

ESTTA Tracking number: **ESTTA628450**

Filing date: **09/22/2014**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	The Kind Group, LLC		
Entity	limited liability company	Citizenship	New York
Address	19 West 44th Street, Suite 811 New York, NY 10036 UNITED STATES		

Attorney information	John G. Froemming and Jessica D Bradley Jones Day 51 Louisiana Avenue, NW Washington, DC 20001 UNITED STATES jfroemming@jonesday.com, jbradley@jonesday.com, nytfe@jonesday.com
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Registration Subject to Cancellation

Registration No	3908212	Registration date	01/18/2011
Registrant	KERTELS, PETER JEAN-MONNET-STRABE 6 FOHREN, 54343 GERMANY		

Goods/Services Subject to Cancellation

Class 003. First Use: 2002/03/00 First Use In Commerce: 2002/03/00 All goods and services in the class are cancelled, namely: Massage oils
Class 005. First Use: 2002/03/00 First Use In Commerce: 2002/03/00 All goods and services in the class are cancelled, namely: Medical lubricants, namely, vaginal lubricants

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14
Other	The registration is void ab initio as the applicant did not have a bona fide intention to use the mark in commerce on the specified goods when it filed the application under 15 U.S.C. Â§ 1051(b). CPC International, Inc. v. Skippy, Inc., 3 USPQ2d 1456, 1460 (TTAB 1987); Vignette Corp. v. Marino, 77 USPQ2d 1408, 1409 (TTAB 2005).

Attachments	Petition to Cancel.pdf(127538 bytes) Ex. A to Kind Group Petition to Cancel adv. Peter Kertels (EOS).PDF(620166 bytes) Ex. B to Kind Group Petition to Cancel adv. Peter Kertels (EOS).PDF(684542 bytes) Ex. C to Kind Group Petition to Cancel adv. Peter Kertels (EOS) (Megasol Assignment).PDF(626745 bytes) Ex. D to Kind Group Petition to Cancel adv. Peter Kertels (EOS) (Website Excerpts).PDF(2478442 bytes) Ex. E to Kind Group Petition to Cancel adv. Peter Kertels (EOS) (EOS SOU).PDF(1284744 bytes) Ex. F to Kind Group Petition to Cancel adv. Peter Kertels (EOS) (Eros & Design Specimen).PDF(1351067 bytes) Ex. G to Kind Group Petition to Cancel adv. Peter Kertels (EOS) (TSDR Report for 76421806).PDF(606121 bytes) Ex. H to Kind Group Petition to Cancel adv. Peter Kertels (EOS) (Specimen for body design).PDF(938034 bytes) Ex. I to Kind Group Petition to Cancel adv. Peter Kertels (EOS) (TSDR Report for 76460889).PDF(585503 bytes) Ex. J to Kind Group Petition to Cancel adv. Peter Kertels (EOS) (OA response with EROS specimen).PDF(1349274 bytes) Ex. K to Kind Group Petition to Cancel adv. Peter Kertels (EOS) (TSDR Report for 76408233).PDF(589200 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 Overnight Courier on this date.

Signature	/jessica d. bradley/
Name	John G. Froemming and Jessica D Bradley
Date	09/22/2014

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

The Kind Group, LLC,	§	
	§	
Petitioner,	§	Cancellation No. _____
	§	
v.	§	Registration No.: 3,908,212
	§	
Peter Kertels	§	Date of Issue: January 18, 2011
	§	
Registrant.	§	Subject Mark: EOS
	§	

PETITION FOR CANCELLATION

Petitioner, The Kind Group, LLC (hereinafter “Petitioner” or “Kind Group”), a New York limited liability company with its principal place of business at 19 West 44th Street, Suite 811, New York, NY 10036, believes that it is and will be damaged by the continued existence on the Register of Registration No. 3,908,212, registered to Peter Kertels (“Kertels” or “Registrant”), a German individual with an address of Jean-Monnet-Strasse 6, Föhren 54343, Germany, and hereby petitions to cancel this registration pursuant to 15 U.S.C. § 1064.

The registration sought to be canceled, Registration No. 3,908,212 (the “Registration”), was registered on the Principal Register on January 18, 2011 to Megasol Cosmetic GmbH (later assigned to Peter Kertels), for the mark EOS (hereinafter “Kertels Mark”) covering “massage oils” in International Class 3, and “medical lubricants, namely, vaginal lubricants” in International Class 5.

