

ESTTA Tracking number: **ESTTA451746**

Filing date: **01/18/2012**

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	Colgate-Palmolive Company		
Entity	Corporation	Citizenship	Delaware
Address	300 Park Avenue New York, NY 10022 UNITED STATES		

Attorney information	James D. Weinberger Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza 6th Floor New York, NY 10017 UNITED STATES jweinberger@frosszelnick.com, lkittay@frosszelnick.com Phone:(212) 813-5900		
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Applicant Information

Application No	85378980	Publication date	12/20/2011
Opposition Filing Date	01/18/2012	Opposition Period Ends	01/19/2012
Applicant	A. P. Deauville, LLC 594 Jersey Avenue, Unit C New Brunswick, NJ 08901 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: All-purpose cleaners

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. Registration No.	1412859	Application Date	07/20/1984
Registration Date	10/14/1986	Foreign Priority Date	NONE
Word Mark	FABULOSO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1982/03/26 First Use In Commerce: 1982/03/26		

	ALL PURPOSE CLEANING PREPARATION WITH DEODORIZING PROPERTIES
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Attachments	Notice of Opposition - FABULOSO (F0943239).PDF (9 pages)(27848 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	/s/ James D. Weinberger
Name	James D. Weinberger
Date	01/18/2012

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

COLGATE-PALMOLIVE COMPANY,

Opposer,

-against-

A.P. DEAUVILLE, LLC,

Applicant.

NOTICE OF OPPOSITION

Colgate-Palmolive Company (“Colgate”), a corporation organized and existing under the laws of Delaware and having an office and principal place of business at 300 Park Avenue, New York, New York 10022, believes that it will be damaged by the issuance of a registration for the mark FABULOUS to A.P. Deauville, LLC (“Applicant”) in International Class 3, applied for in Application Serial No. 85/378,980 and therefore opposes the same pursuant to Section 13(a) of the Lanham Trademark Act of 1946, 15 U.S.C. § 1063(a).

As grounds therefore, Opposer alleges as follows:

1. Opposer has for many years been engaged in the manufacture, distribution, marketing and sale of a wide variety of consumer products, including household cleaning products.

2. For more than 25 years, Opposer has manufactured and marketed cleaning products under the brand name FABULOSO. FABULOSO is the Spanish language translation of the English language word “fabulous.” FABULOSO® products have been sold extensively throughout the U.S. for more than 25 years, with substantial sales and advertising expenditures.

3. As a result of its reputation, use and substantial sales success, and Opposer's significant investment in advertising, FABULOSO has become a strong trademark identifying Opposer's products exclusively. As such, the FABULOSO mark represents an enormous goodwill and is an extremely valuable asset to Opposer.

4. Opposer is the owner of all right, title, and interest in and to the FABULOSO mark in connection with cleaning products based on first use in commerce as early as 1982.

5. Opposer owns U.S. Reg. No. 1,412,859 for FABULOSO, registered October 14, 1986 based on first use in March 1982, for "all-purpose cleaning preparation with deodorizing properties" in International Class 3. A printout from the TARR electronic database records of the U.S. Patent and Trademark Office showing the current status and title of the registration relied upon herein is attached hereto as Exhibit A.

6. The FABULOSO registration relied upon herein is valid, subsisting and in full effect and serves as prima facie evidence of the validity of the mark, pursuant to Section 33(a) of the Lanham Act, 15 U.S.C. § 1115(a). Additionally, such registration has become incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065, and therefore serves as conclusive proof of Opposer's exclusive right to use the FABULOSO mark in connection with the goods identified therein, as provided by Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b).

7. Upon information and belief, Applicant is a limited liability company organized and existing under the laws of the New Jersey with an office at 594 Jersey Avenue, Unit C, New Brunswick, New Jersey 08901.

8. On July 22, 2011, decades after Opposer first used and registered its FABULOSO mark, Applicant filed an application with the U.S. Patent and Trademark Office to register the mark FABULOUS for "[a]ll-purpose cleaners" in International Class 3, App. Ser. No.

85/378,980 on an intent-to-use basis pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b).

9. Upon information and belief, Applicant has not used the FABULOUS mark in commerce in the United States.

10. The FABULOSO mark has been used continuously and/or registered by Opposer since a date prior to any date on which Applicant can rely.

11. Applicant's FABULOUS mark is virtually identical to Opposer's FABULOSO mark in sight, sound, and commercial impression, in that it constitutes Opposer's entire mark, merely translating the mark from the Spanish language term to the highly similar English language term.

12. Applicant's International Class 3 goods to be offered under the FABULOUS mark are identical to International Class 3 goods sold under Opposer's FABULOSO mark and, upon information and belief, will be sold to the same customers or types of customers to whom goods bearing Opposer's FABULOSO mark are sold.

