

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

In the matter of trademark application Ser. No.: 78/658383  
 For the mark: MAGIC BRITTE  
 Published in the Official Gazette on: 02/15/2006

Homax Products, Inc.	)	
P.O. Box 5643	)	
Bellingham, WA 98227	)	
Opposer,	)	
	)	
v.	)	
	)	
Alinter, S.A.	)	
Cien Metros al Este y Ciento	)	
Cincuenta al Norte de la BMW	)	
Curridabat, San Jose	)	
Costa Rica	)	
Applicant.	)	Attorney's Ref.: M214864

03/20/2006 6THDNASE 00000055 78658383

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600.00 OP

**NOTICE OF OPPOSITION**

This Notice of Opposition is submitted in connection with the application for registration of the trademark **MAGIC BRITTE**, Application Ser. No. 78/658383, filed 06/25/2005 in International Classes 003 and 005 by Alinter, S.A., Cien Metros al Este y Ciento Cincuenta al Norte de la BMW, Curridabat, San Jose, Costa Rica (hereinafter "the Applicant"), which was published in the Official Gazette of the Patent and Trademark Office on 02/15/2006.

Homax Products, Inc., a corporation formed under the laws of the State of Washington, whose Post Office address is P.O. Box 5643, Bellingham, WA 98227



(hereinafter "the Opposer"), believes that it would be damaged by the registration of the mark shown in the above-identified application, and hereby opposes such registration.

The grounds for the present Opposition are as follows:

1. The Opposer and its subsidiaries, for more than 70 years, have been and are currently engaged in the sale of a wide variety of goods in numerous International Classes using marks similar to the Applicant's mark.

2. The Opposer and its subsidiaries are the owners of the following U.S. Trademark Registrations, which are in full force and effect, and the Opposer is using these marks in commerce in connection with the goods recited therein:

REG. NO.	MARK	IC
412098	MAGIC	019
2044129	MAGIC	003
2040936	MAGIC	003
1531506	MAGIC	001, 002, 003, 006, 016, 017, 019
1512234	MAGIC	001, 002, 003, 006, 016, 017, 019
2923860	STAINLESS STEEL MAGIC	003
2881102	TILE & GROUT MAGIC	003
2544670	WOOD MAGIC	003
2530626	COOKTOP MAGIC	003
1186326	COUNTERTOP MAGIC	003
1131133	KITCHEN MAGIC	003
831601	PANEL MAGIC	003
956240	VINYL MAGIC	003
955942	TILE 'N GROUT MAGIC	003

3. The Opposer, for more than 70 years, has incorporated the term "magic" as the dominant and salient portion of numerous trademarks and has thus established common law rights in and to the term "magic."

4. The Opposer further asserts that its mark **MAGIC**, alone and/or in combination with other elements, has become famous.

5. The use by the Applicant of **MAGIC BRITTE** on or in connection with the goods identified in application Ser. No. 78/658383 is likely to cause confusion and mistake on the part of the purchasing public as to the source and origin of the goods and/or services aforementioned, and is likely to cause deception of the public concerning the identity of the company responsible for the quality and dependability of such products when sold by the Applicant under the trademark **MAGIC**, alone and/or in combination with other elements.

6. The use of and marking by the Applicant of **MAGIC BRITTE** in connection the goods identified in application Ser. No. 78/658383 is likely to cause diversion of, and encroachment upon, the Opposer's goodwill and rights established in the Opposer's trademark **MAGIC**, alone and/or in combination with other elements, and to cause injury to, and diminishment of, the Opposer's goodwill and rights in and to the mark **MAGIC**, alone and/or in combination with other elements.

7. The use of and marketing by the Applicant of **MAGIC BRITTE** in connection with the goods identified in application Ser. No. 78/658383 is likely to cause confusion with the Opposer's use of that mark based on the widespread recognition of Opposer's experience and expertise in conducting business under the mark **MAGIC**, alone and/or in combination with other elements.

8. For the above reasons, the Opposer believes that it will be damaged by the registration as applied for by the Applicant and that the application should be denied.

9. The Opposer hereby appoints Michael R. Schacht, of the firm of Schacht Law Office, Inc., whose mailing address is 2801 Meridian Street, Suite 202, Bellingham,

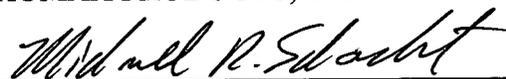
Washington 98225, as its attorney in all matters and proceedings in connection with this Opposition and to transact all business in connection therewith.

WHEREFORE, the Opposer requests that Application Ser. No. 78/658383 be rejected and that the mark therein sought for registration in Classes 003 and 005 be denied and refused. Enclosed is a check in the amount of \$600 to cover the statutory fee (\$300) for each class. Please charge any fee deficiency to Deposit Account No. 502099.

This Notice of Opposition is being submitted in duplicate.

Signed at Bellingham, County of Whatcom, State of Washington this 15th day March, 2006.

HOMAX PRODUCTS, INC.



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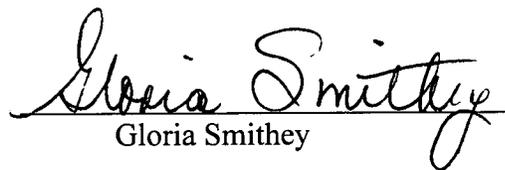
Attorney for Opposer

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Homax Products, Inc. v. Alinter, S.A.  
Opposition re SN 78/658383

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.10

I hereby certify that a Notice of Opposition (2 copies), check for \$600, and postcard is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on March 15, 2006, **Express Mail Certificate No. EV749679375US** and addressed to Commissioner for Trademarks, Box TTAB Fee, P.O. Box 1451, Alexandria, VA 22313-1451.

  
Gloria Smithey