleansers; Facial creams; Facial emulsions; Facial lotion; Facial washes; Hand creams; Hand lotions; Lip balm; Lip balm; Lip cream; Lotions for cosmetic purposes; Lotions for face and body care; Non-medicated bath preparations; Non-medicated foot cream; Non-medicated foot lotions; Non-medicated lip care preparations; Non-medicated ointments for the prevention and treatment of sunburn; Non-medicated preparations all for the care of skin, hair and scalp; Non-medicated skin care preparations; Non-medicated skin care preparations, namely, creams, lotions, gels, toners, cleaners and peels; Nutritional oils for cosmetic purposes; Oils for cosmetic purposes; Perfume oils for the manufacture of cosmetic preparations; Scented body lotions and creams; Shower and bath gel. Skin and body topical lotions, creams and oils for cosmetic use; Skin care preparations, namely, body balm; Skin cleansing cream; Skin cleansing lotion; Skin conditioners; Skin creams; Skin lotions; Skin moisturizer; Tanning and after-sun milks, gels and oils; Wrinkle resistant cream. FIRST USE: 20070601. FIRST USE IN COMMERCE: 20071101

Mark Drawing (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Code  
 Design Search Code 04.03.03 - Mermaids; Triton  
 Serial Number 77420581  
 Filing Date March 13, 2008  
 Current Filing Basis 1A  
 Original Filing Basis 1A  
 Published for Opposition July 29, 2008  
 Owner (APPLICANT) FemLogic Inc CORPORATION CALIFORNIA 16787 Sierra Highway Canyon Country CALIFORNIA 91351  
 Attorney of Record Ken Dallara  
 Description of Mark Color is not claimed as a feature of the mark. The mark consists of Mermaid with the words "FemLogic" in script.  
 Type of Mark TRADEMARK  
 Register PRINCIPAL  
 Live/Dead Indicator LIVE

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# SIMLINE

**Word Mark** SIMLINE  
**Goods and Services** IC 003. US 001 004 006 050 051 052. G & S: Personal care products, namely, non-medicated ointments in the nature of diaper rash ointment and ointments for the prevention and treatment of sunburn, shampoos, hair conditioners, soaps, body lotions, deodorants, and shaving preparations  
  
 IC 005. US 006 018 044 046 051 052. G & S: Non-prescription medicines, namely, aspirin; and non medicated ointments, namely, anti-itch ointment

**Standard Characters Claimed**  
**Mark Drawing Code** (4) STANDARD CHARACTER MARK  
**Serial Number** 77017727  
**Filing Date** October 10, 2006  
**Current Filing Basis** 1B  
**Original Filing Basis** 1B  
**Published for Opposition** December 11, 2007  
**Owner** (APPLICANT) Union Supply Company CORPORATION CALIFORNIA 2301 East Pacifica Place Rancho Dominguez CALIFORNIA 90224  
**Attorney of** Jill M. Pietrini

**Record**

Type of Mark    TRADEMARK

Register        PRINCIPAL

Live/Dead  
Indicator        LIVE

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