

ESTTA Tracking number: **ESTTA527563**

Filing date: **03/19/2013**

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	Kiss My Face, LLC
Granted to Date of previous extension	03/20/2013
Address	11766 Wilshire Blvd.Suite 850 Los Angeles, CA 90025-6567 UNITED STATES

Correspondence information	Carrie A. Johnson Fraser Clemens Martin & Miller LLC 28366 Kensington Lane Perrysburg, OH 43551 UNITED STATES firm@fraser-ip.com Phone:4198741100
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Applicant Information

Application No	85663155	Publication date	11/20/2012
Opposition Filing Date	03/19/2013	Opposition Period Ends	03/20/2013
Applicant	PYR Less Group, LLC 6809 Thunder Rd. Amarillo, TX 79119 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. First Use: 2002/08/12 First Use In Commerce: 2002/08/12 All goods and services in the class are opposed, namely: Facial masks; Non-medicated serums for use on skin

Grounds for Opposition

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

U.S. Registration No.	2301324	Application Date	09/22/1997
Registration Date	12/21/1999	Foreign Priority Date	NONE
Word Mark	KISS MY FACE		

Design Mark	KISS MY FACE
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1993/06/00 First Use In Commerce: 1993/06/00 non-medicated lip balms, cosmetics, namely, lipsticks, [mascaras,] foundations, conditioners, [body mists,] bath and body gels, facial creams, hand lotions, deodorants, soaps, shaving creams, skin lotions, skin toners and facial and body lotions

U.S. Registration No.	4229593	Application Date	03/08/2012
Registration Date	10/23/2012	Foreign Priority Date	NONE

Word Mark	KISS MY FACE
Design Mark	KISS MY FACE

Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1978/12/01 First Use In Commerce: 1978/12/00 Personal care products, namely, all purpose liquid, hand, bar and cosmetic soaps, non-medicated alpha-hydroxy acid lotions, bar soaps, bath and shower gels, body lotions, body creams, body balms, body wash, cosmetics, deodorants for personal use, exfoliating cleansers, facial cleansers, facial lotions, facial creams, and facial gels, facial masks, foaming soaps, non-medicated foot creams and foot scrubs, shampoos, hair conditioners, hair detanglers, hair styling gels, hand lotions and hand creams, liquid soaps, moisturizing shower gel, mouthwash, non-medicated lip balms, shaving creams, skin toners, non-medicated sun care products, and toothpaste and toothpaste gel

U.S. Registration No.	1513297	Application Date	04/28/1988
Registration Date	11/22/1988	Foreign Priority Date	NONE

Word Mark	KISS MY FACE
Design Mark	

Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1978/12/01 First Use In Commerce: 1978/12/01 PERSONAL CARE PRODUCTS--NAMELY, SHAMPOOS, SOAPS, CREME RINSES, SKIN TONERS AND SKIN LOTIONS

U.S. Registration No.	1991868	Application Date	08/01/1994
Registration Date	08/06/1996	Foreign Priority Date	NONE

Word Mark KISS MY FACE

Design Mark

Description of Mark NONE

Goods/Services Class 042. First use: First Use: 1994/11/01 First Use In Commerce: 1994/11/01 retail shops featuring clothing, and personal care products, namely shampoos, soaps, creme rinses, powders, skin toners and skin lotions

U.S. Registration No.	3120784	Application Date	10/14/2005
Registration Date	07/25/2006	Foreign Priority Date	NONE

Word Mark KISS MY FACE WHITENING

Design Mark

KISS MY FACE WHITENING

Description of Mark NONE

Goods/Services Class 003. First use: First Use: 2001/11/05 First Use In Commerce: 2001/11/05 Personal Care Products, Namely, Toothpastes

U.S. Registration No.	3590613	Application Date	07/28/2008
Registration Date	03/17/2009	Foreign Priority Date	NONE

Word Mark KISS MY FACE MOISTURE SOAP

Design Mark	KISS MY FACE MOISTURE SOAP
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1986/06/00 First Use In Commerce: 1986/06/00 personal care products, namely, soaps

U.S. Registration No.	4268625	Application Date	04/26/2010
Registration Date	01/01/2013	Foreign Priority Date	NONE

