

ESTTA Tracking number: **ESTTA220208**

Filing date: **06/25/2008**

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

Name	Kiss My Face Corporation
Granted to Date of previous extension	06/25/2008
Address	144 Main Street Gardiner, NY 12525 UNITED STATES
Correspondence information	Greenberg Traurig, LLP Barry G. Magidoff; Paul J. Sutton 200 Park Avenue New York, NY 10166 UNITED STATES magidoffb@gtlaw.com Phone:212-801-2130

Applicant Information

Application No	77315139	Publication date	02/26/2008
Opposition Filing Date	06/25/2008	Opposition Period Ends	06/25/2008
Applicant	Eco-Logics, Inc. RiMiller1@aol.com 321 Oakdale Royal Oak, MI 48067 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: Aromatherapy body care products, namely, body lotion, shower gel, cuticle cream, shampoo, conditioner, non-medicated lip balm, soap, body polish, body and foot scrub and non-medicated foot cream; Cosmetics, namely, lip primer; Lip balm
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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.	1513297	Application Date	04/28/1988
Registration Date	11/22/1988	Foreign Priority Date	NONE
Word Mark	KISS MY FACE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1978/12/01 First Use In Commerce: 1978/12/01 PERSONAL CARE PRODUCTS--NAMELY, SHAMPOOS, SOAPS, CREME RINSES, SKIN TONERS AND SKIN LOTIONS

U.S. Registration No.	1991868	Application Date	08/01/1994
Registration Date	08/06/1996	Foreign Priority Date	NONE
Word Mark	KISS MY FACE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1994/11/01 First Use In Commerce: 1994/11/01 retail shops featuring clothing, and personal care products, namely shampoos, soaps, creme rinses, powders, skin toners and skin lotions		

U.S. Registration No.	2301324	Application Date	09/22/1997
Registration Date	12/21/1999	Foreign Priority Date	NONE
Word Mark	KISS MY FACE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1993/06/00 First Use In Commerce: 1993/06/00 non-medicated lip balms, cosmetics, namely, lipsticks, mascaras, foundations, conditioners, body mists, bath and body gels, facial creams, hand lotions, deodorants, soaps, shaving creams, skin lotions, skin toners and facial and body lotions		

U.S. Registration No.	2706187	Application Date	04/23/2001
Registration Date	04/15/2003	Foreign Priority Date	NONE
Word Mark	KISS MY FACE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1980/03/00 First Use In Commerce: 1980/03/00 CLOTHING, NAMELY, T-SHIRTS AND CAPS		

U.S. Registration No.	3120755	Application Date	08/22/2005
Registration Date	07/25/2006	Foreign Priority Date	NONE
Word Mark	KISS MY FACE TRIPLE ACTION		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2001/11/05 First Use In Commerce: 2001/11/05 Toothpaste

Attachments	75361218#TMSN.gif (1 page)(bytes) 76244846#TMSN.gif (1 page)(bytes) 78697583#TMSN.jpeg (1 page)(bytes) KissMyLips.pdf (7 pages)(198375 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.

Signature	/magidoffb/
Name	Barry G. Magidoff
Date	06/25/2008

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

In re: U.S. Application Serial No. 77/315,139

Mark: KISS MY LIPS

Published: February 26, 2008

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Kiss My Face Corporation

Opposer,

-against-

Eco-Logics, Inc. DBA Organic Bath & Body

Applicant.

-----X

Opposition No.

NOTICE OF OPPOSITION

S I R S:

Reference is made to Application Serial No. 77/315,139, published in the Official Gazette of the United States Patent and Trademark Office on February 26, 2008 and owned by Eco-Logics, Inc. DBA Organic Bath & Body (hereinafter, "Applicant"), for KISS MY LIPS AND DESIGN (the "KISS MY LIPS Trademark"), in Class 003 for aromatherapy body care products, namely, body lotion, shower gel, cuticle cream, shampoo, conditioner, non-medicated lip balm, soap, body polish, body and foot scrub and non-medicated foot cream; cosmetics, namely, lip primer; lip balm.

PARTIES

A. Applicant

Upon information and belief, Applicant is a Michigan Corporation with its principal place of business at 321 Oakdale Street, Royal Oak, Michigan 48067.

B. Opposer

Opposer, Kiss My Face Corporation (hereinafter, "Opposer"), is a New York corporation with a principal place of business at 144 Main Street, Gardiner, New York 12525.

Opposer believes it will be damaged by registration of Applicant's KISS MY LIPS Trademark in International Class 003, and hereby opposes same in this class.

GROUND FOR OPPOSITION

1. Applicant filed its application on October 26, 2007, seeking to register the KISS MY LIPS Trademark in International Class 003.

2. Opposer is the owner of the following valid and subsisting United States Trademark registrations and application (the "KISS MY FACE Trademarks"), many of which have become incontestable, for the goods described below.

Trademark	Date of First Use	Date of Registration	Registration Number	Description
KISS MY FACE	12/1/1978	11/22/1988	1513297	personal care products--namely, shampoos, soaps, creme rinses, skin toners and skin lotions
KISS MY FACE	11/1/1994	8/6/1996	1991868	retail shops featuring clothing, and personal care products, namely shampoos, soaps, creme rinses, powders, skin toners and skin lotions

KISS MY FACE	6/1993	12/21/1999	2301324	non-medicated lip balms, cosmetics, namely, lipsticks, mascaras, foundations, conditioners, body mists, bath and body gels, facial creams, hand lotions, deodorants, soaps, shaving creams, skin lotions, skin toners and facial and body lotions
KISS MY FACE	3/1980	4/15/2003	2706187	clothing, namely, t-shirts and caps
KISS MY FACE TRIPLE ACTION	11/05/2001	7/25/2006	3120755	Toothpaste

3. The KISS MY FACE Trademarks listed above are and have become valuable assets of Opposer, with extremely valuable goodwill and a valuable reputation. Opposer has used the KISS MY FACE Trademarks in commerce continuously since at least as early as 1978 in connection with the goods specified above, and for more than 27 years, Opposer has expended considerable time, effort and resources to develop, advertise, market and sell goods bearing the KISS MY FACE Trademarks.

