

ESTTA Tracking number: **ESTTA172100**

Filing date: **10/31/2007**

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	E. I. du Pont de Nemours and Company
Granted to Date of previous extension	11/14/2007
Address	1007 Market Street Wilmington, DE 19898 UNITED STATES

Attorney information	Dickerson M. Downing Crowell & Moring, LLP 153 East 53rd Street, 31st Floor New York, NY 10022 UNITED STATES edocket@crowell.com, ddowning@crowell.com, jksmith@crowell.com, ckornett@crowell.com Phone:(212) 895-4212
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Applicant Information

Application No	78922352	Publication date	07/17/2007
Opposition Filing Date	10/31/2007	Opposition Period Ends	11/14/2007
Applicant	Terzis, Melissa J 127 Hawthorn Drive Jupiter, FL 33458 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. All goods and services in the class are opposed, namely: writing of texts other than publicity texts
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	186659	Application Date	07/16/1921
Registration Date	07/22/1924	Foreign Priority Date	NONE
Word Mark	DU PONT		
Design Mark			

Description of Mark	NONE
Goods/Services	Class U006 (International Class 001). First use: First Use: 1919/02/00 First Use In Commerce: 1919/02/00 Acids, Comprising Lactic, Acetic, Sulphuric, Nitric, and Hydrochloric Acids; Alums, Sulphate of Alumina, Barium Chemicals, Sodium Chemicals, Strontium Chemicals, ((Bauxite, Distilled Water,))Pyroxylin Solutions; ((Nitrocellulose,))Gum, Resin, Oil, and Color Solutions; Ethers, Alcohols, and Esters; ((Nitrocellulose,))Gum, Resin, Oil, and Color Solvents

U.S. Registration No.	199516	Application Date	05/28/1921
Registration Date	06/09/1925	Foreign Priority Date	NONE
Word Mark	DU PONT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U016 (International Class 002). First use: First Use: 1917/03/00 First Use In Commerce: 1917/03/00 BRONZING LIQUIDS, BRONZE POWDERS, [PAINT ENAMELS, LACQUERS, READY-MIXED PAINTS,] PASTE PAINTS, [DRY PAINTS,] FILLERS, SURFACERS, STAINS, PAINTERS' COATERS, PAINTERS' COATINGS, PAINTERS' [UNDERCOATINGS, PAINTERS' FINISHES, VARNISH, PAINT AND VARNISH SOLVENTS, ZINC PASTE, PAINTERS' PRIMERS,] PREPARED WAX FOR HARDWOOD FLOORS AND INTERIOR WOODWORK, WAX FINISHES, GRAINING GROUNDS, GRAINING COMPOUNDS, [JAPANS,] PAINTERS' SIZING, PAINTERS' DRIERS, [LIQUID SHELLACS, PREPARED SHELLAC SUBSTITUTES USED AS BINDERS ON INTERIOR WOODWORK,] WHITE LEAD, RED LEAD, TURPENTINE SUBSTITUTES, [LITHOPONE, DRY COLORS FOR SHADING PAINT,] PUTTY, PAINT OIL, [ALUMINA HYDRATE, FLAKE WHITE, CREMNITZ WHITE,]		

U.S. Registration No.	367414	Application Date	11/25/1938
Registration Date	05/16/1939	Foreign Priority Date	NONE
Word Mark	DUPONT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U015 (International Class 004). First use: First Use: 1926/03/00 First Use In Commerce: 1926/03/00 LUBRICATING OILS		

U.S. Registration No.	371580	Application Date	05/23/1939
Registration Date	09/26/1939	Foreign Priority Date	NONE
Word Mark	DUPONT		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class U001 (International Class 001, 003, 004, 017, 018, 019, 022, 031). First use: First Use: 1923/10/00 First Use In Commerce: 1923/10/00 [CELLULOSE ACETATE PLASTICS, CELLULOSE FILM, METHYL METHACRYLATE MOLDING POWDER, POWDERED GLASS,] RESINOUS PLASTICS [, RESINS, SILICA]		
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U.S. Registration No.	439990	Application Date	01/31/1947
Registration Date	08/03/1948	Foreign Priority Date	NONE
Word Mark	DUPONT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 005). First use: First Use: 1946/01/01 First Use In Commerce: 1946/01/01 INSECTICIDES, FUNGICIDES, SEED DISINFECTANTS, AND WEED KILLING COMPOUNDS IN AGRICULTURE AND HORTICULTURE		

U.S. Registration No.	562815	Application Date	04/05/1951
Registration Date	08/12/1952	Foreign Priority Date	NONE
Word Mark	DUPONT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U043 (International Class 023). First use: First Use: 1926/06/05 First Use In Commerce: 1926/06/05 YARNS OF SYNTHETIC FIBERS		

U.S. Registration No.	639885	Application Date	03/15/1956
Registration Date	01/15/1957	Foreign Priority Date	NONE
Word Mark	DU PONT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U006 (International Class 002). First use: First Use: 1930/00/00 First Use In Commerce: 1930/00/00 ORGANIC AND INORGANIC PIGMENT COLORS AND TITANIUM ORGANICS		

