

ESTTA Tracking number: **ESTTA50656**

Filing date: **10/27/2005**

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	Playtex Products, Inc.
Granted to Date of previous extension	10/30/2005
Address	300 Nyala Farms Road Westport, CT 06880 UNITED STATES

Attorney information	Rose Auslander Esq. CARTER LEDYARD & MILBURN LLP 2 Wall St. New York, NY 10005 UNITED STATES Auslander@clm.com Phone:212-732-3200
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Applicant Information

Application No	78410933	Publication date	05/03/2005
Opposition Filing Date	10/27/2005	Opposition Period Ends	10/30/2005
Applicant	Johnson & Johnson One Johnson & Johnson Plaza New Brunswick, NJ 089337001		

UNITED STATES

Goods/Services Affected by Opposition

Class 005.

All goods and services in the class are opposed, namely: prefilled applicators of vaginal anti-fungals

Attachments	COMFORT GLIDE OPPOSITION.pdf (4 pages)
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Signature	/rose auslander/
Name	Rose Auslander Esq.
Date	10/27/2005

applicators sold as a unit with tampons,” and has used this mark since at least as early as July 1994; (b) SOFT COMFORT, Registration No. 2,016,450, registered on November 12, 1996 in Class 5 goods for “tampons,” and first used this mark on October 15, 1995; and (c) GENTLE GLIDE, Registration No. 1,010,170, registered on May 6, 1975 in Class 5 goods for “tampon applicators sold as a unit with tampons,” and first used this mark on June 27, 1993. Opposer has used the aforementioned marks and their variants (collectively and individually the “COMFORT/GLIDE Marks”) for a range of feminine care products, beginning at least as early as June 27, 1973. The registrations and applications for Opposer’s marks are listed in chart form below:

REGISTRATIONS

Mark	Reg. No.	First Used	Reg. Date	Class	Goods
SILK GLIDE	1,889,129	July 1994	4/11/1995 SECTION 15	5	“tampon applicators sold as a unit with tampons”
SOFT COMFORT	2,016,450	10/15/1995	11/12/1996 SECTION 15	5	“tampons”
GENTLE GLIDE	1,010,170	6/27/1973	5/6/1975 SECTION 15	5	“tampon applicators sold as a unit with tampons”

3. All of the registrations mentioned above are valid, subsisting, and in full force and effect. The registrations are incontestable under **SECTION 15** of the Lanham Act, 15 U.S.C. §1065, meaning that each registration is conclusive evidence of Opposer’s exclusive right to use the registered mark in commerce or in connection with the goods stated in that registration, as provided in Section 33(b) of the Lanham Act, 15 U.S.C. §1115(b).

4. Opposer’s rights in the COMFORT/GLIDE Marks for feminine care products began well prior to any date on which the Applicant can rely. Applicant only applied for registration in the COMFORT GLIDE mark in April 2004 on the basis of

intent-to-use, and no Allegation of Use has been filed. Whereas, Opposer has made extensive use of the COMFORT/GLIDE Marks on a variety of feminine care products since at least June 1973.

5. Opposer has invested a substantial amount of time, effort and money in promoting the COMFORT/GLIDE Marks in the United States and Canada. As a result, the COMFORT/GLIDE Marks have become well known for Opposer's goods and have come to represent enormous goodwill for Opposer.

**CLAIM FOR RELIEF UNDER 15 U.S.C. § 1052(d):
LIKELIHOOD OF CONFUSION**

6. Opposer incorporates by reference Paragraphs 1-5 as if fully set forth herein.

7. Due to the similarities of the parties' marks, goods, consumers, and channels of trade, the public is likely to associate goods sold by Applicant under the COMFORT GLIDE mark with goods sold by Opposer under the COMFORT/GLIDE Marks, or to believe that Applicant's goods are licensed by Opposer, or that there is some relationship between Applicant and Opposer.

8. For these reasons, the registration and/or use of COMFORT GLIDE is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe that Applicant's goods emanate from or are otherwise sponsored or endorsed by Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

9. Applicant's application and the presumption of exclusivity that would flow from a registration to Applicant of the mark sought to be registered are inconsistent

with the rights of Opposer, which has made prior and continuous use in commerce of the COMFORT/GLIDE Marks.

10. By reason of the foregoing, Opposer would be damaged by the registration of COMFORT GLIDE to Applicant.

WHEREFORE, it is respectfully requested that this Opposition be sustained and that the registration sought by Applicant Serial No. 78/410,933 be denied.

The opposition fee in the sum of \$300.00 is enclosed. This paper is filed in duplicate.

Dated: New York, New York
October 16, 2005

Respectfully submitted,

CARTER LEDYARD & MILBURN LLP

By:



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*Attorneys for Opposer
Playtex Products, Inc.*