

ESTTA Tracking number: **ESTTA730778**

Filing date: **03/02/2016**

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	Perlier S.R.L.
Granted to Date of previous extension	03/02/2016
Address	Corso Monforte 36 Milano, 20122 ITALY

Attorney information	John A. Clifford Merchant & Gould P.C. P.O. Box 2910 Minneapolis, MN 55402-9944 UNITED STATES jclifford@merchantgould.com, aavery@merchantgould.com, dockm- pls@merchantgould.com Phone:612.336.4616
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**Applicant Information**

Application No	86625103	Publication date	11/03/2015
Opposition Filing Date	03/02/2016	Opposition Period Ends	03/02/2016
Applicant	Infinitelabs LLC 7208 Sand Lake Rd, Suite 208 Orlando, FL 32819 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 003. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Non-medicated skin care creams and lotions; face creams; facial masks; non-medicated body creams and powders; non-medicated body lotion; and non-medicated eye creams; Sun tan lotions, sun tan oils, sun block preparations, sun screens, non-medicated lip balms
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**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.	3497066	Application Date	08/01/2005
Registration Date	09/02/2008	Foreign Priority Date	NONE

Word Mark	PERLIER
Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1971/12/31 First Use In Commerce: 1988/12/31 soaps; perfumery, essential oils for personal use, cosmetics

U.S. Registration No.	3497067	Application Date	08/01/2005
Registration Date	09/02/2008	Foreign Priority Date	NONE

Word Mark	RICETTE NATURALI PERLIER
Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1979/12/31 First Use In Commerce: 1988/12/31 soaps; perfumery, essential oils for personal use, cosmetics

U.S. Registration No.	1350208	Application Date	02/24/1984
Registration Date	07/23/1985	Foreign Priority Date	NONE

Word Mark	NATURAL RECIPES PERLIER
Design Mark	
Description of Mark	NONE

Goods/Services	Class 003. First use: First Use: 1983/10/01 First Use In Commerce: 1983/10/01 SKIN LOTIONS, CREAMS AND OILS AND SOAP AND SHAMPOO FOR PERSONAL USE
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Attachments	78682875#TMSN.png( bytes ) 78682876#TMSN.png( bytes ) 73467074#TMSN.png( bytes ) 2016 03 02 Notice of Opposition PERLE D'OR 86_625_103.PDF(365305 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	/John A. Clifford/
Name	John A. Clifford
Date	03/02/2016

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

Perlier S.R.L.,	)		
	)		
v.	)	Opposer,	Opposition No. _____
	)		
Infinitelabs LLC,	)		Serial No.: 86/625,103
	)		Mark: <b>PERLE D'OR</b>
	)	Applicant	
	)		
	)		

**NOTICE OF OPPOSITION**

Perlier S.R.L., a limited liability company duly organized and existing under the laws of Italy, with a mailing address of Corso Monforte 36, Milano, Italy 20122, believes that it will be damaged by the registration of the PERLE D'OR mark shown in Application Serial No. 86/625,103, filed May 11, 2015 by Infinitelabs LLC, with a mailing address of 7208 Sand Lake Rd, Suite 208, Orlando, Florida 32819 and hereby opposes registration of the mark. The grounds for opposition are as follows:

1. By the application herein opposed, Applicant is seeking to obtain under the provisions of the Trademark Act of 1946 as amended, registration on the Principal Register of the trademark "PERLE D'OR" for non-medicated skin care creams and lotions; face creams; facial masks; non-medicated body creams and powders; non-medicated body lotion; and non-medicated eye creams; sun tan lotions, sun tan oils, sun block preparations, sun screens, non-medicated lip balms in International Class 3 ("Applicant's Mark").

2. Applicant's Mark published for opposition on November 3, 2015 and Opposer filed a 90 Day Request for Extension of Time to Oppose. This Notice of Opposition is timely filed before the due date of March 2, 2016.

3. Opposer is the owner of the following U.S. Trademark Registrations:

**PERLIER**, U.S. Reg. No. 3,497,066 for soaps; perfumery, essential oils for personal use, cosmetics, in International Class 3. Said registration was registered on the Principal Register on September 2, 2008, with a first use date of December 31, 1971 and a first use in commerce date of December 31, 1988, and was based on Foreign Registration No. 253247 in Italy registered August 8, 1971. These dates are all prior to the date of filing of Applicant's application, and prior to any use alleged by Applicant for its mark being opposed. This registration is incontestable

**RICETTE NATURALI PERLIER**, U.S. Reg. No. 3,497,067 for soaps; perfumery, essential oils for personal use, cosmetics, in International Class 3. Said registration was registered on the Principal Register on September 2, 2008, with a first use date of December 31, 1971 and a first use in commerce date of December 31, 1988, and was based on Foreign Registration No. 317956 in Italy registered on September 26, 1979. These dates are all prior to the date of filing of Applicant's application, and are prior to any use alleged by Applicant for its mark being opposed. This registration is incontestable.



