

ESTTA Tracking number: **ESTTA85375**

Filing date: **06/14/2006**

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	Beauty Bank Inc.
Granted to Date of previous extension	06/14/2006
Address	767 Fifth Avenue New York, NY 10153 UNITED STATES

Attorney information	Rita Odin, Esq. Beauty Bank Inc. 767 Fifth Avenue New York, NY 10153 UNITED STATES uspto@estee.com Phone:212-572-6778
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**Applicant Information**

Application No	79009887	Publication date	02/14/2006
Opposition Filing Date	06/14/2006	Opposition Period Ends	06/14/2006
International Registration No.	0846321	International Registration Date	03/16/2005
Applicant	COFINLUXE 6, rue Anatole de la Forge F-75017 PARIS FRANCE		

**Goods/Services Affected by Opposition**

Class 003. All goods and services in the class are opposed, namely: Bleaching preparations for laundry use all purpose cleaning preparations, polishing preparations, scouring liquids, scouring powders and abrasive cloths and paper; soaps; perfumery products, namely, perfumes, perfumed body lotions, perfumed talc, cologne, and toilet water; essential oils for personal use; cosmetics, skin cream and skin powders; hair lotions, and dentifrices
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	3086352	Application Date	04/08/2004
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Registration Date	04/25/2006	Foreign Priority Date	NONE
Word Mark	FLIRT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2004/09/15 First Use In Commerce: 2004/09/15 Cosmetics, namely, lipstick, lip gloss, lip pencils, lip liner, lip balm, lip conditioner, eye pencils, eye liner, eye shadow, mascara, eye brow pencils, foundation make-up, pressed powder, face powder, concealer, rouge, blush, and make-up remover; nail care preparations; namely, nail polish and nail polish remover; fragrances for personal use; sun care preparations, namely, suntan oils, gels, creams, and lotions; sunblock; sun screen; after sun oils, gels, creams, and lotions; sunless tanning oils, gels, creams, and lotions		

U.S. Registration No.	2188598	Application Date	02/29/1996
Registration Date	09/08/1998	Foreign Priority Date	NONE
Word Mark	FLIRT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1998/05/00 First Use In Commerce: 1998/05/00 cologne; perfume; body lotion, body gel and shower gel		

U.S. Application No.	78244046	Application Date	04/30/2003
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FLIRT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 044. First use: Beauty consultation services.		

U.S. Application No.	78719116	Application Date	09/23/2005
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FLIRT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: Hair care preparations		

Attachments	78398658#TMSN.jpeg ( 1 page )( bytes )
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	78719116#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition - YOU FLIRT ME.pdf ( 3 pages )(185503 bytes )
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Signature	/RMO/
Name	Rita Odin, Esq.
Date	06/14/2006

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

In re Application No. 79/009,887 for the mark YOU, FLIRT ME! filed on March 16, 2005, and published February 14, 2006

BEAUTYBANK INC. :  
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: Opposer :  
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: v. : Opp. No. \_\_\_\_\_  
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: COFINLUXE :  
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: Applicant :

NOTICE OF OPPOSITION

BeautyBank Inc., a Delaware corporation, having a business address of 767 Fifth Avenue, New York, New York 10153 believes that it will be damaged by the registration of the above-identified mark and hereby opposes the same under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, it is alleged that:

1. Opposer is the owner of all right, title and interest in and to the mark FLIRT for a variety of goods in International Class 3 namely, cosmetics, nail care preparations, fragrances for personal use and sun care preparations. Said mark has been registered in the United States Patent and Trademark Office under Registration Nos. 3,086,352 and 2,188,598. Opposer is the owner of pending applications for FLIRT for beauty consultation services under Serial No. 78/244,046, hair care preparations under Ser. No. 78/719,116, and cosmetic bags and brushes under Ser. No. 78/451,058.

2. Opposer's registrations are valid, subsisting and Reg. No. 2,188,598 is incontestable. The registrations are conclusive evidence of Opposer's ownership of the mark and of its exclusive right to use the mark in commerce.

3. The aforementioned registrations also provide constructive notice of Opposer's claim of ownership.

4. Since at least as early as September 2004, Opposer has used its mark in interstate commerce on and in connection with the goods identified in the registrations and such use has been widely publicized throughout the United States. Opposer, through its related company, has used its mark on fragrances since at least as early as May 1998.

5. Opposer is the owner of a family of FLIRT trademarks and is the applicant of Ser. Nos. 78/294,889 FLIRT SQUIRT, 78/861,957 FLIRTATIOUS!, 78/480,997 BIG FLIRT, 78/477,787 FLIRT-TINIS, 78/294,896 GO FLIRT, 78/283,843 FLIRTWORKS, 78/837,912 FLIRTATIOUS and 78/441,232 FLIRT WITH THE POSSIBILITIES.

6. Notwithstanding Opposer's prior established rights in its mark, Applicant has applied to register the highly similar mark YOU, FLIRT ME! for, inter alia, identical goods, i.e., "soaps; perfumery products, namely, perfumes, perfumed body lotions, perfumed talc, cologne, and toilet water; essential oils for personal use; cosmetics, skin cream and skin powders; hair lotions, and dentifrices."

7. Upon information and belief, Applicant made no use of its alleged mark in commerce prior to the filing date of its application.

8. The mark that Applicant seeks to register so resembles Opposer's mark that use and registration thereof is likely to cause confusion, mistake and/or deception as

to the source or origin of Applicant's goods and will injure and damage Opposer and the goodwill and reputation it has established in its mark.

9. The goods of Opposer and Applicant are so closely related that the public is likely to be confused and to assume erroneously that Applicant's goods are the goods of Opposer or that Applicant is in some way connected with and/or sponsored by or affiliated with Opposer, all to Opposer's irreparable damage.

10. The mark that Applicant seeks to register so resembles Opposer's mark that use and registration thereof shall cause dilution of the distinctive quality of Opposer's mark to Opposer's irreparable damage.

11. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's mark and registration of the mark should be refused.

WHEREFORE, Opposer prays that this opposition be sustained and that registration be denied.

BEAUTYBANK INC.

By 

Dated: June 14, 2006  
New York, NY

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