

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

IN THE MATTER OF APPLICATION SERIAL NO. 86/101,822  
PUBLISHED IN THE OFFICIAL GAZETTE ON MARCH 11, 2014

BLISTEX INC.	)	Opposition No.:
	)	
Opposer,	)	
	)	
v.	)	
	)	
Revlon Consumer	)	
Products Corporation,	)	
	)	
Applicant.	)	

NOTICE OF OPPOSITION

In the matter of the trademark application filed by Revlon Consumer Products Corporation for the registration of the mark ALMAY LIQUID LIP SMOOTHIES for "cosmetics and make-up" in International Class 3, **Application Serial No. 86/101,822**, filed on October 25, 2013, published in the Official Gazette of March 11, 2014;

Opposer, BLISTEX INC., an Illinois corporation with a principal place of business at 1800 Swift Drive, Oak Brook, Illinois 60523, believes that it will be damaged by the registration of the mark shown in the application and hereby opposes same.

The grounds for the opposition are:

1. The Applicant filed on October 25, 2013 its trademark application for the mark ALMAY LIQUID LIP SMOOTHIES, Serial No.



07-14-2014

86/101,822, based upon a bonafide intent to use the mark shown in the application herein being opposed. The Opposer holds prior rights in the mark FRUIT SMOOTHIES based upon its prior use and its prior existing U.S. registration for the mark FRUIT SMOOTHIES, U.S. Registration No. 2,673,116 for the goods identified in Opposer's registration which products include lip care products.

2. Opposer's products sold under the trademark FRUIT SMOOTHIES have been extensively promoted throughout the United States to the relevant trade and to the consuming public.

3. By reason of Opposer's aforesaid registration and extensive promotion and sale of its products, Opposer's name and trademark FRUIT SMOOTHIES has acquired significant recognition and renown, and the relevant trade and public have come to recognize the name and trademark FRUIT SMOOTHIES as signifying Opposer exclusively.

4. Opposer has duly registered in the United States Patent and Trademark Office and owns the registration for the mark FRUIT SMOOTHIES shown in Registration No. 2,673,116. The Opposer's herein identified registration is a valid subsisting registration in full force and effect, and thereby constitutes conclusive prima facie evidence of Opposer's exclusive right to use said mark in commerce.

5. Applicant's claimed trademark ALMAY LIQUID LIP SMOOTHIES, which by the nature of the mark itself is apparently for use for lip care or lip related cosmetics and make-up, is so similar to Opposer's name and trademark FRUIT SMOOTHIES used for

lip care products, as to be likely to create confusion, mistake or deception, all to the damage of Opposer, and to the damage of Opposer's rights in its name and trademark, which name and mark the Opposer holds prior rights within, as demonstrated by Opposer's prior registration of the mark and Opposer's prior use of the mark.

6. Based upon information and belief the goods identified in the Applicant's application for the trademark ALMAY LIQUID LIP SMOOTHIES and those products sold under the Opposer's name and mark FRUIT SMOOTHIES could be sold to the same potential consumers or end-users as the Opposer's products.

7. Based upon information and belief the goods identified in the Applicant's application for the trademark ALMAY LIQUID LIP SMOOTHIES and those products sold under the Opposer's name and mark FRUIT SMOOTHIES could move through the same channels of distribution and be sold in the same or in similar channels of trade.

8. Based upon information and belief, the Applicant's earliest possible priority date in the mark is the filing date of the Applicant's application, October 25, 2013, which was filed based upon intent to use the mark shown in the application which is herein opposed. Said priority date of Applicant is substantially after the priority date of Opposer in its mark.

9. Use by the Applicant of the trademark ALMAY LIQUID LIP SMOOTHIES, for which registration is sought in the application opposed herein, is without Opposer's consent or permission.

10. Applicant's registration of the trademark ALMAY LIQUID LIP SMOOTHIES will result in damage and in the diminishment in sales and the loss of the value of the Opposer's name and mark.

11. This Notice of Opposition is being filed in duplicate and please charge the required fee of \$300.00 to our deposit Account No. 120400. Also, please charge any additional costs to our Deposit Account No. 120400.

WHEREFORE, Opposer believes it will be damaged by the registration of the claimed trademark in Application Serial No. 86/101,822 in International Class 3 and prays that this Opposition be sustained and that the Applicant's registration be denied.

Please address all correspondence to Burton S. Ehrlich, Ladas & Parry LLP, 224 South Michigan Avenue, Suite 1600, Chicago, IL 60604, telephone (312) 427-1300.

Respectfully submitted,

By:

  
One of Opposer's attorneys

Burton S. Ehrlich  
Ladas & Parry LLP  
224 S. Michigan Avenue  
Suite 1600  
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(312) 427-1300

**CERTIFICATE OF MAILING**

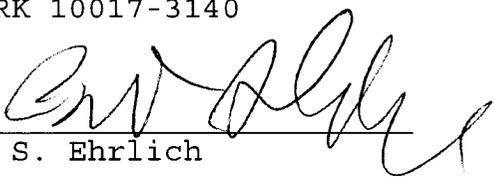
I hereby certify that this correspondence is being deposited (in duplicate) with the United States Postal Service as First Class Mail addressed to ATTN: TTAB-FEE, Commissioner for Trademarks, U.S. Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451 on July 9, 2014.

  
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Burton S. Ehrlich

**CERTIFICATE OF SERVICE**

The undersigned, one of Opposer's attorneys, hereby certifies that on July 9, 2014, he caused a true and correct copies of the foregoing NOTICE OF OPPOSITION to be served upon Applicant by First Class mail, postage pre-paid, at the following address:

STEVEN ROSENTHAL  
REVLON CONSUMER PRODUCTS CORPORATION  
237 PARK AVE  
NEW YORK, NEW YORK 10017-3140  
UNITED STATES

  
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Burton S. Ehrlich