

ESTTA Tracking number: **ESTTA186344**

Filing date: **01/14/2008**

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

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| Name | Hair Art Int'l Inc. | | |
| Entity | Corporation | Citizenship | California |
| Address | 400 W. 157th Street Gardena, CA 90248 UNITED STATES | | |

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| Correspondence information | Douglas H. Morseburg Attorney for Opposer Sheldon Mak Rose & Anderson 100 E. Corson Street, 3rd Floor Los Angeles, CA 91103-3842 UNITED STATES douglas.morseburg@smralaw.com, cassandra@usip.com Phone:626 796 4000, ext. 217 |
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Applicant Information

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| Application No | 78976091 | Publication date | 01/08/2008 |
| Opposition Filing Date | 01/14/2008 | Opposition Period Ends | 02/07/2008 |
| Applicant | Angles Beautycare Group, Inc. 12155 Paine Place Poway, CA 92064 UNITED STATES | | |

Goods/Services Affected by Opposition

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| Class 009. First Use: 1999/09/30 First Use In Commerce: 1999/09/30 All goods and services in the class are opposed, namely: Hair styling tools, namely, electric flat irons and electric curling irons |
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Grounds for Opposition

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

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| U.S. Application No. | 76682506 | Application Date | 10/02/2007 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | HAIRART | | |
| Design Mark | | | |
| Description of | NONE | | |

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| Mark | |
| Goods/Services | <p>Class 008. First use: First Use: 1994/09/30 First Use In Commerce: 1994/09/30 Scissors; electric hair clippers</p> <p>Class 009. First use: First Use: 1998/07/01 First Use In Commerce: 1998/07/01 Hair styling tools, namely electric curling irons, electric thermal hot air brushes, and electric flat irons</p> <p>Class 011. First use: First Use: 1999/07/01 First Use In Commerce: 1999/07/01 Hand-held electric hair dryers</p> <p>Class 021. First use: First Use: 1996/01/01 First Use In Commerce: 1996/01/01 Accessories for use with hand-held electric hair dryers, namely, nozzles and diffusers; bags for carrying hair tools; hair brushes; hair clips; hair clamps; hair combs; hair cutting aprons; hair duster brushes; hair frosting caps; hair tinting bowls; hair tinting brushes; neck trays for perming and coloring hair; and shampoo and comb-out capes</p> |

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| U.S. Application No. | 77266565 | Application Date | 08/28/2007 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | HAIRART | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 026. First use: First Use: 1984/02/24 First Use In Commerce: 1984/02/24 Wigs and hairpieces and non-electric curlers | | |

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| Related Proceedings | Angles BeautyCare Group, Inc. v. Hair Art International, Inc., Case No. 05 CV 0166 JAH, pending in the U.S. District Court for the Southern District of California; Hair Art Int'l Inc. v. Angles BeautyCare Group, Inc., TTAB Proceeding No. 91177952 |
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| Attachments | 76682506#TMSN.gif (1 page)(bytes) 77266565#TMSN.jpeg (1 page)(bytes) Statement of Opposition 78976091.pdf (2 pages)(14364 bytes) |
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

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| Signature | /DouglasHMorseburg/ |
| Name | Douglas H. Morseburg |
| Date | 01/14/2008 |

Opposer Hair Art Int'l, Inc. ("Opposer") believes that it will be damaged by the registration of the mark shown in the Application Serial No. 78976091 and it hereby opposes same.

As grounds for its opposition, Opposer hereby alleges as follows:

1. Opposer is a corporation duly incorporated under the laws of the State of California, and having its principal place of business in the County of Los Angeles, California.
2. At least as early as 1984, Opposer adopted the name and mark "HAIRART" (the "Mark") and used it in interstate commerce in connection with the sale of products related to the styling and care of hair. In the years following 1984, Opposer steadily expanded its use of the Mark.
3. Since adopting the Mark, Opposer has used it continuously to identify its goods and to distinguish them from goods made and sold by others by, among other things, prominently displaying the Mark on its advertising and on its goods. The Mark is a strong mark and has attained considerable value.
4. The consuming public has come to associate the Mark with products by, or emanating from, Opposer. In addition, Opposer has developed extensive goodwill in the Mark.
5. Despite Opposer's prior use of the Mark, Opposer is informed and it believes, that on December 5, 2003, Applicant Angles BeautyCare Group, Inc. ("Applicant") filed an application with the U.S. Patent and Trademark Office stating that it intended to use the mark "HAIR ART AND INFORMATION" in connection with the sale of hair care and styling products and seeking a federal registration for the mark.
6. Opposer is informed and it believes that its use of the Mark in connection with the

sale of hair care products was prior to the filing date of Applicant's application and prior to Applicant's actual and constructive dates of first use of the mark "HAIR ART AND INFORMATION".

7. The mark which Applicant seeks to register contains the entirety of Opposer's Mark and the two marks are confusingly similar. As described in the opposed application, Applicant intends to use its mark in connection with the same goods Opposer sells under the Mark. Additionally, Opposer is informed, and it believes, that Applicant intends to offer its goods to the same classes of persons to whom Opposer offers goods and through the same channels of trade.

8. Applicant's use of the term "HAIR ART AND INFORMATION" on or in connection with Applicant's goods is likely to cause confusion, mistake or deception in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), in that persons familiar with Opposer's Mark would be likely to buy Applicant's goods believing they are Opposer's goods or to believe that Applicant's goods are made, sold or sponsored by, or otherwise associated with, Opposer. Furthermore, any defect, objection or fault found with goods sold by Applicant would necessarily reflect upon Opposer, and irreparably and seriously injure Opposer's reputation and goodwill.

9. Registration of the marks to Applicant for the goods shown in the above-described applications would also place Applicant in a position to vex and harass Opposer and to cause annoyance to Opposer and its customers as any registrations would give to Applicant the prima facie exclusive right to use the mark, thereby impairing and injuriously affecting Opposer's rights.