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

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In re Trademark Application of :
Church & Dwight Company :
Serial No. 76-398,926 :
Filed: April 23, 2002 :
Mark: RAINBOW FRESH :
Published in the Official Gazette :
on December 10, 2002 :
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02-03-2003
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #70

NOTICE OF OPPOSITION

TO: Assistant Commissioner of Patents and Trademarks
Box TTAB
FEE
2900 Crystal Drive
Arlington, Virginia 22202-3513

Aldi Inc., an Illinois Corporation located and doing business at 1200 N. Kirk Road, Batavia,
Illinois 60510-1479, believes that it will be damaged by the registration of the mark shown above
as Serial No. 76-398,926 and hereby opposes the same. 01 FC:6402 300.00 DP
02/11/2003 SWILSON 00000061 76398926

As grounds of the opposition, it is alleged that:

1. Aldi Inc. (hereinafter referred to as "Opposer") has been engaged in the business of marketing soaps for personal use and skin care lotion, in interstate commerce bearing the trademark RAIN FRESH, since prior to April 23, 2002, the filing date of the above-referenced application by Church & Dwight Company (hereinafter referred to as "Applicant").
2. On information and belief, Applicant has not used the mark, RAINBOW FRESH, in interstate commerce.

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3. The trademark RAIN FRESH was adopted by the Opposer for soap for personal use on or before October 1, 1987 and used since that date in interstate commerce by applying it to labels applied to the containers for the goods and in other ways customary to the trade.

4. Opposer is the owner of a Certificate of Registration No. 1,520,413 for the trademark RAIN FRESH for soap for personal use granted by the United States Patent and Trademark Office on January 17, 1989, on the Principal Register under the Act of 1946. A copy of the Certificate of Registration is attached hereto and made a part hereof Exhibit "A".

5. Opposer is the owner of a Certificate of Registration No. 1,759,379 for the trademark RAIN FRESH for skin care lotion granted by the United States Patent and Trademark Office on March 23, 1993 on the Principal Register under the Act of 1946. A copy of the Certificate of Registration is attached hereto and made a part hereof as Exhibit "B".

6. Opposer has sold, advertised and promoted the aforescribed goods bearing the trademark RAIN FRESH and by reason of such efforts and the high quality of Opposer's products, said trademark has become known to the purchasing public and is a valuable asset of the Opposer.

7. The Applicant's mark, RAINBOW FRESH, is similar in sound, appearance, connotation and commercial impression to Opposer's mark, RAIN FRESH.

8. The Applicant seeks registration of RAINBOW FRESH for goods in class 3 as listed in the published notice in the Official Gazette, page TM 292, on December 10, 2002, a copy of which is attached hereto and made a part hereof as Exhibit C.

9. Applicant's goods include fragrance sold as an integral component of laundry detergents and fabric softeners, which are the same or substantially similar goods to those on which Opposer uses its mark RAIN FRESH.

10. On information and belief, Applicant's and Opposer's goods will be sold in the same channels of trade and to the same potential consumers.

11. In view of the above allegations, the purchasing public is likely to be confused, mistaken, or deceived into thinking that Applicant's product emanates from or is sponsored by Opposer, or is related or connected in some way with Opposer's established RAIN FRESH products, all to the damage of the Opposer.

12. This notice is filed in duplicate and the fee of Three Hundred DOLLARS (\$300.00) provided by the Trademark Act of 1946, as amended, is paid herewith.

WHEREFORE, Opposer respectfully prays that this Opposition be sustained and that registration of Applicant's mark be denied.

Attorney's Authorization to Charge Account

Please be advised that our attorney office deposit account number is 500963. In the event there is a deficiency in the appropriate fee, please charge that account for the deficiency.

ALDI INC.

