

TTAB

ATTORNEY DOCKET NO: T-90925

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

Applicant : Nuvita Market, LLP
Serial No. : 76/535,064
Filed : August 6, 2003
For : UNDERCOVER ANGEL
Published : August 24, 2004

Assistant Commissioner for Trademarks
Box TTAB - FEE
P.O. Box 1451
Alexandria, Virginia 22313

NOTICE OF OPPOSITION

The Opposer, Thierry Mugler Parfums S.A.S., a French Corporation, ("TMP") located at 4, rue Berteaux Dumas F-92200, Neuilly Sur Seine, France, believes that it would be damaged by the registration of the mark shown in the above-identified application, and hereby opposes the same, pursuant to 15 USC 1063 and 37 CFR 2.104.

01/05/2005 GTHOMAS2 00000098 76535064

01 FC:6402

300.00 OP

As grounds for opposition, it is alleged that:

(1) TMP is and has been engaged in the sale and marketing of goods that are identical and highly related to the goods recited by the Applicant in its application since a time well prior to applicant's filing date.

(2) TMP is and has been engaged in the sale and marketing in commerce of a variety of



goods including fragrance and related products under the trademarks ANGEL, ANGEL MEN, and others. TMP has sold goods continuously under its trademarks.

(3) TMP is the owner of the U.S. trademark registrations:

ANGEL Reg. No. 1,843,424

ANGEL MEN Reg. No. 2,448,037

SECRET D'ANGEL Reg. No. 2,516,249

(See Exhibit A)

(4) TMP has used its Trademarks in commerce extensively and has acquired a considerable and valuable goodwill and wide-scale recognition for its mark. The public has come to associate the mark with Opposer and Opposer's goods.

(5) Applicant's mark is confusingly similar to the Opposer's trademark and is likely, when used in conjunction with the goods offered by the Applicant, to cause confusion, or to cause mistake or to deceive. 15 USC 1052(e). Applicant's mark makes a highly similar if not identical commercial impression to Opposer's mark due to its total adoption and incorporation of the principal term of Opposer's mark, with the identical connotation. The Applicant has, in fact, varied from Opposer's trademark only by adding the terminology "undercover" to the mark ANGEL. Additionally, the overall commercial impression of Applicant's mark, when applied to the same or

similar goods offered by the Opposer, would cause confusion or be likely to cause confusion, mistake, or deception.

(6) Consumers encountering the Applicant's mark and goods are likely to believe that such goods originate from or are authorized or sponsored by the Opposer, in view of the wide-scale recognition of the Opposer's mark and the indistinguishable differences between Opposer's mark and the Applicant's mark, which rather than differentiating the Applicant's mark, serve to further reinforce the impression that it is a mark belonging to a family of marks owned and used by the Opposer.

(7) Both the Applicant's mark and the Opposer's Trademarks are applied to identical and or highly related goods in Class 3. Consumers would be likely to believe that the Applicant's mark, as applied to its goods, would designate the Opposer as the source of those goods.

(8) On information and belief, both the Applicant's mark and Opposer's mark are likely to be sold through the same or similar channels of distribution.

(9) Further, on information and belief, the Applicant's use of the mark on its packaging is in such a way that the ANGEL portion of the mark creates the dominant commercial impression.

(10) The applicant has admitted to the Trademark Office, in the context of its DESIGNER SKIN ANGEL application that ANGEL is the dominant portion of its mark.

(11) On information and belief, the Applicant does not use its mark in the form UNDERCOVER ANGEL, or in a way that would support registration of such term in that manner.

(12) On information and belief, the Applicant has adopted its UNDERCOVER trademark with full knowledge of the Opposer's Trademarks.

(13) On information and belief, Applicant's packaging acknowledges its mark to be "ANGEL".

(14) The Opposer's Trademarks are famous trademarks.

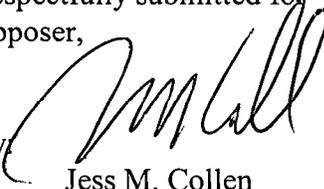
(15) On information and belief, the Applicant's mark is also likely to diminish and dilute the value and distinctive character of this mark, to the great detriment of the Opposer's famous marks, thus damaging the Opposer.

(16) Applicant's published mark so resembles Opposer's Trademarks, as used in the United States and not abandoned, as to be likely to cause confusion, or to cause mistake or to deceive.

OPPOSER, TMP prays that this application, Serial No. 76/535,064 be refused. The Opposer requests that this Opposition be sustained in favor of TMP.

Respectfully submitted for
Opposer,

By


Jess M. Collen
COLLEN *IP*
The Holyoke-Manhattan Building
80 South Highland Avenue
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Westchester County, New York 10562
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Enclosures: Opposition fee \$300.00 per class (\$300.00)
Exhibit A

DATED: December 21, 2004

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS
HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 03-2465.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE
UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL, POSTAGE PREPAID IN AN
ENVELOPE ADDRESSED TO: COMMISSIONER FOR TRADEMARKS, P.O. BOX 1451,
ALEXANDRIA, VIRGINIA 22313.

