

ESTTA Tracking number: **ESTTA111118**

Filing date: **11/22/2006**

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	Bausch & Lomb Incorporated
Granted to Date of previous extension	11/26/2006
Address	One Bausch & Lomb Place Law Department Rochester, NY 14604-2701 UNITED STATES
Correspondence information	Bausch & Lomb Incorporated One Bausch & Lomb Place Law Department Rochester, NY 14604-2701 UNITED STATES blpto@bausch.com

**Applicant Information**

Application No	78563005	Publication date	05/30/2006
Opposition Filing Date	11/22/2006	Opposition Period Ends	11/26/2006
International Registration No.	NONE	International Registration Date	NONE
Applicant	Skin Food Pty Ltd. 805 Warrigal Road Oakleigh, Victoria, 3166 AUSTRALIA		

**Goods/Services Affected by Opposition**

Class 005. All goods and services in the class are opposed, namely: Dietetic foods adapted for medical use; analgesics; analgesic balms; biocides for medical purposes; antiseptics, bacterial preparations for medical purposes; medicinal drinks namely, herbal teas; vitamin preparations; dermatological preparations; medicated sunscreen and sun block preparations; medicated skin cleansing bars; medicated skin lotions and skin creams, all purpose disinfectant preparations, medicinal herbal extracts, medicated anti-dandruff shampoo.
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Attachments	RENUCELL Opposition.pdf ( 21 pages )(754880 bytes )
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Signature	/jon o. webster/
Name	Bausch & Lomb Incorporated
Date	11/22/2006

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

In the Matter of Trademark Application )  
Serial No. 78/563005, )  
Published for Opposition )  
May 30, 2006 )  
)  
)  
BAUSCH & LOMB INCORPORATED, )  
)  
Opposer, ) Opposition No. \_\_\_\_\_  
)  
vs. )  
)  
Skin Food Pty Ltd. )  
)  
Applicant. )

NOTICE OF OPPOSITION

Opposer, Bausch & Lomb Incorporated, a New York corporation with its principal place of business at One Bausch & Lomb Place, Rochester, New York 14604-2701, believes that it would be damaged by issuance of a registration for the trademark RENUCELL (“Applicant’s Mark”) as applied for in Application Serial No. 78/563005 (“the Application”) by Skin Food Pty Ltd. (“the Applicant”). Accordingly, Opposer, by and through its attorneys, hereby opposes the same and, as grounds for opposition, alleges as follows:

1. Opposer is engaged in the business of manufacturing, distributing, marketing and selling a wide range of ophthalmic and other eye-care products, including, but not limited to, contact lenses, contact lens solutions, contact lens cases, vitamin and mineral supplements and other eye care products (collectively, “Opposer’s Goods”). Opposer has long been recognized by consumers as one of the leaders in this industry, and Opposer’s Goods are leading products in this industry.

2. Opposer and/or Opposer’s predecessor in interest adopted and began to use various RENU-based trademarks (“Opposer’s RENU Marks”) in connection with Opposer’s Goods at least as early as 1987. Opposer’s RENU Marks have been continuously used in the United States since that time, and, through extensive sales, advertising and promotion, Opposer’s RENU Marks have come to represent enormous goodwill now owned by Opposer. Further, Opposer adopted and began to use the trademark RENU MULTIPLUS as a trademark for contact lens solutions at least as early as August, 1997. Opposer’s RENU MULTIPLUS mark has been continuously used in the United States since that time, and, through extensive sales, advertising

and promotion, Opposer's RENU MULTIPLUS mark has come to represent enormous good will now owned by Opposer.

3. Opposer owns all rights, title and interest in and to Opposer's RENU mark, U.S. Registration No. 1,450,287 registered August 4, 1987; U.S. Registration No. 1,503,549 registered September 13, 1988, RENU, U.S. Registration No. 1,537,182 registered May 2, 1989; RENU MULTIPLUS, U.S. Registration No. 2,207,212 registered December 1, 1998; RENU MULTIPLUS W/CIRCLE DESIGN, U.S. Registration No. 2,207,215 registered December 1, 1998; RENU MULTIPLUS W/SEMICIRCLE DESIGN, U.S. Registration No. 2,207,213 registered December 1, 1998; RENU/DESIGN ONLY/NO LOOPS, U.S. Registration No. 2,155,579 registered May 5, 1998; RENU/THREE LOOP DESIGN/NO COLOR, U.S. Registration No. 2,173,619 registered July 14, 1998 and RENU/WITH THREE LOOP DESIGN/COLOR, U.S. Registration No. 2,207,473 registered December 1, 1998. Opposer's registrations are valid, subsistent and in full force and effect (collectively, the "RENU MARKS"). Copies of U.S. registrations are attached for reference and are marked as Attachment A.

