

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

In re Application Serial No. 76/283,256
Published in the Official Gazette
July 2, 2002 p. TM 783

TRADEMARK TRIAL AND
APPEAL BOARD
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DANSTAR FERMENT A.G.,)
Opposer,)
v.)
ERBSLOH GEISENHAIM)
GETRANKETECHNOLOGIE GMBH &)
CO. KG)
Applicant)

Opposition No.



08-23-2002

U.S. Patent & TMO/TM Mail Rpt Dt. #39

Box TTAB FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Notice of Opposition

In the matter of the application for registration of the mark ERBSLOH OENOFERM for pure-line dry yeast mixture, in International Class 30 and U.S. Class 46, Serial No: 76/283,256, filed July 11, 2001 by Erbsloh Geisenheim Getranketechnologie GmbH & Co. KG ("Applicant"), a German corporation, published for opposition on Page TM 783 of the *Official Gazette* of the United States Patent and Trademark Office on July 2, 2002, Opposer, Danstar Ferment A.G., a Switzerland corporation (hereinafter "Opposer"), believes that it would be damaged by such registration, and hereby opposes the registration of Applicant's mark.

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The grounds for the opposition are as follows:

1. Opposer, Danstar Ferment A.G., is a Switzerland corporation. Opposer is a subsidiary of Lallemand, Inc., a Canadian corporation with administrative offices in Montreal, Canada.
2. Opposer is in the business of developing, manufacturing, and selling oenological supplies, namely winemaking yeast, bacteria and nutrients.
3. Opposer filed a trademark application, Serial No: 74/265,540 for the mark ENOFERM in International Class 30, and in the United States Class 46, on March 18, 1992. Opposer's mark is used to identify yeast for winemaking.
4. Opposer received a Notice of Allowance in the application for its mark on March 9, 1993, and the mark was assigned Registration No.: 1,757,080.
5. Opposer has used the ENOFERM mark for over ten years, and the mark is well-known by customers in enological channels as being associated with Opposer.
6. Applicant filed its intent to use trademark application to register the mark ERBSLOH OENOFERM on July 11, 2001, several years after registration for Opposer's mark was issued. Applicant's trademark application seeks registration of the mark for pure-line dry yeast mixture, in International Class 30 and U.S. Class 46.
7. Upon information and belief, Applicant's mark and Opposer's mark are used to identify the same good.

8. Upon information and belief, Opposer alleges that the goods of Opposer and Applicant are offered in similar channels of commerce and offered to similar customers.

9. Applicant's application alleges that "the word OENOFERM is a fanciful term deriving from the German word 'oenologie' and the English word 'fermentation'." Upon information and belief, the dominant part of Applicant's mark, OENOFERM, is similar, if not identical, to Opposer's mark ENOFERM in sound, sight and meaning when translated.

10. Upon information and belief, such confusion and deception is also likely because Applicant is one of Opposer's distributors for bacteria.

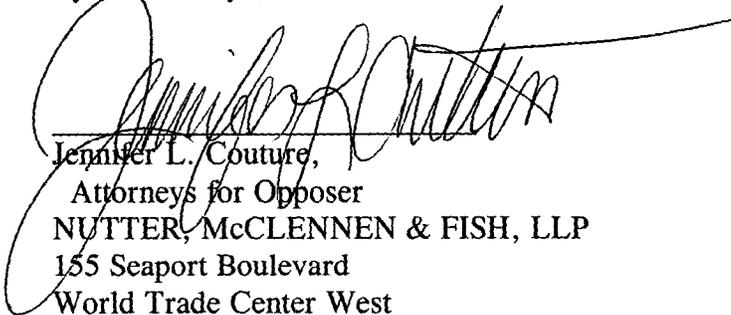
WHEREFORE, Opposer, Danstar Ferment A.G., requests that the application for the mark ERBSLOH OENOFERM, Serial No. 76/283,256 be rejected and that the registration for the mark ERBSLOH OENOFERM be refused.

Respectfully submitted,

DANSTAR FERMENT A.G.

By its attorneys,

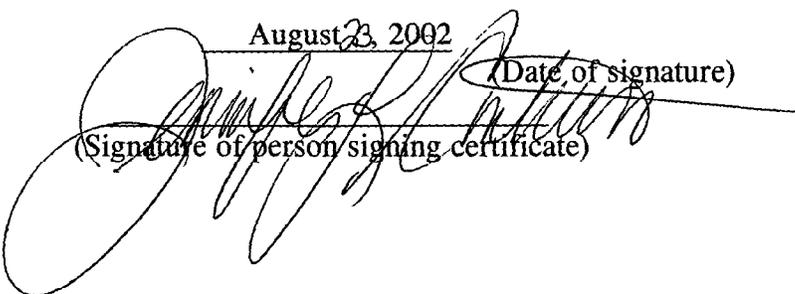
Dated: August 23, 2002


Jennifer L. Couture,
Attorneys for Opposer
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CERTIFICATE OF MAILING

I hereby certify that this Notice of Opposition is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Box TTAB FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, on this 23rd day of August, 2002.

Jennifer L. Couture
(Name of person signing certificate)

August 23, 2002 (Date of signature)

(Signature of person signing certificate)



TTAB

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August 23, 2002
19188-64

BY USPS EXPRESS MAIL
LABEL NO. EI452538343US
Box TTAB FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington VA 22202-3513

Re: Notice of Opposition
Application Serial No. 76/283,256



08-23-2002

U.S. Patent & TMO/TM Mail Rpt Dt. #99

Dear Sir or Madam:

Enclosed herewith please find:

1. A Notice of Opposition (and duplicate copy);
2. A check in the amount of \$300.00 per Rule 2.6(a)(17); and
3. A return postcard.

Please call me if you have any questions. Thank you.

Very truly yours,

Jennifer L. Couture

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Enclosures

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