

ESTTA Tracking number: **ESTTA499422**

Filing date: **10/10/2012**

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	Beyond Dental & Health, Inc.		
Entity	Corporation	Citizenship	Texas
Address	12503 Exchange Dr., Suite 558 Stafford, TX 77477 UNITED STATES		

Attorney information	Dimitri P. Dovas Dovas Law, P.C. 307 Bainbridge Street Philadelphia, PA 19147 UNITED STATES ddovas@dovaslaw.com Phone:267-266-6357		
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**Applicant Information**

Application No	85609438	Publication date	09/11/2012
Opposition Filing Date	10/10/2012	Opposition Period Ends	10/11/2012
Applicant	Vo, Thanh Thuy Dao Suite 110-266 9360 W. Flamingo Rd. Las Vegas, NV 89147 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 003. First Use: 2012/03/01 First Use In Commerce: 2012/03/01 All goods and services in the class are opposed, namely: Beauty creams; Beauty lotions; Body cream; Breath freshening sprays; Cosmetic creams; Cosmetic preparations; Cosmetic preparations for eye lashes; Dental bleaching gel; Eye liner; Eyebrow pencils; Facial cleansers; Lip gloss; Lipstick; Mascara; Moisturizing preparations for the skin; Mouthwash; Non-medicated anti-aging serum; Non-medicated balms for use on the hands, body and face; Non-medicated dental rinse; Skin toners; Skin whitening creams; Teeth whitening kit; Tooth whitening preparations; Toothpaste
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**Applicant Information**

Application No	85607341	Publication date	09/11/2012
Opposition Filing Date	10/10/2012	Opposition Period Ends	10/11/2012
Applicant	Vo, Thanh Thuy Dao Suite 110-266 9360 W. Flamingo Rd. Las Vegas, NV 89147 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 003. First Use: 2012/03/01 First Use In Commerce: 2012/03/01  
 All goods and services in the class are opposed, namely: Foam cleaning preparations; Mouth washes; Non-medicated mouth rinse; Teeth cleaning lotions; Teeth whitening kit; Teeth whitening strips impregnated with teeth whitening preparations; Tooth whitening creams; Tooth whitening gels; Tooth whitening pastes; Tooth whitening preparations

### 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.	3898646	Application Date	10/27/2009
Registration Date	01/04/2011	Foreign Priority Date	NONE
Word Mark	BEYOND		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 2003/01/15 First Use In Commerce: 2003/01/15          Teeth whitening preparations; toothpaste; mouthwash; non-medicated lip care preparations; teeth whitening kits composed of teeth whitening preparation, toothpaste, lip protection preparation, and cheek retractor; teeth whitening kits composed of teeth whitening preparation, tooth polishing sand, cheek retractor, face protection cloth, lip protection preparation, fluoride preparation, and toothpaste; strips containing a preparation for promoting teeth whitening for application on a user's teeth in a teeth whitening procedure; teeth whitening kits composed of teeth whitening preparation, a light emitting apparatus, namely, a lamp for connection to a cheek retractor, and a cheek retractor</p> <p>Class 010. First use: First Use: 2003/01/15 First Use In Commerce: 2003/01/15          Light emitting apparatuses, namely, lamps for teeth whitening; cheek retractors for use in a teeth whitening procedure; electronic shade takers for detecting tooth shade information</p> <p>Class 021. First use: First Use: 2006/10/30 First Use In Commerce: 2006/10/30          Dental floss</p>		

Attachments	77857893#TMSN.jpeg ( 1 page )( bytes ) 121010Opposition-filed.PDF ( 5 pages )(115709 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	/Dimitri P. Dovas/
Name	Dimitri P. Dovas
Date	10/10/2012

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

In the Matter of Application Serial No.  
85/609,438 for the mark BEYOND WHITE,  
filed April 26, 2012  
and  
Application Serial No. 85/607,341 for the  
mark BEYOND WHITE NON-PEROXIDE  
TEETH WHITENING, filed April 25, 2012

Beyond Dental & Health, Inc.,  
Opposer

v.

Thanh Thuy Dao Vo  
Applicant

Date: October 10, 2012

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

Opposer, Beyond Dental & Health, Inc., a Texas corporation having a principal place of business at 12503 Exchange Dr., Suite 558, Stafford, TX (“Opposer”), believes that it will be damaged by registration of the mark BEYOND WHITE, for “Beauty creams; Beauty lotions; Body cream; Breath freshening sprays; Cosmetic creams; Cosmetic preparations; Cosmetic preparations for eye lashes; Dental bleaching gel; Eye liner; Eyebrow pencils; Facial cleansers; Lip gloss; Lipstick; Mascara; Moisturizing preparations for the skin; Mouthwash; Non-medicated anti-aging serum; Non-medicated balms for use on the hands, body and face; Non-medicated dental rinse; Skin toners; Skin whitening creams; Teeth whitening kit; Tooth whitening preparations; Toothpaste”, in international class 003, as set forth in U.S. Application Serial No. 85/609,438, filed April 26, 2012 and published for opposition September 11, 2012, and the mark BEYOND WHITE NON-

