

ESTTA Tracking number: **ESTTA221784**

Filing date: **07/02/2008**

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	Fusion Brands International SRL
Granted to Date of previous extension	07/02/2008
Address	Grove, 21 Pine Road Belleville, St. Michael, BB11113 BARBADOS
Attorney information	Elise Wolinsky Cowan Liebowitz & Latman 1133 Avenue of the Americas New York, NY 10036 UNITED STATES ecw@cll.com, asc@cll.com, szc@cll.com, trademark@cll.com Phone:212-790-9200

Applicant Information

Application No	77191750	Publication date	03/04/2008
Opposition Filing Date	07/02/2008	Opposition Period Ends	07/02/2008
Applicant	Wildfire Ultimate Pty Ltd Level 1, 26 Railway St Southport, 4215 AUSTRALIA		

Goods/Services Affected by Opposition

<p>Class 003. All goods and services in the class are opposed, namely: Cosmetics, namely, non-medicated massage oils, non-medicated body oils, non-medicated skin lotions, blended essential oils, cosmetic body creams, cosmetic moisturizing skin creams, aromatherapy oils, and aromatherapy preparations in the nature of aromatherapy creams and lotions</p>
<p>Class 005. All goods and services in the class are opposed, namely: Pharmaceutical products, namely, medicated massage oils, herbal beverages for medicinal use, herbal dietary supplements, herbal extracts for medicinal purposes, herbal infusions for medicinal use, dietary nutritional supplements for medicinal use, health food supplements made principally of vitamins and minerals, medicinal food supplements for nutritional purposes, nutritional supplements, vitamin preparations in the nature of food supplements, vitamin supplements, medicated body creams, medicated pharmaceutical grade moisturizing skin creams, herbal supplements for natural male and female enhancement, water-based personal lubricants, silicone oil-based personal lubricants, vegetable oil-based personal lubricants, herbal medicines for the treatment of sexual dysfunction, herbal medicines for the treatment of decreased libido, herbal medicines for the treatment of infertility, herbal medicines for the treatment of stress, herbal medicines for the treatment of lethargy; herbal preparations and</p>

remedies for medicinal purposes in the nature of oral supplements, personal lubricants, medicated oils, medicated lotions, medicated creams, and medicated tonics used for the treatment of sexual dysfunction, loss of libido, infertility, stress and lethargy
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Grounds for Opposition

Other	See attached pleading.
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Attachments	Notice of Opposition WILDFUSION.pdf (6 pages)(32959 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	/Elise Wolinsky/
Name	Elise Wolinsky
Date	07/02/2008

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

In The Matter of Application Serial No. 77/191,750
Published in the Official Gazette of March 4, 2008

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FUSION BRANDS INTERNATIONAL SRL,	:	
	:	
Opposer,	:	
	:	
v.	:	OPPOSITION NO.
	:	
WILDFIRE ULTIMATE PTY LTD.,	:	
	:	
Applicant.	:	
	:	
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NOTICE OF OPPOSITION

Commissioner for Trademarks
BOX TTAB FEE
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer, Fusion Brands International SRL, a Barbados company, having a business address of Grove 21, Belleville, St. Michael, BB11113, Barbados (hereinafter referred to as Opposer”) believes that it will be damaged by and hereby opposes the registration of Applicant’s mark WILDFUSION. The grounds for opposition are as follows:

1. Applicant, Wildfire Ultimate Pty. Ltd., (hereinafter “Applicant”) has filed App. Ser. No. 77/191,750 for the mark WILDFUSION, covering “cosmetics, namely, non-medicated

massage oils, non-medicated body oils, non-medicated skin lotions, blended essential oils, cosmetic body creams, cosmetic moisturizing skin creams, aromatherapy oils, and aromatherapy preparations in the nature of aromatherapy creams and lotions” in Class 3 and “Pharmaceutical products, namely, medicated massage oils, herbal beverages for medicinal use, herbal dietary supplements, herbal extracts for medicinal purposes, herbal infusions for medicinal use, dietary nutritional supplements for medicinal use, health food supplements made principally of vitamins and minerals, medicinal food supplements for nutritional purposes, nutritional supplements, vitamin preparations in the nature of food supplements, vitamin supplements, medicated body creams, medicated pharmaceutical grade moisturizing skin creams, herbal supplements for natural male and female enhancement, water-based personal lubricants, silicone oil-based personal lubricants, vegetable oil-based personal lubricants, herbal medicines for the treatment of sexual dysfunction, herbal medicines for the treatment of decreased libido, herbal medicines for the treatment of infertility, herbal medicines for the treatment of stress, herbal medicines for the treatment of lethargy; herbal preparations and remedies for medicinal purposes in the nature of oral supplements, personal lubricants, medicated oils, medicated lotions, medicated creams, and medicated tonics used for the treatment of sexual dysfunction, loss of libido, infertility, stress and lethargy” in Class 5 (“Applicant’s Mark”).