4. Opposer's rights in its RENU Marks arose prior to any alleged rights of Applicant in Applicant's Mark.

5. Opposer's RENU Marks are distinctive and famous and became famous prior to any alleged rights of Applicant in the mark hereby opposed.

6. On February 8, 2005, Applicant filed the Application to register Applicant's Mark in the USPTO based on a foreign trademark registration dated August 21, 2000 (Australian Registration No. 847173). The class 5 goods are "dietetic foods adapted for medical use; analgesics; analgesic balms; biocides for medical purposes; antiseptics, bacterial preparations for medical purposes; medicinal drinks namely, herbal teas; vitamin preparations; dermatological preparations; medicated sunscreen and sun block preparations; medicated skin cleansing bars; medicated skin lotions and skin creams, all purpose disinfectant preparations, medicinal herbal extracts, medicated anti-dandruff shampoo." Opposer is not opposing the class 3 portion of the application.

7. Applicant's Mark so resembles Opposer's RENU Marks in sight, sound, meaning and commercial impression as to be likely, when applied to the goods named in the Application, to cause confusion, mistake or deception by causing the public to believe that the goods offered in connection with Applicant's Mark originate from, or are otherwise sponsored or endorsed by, Opposer in violation of §2(d) of the Lanham Act, 15 U.S.C. §1052(d), with consequent damage to Opposer and the public.

8. Applicant's Mark causes, or is likely to cause, dilution of the distinctive quality of Opposer's RENU Marks, in violation of § 43 (c) of the Lanham Act, 15 U.S.C. § 1125(c) with consequent damage to Opposer and public.

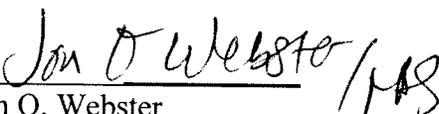
9. Opposer will be damaged by the registration of Applicant's Mark because such registration

will support and assist Applicant in its confusing and misleading use of Applicant's Mark and in infringing and diluting Opposer's RENU Marks, and because such registration will give Applicant color of right in and to Applicant's Mark, in violation and derogation of the prior and superior rights of Opposer.

WHEREFORE, it is respectfully requested this opposition be sustained and the registration sought of Applicant's Mark be denied.

The \$300 fee required by 37 C.F.R. §2.6 may be deducted from Opposer's Deposit Account No. 02-1427.

Respectfully submitted,

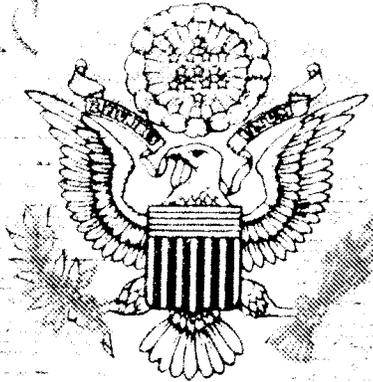
  
\_\_\_\_\_  
Jon O. Webster  
Attorney for Opposer  
Bausch & Lomb Incorporated  
One Bausch & Lomb Place  
Rochester, New York 14604-2701  
(585) 338-8905

Dated: November 22, 2006

cc: Gary S. Kindness, Esq. (Attorney of record for Applicant)  
Christensen O'Connor Johnson Kindness PLLC  
Suite 2800  
1420 Fifth Avenue  
Seattle, WA 98101-2347

*We the People*

*ATTACHMENT A*



**Nº 1450287**

**THE UNITED STATES OF AMERICA**

**CERTIFICATE OF REGISTRATION**

This is to certify that the records of the Patent and Trademark Office show that an application was filed in said Office for registration of the Mark shown herein, a copy of said Mark and pertinent data from the Application being annexed hereto and made a part hereof,

And there having been due compliance with the requirements of the law and with the regulations prescribed by the Commissioner of Patents and Trademarks,

