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

Proceeding	91198059
Party	Plaintiff Skin Sense, Inc.
Correspondence Address	HOWARD A JACOBSON SKIN SENSE INC 5922 SIX FORKS ROAD RALEIGH, NC 27609 UNITED STATES howard@skinsense.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Howard Jacobson
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Date	04/06/2011
Attachments	Notice of Opposition - First Amended.pdf (5 pages)(35566 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Skin Sense, Inc., Opposer v. Susan A. Surico, Applicant.	Opposition No. 91198059 Application Serial No. 85064357

FIRST AMENDED OPPOSITION TO APPLICATION

Opposer Skin Sense, Inc., a North Carolina limited liability company, ("Opposer") opposes the application of Susan Surico ("Applicant") for registration of the alleged trademark SKINSENSE ORGANIC ("Alleged Mark") for the goods set forth in the Application Serial Number 85064357 ("Application") on the grounds set forth below:

1. Opposer is the owner of the trademark and service mark SKIN SENSE, which opposer has used continuously in commerce since at least September 15, 1991 on and in connection with day spa services in the nature of skin care, body care, nail care and wellness and day spa goods in the nature of skin care, body care, nail care and wellness, including, but not limited to, lotions, cleansers, moisturizers, cosmetics, soaps, exfoliants, astringents, scrubs, masks, balms and body washes.

2. Opposer is engaged in its business nationwide and has established a reputation for high quality spa services and goods in locations around the United States.

3. Opposer is the owner of the federal registration of the service mark SKIN SENSE under Registration Number 2527398 for services including “spas in the nature of massage, skin care, manicure, pedicure and make-up.”

4. An integral and long-standing element of the business of Opposer and an inherent part of the provision of the services described in Opposer's Registration are the sale of skin, body and nail care products, including, but not limited to, lotions, cleansers, moisturizers, cosmetics, soaps, exfoliants, astringents, scrubs, masks, balms and body washes in both organic and non-organic formulations.

5. The sale of the products described in the Application by Opposer in connection with the Alleged Mark would create confusion among potential customers of Applicant and Opposer.

6. Through Opposer's continuous use of the SKIN SENSE mark in commerce and in print, radio and electronic advertising, such as e-mail marketing and Opposer's web site, the SKIN SENSE mark has become famous and well-known and has become uniquely associated with Opposer and its day spa business. Opposer's mark has come to identify Opposer through, among other things, (a) Opposer's use of the mark in the name of its business since 1991, (b) dissemination of printed advertising, brochures, fliers, postcards, (c) email marketing campaigns to customers nationwide, (d) operation of a web site that reaches users worldwide and receives orders from purchasers nationwide for the purchase of products from Opposer and (e) the sale of products bearing Opposer's SKIN SENSE mark.

7. Opposer's Mark has come to be known by its customers nationwide as

its identity or persona.

8. Applicant's use of Opposer's Mark would mislead purchasers of Applicant's products to believe and falsely would suggest that Applicant's products somehow are associated with, endorsed by, or connected with Opposer in violation of Opposer's rights.

9. Further, because of the fame of Opposer's Mark, purchasers of Applicant's products likely would assume that Applicant's products are connected with Opposer.

10. The sale of the products described in the Application by Opposer in connection with the Alleged Mark would create uncertainty as to the source of Applicant's goods and would suggest falsely an affiliation, connection or other relationship between Applicant and Opposer that does not exist.

11. The sale of the products described in the Application by Opposer in connection with the Alleged Mark would be deceptive in that such sale in connection with the Alleged Mark would wrongly suggest to consumers that Applicant's products originate with Opposer.

For all of the foregoing reasons and for such other reasons as may be shown in this proceeding, Opposer respectfully requests that the Board:

1. Uphold Opposer's opposition and deny Applicant's Application.

2. Award costs and attorney's fees to Opposer as may be authorized or within the discretion of the Board.

3. Grant such other relief as the Board may deem proper.

Respectfully submitted

/s/Howard Jacobson/
Attorney for Opposer

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing FIRST AMENDED NOTICE OF OPPOSITION has been served by electronic mail on the following parties at the e-mail addresses listed below.

Susan A. Surico : susansurico@yahoo.com

Dated: ____April 6, 2011_____ ______/s/Howard A. Jacobson/_______