

ESTTA Tracking number: **ESTTA338946**

Filing date: **03/24/2010**

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	Act II Jewlery, Inc. d/b/a lia sophia		
Entity	LLC	Citizenship	Delaware
Address	1235 N. Mittel Blvd. Wodd Dale, IL 60191 UNITED STATES		

Attorney information	Milton Springut KALOW & SPRINGUT LLP 488 Madison Avenue New York, NY 10022 UNITED STATES ms@creativity-law.com, tbenschar@creativity-law.com Phone:(212) 813-1600		
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Applicant Information

Application No	77877396	Publication date	03/23/2010
Opposition Filing Date	03/24/2010	Opposition Period Ends	04/22/2010
Applicant	Mary Kay Inc. 16251 Dallas Parkway Addison, TX 75001 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: Cosmetics; Fragrances for personal use; Non-medicated skin care preparations; Non-medicated toiletries

Grounds for Opposition

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

U.S. Registration No.	3289589	Application Date	11/09/2006
Registration Date	09/11/2007	Foreign Priority Date	NONE
Word Mark	SHARE THE LOVE OF JEWELRY		

Design Mark	SHARE THE LOVE OF JEWELRY
Description of Mark	NONE
Goods/Services	Class 014. First use: First Use: 2004/06/15 First Use In Commerce: 2004/06/15 Jewelry

U.S. Registration No.	2952808	Application Date	04/15/2004
Registration Date	05/17/2005	Foreign Priority Date	NONE
Word Mark	LIA SOPHIA SHARE THE LOVE OF JEWELRY		
Design Mark	LIA SOPHIA SHARE THE LOVE OF JEWELRY		
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 2004/06/25 First Use In Commerce: 2004/06/25 jewelry		

Attachments	77040354#TMSN.jpeg (1 page)(bytes) 76586915#TMSN.gif (1 page)(bytes) 032410 Notice of Opposition.pdf (4 pages)(99534 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	/Milton Springut/
Name	Milton Springut
Date	03/24/2010

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

ACT II JEWELRY, LLC d/b/a lia sophia,

Opposer,

Opposition No.

v.

Serial No.: 77/877396

MARY KAY, INC.

Mark: SHARE THE LOVE

Applicant.

NOTICE OF OPPOSITION

In the matter of Application Serial No. 77/877396 for registration of the mark SHARE THE LOVE for “cosmetics; fragrances for personal use; non-medicated skin care preparations; non-medicated toiletries,” in International Class 3, which Application was filed on November 20, 2009 by Mary Kay, Inc. (“Applicant”) and which was published in the Official Gazette on March 23, 2010.

Act II Jewelry, LLC doing business as lia sophia, a limited liability company organized under the laws of the State of Delaware, having its principal office and place of business at 1235 N. Mittel Blvd., Wood Dale, Illinois 60191 (“Opposer”) believes it will be damaged by registration of the mark, and hereby opposes same.

The grounds for Opposition are as follows:

1. Opposer, its predecessors in interest and affiliated companies have used the marks

SHARE THE LOVE OF JEWELRY and LIA SOPHIA SHARE THE LOVE OF JEWELRY in connection with jewelry items since at least as early as 2004.

2. Opposer is the owner of the following relevant U.S. Trademark Registrations on the Principal Register in the United States Trademark Office, which registrations are valid and subsisting:

MARK	REG. NO.	REG. DATE	GOODS
SHARE THE LOVE OF JEWELRY	3,289,589	September 11, 2007	Jewelry
LIA SOPHIA SHARE THE LOVE OF JEWELRY	2,952,808	May 17, 2005	Jewelry

3. By reason of the Opposer’s continued and exclusive use, promotion and advertising of such marks in the United States and throughout the world, such marks have become identified and recognized as indicator of the source of the Opposer’s high quality jewelry products.

4. Applicant proposes to the use the mark SHARE THE LOVE in connection with “cosmetics; fragrances for personal use; non-medicated skin care preparations; non-medicated toiletries.” Such goods are often produced and sold by the same merchants as jewelry products and often bear the same trademark(s). Accordingly, there is a close association among the purchasing public between goods of the two types.

5. Applicant’s mark is very similar to Opposer’s mark – the dominant portion of each being SHARE THE LOVE.

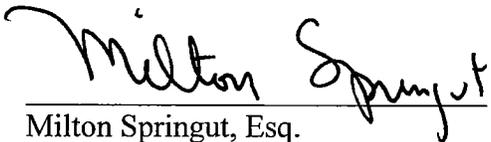
6. For these reasons, consumers are likely to believe that Applicant’s and Opposer’s

goods originate from the same source or are somehow related.

7. Applicant's mark proposed mark is confusingly similar in sound and commercial impression to Opposer's mark such that there is a substantial likelihood that consumers will be confused by Applicant's use of the mark SHARE THE LOVE in connection with Applicant's goods resulting in irreparable harm and damage to the Opposer.

WHEREFORE, Opposer request that the registration sought by Applicant be refused and that this Opposition be sustained.

Respectfully Submitted,

A handwritten signature in black ink that reads "Milton Springut". The signature is written in a cursive style with a horizontal line underneath the name.

Milton Springut, Esq.
Tal S. Benschar, Esq.
KALOW & SPRINGUT LLP
488 Madison Avenue
New York, New York 10022
(212) 813-1600

Dated: March 24, 2010

CERTIFICATE OF SERVICE

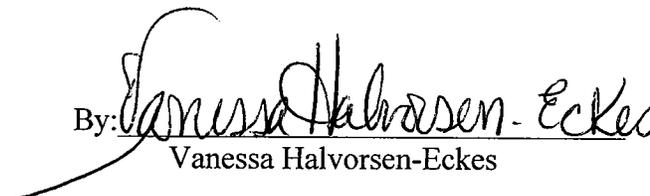
VANESSA HALVORSEN-ECKES declares that:

1. I am an assistant employed by KALOW & SPRINGUT LLP attorneys for the Opposer in the captioned proceeding, and that on the execution date which appears below, I caused to be served via U.S. Mail the annexed **NOTICE OF OPPOSITION** upon the following addressee:

John D. Wiseman, Esq.
Mary Kay Inc.
16251 Dallas Pkwy
Addison, TX 75001-6820

2. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that all of the foregoing is true and correct.

Executed on March 24, 2010
New York, New York

By: 
Vanessa Halvorsen-Eckes