Upon examination, it appeared that the applicant was entitled to have said Mark registered under the Trademark Act of 1946, and the said Mark has been duly registered this day in the Patent and Trademark Office on the

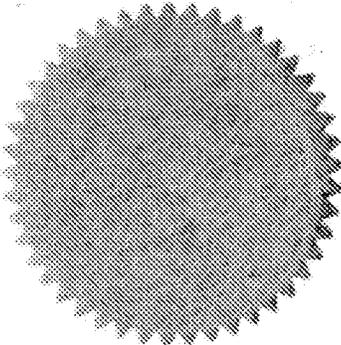
**PRINCIPAL REGISTER**

to the registrant named herein.

This registration shall remain in force for Twenty Years unless sooner terminated as provided by law.

*Done*

In Testimony Whereof I have hereunto set my hand and caused the seal of the Patent and Trademark Office to be affixed this fourth day of August, 1987.



Commissioner of Patents and Trademarks

Int. Cl.: 3

Prior U.S. Cl.: 52

**United States Patent and Trademark Office**

**Reg. No. 1,450,287**

**Registered Aug. 4, 1987**

**TRADEMARK  
PRINCIPAL REGISTER**

**RENU**

BAUSCH & LOMB INCORPORATED (NEW  
YORK CORPORATION)  
1400 NORTH GOODMAN STREET  
ROCHESTER, NY 14609

FIRST USE 12-4-1986; IN COMMERCE  
12-4-1986.

SER. NO. 637,695, FILED 12-29-1986.

FOR: PREPARATION FOR USE IN CLEAN-  
ING CONTACT LENSES, IN CLASS 3 (U.S. CL.  
52).

MICHAEL HAMILTON, EXAMINING ATTOR-  
NEY



Nº 1503549

THE UNITED STATES OF AMERICA

CERTIFICATE OF REGISTRATION

This is to certify that the records of the Patent and Trademark Office show that an application was filed in said Office for registration of the Mark shown herein, a copy of said Mark and pertinent data from the Application being annexed hereto and made a part hereof,

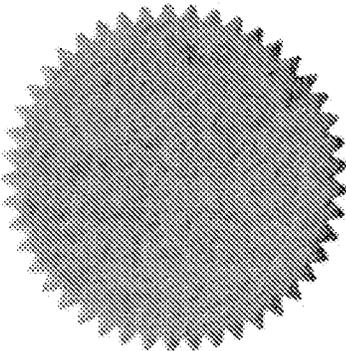
And there having been due compliance with the requirements of the law and with the regulations prescribed by the Commissioner of Patents and Trademarks,

Upon examination, it appeared that the applicant was entitled to have said Mark registered under the Trademark Act of 1946, and the said Mark has been duly registered this day in the Patent and Trademark Office on the

PRINCIPAL REGISTER

to the registrant named herein.

This registration shall remain in force for Twenty Years unless sooner terminated as provided by law.



In Testimony Whereof I have hereunto set my hand and caused the seal of the Patent and Trademark Office to be affixed this thirteenth day of September, 1988.

A handwritten signature in black ink, appearing to read "Ronald J. Ziegler".

Commissioner of Patents and Trademarks

Int. Cl.: 5

Prior U.S. Cl.: 18

**United States Patent and Trademark Office** **Reg. No. 1,503,549**  
**Registered Sep. 13, 1988**

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**TRADEMARK  
PRINCIPAL REGISTER**

**RENU**

BAUSCH & LOMB INCORPORATED (NEW  
YORK CORPORATION)  
1400 NORTH GOODMAN STREET  
ROCHESTER, NY 14609

FOR: PHARMACEUTICAL PREPARATIONS  
FOR USE WITH OR IN THE CARE OF CON-  
TACT LENSES, NAMELY, SALINE SOLUTION  
AND DISINFECTING SOLUTION; CARE KITS  
CONTAINING PREPARATIONS FOR USE IN

THE CARE OF CONTACT LENSES, IN CLASS  
5 (U.S. CL. 18).

FIRST USE 7-13-1987; IN COMMERCE  
7-13-1987.

OWNER OF U.S. REG. NO. 1,450,287.

SER. NO. 686,033, FILED 9-24-1987.