U.S. Registration No.	641604	Application Date	04/30/1956
Registration Date	02/19/1957	Foreign Priority Date	NONE
Word Mark	DU PONT		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class U006 (International Class 001). First use: First Use: 1949/09/06 First Use In Commerce: 1949/09/06 ANHYDROUS AMMONIA, [CYCLOHEXANOL, CYCLOHEXANONE, DIGLYCOLIC ACID,] DIMETHYL SULFATE, FORMAMIDE, HYDROXYACETIC ACID, [FATTY ALCOHOLS,] METHACRYLATE MONOMERS, METHYL FORMATE, [AND UREA]		
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U.S. Registration No.	821791	Application Date	08/08/1966
Registration Date	01/10/1967	Foreign Priority Date	NONE
Word Mark	DU PONT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U001 (International Class 017). First use: First Use: 1966/06/15 First Use In Commerce: 1966/06/15 SLAB STOCK MADE FROM METHACRYLATE RESIN FOR GENERAL USE IN THE CONSTRUCTION AND HOME FURNISHING INDUSTRIES		

U.S. Registration No.	823651	Application Date	08/08/1966
Registration Date	02/07/1967	Foreign Priority Date	NONE
Word Mark	DU PONT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U032 (International Class 020). First use: First Use: 1966/06/15 First Use In Commerce: 1966/06/15 NONSTRUCTURAL BUILDING MATERIALS-NAMELY, COUNTER TOPS AND VANITY TOPS		

U.S. Registration No.	840742	Application Date	01/24/1967
Registration Date	12/19/1967	Foreign Priority Date	NONE
Word Mark	DUPONT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U012 (International Class 019). First use: First Use: 1966/11/30 First Use In Commerce: 1966/11/30 NONSTRUCTURAL BUILDING MATERIALS-NAMELY, [WINDOW SILLS, THRESHOLDS, SHUTTERS, AND] WAINSCOT		

U.S. Registration No.	1002618	Application Date	03/25/1974
Registration Date	01/28/1975	Foreign Priority Date	NONE
Word Mark	DU PONT		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 007. First use: First Use: 1959/05/21 First Use In Commerce: 1959/05/21 PHOTOPOLYMER PRINTING PLATES

U.S. Registration No.	3004203	Application Date	08/04/2004
Registration Date	10/04/2005	Foreign Priority Date	NONE
Word Mark	DU PONT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 019. First use: First Use: 2004/05/17 First Use In Commerce: 2004/05/17 BITUMEN BASED DRIVEWAY SEALANT		

U.S. Registration No.	3094360	Application Date	01/04/2005
Registration Date	05/16/2006	Foreign Priority Date	NONE
Word Mark	DUPONT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 2003/09/25 First Use In Commerce: 2003/09/25 AIR FILTERS FOR HOME USE IN HEATING, VENTILATING SYSTEM UNITS		

U.S. Registration No.	3124263	Application Date	09/12/2003
Registration Date	08/01/2006	Foreign Priority Date	NONE
Word Mark	DU PONT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 019. First use: First Use: 2004/01/14 First Use In Commerce: 2004/01/14 BUILDING MATERIAL, NAMELY LAMINATE FLOORING; NAMELY CERAMIC TILES		

U.S. Registration No.	3143298	Application Date	10/26/2004
Registration Date	09/12/2006	Foreign Priority Date	NONE
Word Mark	DU PONT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 2005/06/30 First Use In Commerce: 2005/06/30		

	Water filter units for household use; water filter cartridges Class 021. First use: First Use: 2005/06/30 First Use In Commerce: 2005/06/30 Water dispensers, namely water filtration pitchers
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U.S. Registration No.	3156504	Application Date	03/17/2005
Registration Date	10/17/2006	Foreign Priority Date	NONE
Word Mark	DUPONT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2005/12/15 First Use In Commerce: 2005/12/15 SMOKE ALARMS FOR HOME USE		

U.S. Registration No.	3220031	Application Date	05/18/2006
Registration Date	03/20/2007	Foreign Priority Date	NONE
Word Mark	DU PONT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2004/01/01 First Use In Commerce: 2004/01/01 automotive cleaners; car wash preparations, namely, polishes and waxes; car tire and wheel cleaner; carpet and upholstery cleaner; disposable wipes impregnated with chemicals for cleaning and protecting automobiles and leather		

U.S. Registration No.	3220193	Application Date	06/15/2006
Registration Date	03/20/2007	Foreign Priority Date	NONE
Word Mark	DU PONT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 2006/04/30 First Use In Commerce: 2006/04/30 WATER TREATMENT CHEMICALS FOR USE IN SWIMMING POOLS AND SPAS, NAMELY CHLORINE AND OXIDIZING COMPOUNDS; CHEMICAL ANALYSIS KIT FOR TESTING SWIMMING POOL WATER Class 005. First use: First Use: 2006/04/30 First Use In Commerce: 2006/04/30 ALGAECIDE FOR USE IN POOLS AND SPAS		

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Signature	/dmd/
Name	Dickerson M. Downing
Date	10/31/2007

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

In the Matter of Application No. 78/922,352 for the mark
VELVET IN DUPONT in International Class 41
Published for opposition in the Official Gazette of
July 17, 2007

E.I. DU PONT DE NEMOURS AND COMPANY,

Opposer,

Opposition No.

v.