2. Opposer is, and has for many years been, engaged in the business of developing and marketing its highly successful skin care products, lip products and cosmetic products, all sold under its trade name and trademark FUSION BEAUTY.

3. Among such successful products sold by Opposer under its FUSION BEAUTY trade name and trademark are its highly successful LIPFUSION, LASHFUSION, LIFTFUSION,

GLOWFUSION and SKINFUSION branded products. Opposer’s FUSION BEAUTY, LIPFUSION, LASHFUSION, LIFTFUSION, GLOWFUSION and SKINFUSION marks are hereinafter referred to as “Opposer’s Common Law Trademarks.”

4. Opposer owns, among others, registrations and/or allowed applications for the following trademarks (“Opposer’s Trademark Registrations and Applications”):

MARK	REG. /APP. NO	GOODS
FUSION BEAUTY	3,229,984	Non-medicated skin care preparations; lip products, namely, lip glosses, lip pencils, lip plumpers.
FUSION BEAUTY	78/848,174	Medicated skin care preparations
FUSION BEAUTY	3,365,476	Online retail store services featuring beauty products.
FUSION RX	78/619,162	Cosmetics; non-medicated body care products, namely, beauty creams and body lotions.
LIFTFUSION	3,162,790	Skin care products, namely, cosmetic creams.
LIFTFUSION	78/654,001	Skin care products, namely, face and body lotions, skin moisturizers.
LIGHTFUSION	78/688,918	Skin care products, namely, non-medicated skin creams; cosmetics.
CLEARFUSION	78/790,630	Non-medicated skin care preparations.
FUSIONPHARMA	78/917,156	Non-medicated skin care preparations and medicated skin care preparations, pharmaceutical preparations for skin treatment.
PUREFUSION	78/669,703	Skin care products, namely, beauty serums.
LIPFUSION	78/599,462	Lip products, namely, lip plumping gloss, lip pencils, lip shines and lip gloss.
LIPFUSION	77/187,693	Online retail store services featuring beauty products.
GLOWFUSION	3288759	Cosmetics; body care products, namely, body lotions and tanning lotions.
LASHFUSION	3,358,421	Mascara
SKINFUSION	77/005,335	Color cosmetics namely, foundation, powder, concealer, blush and eye shadow.
GIFTFUSION	77/092,573	Lip plumping gloss, lip pencils, lip gloss and lip shines, cosmetics, non-medicated skin care preparations.
HAIRFUSION	78/734,625	Shampoo, hair conditioner, non-medicated hair serums; non-medicated hair treatments, namely, hair texturizers.

Opposer's Common Law Trademarks and Opposer's Trademark Registrations and Applications are collectively referred to as "Opposer's Trademarks."

5. Thus, Opposer's Trademarks form a family of marks.

6. Opposer has spent millions of dollars advertising Opposer's Trademarks and the goods sold thereunder.

7. By virtue of extensive use and advertising in commerce, Opposer has built up highly valuable goodwill in Opposer's Trademarks, and the said goodwill has become closely and uniquely associated with Opposer.

8. Opposer's first use and/or priority dates for Opposer's Trademarks predate Applicant's alleged priority date of May 29, 2007 for Applicant's Mark.

9. The goods of Applicant are identical and/or related to the goods covered by and offered in connection with Opposer's Trademarks so that there would be a likelihood of confusion.

10. Applicant's WILDFUSION mark so resembles Opposer's Trademarks as to be likely, when applied to Applicant's goods, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that these goods have their origin with Opposer and/or that such goods are associated in some way with Opposer. Opposer would thereby be injured by the grant to Applicant of a registration for Applicant's WILDFUSION mark.

11. Opposer would further be injured by the grant of a registration to Applicant for Applicant's WILDFUSION mark because such mark would falsely suggest a connection between Applicant and Opposer.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's WILDFUSION mark and requests that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Arlana S. Cohen, Sujata Chaudhri and Elise Wolinsky (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Please address all communications to Arlana S. Cohen, Esq. at the address listed below.

Date: New York, New York
July 2, 2008

Respectfully submitted,

FUSION BRANDS INTERNATIONAL SRL

By: /Elise Wolinsky/
Arlana S. Cohen, Esquire
Sujata Chaudhri, Esquire
Elise Wolinsky, Esquire
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, NY 10036
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Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage paid to Applicant's attorney, Michael C. King, Law Offices of Ronald M. Anderson, 600 108th Avenue NE Suite 507, Bellevue, WA 98004-5110, on July 2, 2008.

/Elise Wolinsky/
Elise Wolinsky