ELAINE PARTHEMOS, EXAMINING ATTOR-  
NEY



Nº 1537182

THE UNITED STATES OF AMERICA

CERTIFICATE OF REGISTRATION

This is to certify that the records of the Patent and Trademark Office show that an application was filed in said Office for registration of the Mark shown herein, a copy of said Mark and pertinent data from the Application being annexed hereto and made a part hereof,

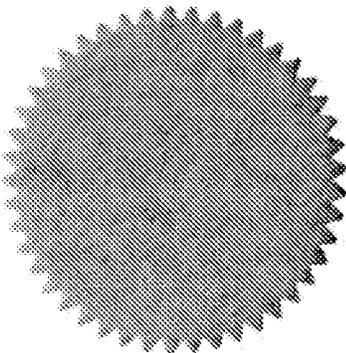
And there having been due compliance with the requirements of the law and with the regulations prescribed by the Commissioner of Patents and Trademarks,

Upon examination, it appeared that the applicant was entitled to have said Mark registered under the Trademark Act of 1946, and the said Mark has been duly registered this day in the Patent and Trademark Office on the

PRINCIPAL REGISTER

to the registrant named herein.

This registration shall remain in force for Twenty Years unless sooner terminated as provided by law.



In Testimony Whereof I have hereunto set my hand and caused the seal of the Patent and Trademark Office to be affixed this second day of May, 1989.

A handwritten signature in black ink, appearing to read "Ronald J. Zingg".

Commissioner of Patents and Trademarks

**Int. Cl.: 5**

**Prior U.S. Cl.: 18**

**United States Patent and Trademark Office**

**Reg. No. 1,537,182**

**Registered May 2, 1989**

**TRADEMARK  
PRINCIPAL REGISTER**

**RENU**

**BAUSCH & LOMB INCORPORATED (NEW  
YORK CORPORATION)  
1400 NORTH GOODMAN STREET  
ROCHESTER, NY 14609**

**FIRST USE 1-0-1988; IN COMMERCE  
1-0-1988.  
OWNER OF U.S. REG. NOS. 847,840, 1,484,970,  
AND 1,484,971.**

**FOR: REWETTING DROPS FOR USE WITH  
CONTACT LENSES, IN CLASS 5 (U.S. CL. 18).**

**SER. NO. 745,344, FILED 8-11-1988.  
GARY L. SHAFFER, EXAMINING ATTORNEY**

# The United States of America



## CERTIFICATE OF REGISTRATION PRINCIPAL REGISTER

*The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.*

*The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office, that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Commissioner of Patents and Trademarks, and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.*

*A copy of the Mark and pertinent data from the application are a part of this certificate.*

*This registration shall remain in force for TEN (10) years, unless terminated earlier as provided by law, and subject to compliance with the provisions of Section 8 of the Trademark Act of 1946, as Amended.*



*Bruce Lehman*

Commissioner of Patents and Trademarks

**Int. Cl.: 5**

**Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52**

**Reg. No. 2,207,212**

**United States Patent and Trademark Office**

**Registered Dec. 1, 1998**

**TRADEMARK  
PRINCIPAL REGISTER**

**RENU MULTIPLUS**

**BAUSCH & LOMB INCORPORATED (NEW  
YORK CORPORATION)  
ONE BAUSCH & LOMB PLACE  
ROCHESTER, NY 146042701**

**OWNER OF U.S. REG. NOS. 1,450,287, 2,030,807  
AND OTHERS.**

**FOR: CONTACT LENS SOLUTIONS, IN  
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).  
FIRST USE 8-22-1997; IN COMMERCE  
8-22-1997.**

**SER. NO. 75-383,258, FILED 11-3-1997.**

**KAREN OWCZARSKI, EXAMINING ATTOR-  
NEY**

# The United States of America



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*Bence Lehman*

Commissioner of Patents and Trademarks

Int. Cl.: 5

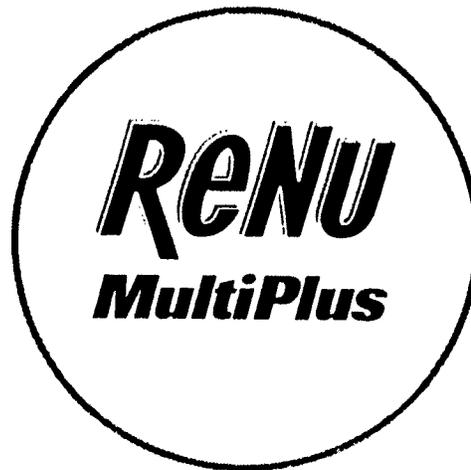
Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