4. Opposer's long-term, prominent usage of its KISS MY FACE Trademarks has generated goodwill and widespread consumer recognition for this mark as identifying exclusively Opposer and its products, including especially in the personal care product field.

5. Applicant's KISS MY LIPS Trademark is intended for use in the personal care product field, including, among other goods, lip balm, shampoo, lotion, body gel and soaps, and incorporates at least a significant portion of and plays upon Opposer's KISS MY FACE Trademarks.

6. The goods covered by Opposer's KISS MY FACE Trademarks include personal care products, which are at least similar to the goods contained in Application Serial No. 77/315,139, on which the KISS MY LIPS trademark is intended to be used.

COUNT I

LIKELIHOOD OF CONFUSION

7. Opposer repeats and realleges each and every allegation set forth in paragraphs 1 through 6 herein.

8. The KISS MY LIPS Trademark proposed for registration by Applicant, incorporates and plays upon Opposer's KISS MY FACE Trademarks.

9. The KISS MY LIPS Trademark proposed for registration by Applicant is confusingly similar to Opposer's KISS MY FACE Trademarks, rendering them similar in sound, sight and overall connotation.

10. Applicant's KISS MY LIPS Trademark is intended to be used on identical goods in the same market, and/or sold in the same channels of trade as the goods offered by Opposer under its KISS MY FACE Trademarks.

11. If Applicant is permitted to register and use its KISS MY LIPS Trademark, as specified in its application, confusion in trade and in the minds of the public resulting in injury to the Opposer would likely result. Persons familiar with Opposer's mark would likely buy Applicant's goods as and for products made and sold by Opposer or at least believe Applicant's products were sanctioned, authorized, licensed by or related to Opposer. Furthermore, any defect, objection or fault found with Applicant's products marketed under its mark would likely reflect upon and injure the reputation Opposer has established with respect to the goods sold under its aforementioned mark.

12. If the Applicant were granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its mark. Such registration would be a source of damage and injury to the Opposer.

COUNT II

DILUTION

13. Opposer repeats and realleges each and every allegation set forth in paragraphs 1 through 6, 8 and 12 herein.

14. Opposer will be damaged by the proposed use and registration by Applicant of the KISS MY LIPS Trademark in that the mark is substantially similar to Opposer's KISS MY FACE Trademarks and common law rights and is used in connection with goods and services at least similar to the goods and services offered to the public by Opposer.

15. Through Opposer's extensive advertising and promotion, Opposer's KISS MY FACE Trademarks have become distinctive and famous. Upon information and belief, Applicant has not yet begun use of the KISS MY LIPS Trademark, and any use would begin well after Opposer's KISS MY FACE Trademarks became distinctive and famous. Applicant's KISS MY LIPS Trademark is likely to tarnish the positive associations of Opposer's famous KISS MY FACE Trademarks. Thus, in addition, if Applicant were granted the registration herein opposed, it would cause dilution of the distinctive quality of Opposer's well-known KISS MY FACE Trademarks.

16. If the Applicant were granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its mark. Such registration would be a source of damage and injury to the Opposer.

RELIEF REQUESTED

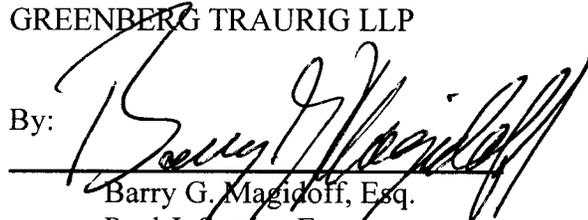
W H E R E F O R E, the Opposer prays that, the Application Serial No. 77/315,139 be rejected, and that the registration of the mark therein, sought for the goods specified in International Class 003, be denied and refused in accordance with 15 U.S.C. §1052(d), and that this opposition be sustained.

Dated: New York, New York
June 25, 2008

Respectfully submitted,

GREENBERG TRAURIG LLP

By:



Barry G. Magidoff, Esq.

Paul J. Sutton, Esq.

Anna Dalla Val, Esq.

Attorneys for Opposer

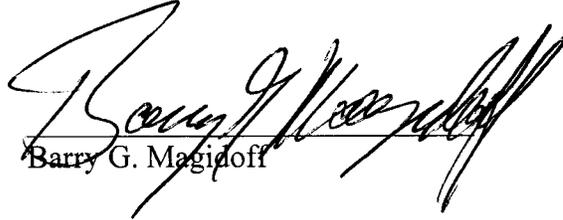
200 Park Avenue

New York, New York 10166

(212) 801-9200

CERTIFICATE OF SERVICE

I hereby certify that on June 18, 2008, I had served a copy of the foregoing **NOTICE OF OPPOSITION**, by First Class Mail to Correspondent of Record for Applicant: Eco-Logics, Inc., 321 Oakdale Street, Royal Oak, Michigan 48067-2495


Barry G. Magidoff