PEROXIDE TEETH WHITENING, for “Foam cleaning preparations; Mouth washes; Non-medicated mouth rinse; Teeth cleaning lotions; Teeth whitening kit; Teeth whitening strips impregnated with teeth whitening preparations; Tooth whitening creams; Tooth whitening gels; Tooth whitening pastes; Tooth whitening preparations”, in international class 003, as set forth in U.S. Application Serial No. 85/607,341, filed April 25, 2012 (“Applications”) and published for opposition September 11, 2012 (“Applications”) and hereby opposes their respective registrations on the following grounds:

1. Opposer, a world leader in the manufacturing, distributing and selling of aesthetic dental products, is the owner of rights in the trademark “BEYOND” (also referred to herein as “Opposer’s mark”) which a predecessor-in-interest adopted at least as early as 2003, for which U.S. Application Serial No. 77/857,893 was filed October 27, 2009, and for which a U.S. trademark was registered January 4, 2011 as Registration No. 3,898,646 for “Teeth whitening preparations; toothpaste; mouthwash; non-medicated lip care preparations; teeth whitening kits composed of teeth whitening preparation, toothpaste, lip protection preparation, and cheek retractor; teeth whitening kits composed of teeth whitening preparation, tooth polishing sand, cheek retractor, face protection cloth, lip protection preparation, fluoride preparation, and toothpaste; strips containing a preparation for promoting teeth whitening for application on a user’s teeth in a teeth whitening procedure; teeth whitening kits composed of teeth whitening preparation, a light emitting apparatus, namely, a lamp for connection to a cheek retractor, and a cheek retractor” in international class 003, and for “Light emitting apparatuses, namely, lamps for teeth whitening; cheek retractors for use in a teeth whitening procedure; electronic shade takers for

detecting tooth shade information” in international class 10, and for “Dental floss” in international class 21.

2. Since adopting the BEYOND mark, Opposer and/or its predecessor-in-interest have continuously and in a comprehensive manner used the BEYOND mark in connection with the promotion and sale of tooth whitening products as set forth above in the goods and services description.
3. By virtue of Opposer’s and its predecessor-in-interest’s continuous and comprehensive efforts in offering and promoting Opposer’s goods under the BEYOND mark, Opposer’s mark has acquired a valuable reputation and goodwill, and Opposer’s mark has come to be recognized by Opposer’s customers and others as an indication of origin and source for tooth whitening products.
4. Applicant’s marks and Opposer’s mark share an identical word, namely, “BEYOND”.
5. Applicant’s goods are virtually identical to, similar to, or commercially related to Opposer’s goods.
6. Upon information and belief, Applicant’s goods and Opposer’s goods are promoted toward or used by similar customers, and Applicant’s goods and Opposer’s goods are promoted through similar channels of trade.
7. Applicant’s marks and Opposer’s mark are likely to be confused by relevant consumers and members of the trade as a result of the identical or similar overall commercial impression created by Applicant’s marks and Opposer’s mark.

8. Applicant's marks are confusingly similar to Opposer's mark and are likely to cause confusion and lead to deception as to the origin of Applicant's goods offered under Applicant's marks.
9. Consumers familiar with Opposer's goods offered under Opposer's mark, which witness the use of Applicant's marks in connection with goods offered by Applicant are likely to erroneously perceive that such goods are, in at least some manner, associated with Opposer.
10. The registration of Applicant's marks are barred by 15 U.S.C. § 1052(d), for the reason that they consist of or comprise marks that so resembles Opposer's mark, previously registered in the U.S. Patent and Trademark Office and previously used by Opposer, as to be likely to cause confusion, mistake, or to deceive.

WHEREFORE, Opposer prays that this Opposition be sustained in favor of Opposer, that the Applications be rejected, and that registration of the two respective Applications be refused.

Respectfully submitted,

BEYOND DENTAL & HEALTH, INC.

/Dimitri P. Dovas/

By: \_\_\_\_\_

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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In the Matter of Application Serial No.  
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Beyond Dental & Health, Inc.,  
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Thanh Thuy Dao Vo  
Applicant

Date: October 10, 2012

Opposition No. \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on October 10, 2012 I caused a true copy of the foregoing  
NOTICE OF OPPOSITION to be served by first-class mail, postage pre-paid to:

Mathew H. Swyers, Esq.  
344 Maple Ave W.  
Vienna, VA 22180

/Dimitri P. Dovas/

By: \_\_\_\_\_

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