

ESTTA Tracking number: **ESTTA77627**

Filing date: **04/24/2006**

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	Poulsen Roser A/S
Granted to Date of previous extension	04/23/2006
Address	Kratbjerg 332 Fredensborg, 3480 DENMARK

Attorney information	Louis K. Ebling Greenebaum Doll & McDonald PLLC 2800 Chemed Center 255 East Fifth Street Cincinnati, OH 45202-4728 UNITED STATES lke@gdm.com Phone:513 455 7644
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Applicant Information

Application No	78547410	Publication date	10/25/2005
Opposition Filing Date	04/24/2006	Opposition Period Ends	04/23/2006
Applicant	Knud Nielsen Company, Inc. 217 Park Street Evergreen, AL 36401 UNITED STATES		

Goods/Services Affected by Opposition

Class 031. All goods and services in the class are opposed, namely: Dried and natural flowers; arrangements of dried and natural flowers

Attachments	PARTY PALETTE 78547410 Notice of Opposition.pdf (4 pages)(503953 bytes)
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Signature	/Louis Ebling/
Name	Louis K. Ebling
Date	04/24/2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Poulsen Roser A/S	:		
	:		
Opposer,	:	Opposition No.:	_____
	:		
v.	:	Mark:	PARTY PALETTE
	:		
Knud Nielsen Company, Inc.	:	Serial No.:	78/547,410
	:		
Applicant.	:		

NOTICE OF OPPOSITION

Opposer, Poulsen Roser A/S, a corporation organized and existing under the laws of Denmark, believes it will be damaged by registration in Class 31 of the mark PARTY PALETTE in Application Serial No. 78/547,410, and hereby opposes registration of the same by Knud Nielsen Company, Inc. ("Applicant").

As grounds of opposition, it is alleged that:

1. Applicant applied for registration of the mark PARTY PALETTE on the Principal Register under Section 1(b) of the Lanham Act on January 13, 2005. The description of goods in the application is "dried and natural flowers; arrangements of dried and natural flowers," in International Class 31. This application was assigned Serial No. 78/547,410 and was published for opposition on October 25, 2005, in the Official Gazette of the United States Patent and Trademark Office.

2. Opposer requested and was granted extensions of the deadline to file an opposition by the U.S. Patent and Trademark Office Trademark Trial and Appeal Board ("TTAB"), which extended the deadline to file an opposition through April 22, 2006.

3. Opposer is the owner of the mark PARTY and Registration No. 2,371,399 therefor, registered July 25, 2000 on the Principal Register of the U.S. Patent and Trademark Office under Section 1(a) of the Lanham Act, based on use at least as early as December 1, 1996, and use in U.S. Commerce at least as early as December 1, 1996, for "live rose plants" in International Class 31 ("Opposer's PARTY Mark"), and such registration is valid and subsisting. In addition, Opposer is the owner of the mark PAILLETTE and Registration No. 2,634,152 therefor, registered October 15, 2002 on the Principal Register of the U.S. Patent and Trademark Office under Section 44(e) of the Lanham Act for "natural plants and flowers" in International Class 31 ("Opposer's PAILLETTE mark"), and such registration is valid and subsisting. Collectively, Opposer's PARTY mark and Opposer's PAILLETTE mark are referred to herein as "Opposer's Marks."

4. Opposer has sold the goods listed in the aforesaid registrations under Opposer's Marks throughout the United States.

5. Opposer's Marks have become highly distinctive of the goods sold thereunder. The distinctiveness of Opposer's Marks would be lost if Applicant's mark is allowed to register.

6. Priority is not an issue. Applicant's filing date herein is subsequent to the issuance dates of Opposer's Registration Nos. 2,371,329 and 2,634,152, and Opposer is currently using Opposer's Marks in the U.S.

7. Applicant's mark PARTY PALETTE is similar in sound, appearance and commercial impression to Opposer's Marks.

8. The goods identified in Application No. 78/547,410 are identical to or directly overlap the goods set forth in Opposer's Registration Nos. 2,371,399 and 2,634,152, and are identical to or directly overlap those sold under Opposer's Marks.

9. Opposer is being damaged by pending Application Serial No. 78/547,410, and will be damaged by registration of said application because the mark PARTY PALETTE is so similar to Opposer's Marks that use and registration thereof will tend to cause confusion or mistake, or will deceive purchasers into the erroneous belief that Applicant's goods are the goods of Opposer, or that such goods are authorized and/or sponsored by or are otherwise connected with Opposer, and thus, such use and registration will appropriate to Applicant substantial aspects of the goodwill Opposer has established in Opposer's Marks.

10. The mark PARTY PALETTE in Application No. 78/547,410 so resembles Opposer's Marks as previously used by Opposer in commerce as to be likely, when applied to the goods of Applicant, to cause confusion, to cause mistake, or to deceive within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

11. Opposer has no control over the nature and quality of Applicant's goods under the mark Applicant seeks to register, and any dissatisfaction with Applicant's goods by the affected public would reflect adversely on Opposer, thus damaging Opposer's valuable and established goodwill and reputation.

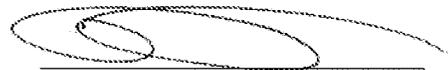
12. Registration of the mark PARTY PALETTE will impair Opposer's trademark rights. If Applicant is permitted to register PARTY PALETTE, such registration will eventually result in the inability of Opposer's Marks to function as indications of origin.

13. Registration of the mark PARTY PALETTE would create statutory rights under the Trademark Act of 1946 in favor of Applicant, and would tend to restrict, interfere with, and damage Opposer in the unhampered conduct of its business and protection of its legitimate interests.

Please charge the filing fee of \$300 and any additional fees to Greenebaum Doll & McDonald PLLC's Deposit Account, No. 50-2904, the account of Opposer's counsel noted below.

Please direct all correspondence to Louis K. Ebling, Esq., at Greenebaum Doll & McDonald PLLC, 2800 Chemed Center, 255 East Fifth Street, Cincinnati, Ohio 45202-4728, and all calls to the same at (513) 455-7644.

Respectfully submitted,



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