Word Mark	KISS MY FACE PEACE
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Design Mark	
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Description of Mark	The mark consists of 3 columns, left and right columns containing the word "PEACE" in several languages and the center column contains the words "KISS MY FACE".
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Goods/Services	Class 003. First use: First Use: 2010/05/01 First Use In Commerce: 2010/05/01 all purpose soaps, bar soaps, bath and shower gels, body lotions, body washes, cosmetics, foaming soaps, hand lotions, body creams and body balms, liquid soaps, non-medicated lip balms, personal care products, namely, facial creams, foot creams, hand creams, deodorants for personal use, hair conditioners, hair detanglers, hair styling gels, mouthwashes, breath fresheners, shampoos, shaving creams, toothpastes, non-medicated sun care preparations and non-medicated sunscreen preparations
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U.S. Registration No.	4200053	Application Date	10/18/2011
Registration Date	08/28/2012	Foreign Priority Date	NONE

Word Mark	KISS MY FACE SHIMMER
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Design Mark	KISS MY FACE SHIMMER
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2012/03/20 First Use In Commerce: 2012/03/20 non-medicated tinted lip balms

Attachments	75361218#TMSN.gif (1 page)(bytes) 85563688#TMSN.jpeg (1 page)(bytes) 78733434#TMSN.jpeg (1 page)(bytes) 77532702#TMSN.jpeg (1 page)(bytes) 85023142#TMSN.jpeg (1 page)(bytes) 85449891#TMSN.jpeg (1 page)(bytes) 42343 Notice of Opposition 3-19-13.pdf (6 pages)(223577 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	/carrie a. johnson/
Name	Carrie A. Johnson
Date	03/19/2013

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

Kiss My Face, LLC,)
)
Opposer,) Opposition No. _____
)
v.) U.S. Application Serial No. 85/663,155
)
PYR Less Group, LLC) TOUCH MY FACE
)
Applicant.)
)

Notice of Opposition

Opposer Kiss My Face, LLC (“Opposer”) believes that it will be damaged by the registration of the mark TOUCH MY FACE for “facial masks; non-medicated serums for use on skin” in International Class 003 as shown in U.S. Application Serial No. 85/663,155.

As grounds for opposition, it is alleged that:

1. Since at least as early as 1978, Opposer has used a family of marks comprising or containing the words KISS MY FACE, which are used in connection with personal care products, including skin care products.
2. Due to Opposer’s long and continuous use of its family of KISS MY FACE marks in connection with its personal care products, Opposer’s family of KISS MY FACE marks are widely recognized by the public as an indicator of the source of Opposer’s goods.
3. Opposer owns the following federal trademark registrations issued by the U. S. Patent and Trademark Office:

- A. U.S. Registration No. 2,301,324
KISS MY FACE
For: Non-medicated lip balms, cosmetics, namely, lipsticks,
foundations, conditioners, bath and body gels, facial creams,

hand lotions, deodorants, soaps, shaving creams, skin lotions, skin toners and facial and body lotions in Class 3.
First Use: June 1993
Status: Registered; Incontestable
Registered: December 21, 1999

B. U.S. Registration No. 4,229,593

KISS MY FACE

For: Personal care products, namely: all purpose soaps; alpha-hydroxy acid lotions; bar soaps; bath and shower gels; body lotions; body creams; body balms; body wash; cosmetics, including tinted lip gloss, lip tint, and tinted moisturizers; deodorants for personal use; exfoliating cleansers; facial cleansers; facial lotions, creams, and gels; facial masks; foaming soaps; foot creams and scrubs; shampoos; hair conditioners; hair detanglers; hair styling gels; hand lotions and creams; liquid soaps; moisturizing shower gel; mouthwash; non-medicated lip balms; shaving creams; skin toners; sun care products; and toothpaste and toothpaste gels in Class 3.

First Use: December 1, 1978
Status: Registered
Registered: October 23, 2012

C. U.S. Registration No. 1,513,297

KISS MY FACE

For: Personal care products, namely, shampoos, soaps, creme rinses, skin toners and skin lotions in Class 3.

First Use: December 1, 1978
Status: Registered; Incontestable
Registered: November 22, 1988

D. U.S. Registration No. 1,991,868

KISS MY FACE

For: Retail shops featuring clothing, and personal care products, namely shampoos, soaps, creme rinses, powders, skin toners and skin lotions in Class 42.