By: 

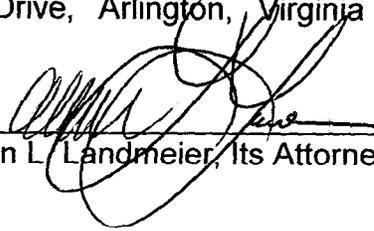
Allen L. Landmeier
Attorney for Aldi Inc.
P.O. Box 127
15 North Second Street
Geneva, Illinois 60134
Telephone: (630) 232-2880
Registration No. 24,476

Dated: January 29th, 2003.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner of Patents and Trademarks, Box TTAB, FEE, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on

January 29, 2003.

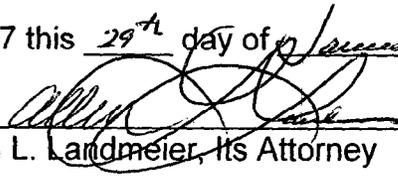


Allen L. Landmeier, Its Attorney

January 29, 2003
Date of Signature

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing NOTICE OF OPPOSITION was served, first class mail, postage prepaid, upon David J. Schuman, Church & Dwight Co., Inc., 469 North Harrison Street, Princeton, NJ 08543-5297 this 29th day of January, 2003.



Allen L. Landmeier, Its Attorney

January 29, 2003
Date of Signature

Int. Cl.: 3

Prior U.S. Cl.: 52

Reg. No. 1,520,413

United States Patent and Trademark Office Registered Jan. 17, 1989

**TRADEMARK
PRINCIPAL REGISTER**

RAIN FRESH

ALDI INC. (ILLINOIS CORPORATION)
1200 NORTH KIRK ROAD
BATAVIA, IL 605101484

FIRST USE 10-1-1987; IN COMMERCE
10-1-1987.

SER. NO. 697,384, FILED 11-16-1987.

FOR: SOAPS FOR PERSONAL USE, IN
CLASS 3 (U.S. CL. 52).

KRISTEN S. BYERS, EXAMINING ATTORNEY



Int. Cl.: 3

Prior U.S. Cl.: 51

United States Patent and Trademark Office **Reg. No. 1,759,379**
Registered Mar. 23, 1993

**TRADEMARK
PRINCIPAL REGISTER**

RAIN FRESH

ALDI INC. (ILLINOIS CORPORATION)
1200 NORTH KIRK ROAD
BATAVIA, IL 605101479

OWNER OF U.S. REG. NO. 1,520,413.

SER. NO. 74-299,598, FILED 7-31-1992.

FOR: SKIN CARE LOTION, IN CLASS 3 (U.S.
CL. 51).

FIRST USE 5-13-1991; IN COMMERCE
5-13-1991.

KATHLEEN COONEY, EXAMINING ATTOR-
NEY



CLASS 3—(Continued).

SN 76-393,147. AQUA VITAE, INC, NEVADA CITY, CA. FILED 4-8-2002.

HIPPO GLO

FOR BODY LOTION, PERFUME, MASSAGE OIL, NON MEDICATED BATH SALTS (U.S. CLS. 1, 4, 6, 50, 51 AND 52).
FIRST USE 9-1-2000; IN COMMERCE 9-1-2000.

SN 76-393,148. AQUA VITAE, INC, NEVADA CITY, CA. FILED 4-8-2002.

RHINO RUBDOWN

FOR BODY LOTION, PERFUME, MASSAGE OIL, NON MEDICATED BATH SALTS (U.S. CLS. 1, 4, 6, 50, 51 AND 52).
FIRST USE 9-1-2000; IN COMMERCE 9-1-2000.

SN 76-393,149. AQUA VITAE, INC, NEVADA CITY, CA. FILED 4-8-2002.

LIZARD LUSTER

FOR BODY LOTION, PERFUME, MASSAGE OIL, NON MEDICATED BATH SALTS (U.S. CLS. 1, 4, 6, 50, 51 AND 52).
FIRST USE 9-1-2000; IN COMMERCE 9-1-2000.

