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



02-19-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #67

In re Application for
Trademark Registration of:

Finilux S.r.l.

Serial No.: 75/373,379

Filed: October 15, 1997

International Class: 9

For: **OZONE** (and design)



Opposition No. _____

Opposer's Attorney
Docket No.: 1480.902700

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OPPOSITION

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

In the matter of Trademark Application Serial No. 75/373,379, filed October 15, 1997, by Finilux S.r.l. and published in the U.S. Patent and Trademark Office's Trademark Official Gazette of December 25, 2001:

Tanning Research Laboratories, Inc., a Florida corporation located and doing business at 1190 U.S. Highway #1 North, Ormond Beach, Florida 32174, believes that it will be damaged by registration by the applicant of the term **OZONE** (and design) as a trademark for "spectacles, sunglasses, spectacle frames and spectacle cases," in International Class 9, and hereby opposes Application Serial No. 75/373,379 under the provisions of Title 15 of the United States Code, including but not limited to §§ 1052 and

1063. As grounds for the opposition, Opposer alleges that:

1. Opposer is the owner of U.S. Registration No. 1,567,807 for the mark **OZONE**, for "sunscreen preparations," issued November 28, 1989. A certified copy of this registration, prepared and issued by the Patent and Trademark Office and showing the current status of, and title to, the registration, accompanies this opposition.

2. Opposer has widely used its **OZONE** trademark in interstate commerce in association with sunscreen preparations since at least as early as May 8, 1987, and the mark has been in such use continuously since then.

3. Opposer has used and federally registered its **OZONE** trademark since prior to the applicant's filing date, October 15, 1997, as well as applicant's first use date of December 19, 1996. Accordingly, Opposer has priority.

4. Opposer's sales of **OZONE** sunscreen preparations have been substantial. Since their introduction in 1987, Opposer has sold over 1.25 million bottles of **OZONE** sunscreen preparations.

5. Since the introduction of its **OZONE** sunscreen preparations in 1987, Opposer has expended at least \$375,000 for television commercials, print advertising, catalogs, and promotional brochures regarding such preparations.

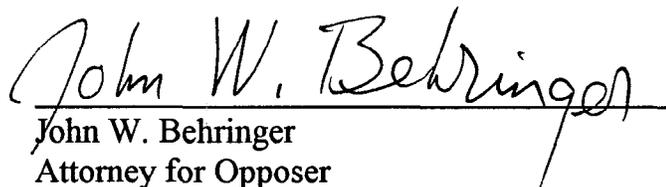
In view of the strong similarity in sound and appearance of the respective marks; the close relationship between sunglasses and sunscreen preparations, as witnessed by the fact that many purveyors of trademarked sunscreen preparations also sell sunglasses under the same trademark; the prior, extensive use of Opposer's mark; and

the substantial goodwill associated with Opposer's mark, built up over more than fourteen years of continuous use, it is alleged that the applicant's proposed mark so resembles Opposer's registered mark as to be likely to cause confusion, or to cause mistake, or to deceive a substantial number of people to believe, mistakenly, that the applicant's proposed goods originate from, or are approved by, or are in some way associated with, Opposer.

WHEREFORE, Opposer prays that said Application Serial No. 75/373,379 be refused, that no registration be issued thereon to the applicant, and that this Opposition be sustained in favor of Opposer.

Respectfully submitted,

Date: Feb. 19, 2002


John W. Behringer
Attorney for Opposer

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
(202) 530-1010

Attachments: One certified copy of U.S. Registration No. 1,567,807
One photocopy of U.S. Registration No. 1,567,807

521788

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

United States Patent and Trademark Office

February 11, 2002

THE ATTACHED U.S. TRADEMARK REGISTRATION 1,567,807 IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 10 YEARS FROM *November 28, 1989*
1st RENEWAL FOR A TERM OF 10 YEARS FROM *November 28, 1999*
SECTION 8 & 15

SAID RECORDS SHOW TITLE TO BE IN:

TANNING RESEARCH LABORATORIES, INC.
A FL CORP



By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS

H. Phillips
H. PHILLIPS
Certifying Officer