First Use: November 1, 1994
Status: Registered; Incontestable
Registered: August 6, 1996

E. U.S. Registration No. 3,120,784

KISS MY FACE WHITENING

For: Personal care products, namely, toothpastes in Class 3.
First Use: November 5, 2001
Status: Registered

Registered: July 25, 2006

F. U.S. Registration No. 3,590,613
KISS MY FACE MOISTURE SOAP

For: Personal care products, namely, soaps in Class 3.

First Use: June 1986

Status: Registered

Registered: March 17, 2009

G. U.S. Registration No. 4,268,625

KISS MY FACE PEACE and Design

For: All purpose soaps, bar soaps, bath and shower gels, body lotions, body washes, cosmetics, foaming soaps, hand lotions, body creams and body balms, liquid soaps, non-medicated lip balms, personal care products, namely, facial creams, foot creams, hand creams, deodorants for personal use, hair conditioners, hair detanglers, hair styling gels, mouthwashes, breath fresheners, shampoos, shaving creams, toothpastes, non-medicated sun care preparations and non-medicated sunscreen preparations in Class 3.

First Use: May 1, 2010

Status: Registered

Registered: January 1, 2013

H. U.S. Registration No. 4,200,053

KISS MY FACE SHIMMER

For: Non-medicated tinted lip balms.

First Use: March 20, 2012

Status: Registered

Registered: August 28, 2012

4. As indicated above, many of Opposer's KISS MY FACE marks are the subject of incontestable registrations pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065, and serve as conclusive evidence of Opposer's ownership of the marks and of Opposer's exclusive rights to use the marks in commerce on or in connection with the goods identified in the registrations under Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b).

5. On June 27, 2012, PYR Less Group, LLC ("Applicant") filed U.S. Application Serial No. 85/663,155 for the mark TOUCH MY FACE for "Facial masks; Non-medicated serums for use

on skin” in International Class 003, based upon use of the mark in commerce since August 12, 2002.

6. On information and belief, Opposer’s rights in its distinctive mark KISS MY FACE marks predate Applicant’s first use of the mark TOUCH MY FACE.

7. On information and belief, since long prior to Applicant’s first use of the mark TOUCH MY FACE, and as a result of widespread promotion by Opposer, Opposer’s family of KISS MY FACE marks have acquired a high degree of recognition and distinctiveness as a symbol of the quality of goods offered by Opposer.

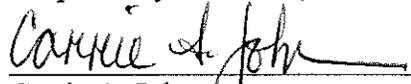
8. Applicant’s TOUCH MY FACE mark so resembles Opposer’s family of KISS MY FACE marks as to be likely, when used with Applicant’s goods, to cause confusion, to cause mistake, or to deceive the trade and public, who are likely to believe that Applicant’s goods have their origin with Opposer and/or that such goods are authorized, licensed, endorsed, or sponsored by Opposer. Opposer would thereby be injured by the granting to Applicant of a Certificate of Registration for Applicant’s TOUCH MY FACE mark.

WHEREFORE, Opposer believes that it will be damaged by the registration of Applicant’s TOUCH MY FACE mark and requests that the opposition be sustained and that said registration be denied.

The required fee of \$300 for instituting this proceeding is submitted electronically herewith.

Date: March 19, 2013

Respectfully submitted,



Carrie A. Johnson

Richard G. Martin

Fraser Clemens Martin & Miller LLC

28366 Kensington Lane

Perrysburg, Ohio 43551
419-874-1100 (Voice)
419-874-1130 (Fax)

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

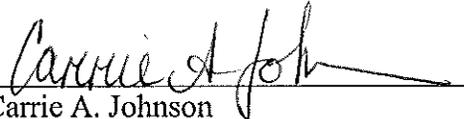
Kiss My Face, LLC,)
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Opposer,) Opposition No. _____
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v.) U.S. Application Serial No. 85/663,155
)
PYR Less Group, LLC) TOUCH MY FACE
)
Applicant.)
)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on March 19, 2013 I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to the Applicant's Correspondent of Record:

Christian D. Stuart, Esq.
Burdett, Morgan, Williamson, & Boykin LLP
3423 S. Soncy, Suite 300
Amarillo, Texas 79110

Date: March 19, 2013


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