SN 76-395,169. STEPHAN DISTRIBUTING, INC., FORT LAUDERDALE, FL. FILED 4-12-2002.

DEEP FREEZ!

OWNER OF U.S. REG. NO. 1,919,182.
FOR HAIR CARE STYLING PREPARATIONS (U.S. CLS. 1, 4, 6, 50, 51 AND 52).
FIRST USE 1-30-1987; IN COMMERCE 1-30-1987.

SN 76-395,566. AUSTRALIAN GOLD, INC., INDIANAPOLIS, IN. FILED 4-15-2002.

BEACH-IN-A-BOTTLE

FOR SUNTANNING PREPARATIONS (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

CLASS 3—(Continued).

SN 76-395,866. CREATIVE LABORATORIES, INC., EAGAN, MN. FILED 4-15-2002.

TOTAL HEMP COMPLEX

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HEMP COMPLEX", APART FROM THE MARK AS SHOWN.
FOR SUN CARE PRODUCTS, NAMELY TANNING LOTIONS AND SKIN MOISTURIZERS CONTAINING HEMP SEED OIL (U.S. CLS. 1, 4, 6, 50, 51 AND 52).
FIRST USE 2-20-2002; IN COMMERCE 2-20-2002.

SN 76-397,243. L'OREAL, 75008 PARIS, FRANCE, FILED 4-18-2002.

IDEAL START

FOR FACIAL MOISTURIZERS, SKIN CLEANSERS AND SKIN TREATMENT PREPARATIONS (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

SN 76-398,203. HATCHER-TENNEY, TERI, LOS ANGELES, CA. FILED 4-19-2002.

SUMMER CAMP

FOR COSMETICS, NAMELY, BLUSHERS FOR THE FACE, BRONZING CREAMS AND POWDERS FOR THE FACE AND BODY, CONCEALERS FOR THE EYES AND FACE, COSMETIC COMPACTS CONTAINING PRESSED FACE POWDER AND CREAM FOUNDATION, FOUNDATION MAKEUP, LOOSE FACE POWDER, LIP GLOSS, LIPSTICK, MASCARA, NAIL POLISH, EYE MAKEUP, NAMELY, EYE SHADOWS, EYE PENCILS AND EYELINERS ALL SOLD INDIVIDUALLY OR IN SELF-CONTAINED CARRYING CASES; AND ROOM FRAGRANCES (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

SN 76-398,926. CHURCH & DWIGHT COMPANY, GREEN RIVER, WY. FILED 4-23-2002.

RAINBOW FRESH

FOR FRAGRANCE SOLD AS AN INTEGRAL COMPONENT OF LAUNDRY DETERGENTS AND FABRIC SOFTENERS (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

SN 76-400,127. SPARTAN BRANDS INCORPORATED, NEW YORK, NY. FILED 4-25-2002.

DREAD MAGIC

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DREAD", APART FROM THE MARK AS SHOWN.
FOR HAIR CARE PRODUCTS, NAMELY, CONDITIONERS, SHAMPOOS AND GELS (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

CLASS 3—

SN 76-400,195. YORK, NY.

NO CLAIM USE "AFRO", FOR HAIR TIONERS, SH. (U.S. CLS. 1, 4.

SN 76-400,196. SI YORK, NY. F.

NO CLAIM IS USE "BRAID", A FOR HAIR (TIONERS, SHAN 51 AND 52).

SN 76-401,139. R. FILED S.R. 4-29

WHEN MATTER

FOR COMPOSI ING FINISHED PLEXIGLASS, GI TALS (U.S. CLS. 1

SN 76-402,324. TRI FILED 4-29-2002.

FA

FOR KIT CONT. PRODUCTS, NA PRESSED POWDE PENCILS, EYE SH MAKEUP BRUSHE FIRST USE 9-0-200

SN 76-402,345. MILA CA. FILED 4-29-200

PL

FOR COSMETIC C THE FACE AND BO:

