

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

IN THE MATTER OF APPLICATION SERIAL NO. 77/119,006
PUBLISHED IN THE OFFICIAL GAZETTE ON AUGUST 28, 2007

LUSTER PRODUCTS, INC.,)	Opposition No.:
)	
Opposer,)	
v.)	
)	
JOHN M.VAN ZANDT)	
d/b/a VANZA USA)	
)	
Applicant.)	



12-31-2007

NOTICE OF OPPOSITION

U.S. Patent & TMO/tm Mail Rept Dt. #74

In the matter of the trademark application of JOHN M.VAN ZANDT d/b/a VANZA USA, for the registration of the mark **PINKESSENCE** for personal care products specifically identified as "Beauty creams for body care; Skin and body topical lotions, creams and oils for cosmetic use; Skin conditioners; Skin moisturizer; Skin toners" in International Class 3, **Application Serial No. 77/119,006** filed on February 28, 2007 published in the Official Gazette of August 28, 2007. **As shown by the attached document Ex. A, a prior extension of the opposition was timely filed and this opposition is also being timely filed pursuant to the prior extension;**

Opposer LUSTER PRODUCTS, INC., an Illinois corporation with a principal place of business at 1104 West 43rd Street, Chicago,

Illinois 60609, believes it will be damaged by the registration of the mark shown in the application and hereby opposes the referenced application.

The grounds for the opposition are:

1. Continuously since long prior to January 31, 2006, the Applicant's asserted first use date for its mark in the application, the Opposer has marketed, advertised and sold and continues to sell throughout the United States under the names and marks **PINK, PINK PROTECTION, PINK PLUS, and PINK SMOOTH TOUCH** for an extensive range of hair care and personal care products.

2. Opposer's products sold under the above names and trademarks **PINK, PINK PROTECTION, PINK PLUS, and PINK SMOOTH TOUCH** have been extensively promoted throughout the United States to the relevant trade and to the consuming public.

3. By reason of Opposer's aforesaid extensive promotion and sale of its products, Opposer's names and trademarks **PINK, PINK PROTECTION, PINK PLUS, and PINK SMOOTH TOUCH** have acquired great recognition and renown, and the relevant trade and public have come to recognize the names and trademarks **PINK, PINK PROTECTION, PINK PLUS, and PINK SMOOTH TOUCH** as signifying Opposer exclusively.

4. Opposer has duly registered in the United States Patent and Trademark Office and owns the following registrations:

REGISTRATION NUMBER

TRADEMARK

<u>REGISTRATION NUMBER</u>	<u>TRADEMARK</u>
1,503,517	PINK PROTECTION
1,511,336	PINK
1,649,218	PINK
1,864,492	PINK
2,764,677	PINK SMOOTH TOUCH
2,938,183	PINK PLUS

5. Each of the registrations referenced in paragraph No. 4 for the above marks are valid subsisting registrations in full force and effect. Furthermore, Registration Nos. 1503517; 1649218; and 1864492 have each achieved "**incontestable**" registration status thereby constituting conclusive prima facie evidence of Opposer's exclusive right to use said marks in commerce.

6. Applicant's claimed trademark **PINKESSENCE**, as used in connection with the personal care products set forth in the application, is so similar to Opposer's names and trademarks **PINK**, **PINK PROTECTION**, **PINK PLUS**, and **PINK SMOOTH TOUCH** used for a wide range of hair care and personal care products, as to be likely to create confusion, mistake or deception, all to the damage of Opposer, and to the damage of Opposer's rights in its names and trademarks, which names and marks have been in use long prior to the filing of the Applicant's trademark application.

7. Based upon information and belief the goods identified in the Applicant's application for the trademark **PINKESSENCE** and those products sold under the Opposer's names and marks could be sold to the same potential consumers or end-users as the Opposer's products.

8. Based upon information and belief the goods identified in the Applicant's application for the trademark **PINKESSENCE** and those products sold under the Opposer's names and marks could move through the same channels of distribution and be sold in the same stores or in stores selling competing items.