13. Based on the similarity of the marks and goods, consumers are likely to be deceived into falsely believing that the goods offered by Applicant under the FABULOUS mark originate from or are otherwise associated with or endorsed by Opposer, or that there is some relationship between Applicant and Opposer or the goods of Applicant and Opposer, all to Opposer's injury and harm.

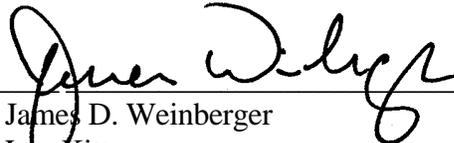
14. Thus, registration of the FABULOUS mark in connection with the International Class 3 goods set forth in Serial Application No. 85/378,980 is likely to cause confusion, cause mistake, or to deceive the public into the false belief that the goods offered by Applicant under the FABULOUS mark come from or are otherwise sponsored by or connected with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

15. By reason of the foregoing, Opposer is likely to be harmed by a registration of Application Serial No. 85/378,980 for the mark FABULOUS in International Class 3.

THEREFORE, it is respectfully requested that this Opposition be sustained and that registration of the mark shown in Application Serial No. 85/378,980 in International Class 3 be refused in its entirety.

Dated: New York, New York
January 18, 2012

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 
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Leo Kittay

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Attorneys for Opposer

EXHIBIT A

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2012-01-18 11:08:31 ET

Serial Number: 73490916 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 1412859

Mark (words only): FABULOSO

Standard Character claim: No

Current Status: [The registration has been renewed.](#)

Date of Status: 2006-01-12

Filing Date: 1984-07-20

Transformed into a National Application: No

Registration Date: 1986-10-14

Register: [Principal](#)

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2006-09-22

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. [COLGATE-PALMOLIVE COMPANY](#)

Address:

[COLGATE-PALMOLIVE COMPANY](#)

[300 PARK AVENUE](#)

[NEW YORK, NY 10022](#)

[United States](#)

Legal Entity Type: [Corporation](#)

State or Country of Incorporation: [Delaware](#)

GOODS AND/OR SERVICES

International Class: [003](#)

Class Status: [Active](#)

[ALL PURPOSE CLEANING PREPARATION WITH DEODORIZING PROPERTIES](#)

Basis: [1\(a\)](#)

First Use Date: [1982-03-26](#)

First Use in Commerce Date: [1982-03-26](#)

ADDITIONAL INFORMATION

Translation: [THE ENGLISH TRANSLATION OF THE WORD "FABULOSO" IN THE MARK IS "FABULOUS".](#)

Section 2(f)

Prior Registration Number(s):

[139710](#)

[522356](#)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

[2011-12-27 - Attorney Revoked And/Or Appointed](#)

[2011-12-27 - TEAS Revoke/Appoint Attorney Received](#)

[2006-09-22 - Case File In TICRS](#)

[2006-06-13 - TEAS Change Of Correspondence Received](#)

[2006-03-30 - Undeliverable Mail - No Action Taken](#)

[2006-03-21 - PAPER RECEIVED](#)

[2006-01-12 - First renewal 10 year](#)

[2006-01-12 - Section 8 \(10-year\) accepted/ Section 9 granted](#)

2006-01-12 - Assigned To Paralegal

2005-11-02 - Combined Section 8 (10-year)/Section 9 filed

2005-11-02 - TEAS Section 8 & 9 Received

1993-01-22 - Section 8 (6-year) accepted & Section 15 acknowledged

1992-10-13 - Section 8 (6-year) and Section 15 Filed

1986-10-14 - Registered - Principal Register

1985-12-24 - Published for opposition

1985-11-24 - Notice of publication

1985-11-05 - Approved for Pub - Principal Register (Initial exam)

1985-10-28 - Communication received from applicant

1985-10-28 - Examiner's amendment mailed

1985-10-18 - Communication received from applicant

1985-07-31 - Non-final action mailed

1985-06-17 - Communication received from applicant

1984-12-14 - Non-final action mailed

1984-12-05 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Julius Towers

Correspondent

Julius Towers

Colgate-Palmolive Company

300 Park Avenue

New York NY 10022

Phone Number: 212 310 2396

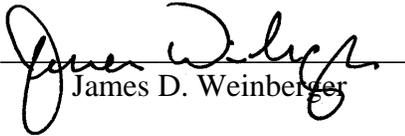
Fax Number: 212 310 3406

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was sent by first class mail postage pre-paid to Applicant, this 18th day of January, 2012, to the following:

A.P. Deauville, LLC
Unit C
594 Jersey Avenue
New Brunswick, NJ 08901

Scott Hochfelder
Hochfelder & Associates, PC
40 Meadow Ridge Dr.
Pittsfield, MA 01201-5762


James D. Weinberger