

ESTTA Tracking number: **ESTTA446324**

Filing date: **12/14/2011**

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	Urban Skintrition LLC
Granted to Date of previous extension	12/14/2011
Address	2351 Sunset Boulevard, Suite 170-650 Rocklin, CA 95765 UNITED STATES
Correspondence information	Christine M. Baker Attorney for Opposer Mintz Levin Cohn Ferris Glovsky & Popeo, PC 666 Third Avenue New York, NY 10017 UNITED STATES cbaker@mintz.com, IPDocketingBOS@mintz.com Phone: 212 692 6236

Applicant Information

Application No	85308070	Publication date	08/16/2011
Opposition Filing Date	12/14/2011	Opposition Period Ends	12/14/2011
Applicant	Skincerity, Inc. 8558 Katy Freeway, Suite 100 Houston, TX 77024 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: Cosmetics
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Grounds for Opposition

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

U.S. Application No.	85398868	Application Date	08/16/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	URBAN SKINTRITION		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2009/07/26 First Use In Commerce: 2009/07/26 Non-medicated skin care preparations for stretch marks; online retail store services featuring non-medicated skin care preparations for stretch marks

Attachments	85398868#TMSN.jpeg (1 page)(bytes) NoticeofOppositionagainstskintrition.pdf (4 pages)(171083 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	/cmbaker/
Name	Christine M. Baker
Date	12/14/2011

Attorney Docket: 43157-801
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/308070
for SKINTRITION Published in the *Official Gazette*
on August 16, 2011

Urban Skintrition LLC	:		
	:		
Opposer,	:		
	:		
v.	:	APPLICATION NO. 85/308070	
	:		
	:	OPPOSITION NO.: TBA	
	:		
Skincerity, Inc.	:		
	:		
Applicant.	:		

NOTICE OF OPPOSITION

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

Sir/Madam:

Urban Skintrition LLC (“Opposer”), a California limited liability company with a business address at 2351 Sunset Boulevard, Suite 170-65, Rocklin, California 95765, believes it will be damaged by the registration of U.S. Application Serial No. 85/308070 for the mark SKINTRITION for cosmetics in International Class 3, which was filed by Skincerity, Inc. (“Applicant”) and published for opposition in the *Official Gazette* on August 16, 2011, and hereby opposes the same.

Pursuant to 15 U.S.C. § 1063 (as amended), and predicated upon the following grounds, Opposer alleges the following:

1. Opposer has engaged and is now engaged in the development, sale, distribution, advertisement and promotion, in interstate commerce, of stretch mark skin care preparations under the trademark and service mark URBAN SKINTRITION. Opposer’s stretch mark skin care preparations are

available for purchase via the Opposer's web site located at www.urbanskintrition.com and through popular on-line retail stores such as AMAZON.COM and YAHOO SHOPPING.COM and other channels of trade.

2. Opposer owns Application Serial No. 85/398868 for the mark URBAN SKINTRITION for non-medicated skin care preparations for stretch marks and online retail store services featuring the latter goods and has used its mark URBAN SKINTRITION in the United States since at least as early as July 26, 2009. Over the years, the applicant has expended significant time and substantial resources promoting its URBAN SKINTRITION mark as a source identifier for its skin care preparations and retail services and, as a result of its efforts, Opposer has been hailed the #1 treatment for stretch mark prevention and removal in the United States.

3. Upon information and belief, the Applicant is a Texas corporation with a business address at 8588 Katy Freeway, Suite 100, Houston, Texas 77024. Applicant seeks to register the mark SKINTRITION for cosmetics pursuant to an *intent to use* trademark application filed on April 29, 2011.

4. Opposer's first use of the mark URBAN SKINTRITION in the United States is prior to the April 29, 2011 filing date of the Applicant's *intent to use* application. Therefore, Opposer has prior and superior rights in the term SKINTRITION.

5. Applicant's alleged mark SKINTRITION is visually and phonetically similar to and conveys the same commercial impression as the Opposer's mark URBAN SKINTRITION. Since both marks share the fanciful term "SKINTRITION," consumers are likely to falsely believe that Applicant's goods emanate from or are an extension of the Opposer's product line.

6. On information and belief, Applicant's goods are highly related to the Opposer's products and will travel in the same channels of trade and be marketed to the same consumer groups as the Opposer's goods.

7. Given the similarities between the marks and the relatedness of the Opposer's and Applicant's goods, Applicant's alleged mark is likely to cause confusion and mistake and to deceive purchasers and potential purchasers into erroneously believing that a relationship exists between Opposer and Applicant, or

that Opposer has authorized, sponsored, or licensed Applicant's use of the mark SKINTRITION, in violation of 15 U.S.C. §1052(d).

8. In an Office Action dated December 8, 2011, the examining attorney assigned to Opposer's application for URBAN SKINTRITION has advised that a potential conflict may exist between the Opposer's mark and the Applicant's alleged mark SKINTRITION and, that if Applicant's alleged mark matures to registration, registration of the Opposer's mark may be refused registration under Trademark Act Section 2(d). Opposer will be damaged by the registration of Applicant's alleged mark because such registration will prevent Opposer from registering its mark URBAN SKINTRITION, which it commenced use of years before the filing date of the opposed *intent to use* application and has developed valuable goodwill in, and will constitute prima facie evidence of Applicant's exclusive right to use Applicant's alleged mark for and in connection with Applicant's goods, which will be in derogation and violation of the prior and superior rights of Opposer.

WHEREFORE, Opposer Urban Skintrition LLC believes that it will be damaged by the registration of U.S. Application Serial No. 85/308070 for the mark SKINTRITION and, therefore, respectfully requests that the Trademark Trial and Appeal Board refuse registration of Applicant's proposed mark under 15 U.S.C. §1052(d).

Respectfully submitted,

URBAN SKINTRITION LLC

By:



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Attorneys for Opposer
Urban Skintrition LLC

Dated: December 14, 2011

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on Lonnie L. McKinney, President of Skincerity, Inc., by mailing said copy on December 13, 2011 via First Class Mail to: Lonnie L. McKinney, Skincerity, Inc., 8558 Katy Freeway, Suite 116, Houston, Texas 77024 and via email to rajaenicke@sbcglobal.net.



Christine M Baker