9. Opposer holds rights in a family of trademarks which include the name and mark **PINK** as a name and mark, or as part of an overall name and mark with said marks often promoted together. The Applicant's mark **PINKESSENCE** is thereby confusingly similar to the Opposer's rights in its family of marks.

10. The Applicant filed the underlying application, on information and belief, with actual knowledge of the Opposer's name and mark **PINK**.

11. Use by the Applicant of the trademark **PINKESSENCE**, for which registration is sought in the application opposed herein, is without Opposer's consent or permission.

12. Applicant's registration of the trademark **PINKESSENCE** will result in damage and in the diminishment in sales and the loss of the value of the Opposer's names and marks.

13. Applicant's earliest available possible priority date for the mark **PINKESSENCE** is the asserted first use date for its mark in the application, specifically January 31, 2006.

14. Applicant's registration of the trademark **PINKESSENCE** will result in damage, dilution, and in the diminishment in sales and the loss of the value of the Opposer's famous names and marks.

WHEREFORE, Opposer believes it will be damaged by the registration of the claimed trademark in Application Serial No. 77/119,006 and prays that this Opposition be sustained and that the Applicant's registration be denied.

This Notice of Opposition is being filed in duplicate and **please charge the required fee of \$300.00 to our deposit Account No. 120400.** Also, please charge any additional costs to our Deposit Account No. 120400.

Please address all correspondence to Burton S. Ehrlich, Ladas & Parry, 224 South Michigan Avenue, Suite 1600, Chicago, IL 60604, telephone (312) 427-1300.

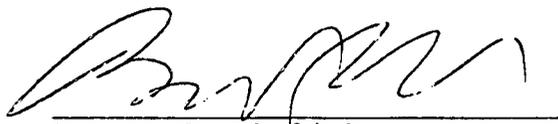
Respectfully submitted,

Burton S. Ehrlich
Ladas & Parry
224 South Michigan Avenue
Suite 1600
Chicago, IL 60604
(312) 427-1300

By: 
One of Opposer's attorneys

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited (in duplicate) with the United States Postal Service as First Class Mail addressed to ATTN: TTAB-FEE, Commissioner for Trademarks, U.S. Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451 on December 26, 2007.



Burton S. Ehrlich

CERTIFICATE OF SERVICE

The undersigned, one of Opposer's attorneys, hereby certifies that on December 26, 2007, he caused a true and correct copies of the foregoing NOTICE OF OPPOSITION to be served upon Applicant by First Class mail, postage pre-paid, at the following address:

Michael D. Harris
Kleinberg & Lerner LLP
2049 Century Park EAST
Suite 1080
Los Angeles, CA 90067-3112



Burton S. Ehrlich

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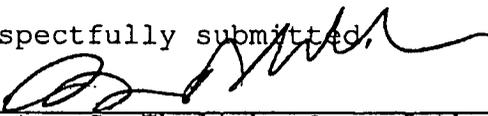
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D/B/A VANZA USA)
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Applicant.)

REQUEST FOR EXTENSION OF OPPOSITION PERIOD FOR GOOD CAUSE

NOW COMES Potential Opposer, LUSTER PRODUCTS, INC., by its attorneys, and hereby requests, for good cause as shown below, an extension of ninety (90) days from the present close of the opposition period, to and including December 26, 2007, within which to consider the filing of an Opposition to the above identified application.

This ninety (90) day extension is requested for good cause to enable counsel and his client to continue to conduct a facts investigation, seek to obtain documentation or commercial information, and to possibly determine if a basis may exist to resolve this matter and this will enable the principals of Potential Opposer to consider their position with regard to potential opposition of this application.

Respectfully submitted,



Burton S. Ehrlich, One of the
Attorneys for Potential Opposer

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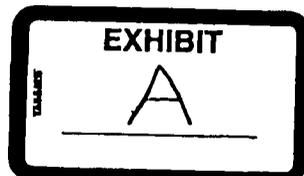
(IN TRIPLICATE)

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I hereby certify that this paper is being deposited with the United States Postal service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, U.S. Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451, on September 27, 2007.



Burton S. Ehrlich



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Burton S. Ehrlich, One of the
Attorneys for Potential Opposer

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