

ESTTA Tracking number: **ESTTA573607**

Filing date: **11/27/2013**

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	Yuko Fujita
Granted to Date of previous extension	01/08/2014
Address	1738-2 Kikugawa Shimada Shizuoka, 428-0037 JAPAN
Party who filed Extension of time to oppose	YukoFujita
Relationship to party who filed Extension of time to oppose	The name was displayed incorrectly by the ESTTA system. It was combining the first and last name into a single name.

Attorney information	Annette P. Heller Heller & Associates 400 Chesterfield Center, Suite 400 Chesterfield, MO 63017 UNITED STATES tmattorneyheller@aol.com,tmattorneyturek@aol.com Phone:(314) 469-2610
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Applicant Information

Application No	85941092	Publication date	09/10/2013
Opposition Filing Date	11/27/2013	Opposition Period Ends	01/08/2014
Applicant	Pearl Enterprises, LLC 379 E 7th St. Lakewood, NJ 08701 NJ		

Goods/Services Affected by Opposition

Class 003. First Use: 2011/03/23 First Use In Commerce: 2011/03/23
All goods and services in the class are opposed, namely: Aromatic body care products, namely, body lotion, shower gel, cuticle cream, shampoo, conditioner, non-medicated lip balm, soap, body polish, body and foot scrub and non-medicated foot cream

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.	3943580	Application Date	07/26/2010
Registration Date	04/12/2011	Foreign Priority Date	NONE
Word Mark	KINOKI		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2010/07/10 First Use In Commerce: 2010/07/10 wound dressings; gauze; adhesive bandages; bandages for dressings; medical adhesives for binding wounds, namely, adhesive pads		

Attachments	85092943#TMSN.jpeg(bytes) KINOKI Notice of Opposition (Final).pdf(65969 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	/aph72met/
Name	Annette P. Heller
Date	11/27/2013

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

Yuko Fujita)
Opposer,)
v.) Opposition No. _____
Pearl Enterprises, LLC)
Applicant.)
_____)

NOTICE OF OPPOSITION

Yuko Fujita (“Opposer”) is a Japanese citizen located and doing business at 1738-2 Kikugawa, Shimada, Shizuoka 428-0037 Japan.

According to the USPTO records, Pearl Enterprises, LLC (“Applicant”) is a New Jersey limited liability company located and doing business at 379 E. 7th St., Lakewood, New Jersey 08701.

Pursuant to 15 U.S.C. §1063, Opposer believes the registration of Application Serial No. 85941092 will damage Opposer and hereby opposes the same.

The grounds for opposition are as follows:

1. Since at least as early as July 2010, Opposer has been using the trademark KINOKI in commerce in connection with bandages, medical adhesives, wound dressings, and other related products.

2. Opposer is the owner of U.S. Registration No. 3,943,580 for the mark KINOKI for “wound dressings; gauze; adhesive bandages; bandages for dressings; medical adhesives for

binding wounds, namely, adhesive pads,” in International Class 5. Opposer has attached a status and title copy of her registration as **Exhibit A**.

3. Opposer’s registration for KINOKI is valid, subsisting, and not abandoned.

4. On May 23, 2013, Applicant filed an application based on §1(a) seeking registration of the trademark KINOKI for “aromatic body care products, namely, body lotion, shower gel, cuticle cream, shampoo, conditioner, non-medicated lip balm, soap, body polish, body and foot scrub and non-medicated foot cream,” in International Class 3. Applicant’s application was assigned Serial No. 85941092.

5. Opposer’s use and registration of KINOKI precedes any date on which Applicant could reasonably rely.

6. Applicant’s KINOKI trademark is identical in appearance, sound, and commercial impression to Opposer’s KINOKI trademark.

7. The products recited in Applicant’s application for KINOKI are strongly related to the products listed in Opposer’s registration for KINOKI.

8. Opposer reasonably believes that she will be damaged by the registration of Application Serial No. 85941092 since Applicant’s mark, when used on or in connection with its products, so resembles Opposer’s KINOKI mark as to be likely to cause confusion, to cause mistake, or to deceive as to the affiliation, connection, or association of Applicant with Opposer, or as to the origin, sponsorship, or approval of Applicant’s products by Opposer.

9. Opposer reasonably believes that the registration of Application Serial No. 85941092 will further damage Opposer because such registration would give color of exclusive statutory rights to Applicant in violation and derogation of the prior superior rights of Opposer.

EXHIBIT A

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Mark: KINOKI

KINOKI

US Serial Number: 85092943
Application Filing Date: Jul. 26, 2010
US Registration Number: 3943580
Registration Date: Apr. 12, 2011
Register: Principal
Mark Type: Trademark
Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.
Status Date: Apr. 12, 2011
Publication Date: Jan. 25, 2011

Mark Information

Mark Literal Elements: KINOKI
Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.
Mark Drawing Type: 4 - STANDARD CHARACTER MARK
Translation: The wording "KINOKI" has no meaning in a foreign language.

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (..) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks "*" identify additional (new) wording in the goods/services.

For: wound dressings; gauze; adhesive bandages; bandages for dressings; medical adhesives for binding wounds, namely, adhesive pads
International Class(es): 005 - Primary Class
U.S Class(es): 006, 018, 044, 046, 051, 052
Class Status: ACTIVE
Basis: 1(a)
First Use: Jul. 10, 2010
Use in Commerce: Jul. 10, 2010

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: Fujita, Yuko
Owner Address: 1738-2 Kikugawa
Shimada, Shizuoka 428-0037
JAPAN
Legal Entity Type: INDIVIDUAL
Citizenship: JAPAN

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Annette P. Heller
Docket Number: K181 025TM
Attorney Primary Email Address: tmattorneyheller@aol.com
Attorney Email Authorized: No

Correspondent

Correspondent Name/Address: ANNETTE P. HELLER
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Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Apr. 12, 2011	REGISTERED-PRINCIPAL REGISTER	
Jan. 25, 2011	PUBLISHED FOR OPPOSITION	
Jan. 05, 2011	NOTICE OF PUBLICATION	
Dec. 20, 2010	LAW OFFICE PUBLICATION REVIEW COMPLETED	73797
Dec. 20, 2010	ASSIGNED TO LIE	73797
Nov. 29, 2010	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 23, 2010	EXAMINER'S AMENDMENT MAILED	
Nov. 22, 2010	EXAMINER'S AMENDMENT ENTERED	88888
Nov. 22, 2010	EXAMINERS AMENDMENT -WRITTEN	82437
Nov. 08, 2010	ASSIGNED TO EXAMINER	82437
Jul. 29, 2010	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jul. 29, 2010	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Apr. 12, 2011