, U.S. Reg. No. 1,350,208 for skin lotions, creams and oils and soap and shampoo for personal use, in International Class 3. Said registration was registered on the Principal Register on July 23, 1985, with a first use date of October 1, 1983, which is a date prior to the date of filing of Applicant's application, and prior to any use alleged by Applicant for its mark being opposed. This registration is incontestable.

4. Opposer's registered marks are valid and subsisting, and are prima facie evidence of Opposer's exclusive right to use said mark in commerce on the goods specified in the registration. In addition, Reg. Nos. 3,497,066; 3,497,067; and 1,350,208 are incontestable under §15 of the Lanham Act (15 U.S.C. §1065), and are therefore conclusive evidence of the validity of the registered marks, of registration of the marks, of Opposer's ownership of the marks, and of Opposer's exclusive right to use the marks in commerce under §33(b) of the Lanham Act (15 U.S.C. §1115(b)).

5. Opposer has advertised and promoted its PERLIER mark extensively. Opposer has also made substantial sales under said mark. As a result of such use and promotion,

Opposer's PERLIER marks have developed and represent valuable goodwill inuring to the benefit of Opposer. Opposer's products are marketed and sold on popular web sites, including but not limited to [www.amazon.com](http://www.amazon.com) , [www.birchbox.com](http://www.birchbox.com) , and [www.hsn.com](http://www.hsn.com) and others. The PERLIER mark is featured on these sites as the source of Opposer's goods.

6. Examples of Opposer's products, and representative packaging as used by Opposer are shown below:



7. Opposer has priority with respect to the marks at issue in this opposition. Opposer has had priority of use of the PERLIER mark long before the May 11, 2015 filing date of Applicant's application, and long prior to any use date alleged by Applicant for its mark opposed herein. Opposer's rights in the mark go back at least to 1971 when it obtained Italian Registration No. 253247.

8. Applicant's PERLE D'OR mark is confusingly similar to Opposer's PERLIER mark. The marks have an overall confusingly similar appearance, sound, meaning and commercial impression. Applicant's goods would compete directly with Opposer's products, and would be sold to the same customers through the same channels of trade.

9. Due to the highly similar nature of Applicant's mark and Opposer's mark, the closely related nature of the goods provided by the respective parties, consumers and potential consumers are likely to believe that Applicant's goods originate from Opposer, resulting in a likelihood of confusion as to source in the marketplace, and damage to Opposer. Applicant's goods branded with Applicant's proposed mark will reasonably look to consumers as line extensions of Opposer's PERLIER products.

10. The use and registration by Applicant of the mark PERLE D'OR for Applicant's goods are likely to cause confusion or to cause mistake or deception among consumers and potential consumers, falsely suggesting a connection with Opposer that does not exist, again resulting in damage to Opposer.

11. Because of the highly related nature of the goods, and the highly similar nature of the marks in overall appearance, sound, meaning and commercial impression, use and registration of the term PERLE D'OR by Applicant is likely to cause confusion, mistake, or

deception that Applicant's goods are those of Opposer, or are otherwise endorsed, sponsored, approved or licensed by Opposer causing further damage to Opposer.

12. If Applicant is granted registration of the mark herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its alleged mark. Such registration would be a source of further damage and injury to Opposer, and might bar Opposer from obtaining a future registration of its PERLIER mark causing additional damage to Opposer.

13. Registration of the mark shown in Application Serial No. 86/625,103 will result in damage to Opposer under the provisions of §2(d) of the U.S. Trademark Act, 15 U.S.C. § 1052, pursuant to the allegations stated above.

WHEREFORE, Opposer asks that its Notice of Opposition be sustained and that Application Serial No. No. 86/625,103 for the term PERLE D'OR for the goods set fourth therein be refused.

Please direct all correspondence to the attention of:

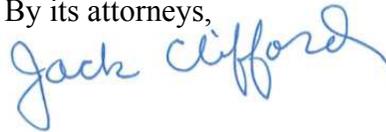
John A. Clifford  
Merchant & Gould P.C.  
P.O. Box 2910  
Minneapolis, MN 55402-0910  
Tel: 612-336-4616 Fax: 612-332-9081

Opposer hereby appoints: Danielle I. Mattessich; Heather Kliebenstein, Brian H. Batzli; Gregory C. Golla; Scott W. Johnston; Andrew S. Ehard; Christopher J. Schulte; and Brent Routman as its attorneys with the full power to represent the Opposer in connection with this proceeding.

Respectfully submitted,

PERLIER S.R.L.,

By its attorneys,



Date: 03/02/2016

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John A. Clifford  
MERCHANT & GOULD P.C.  
P.O. Box 2910  
Minneapolis, MN 55402-0910  
Tel. 612.336.4616  
Fax 612.332.9081

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **NOTICE OF OPPOSITION** was served, via first-class mail, postage prepaid this 2<sup>nd</sup> day of March 2016.

David L. Sigalow  
Allen Dyer Doppelt Milbrath & Gilchrist P A  
255 S Orange Ave Ste 1401  
Orlando, FL 32801-3460



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Amanda Avery