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

5684-15

RUNELS, CHARLES E DBA STUDIO MEDICINE)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
AESTHETIC FACTORS, LLC)	
Applicant.)	

Box TTAB FEE
Commissioner for Trademarks
P.O. Box 1451
Arlington, Virginia 22313-1451

NOTICE OF OPPOSITION

In the matter of an application for registration of the mark SELPHYL VAMPIRE TECHNOLOGY, Serial No. 85235337, filed February 7, 2011 by Aesthetic Factors, LLC (hereafter "Applicant"), which was published in the Official Gazette of August 9, 2011 in International Class 10, Charles E Runels dba Studio Medicine, an individual of the United States with an address at 52 South Section St., Suite A Fairhope, ALABAMA 36532 (hereafter Opposer), believes that it will be damaged by the registration of the mark shown in the above-identified application and hereby opposes same under the provisions of Section 13 of the Trademark Act of July 5, 1945 (15 U.S.C. §1063). Our payment in the amount of \$300 (\$300.00 per class) is enclosed.

As grounds for opposition, it is alleged that:



12-07-2011

1. Opposer is the owner of U.S. Trademark Registration No. 3965319 for the trademark VAMPIRE FACELIFT for "Skin treatment, namely, the injection of blood derived growth factors including platelet rich fibrin matrix into the face for the purpose of rejuvenation of the face," in Class 44. This registration was filed on September 12, 2010 and issued on May 24, 2011 and claims a first date of use anywhere and first date of use in commerce of April 20, 2010. This registration is valid, subsisting, unrevoked, and uncanceled.

2. Applicant's SELPHYL VAMPIRE TECHNOLOGY mark of Application Serial No. 85235337 for Class 10 goods so resembles Opposer's VAMPIRE FACELIFT trademark as to be likely to cause confusion, mistake or deception within the meaning of Section 2(d) of the Trademark Act. Indeed, Applicant is attempting to register the confusingly similar SELPHYL VAMPIRE TECHNOLOGY trademark for similar, and/or related goods in Class 10 in the same channels of trade to the same targeted customers.

3. Application Serial No. 85235337 is based on an intent to use.

4. On information and belief, Applicant made no use of the mark SELPHYL VAMPIRE TECHNOLOGY prior to the filing of Opposer's Registration No. 3965319.

5. On information and belief, Applicant made no use of the mark SELPHYL VAMPIRE TECHNOLOGY prior to Opposer's first date of use of VAMPIRE FACELIFT.

6. Opposer's mark VAMPIRE FACELIFT and Applicant's mark SELPHYL VAMPIRE TECHNOLOGY are identical in part, each including the same word "VAMPIRE." The word "VAMPIRE" is the dominant portion of Opposer mark VAMPIRE FACELIFT.

7. Opposer's services sold and intended to be sold under the mark VAMPIRE FACELIFT and Applicant's goods sold or intended to be sold or offered under the mark SELPHYL VAMPIRE TECHNOLOGY are similar and closely related goods and services which are or are likely to be offered through the same or overlapping channels of trade to the same or overlapping classes of purchasers so that purchasers, prospective purchasers, users and others are likely to be confused, mistaken or deceived into the belief, contrary to fact, that Applicant's goods offered under the mark SELPHYL VAMPIRE TECHNOLOGY emanate from and/or are in some way sponsored or approved by Opposer or are otherwise related to Opposer's VAMPIRE FACELIFT services, thereby damaging Opposer.

8. Applicant is not lawfully entitled to the registration which it seeks for the reason, inter alia, that the mark SELPHYL VAMPIRE TECHNOLOGY as used or intended for use for Applicant's goods so resembles Opposer's previously used and registered mark as to be likely to cause confusion, to cause mistake or to deceive within the meaning of Section 2(d) of the Federal Trademark Act, thereby damaging Opposer.

WHEREFORE, Opposer prays that the present opposition be sustained and the registration of SELPHYL VAMPIRE TECHNOLOGY sought by Applicant be refused.

The requisite filing fee of \$300 is submitted herewith.

Respectfully submitted,

NIXON & VANDERHYTE P.C.

By: 
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Opposition was served upon counsel for Applicant at the address below, by first class mail this 7th day of December, 2011:

Lori S. Meddings
Michael Best & Friedrich LLP
100 E Wisconsin Ave, STE 3300
Milwaukee, WI 53202-4108



Sheryl De Luca