

ESTTA Tracking number: **ESTTA117075**

Filing date: **12/28/2006**

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	Givaudan SA		
Entity	Corporation	Citizenship	Switzerland
Address	5, Chemin de la Parfumerie 1214 Vernier, SWITZERLAND		

Attorney information	Kathryn E. Smith Wood, Herron & Evans, L.L.P. 441 Vine Street 2700 Carew Tower Cincinnati, OH 45202-2917 UNITED STATES ksmith@whepatent.com Phone:(513) 241-2324
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Applicant Information

Application No	78611721	Publication date	11/28/2006
Opposition Filing Date	12/28/2006	Opposition Period Ends	12/28/2006
Applicants	Lin, Hui 15B, Tower 13, Sunny Bay (I) West Sand River Road Shenzhen, CHINA Lim, Chwoon Ang Unit A, 3/F., Dor Fook Mansion 126 Pokfulam Road Hong Kong, HONG KONG		

Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: Cosmetics; cosmetic creams; body lotions; oils for cosmetic purposes; cosmetic preparations for skin renewal; skin whitening creams; beauty masks; make-up; make-up powders; make-up removing preparations; cosmetic sun-tanning preparations; sun-tanning creams and oils; sunscreen preparations; lipsticks; eyebrow cosmetics; eyebrow pencils; cosmetic pencils; cosmetic preparations for slimming purposes, namely creams and lotions for cellulite reduction; mascara; essential oils for personal use; perfumes; perfumery; non-medicated toiletries; hair colorants, hair waving preparations, hair sprays; hair lotions; all purpose cleaning preparations; cosmetics kits containing blushes and brushes; soaps; shower gels; dentifrices; toothpaste and mouth wash
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Attachments	Notice_Opposition.pdf (4 pages)(204482 bytes)
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Signature	/Kathryn E. Smith/
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Name	Kathryn E. Smith
Date	12/28/2006

The subject application was filed on an intent-to-use basis on April 19, 2005, and published in the Official Gazette of November 28, 2006.

As grounds for the opposition, it is alleged that:

1. Opposer is the owner of International Registration No. 849903, and the corresponding U.S. designation thereunder, namely, United States Trademark Registration No. 3,151,131 for the mark **COSMONE** covering “Chemicals used for preparing perfumery, cosmetics, soap and detergent compositions,” in International Class 1 and “Perfumery, perfumes, cosmetics, soaps, and detergents,” in International Class 3. Said registration was issued to Opposer by the United States Patent and Trademark Office on October 3, 2006, and is presently valid and in good standing.

2. Upon information and belief, Chwoon Ang Lim and Hui Lin (collectively referred to herein as “Applicant”) is the owner of U.S. Trademark Application Serial No. 78/611,721 for the mark “**KOSMO**” for goods described in the application as “Cosmetics; cosmetic creams; body lotions; oils for cosmetic purposes; cosmetic preparations for skin renewal; skin whitening creams; beauty masks; make-up; make-up powders; make-up removing preparations; cosmetic sun-tanning preparations; sun-tanning creams and oils; sunscreen preparations; lipsticks; eyebrow cosmetics; eyebrow pencils; cosmetic pencils; cosmetic preparations for slimming purposes, namely creams and lotions for cellulite reduction; mascara; essential oils for personal use; perfumes; perfumery; non-medicated toiletries; hair colorants, hair waving preparations, hair sprays; hair lotions; all purpose cleaning preparations; cosmetics kits containing blushes and brushes; soaps; shower gels; dentifrices; toothpaste and mouth wash,” in International Class 3.

3. Upon information and belief, Applicant Chwoon Ang Lim is an Australian individual, with an address of Unit A, 3/F, Dor Fook Mansion 126 Pokfulam Road, Hong Kong, and Applicant Hui Lin is a Chinese individual with an address of 15B, Tower 13, Sunny Bay (I) West Sand River Road, Shenzhen China.

4. Applicant is not entitled to use or register as a trademark the mark “**KOSMO**” for which it seeks registration in its Application Serial No. 78/611,721, either on April 19, 2005, the date of filing of said application, or on November 28, 2006, the date of publication thereof in the Official Gazette.

5. Applicant’s goods are identical and/or closely related to the goods offered by Opposer under its **COSMONE** mark and registration, and will be sold to the same class of purchasers, and will be available for sale through the same or similar channels of trade.

6. Applicant’s **KOSMO** mark is confusingly similar to Opposer’s **COSMONE** mark in sound, meaning, connotation, and commercial impression, and is intended to be used on goods that are either the same as or directly competitive with the goods covered by Opposer’s **COSMONE** mark and registration.

7. The mark Applicant seeks to register, namely, “**KOSMO**”, so resembles Opposer’s **COSMONE** mark as to be likely, when applied to the goods of Applicant, to cause confusion or mistake or to deceive persons by creating the erroneous impression that Applicant’s goods originate with or come from Opposer, or are authorized, licensed, endorsed, sponsored by, or are connected in some way with Opposer, and therefore, the registration thereof by Applicant would be injurious to Opposer.

8. Applicant knew or should have known of Opposer's **COSMONE** mark when it adopted the mark “**KOSMO.**”

9. Applicant's adoption and intent to use the mark "KOSMO" is without the license or permission of Opposer.

10. For the above reasons, any use of the mark "KOSMO" by Applicant is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe that the goods offered under the mark "KOSMO" emanate from or are otherwise sponsored or endorsed by Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

11. By reason of the foregoing, Opposer will be damaged by registration of the "KOSMO" mark to Applicant.

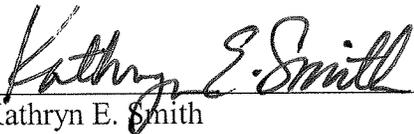
12. The opposition fee in the amount of \$300.00 is filed herewith. The Director is authorized to charge any underpayment to Deposit Account No. 23-3000 in case of any deficiency.

WHEREFORE, Opposer prays that said Application Serial No. 78/611,721 be rejected; that registration of the mark "KOSMO" as a trademark to Applicant be refused and denied; and that this opposition be sustained in Opposer's favor. Opposer requests such other and further relief as the Board may deem just and proper.

Dated: December 28, 2006

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.


Kathryn E. Smith

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