MELISSA TERZIS,

Applicant.

Commissioner of Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Opposer, E.I. du Pont de Nemours and Company (“Opposer”), a Delaware corporation with a place of business at 1007 Market Street, Wilmington, Delaware, 19898, believes it will be damaged by registration of the trademark VELVET IN DUPONT as shown in application Serial No. 78/922,352 and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is a science company engaged in the development, manufacture, sale and distribution of an extensive variety of products and ingredients for products, in the United States and throughout the world, that have a wide variety of industrial and consumer applications.

2. Opposer, is using, and for many years has used, the name and mark DUPONT and variations thereon, in commerce and throughout the world, in connection with the manufacture,

sale and distribution of a wide variety of products sold as ingredients and for end-use applications in virtually every type of industry, including products used in the publication and printing industries and products with online applications (“DUPONT Marks”).

3. Opposer also owns and operates a number of websites using domain names that incorporate the DUPONT Marks, including www.dupont.com, www.dupontelastomers.com, www.dupontrefinish.com, www.dupontcountryclub.com and www.dupontfivestar.com.

4. Opposer has extensively used and promoted the DUPONT Marks in connection with the aforesaid goods and services and with other related goods and services for many years and, as a result, Opposer’s DUPONT Marks have been famous in the United States and elsewhere long prior to any recognized priority date that Applicant can claim for the opposed application.

5. Opposer is the owner of a number of United States Trademark Registrations for the DUPONT Marks in numerous classes including, but not limited to, United States Registration Nos. 186,659; 199,516; 367,414; 371,580; 439,990; 562,815; 639,885; 641,604; 821,791; 823,651; 840,742; 1,002,618; 3,004,203; 3,094,360; 3,124,263; 3,143,298; 3,156,504; 3,220,031 and 3,220,193.

6. These registrations are prima facie evidence of Opposer’s exclusive ownership of and right to use the DUPONT Marks in commerce as provided therein.

7. Notwithstanding Opposer’s prior rights in and to its DUPONT Marks, Applicant seeks to register on an intent to use the mark in commerce, the mark VELVET IN DUPONT for “writing of texts other than publicity texts” in Class 41 as filed on July 5, 2006.

8. Opposer will be damaged by the registration of the VELVET IN DUPONT mark, as aforesaid, in that said mark so resembles Opposer's DUPONT Marks, as to be likely, when applied to the goods and/or services of Applicant, to cause confusion, mistake and deception, with consequent irreparable damage to Opposer's business and goodwill and otherwise will improperly give the appearance of exclusive statutory ownership rights in marks incorporating the DUPONT Marks to Applicant in violation of Section 2(d) of the Trademark Act of 1946 ("Lanham Act"), as amended (15 U.S.C. §1052(d)), and derogation of the prior and superior rights of Opposer.

9. Opposer also will be damaged by the registration of the VELVET IN DUPONT mark, as aforesaid, in that said mark will dilute Opposer's famous DUPONT Marks in violation of §43(c) of the Lanham Act (15 U.S.C. §1125(c)).

10. By reason of the foregoing, Opposer believes it will be irreparably damaged by the registration of Applicant's mark.

11. Registration should, therefore, be refused pursuant to 2(d) of the Lanham Act (15 U.S.C. §1052(d)), on the grounds that the application to register VELVET IN DUPONT so resembles Opposer's DUPONT Marks as to cause confusion, mistake or deception and under Section §43(c) of the Lanham Act (15 U.S.C. §1125(c)), and on the grounds that said application dilutes the tremendous value of Opposer's DUPONT Marks.

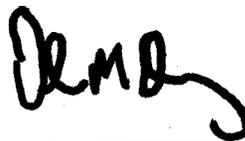
WHEREFORE, Opposer requests that this opposition be sustained and that the application by Melissa Terzis to register the mark VELVET IN DUPONT (Serial No. 78/922,352) be refused.

Opposer will submit payment with the online filing of the Notice, pursuant to 37 CFR §2.6(a)(7), in an amount totaling three hundred dollars (\$300.00) in payment of the requisite fee for filing this Notice of Opposition against the application. Please change any additional amounts to the undersigned Attorney's Deposit Account No. 05-1323.

Dated: New York, New York
October 31, 2007

Respectfully submitted,

CROWELL & MORING LLP



By:

Dickerson M. Downing
153 East 53rd Street
31st Floor
New York, New York 10022

Attorneys for Opposer
E.I. DuPont de Nemours and Company