

ESTTA Tracking number: **ESTTA51303**

Filing date: **11/01/2005**

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	Freeze 24/7 International, LLC		
Entity	Limited Liability Company	Citizenship	New York
Address	555 Madison Avenue 11th Floor New York, NY 10022 UNITED STATES		

Attorney information	Jenifer deWolf Paine Proskauer Rose, LLP 1585 Broadway Trademark Department New York, NY 10036-8299 UNITED STATES trademark@proskauer.com Phone: 212 369-3000		
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Applicant Information

Application No	78547760	Publication date	10/04/2005
Opposition Filing Date	11/01/2005	Opposition Period Ends	11/03/2005
Applicant	Woodridge Labs, Inc. 16217 Kittridge Street Van Nuys, CA 91406 UNITED STATES		

Goods/Services Affected by Opposition

Class 003.

All goods and services in the class are opposed, namely: Hair care preparations; non-medicated skin care preparations; cosmetics

Attachments	Dermafreeze365.pdf (3 pages)
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Signature	/Jenifer deWolf Paine/
Name	Jenifer deWolf Paine
Date	11/01/2005

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

FREEZE 24/7 INTERNATIONAL LLC

Opposer

v.

WOODRIDGE LABS, INC.

Opposition No.

Serial No.: 78/547760

Mark: DERMAFREEZE 365

NOTICE OF OPPOSITION

Opposer, Freeze 24/7 International LLC ("Freeze 24/7"), through its undersigned counsel, hereby opposes the above-identified application and states as follows:

Freeze 24/7 is a New York limited liability company with an address of 555 Madison Avenue, 11th Floor, New York, NY, 10022.

2. Freeze 24/7, by itself and through its predecessors, has been distributing and selling skin care products under the mark FREEZE 24/7 since October of 2002. Freeze 24/7 has had extensive sales of its products under the FREEZE 24/7 mark, and has received a significant amount of third party media attention. Freeze 24/7 the owner of the FREEZE 24/7 trademark, and U.S. SN 76/552,518 and US SN 78/555,407.

3. The extensive sales of and media attention to the products sold under the FREEZE 24/7 mark have caused Freeze 24/7 to develop significant and valuable goodwill in its FREEZE 24/7 mark.

4. The continuous, extensive, and high-profile use of the FREEZE 24/7 mark by Freeze 24/7 has caused the mark to be perceived as identifying products originating with

Freeze 24/7, and has caused the Freeze 24/7 mark to achieve secondary meaning within the minds of the relevant public.

5. Applicant filed the instant application for the mark DERMAFREEZE 365 for “hair care preparations; non-medicated skin care preparations; cosmetics” on January 14, 2005 based on intent-to-use. Applicant’s mark was published in the Official Gazette on October 4, 2005.

6. Applicant’s proposed mark DERMAFREEZE 365 is confusingly similar to Freeze 24/7’s FREEZE 24/7 mark. The dominant portion of both marks is the word FREEZE, and at the end of both marks is a numeral that connotes a continual duration.

7. Applicant’s proposed goods include skin care preparations, which are identical to the goods sold under the FREEZE 24/7 mark. In fact, Applicant has been selling a product under the DERMAFREEZE 365 mark that is directly competitive (and, in fact, was designed to be directly competitive) to Freeze 24/7’s well known FREEZE 24/7 product.

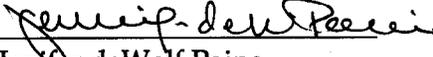
8. Due to the similarity of Applicant’s proposed mark to Freeze 24/7’s mark, and due to the virtual identity of the goods being sold by both Applicant and Freeze 24/7, concurrent use of the mark DERMAFREEZE 365 by Applicant and the FREEZE 24/7 mark by Freeze 24/7 would likely result in consumer confusion as to source, sponsorship, approval, or affiliation within the meaning of 15 U.S.C. §§ 1114 and 1125(a), and, therefore, Freeze 24/7 is likely to be damaged by registration of Applicant’s proposed mark within the meaning of 15 U.S.C. § 1063(a).

9. Applicant’s proposed mark is unregistrable pursuant to 15 U.S.C. § 1052(d), as it so resembles a mark previously used in the United States by another and not abandoned as to be likely to cause confusion, mistake or to deceive.

WHEREFORE, Applicant prays that the instant opposition be sustained and registration refused.

Respectfully submitted,

Date: November 1, 2005


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Attorneys for Opposer