**United States Patent and Trademark Office**

Reg. No. 2,207,215

Registered Dec. 1, 1998

**TRADEMARK  
PRINCIPAL REGISTER**



BAUSCH & LOMB INCORPORATED (NEW  
YORK CORPORATION)  
ONE BAUSCH & LOMB PLACE  
ROCHESTER, NY 146042701

FOR: CONTACT LENS SOLUTIONS, IN  
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 8-22-1997; IN COMMERCE  
8-22-1997.

OWNER OF U.S. REG. NOS. 1,450,287, 2,030,807  
AND OTHERS.

THE STIPPLING SHOWN IN THE DRAWING  
IS A FEATURE OF THE MARK AND IS NOT  
INTENDED TO INDICATE COLOR

SER. NO. 75-383,357, FILED 11-3-1997.

KAREN OWCZARSKI, EXAMINING ATTOR-  
NEY

# The United States of America



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*Bruce Lehman*

Commissioner of Patents and Trademarks

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

Reg. No. 2,207,213

**United States Patent and Trademark Office**

Registered Dec. 1, 1998

**TRADEMARK  
PRINCIPAL REGISTER**



BAUSCH & LOMB INCORPORATED (NEW  
YORK CORPORATION)  
ONE BAUSCH & LOMB PLACE  
ROCHESTER, NY 146042701

FOR: CONTACT LENS SOLUTIONS, IN  
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 8-22-1997; IN COMMERCE  
8-22-1997.

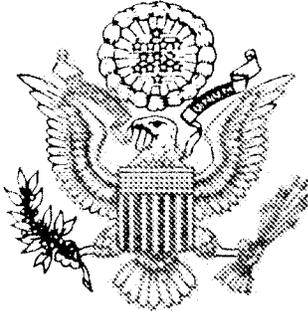
OWNER OF U.S. REG. NOS. 1,450,287, 2,030,807  
AND OTHERS.

THE STIPPLING SHOWN IN THE DRAWING  
IS A FEATURE OF THE MARK AND IS NOT  
INTENDED TO INDICATE COLOR.

SER. NO. 75-383,281, FILED 11-3-1997.

KAREN OW CZARSKI, EXAMINING ATTOR-  
NEY

# The United States of America



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*Bence Lehman*

Commissioner of Patents and Trademarks

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

**United States Patent and Trademark Office**

**Reg. No. 2,155,579**

Registered May 5, 1998

**TRADEMARK  
PRINCIPAL REGISTER**

**RENU**

BAUSCH & LOMB INCORPORATED (NEW  
YORK CORPORATION)  
ONE BAUSCH & LOMB PLACE  
ROCHESTER, NY 146042701

FOR: PREPARATIONS FOR USE IN CLEAN-  
ING CONTACT LENSES; PHARMACEUTICAL  
PREPARATIONS FOR USE WITH OR IN THE  
CARE OF CONTACT LENSES, NAMELY, SO-  
LUTIONS AND TABLETS, IN CLASS 5 (U.S.  
CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 11-15-1996; IN COMMERCE  
11-15-1996.

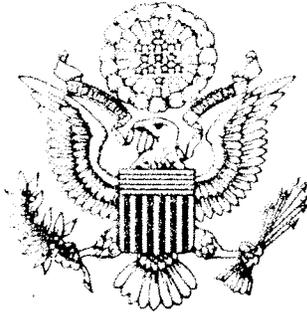
OWNER OF U.S. REG. NOS. 1,450,287,  
1,503,549, AND 1,537,182.

THE STIPPLING IS A FEATURE OF THE  
MARK AND DOES NOT INDICATE COLOR.

SN 75-147,311, FILED 8-8-1996.

