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THIS OPINION IS NOT A
PRECEDENT OF THE T.T.A.B.

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: March 20, 2007

Opposition No. 91168158

Nano-Write Corporation

v.

Bio-CAM, LC

**Before Hohein, Grendel and Zervas,
Administrative Trademark Judges.**

By the Board:

Nano-Write Corporation has filed an opposition against the mark NANO-CERUM for "custom fabrication of dental appliances using CAD/CAM automated processes,"¹ alleging in the notice of opposition its ownership of a registration for the mark NANO-TICROWN for "dental restorative devices, namely, crowns, implants, copings, porcelain fused to metal (PPM) devices, crown substructures, abutments, bridges, caps, inlay restorations, onlay restorations, and temporary crowns"² and that applicant's mark so resembles opposer's

¹ Ser. No. 78425501.

² Reg. No. 2972000; registered July 19, 2005.

mark as to cause a likelihood of confusion, mistake or deception among prospective purchasers. Together with its notice of opposition, opposer submitted a certified copy of its pleaded registration showing that the registration is subsisting and owned by opposer. Applicant has denied the salient allegations of the notice of opposition.

Opposer's initial testimony period closed October 6, 2006 without opposer having taken any testimony or having submitted any evidence during such period. On December 11, 2006, applicant filed a motion for judgment to dismiss the notice of opposition under Trademark Rule 2.132(b).

Trademark Rule 2.132(b) provides for a motion for judgment when the plaintiff has offered no evidence other than Patent and Trademark Office records. See Trademark Rule 2.122(d)(1);³ *Newhoff Blumberg Inc. v. Romper Room Enterprises, Inc.*, 193 USPQ 313, 315 (TTAB 1976); and TBMP

³ Trademark Rule 2.122(d)(1) reads, in pertinent part, as follows:

(d) Registrations.

- (1) A registration of the opposer or petitioner pleaded in an opposition or petition to cancel will be received in evidence and made part of the record if the opposition or petition is accompanied by two copies (originals or photocopies) of the registration prepared and issued by the Patent and Trademark Office showing both the current status of and current title to the registration.

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§ 534.03 (2d ed. rev. 2004). Opposer did not file a response to applicant's motion.

As permitted under Trademark Rule 2.122(d)(1), opposer properly made a certified copy showing the status and title of its pleaded registration of record in support of its case. However, on this limited record, given the differences in the respective marks and because the relationship, if any, between the parties' respective goods and services is not apparent from the face of opposer's registration, it is adjudged that opposer has not met its burden of showing that there is a likelihood of confusion between its mark NANO-TICROWN and applicant's mark NANO-CERUM.

Accordingly, and in light of the fact that the motion is uncontested, applicant's motion for judgment under Trademark Rule 2.132(b) is granted; judgment is hereby entered against opposer; and the opposition is dismissed with prejudice. See Trademark Rules 2.132(b) and 2.127(a).