

ESTTA Tracking number: **ESTTA15579**

Filing date: **09/22/2004**

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	Aromatique, Inc
Granted to Date of previous extension	09/22/2004
Address	Aromatique, Inc 3421 Highway 25, North Heber Springs, AR 72543-0309 UNITED STATES

Attorney information	Leslie Bertagnoli BAKER & McKENZIE LLP 130 East Randolph Drive, Suite 3500 One Prudential Plaza Chicago, IL 60601 UNITED STATES judy.a.krason@bakernet.com, leslie.a.bertagnolli@bakernet.com Phone:312-861-8617
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Applicant Information

Application No	78291228	Publication date	05/25/2004
Opposition Filing Date	09/22/2004	Opposition Period Ends	09/22/2004
Applicant	Natura Aromatique		

Goods/Services Affected by Opposition

Class 003.

All goods and services in the class are opposed, namely: Scented Oils used to produce aromas when heated

Attachments	OPPOSITION NATURA AROMATIQUE.txt (2 pages)
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Signature	/leslie bertagnolli/
Name	Leslie Bertagnoli
Date	09/22/2004

In the matter of Application Serial No. 78/291,228 (the Application) to register NATURA AROMATIQUE & Design ("The Mark") in International Class 3 by Natura Aromatique (Applicant), which was published in the May 25, 2004 Official Gazette, Aromatique, Inc., an Arkansas corporation, having a principal place of business at 3421 Highway 25, North, Heber Springs, Arkansas 72543-0309 (Opposer), believes it would be damaged by the registration of The Mark and therefore opposes on the following grounds:

1. Applicant seeks to register The Mark in connection with scented oils used to produce aromas when heated.

2. As is set forth below, Opposer's registrations and applications for AROMATIQUE and other marks which include AROMATIQUE (or a form of AROMATIQUE) as a prominent part, predate the Applicant's application and establish Opposer's priority in the AROMATIQUE mark.

3. Opposer is the owner of U.S. registration number 1,865,516 for the mark ARO' AROMATIQUE & Design for "perfumes", in International Class 3, which was registered on the Principal Register on December 6, 1994 with a first use date of March 9, 1993. These dates are prior to the filing of the application by the Applicant.

4. Opposer is the owner of U.S. registration number 1,386,525 for the mark AROMATIQUE & Design for "room fragrant spray and fragrant potpourri, the principal ingredients of which comprise wood shavings, bark, leaves, nuts and/or cones and a blend of herbs, spices and/or scented oils" in International Class 5, which was registered on the Principal Register on March 18, 1986 with a first use date of March 1, 1983. These dates are prior to the filing of the application by the Applicant.

5. Opposer is the owner of U.S. Trademark Registration No. 1,862,179 for the mark AROMATIQUE BATH & A Design for "shower gel, moisturizing mist for the body in spray form, body lotion bubble bath and toilet soap" in International Class 3, which was registered on the Principal Register on November 15, 1994 with a first use date at least as early as May of 1991. These dates are prior to the date of filing of the Application.

6. All of the registered marks of Opposer are valid and subsisting and are prima facie evidence of Opposer's exclusive right to use these marks in the commerce in connection with the goods specified which include scented oils. All of the registrations are incontestable and are therefore conclusive evidence of Opposer's exclusive right to use said marks in commerce in connection with the goods specified.

7. The goods of the Applicant are similar, or closely related, to Opposer's goods. The similarity of the goods of the Applicant to the goods which Opposer has offered for many years, will likely result in confusion as to the source, sponsorship or affiliation. The Mark is so similar as to create confusion because The Mark could be mistaken as a mark used by the Opposer.

8. In view of the similarity and/or related nature of the goods of the

respective parties it is alleged that The Mark covered by the Application so resembles Opposer's registered marks as to be likely to cause confusion, or to cause mistake, or to deceive.

9. In addition to its many registrations, Opposer has since long prior to the filing date of the Application, used the AROMATIQUE mark and other marks including the word AROMATIQUE (or a form of that word) as a prominent part. Opposer's use has been valid and continuous and has not been abandoned, and has included use on goods similar or related to those covered by the Application.

10. In view of the similarity and/or related nature of the goods of the respective parties, it is alleged that The Mark covered by the Application so resembles Opposer's marks, previously used in the United States, and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive.

WHEREFORE, Opposer prays that the Application (Serial No. 78/291,228) be rejected, and that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Please charge the statutory filing fee of \$300.00 per class to our Deposit Account No. 501-649. If this amount is insufficient for any reason, please charge any shortfall, missing or excess fees to our Deposit Account No. 501-649.