ANDREW BENZMILLER, EXAMINING AT-  
TORNEY

# The United States of America



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*Bruce Lehman*

Commissioner of Patents and Trademarks

Int. Cl.: 5

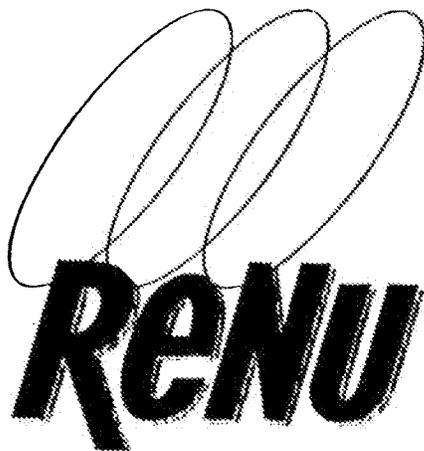
Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

Reg. No. 2,173,619

**United States Patent and Trademark Office**

Registered July 14, 1998

**TRADEMARK  
PRINCIPAL REGISTER**



BAUSCH & LOMB INCORPORATED (NEW  
YORK CORPORATION)  
ONE BAUSCH & LOMB PLACE  
ROCHESTER, NY 146042701

FOR: PREPARATIONS FOR USE IN CLEAN-  
ING CONTACT LENSES; PHARMACEUTICAL  
PREPARATIONS FOR USE WITH OR IN THE  
CARE OF CONTACT LENSES, NAMELY, SO-  
LUTIONS AND TABLETS, IN CLASS 5 (U.S.  
CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 4-0-1997; IN COMMERCE  
4-0-1997.

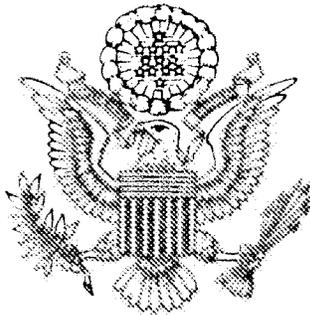
OWNER OF U.S. REG. NOS. 1,450,287,  
1,503,549, AND 1,537,182.

THE STIPPLING IS A FEATURE OF THE  
MARK AND DOES NOT INDICATE COLOR.

SN 75-146,848, FILED 8-8-1996.

ANDREW BENZMILLER, EXAMINING AT-  
TORNEY

# The United States of America



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*This registration shall remain in force for TEN (10) years, unless terminated earlier as provided by law, and subject to compliance with the provisions of Section 8 of the Trademark Act of 1946, as Amended.*



*Bence Lehman*

Commissioner of Patents and Trademarks

Int. Cl.: 5

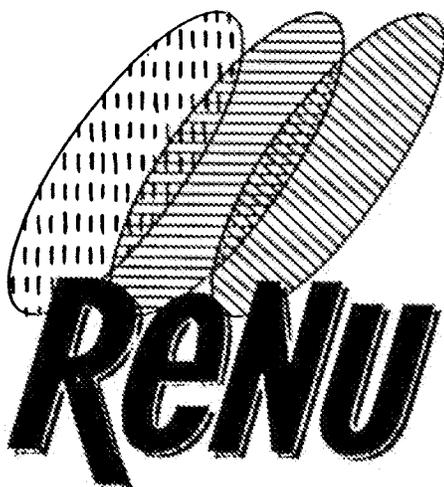
Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

Reg. No. 2,207,473

**United States Patent and Trademark Office**

Registered Dec. 1, 1998

**TRADEMARK  
PRINCIPAL REGISTER**



BAUSCH & LOMB INCORPORATED (NEW  
YORK CORPORATION)  
ONE BAUSCH & LOMB PLACE  
ROCHESTER, NY 146042701

FOR: PREPARATIONS FOR USE IN CLEAN-  
ING CONTACT LENSES; PHARMACEUTICAL  
PREPARATIONS FOR USE WITH OR IN THE  
CARE OF CONTACT LENSES, NAMELY, SO-  
LUTIONS AND TABLETS, IN CLASS 5 (U.S.  
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FIRST USE 1-0-1997; IN COMMERCE  
1-0-1997.

OWNER OF U.S. REG. NOS. 1,450,287,  
1,503,549, AND 1,537,182.

THE STIPPLING IS A FEATURE OF THE  
MARK AND DOES NOT INDICATE COLOR.  
THE DRAWING IS LINED FOR THE COLORS  
VIOLET, BLUE, AND GREEN.

SN 75-147,309, FILED 8-8-1996.

ANDREW BENZMILLER, EXAMINING AT-  
TORNEY