COLLEN *IP*

By: Jennifer DeLosa Date: December 21, 2004
90925 notice of opp(12-21-04)

EXHIBIT A



Report

© 2002 trademark.com Record 4 of 4
 Reference: 91545
 Database(s): Federal
 Mark: angel All Owner: mugler

Mark ANGEL

Status Renewed
 Status Date Sep 4, 2004
 Register Principal

Ser./App. No. 74-358663
 Registration No. 1843424

Int'l Class 3 - Cosmetics and Cleaning Preparations
 Goods/Services PERFUME
 U.S. Class 51
 1st Use Jun 17, 1993
 Commerce Use Jun 17, 1993

Filing Date Feb 16, 1993
 Filed I-T-U Yes
 Published (Last) Aug 10, 1993
 Registered Jul 5, 1994
 Renewed Jul 5, 2004

Affidavits Sec. 8 accepted. Sec. 15 acknowledged.

Associated Marks 443663, 727802

TTAB Proceeding Opposition 109979
 Defendant PHILOSOPHY, INC.
 Serial No. 75-289609
 Correspondt MICHAEL D. HOOL, MARISCAL, WEEKS, MCINTYRE, &
 FRIEDLANDER, P.A., 2901 N. CENTRAL AVE., STE. 200, PHOENIX,
 AZ 85012
 Filed Mar 26, 1998
 Status Terminated Feb 22, 1999
 Decision Sustained
 Decision Notice of Default

TTAB Proceeding Opposition 120983
 Defendant THE TRUSTEES OF NORTH AMERICAN HERB & SPICE CO.
 Serial No. 75-718337
 Correspondt MARK V. B. PARTRIDGE, PATTISHALL MCAULIFFE NEWBURY
 HILLIARD, & GERALDSON SUITE 5000, 311 SOUTH WACKER DRIVE,
 CHICAGO, IL 60606
 Filed Oct 27, 2000
 Status Terminated Jul 27, 2001
 Decision Dismissed without Prejudice
 Decision Notice of Default

TTAB Proceeding Opposition 125326

Defendant , INTIMATE BEAUTY CORPORATION DBA VICTORIA'S SECRET BEAUTY
Serial No. 78-065211
Correspondt FRANK J. COLUCCI, COLLUCCI & UMANS, 101 EAST 52ND STREET, NEW YORK, NY 10022
Filed Feb 25, 2002
Status Terminated May 23, 2002
Decision Dismissed
Decision Withdrawal of Application with Consent

Correspondent JESS M. COLLEN
 COLLEN IP
 THE HOLYOKE-MANHATTAN BUILDING
 80 SOUTH HIGHLAND AVE TOWN OF OSSING
 WESTCHESTER COUNTY NY 10562

Applicant CHESEBROUGH-POND'S INC. (DE CORP.)
 501 SILVERSIDE ROAD, SUITE 27
 WILMINGTON, DE 19808

Registrant THIERRY MUGLER PARFUMS S.A. (FRANCE CORP.)
 4 RUE BERTEAUX DUMAS
 92200 NEUILLY-SUR-SEINE, FRANCE

ASSIGNMENTS

Reel/Frame 2441/0030
Assignor(s) CHESEBROUGH-POND'S INC. (DE CORP.)
Assignee(s) THIERRY MUGLER PARFUMS S.A. (FRX CORP.), 4 RUE BERTEAUX DUMAS, 92200 NEUILLY-SUR-SEINE, FRX
Correspondt COLLEN IP, INTELLECTUAL PROPERTY LAW, P.C, THE HOLYOKE-MANHATTAN BUILDING, 80 SOUTH HIGHLAND AVENUE, TOWN OF OSSINING, WESTCHESTER COUNTY, NEW YORK 10562
Date Sgnd/Ack Feb 21, 2002
Date Recorded Apr 5, 2002
Brief Assigns the entire interest and goodwill

Action History

Sep 4, 2004	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)
Sep 4, 2004	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED
Jul 6, 2004	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED
May 12, 2000	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.
Feb 12, 2000	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED
Jul 5, 1994	REGISTERED-PRINCIPAL REGISTER
Apr 26, 1994	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED
Apr 8, 1994	STATEMENT OF USE PROCESSING COMPLETE
Feb 18, 1994	CORRESPONDENCE RECEIVED IN LAW OFFICE
Feb 18, 1994	USE AMENDMENT FILED
Nov 2, 1993	NOTICE OF ALLOWANCE-MAILED
Aug 10, 1993	PUBLISHED FOR OPPOSITION
Jul 9, 1993	NOTICE OF PUBLICATION
Jun 10, 1993	APPROVED FOR PUB - PRINCIPAL REGISTER
May 27, 1993	EXAMINER'S AMENDMENT COMPLETED
May 12, 1993	ASSIGNED TO EXAMINER












 Include in

Report

© 2002 trademark.com **Record 3 of 4**
Reference: 91545
Database(s): Federal
Mark: angel **All Owner:** mugler



Mark	ANGEL MEN (and Design)
Status	Registered
Status Date	May 1, 2001
Register	Principal
Ser./App. No.	75-283669
Registration No.	2448037
Int'l Class	3 - Cosmetics and Cleaning Preparations
Goods/Services	TOILET WATERS, SKIN MOISTURIZING LOTION, SHAMPOO, AND DEODORANTS FOR PERSONAL USE
U.S. Class	1, 4, 6, 50, 51, 52
1st Use	May, 1977
Commerce Use	May, 1997
Filing Date	Apr 29, 1997
Filed I-T-U	Yes
Published (Last)	Jul 14, 1998
Allowed	Oct 6, 1998
Registered	May 1, 2001
Design Codes	010105 - Stars with seven or more points
Correspondent	ALLEN J BADEN KENYON & KENYON 1 BROADWAY NEW YORK NY 10004
Domestic Rep.	KENYON & KENYON

Applicant THIERRY MUGLER PARFUMS (FRANCE CORP.)
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