As grounds for this Petition it is alleged that:

1. Kind Group, itself or through its related companies, is in the business of designing, manufacturing, promoting, marketing, advertising, distributing and selling personal care products, including lip balm, throughout the United States.

2. Kind Group has used its marks “EOS,” EOS (stylized), and “EOS EVOLUTION OF SMOOTH” (collectively the “EOS Marks”) in commerce in the United States since at least as early as March 2009 in connection with personal care products, including lip balm.

3. Kind Group has expended substantial resources in designing, manufacturing, promoting, marketing, advertising, distributing and selling its products, brands and packaging, and has built a valuable business based on demand for its distinctively-styled, quality personal care products, including its lip balm.

4. Kind Group and its related companies have prominently and extensively used, promoted and advertised the EOS Marks for goods in International Classes 3 and 5 for many years through varied promotional and advertising media.

5. In 2013 alone, Kind Group sold over 44 million units of lip balm in the United States under the EOS Marks resulting in sales of over \$80 million.

6. “eos” and “eos lip balm” are the first and second most searched terms on Google for lip balm.

7. As a result of its extensive use and promotion of its EOS Marks, Kind Group’s EOS Marks have become well-known among its actual and target purchasers of personal care products as well as other members of the public, and as a distinctive symbol of Kind Group’s goodwill.

8. Kind Group is the owner of the following pending U.S. trademark applications for its EOS Marks (copies of the TSDR print-outs for each application are attached as Exhibit A):¹

¹ Page numbers have been added to all exhibits filed concurrently herewith for ease of reference.

APP. NO.	MARK	APP. DATE	GOODS
85/934,823	EOS	05/17/2013	Cl. 3: Lip balm; Non-medicated lip care preparations; Non-medicated lip protectors Cl. 5: Medicated lip balm
85/934,814		05/17/2013	Cl. 3: Lip balm; Non-medicated lip care preparations; Non-medicated lip protectors Cl. 5: Medicated lip balm
85/934,818	EOS EVOLUTION OF SMOOTH	05/17/2013	Cl. 3: Lip balm; Non-medicated lip care preparations; Non-medicated lip protectors Cl. 5: Medicated lip balm

9. The Examining Attorney in Application Nos. 85/934,823, 85/934,814, and 85/934,818 has refused registration to Kind Group's EOS Marks under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d) based upon the prior registration of the Kertels Mark in International Classes 3 and 5, Registration No. 3,908,212.

Grounds for Cancellation

Abandonment

10. On information and belief, Registrant has abandoned Registration No. 3,908,212 pursuant to 15 U.S.C. §1127.

11. The Registration matured from Application No. 76/382,124 (the "Application"), filed by Megasol Cosmetic GmbH ("Megasol Cosmetic") on March 14, 2002.

12. Megasol Cosmetic was identified in the Application as a German limited liability company with a business address at Jean-Monnet-Strasse 6, Föhren 54343, Germany. (*See* Exhibit B, p. 4.)

13. On January 18, 2011, the Registration for the Kertels Mark issued to Megasol Cosmetic under Registration No. 3,908,212.

14. Subsequently, on August 26, 2011, Megasol Cosmetic assigned Registration No. 3,908,212 to Peter Kertels. (See Exhibit C.)

15. Mr. Kertels is identified in the assignment as the Chief Executive Officer for Megasol Cosmetic, and his principal address, Jean-Monnet-Strasse 6, Föhren 54343, Germany, is the same as the business address for Megasol Cosmetic. (Exhibit C, p. 3.) Upon information and belief, Mr. Kertels is currently still the Chief Executive Officer for Megasol Cosmetic.

16. On information and belief, Registrant and Megasol Cosmetic have failed to use the Kertels Mark in Registration No. 3,908,212 in U.S. commerce in connection with the goods identified in the Registration in International Classes 3 and 5, for a period of three consecutive years following its registration date of January 18, 2011.

17. On information and belief neither Megasol Cosmetic nor Mr. Kertels has ever used the registered Kertels Mark in Registration No. 3,908,212 in U.S. commerce.

18. For example, all of the products offered for sale on Megasol Cosmetic's U.S. website at www.megasolusa.com are offered for sale under the mark EROS. (Exhibit D, pp. 3-4.)² Additionally, the home page for Megasol Cosmetic's U.S. website states "Welcome to MEGASOL-USA home of EROS." (Exhibit D, p. 1.)

19. Based on the foregoing and upon information and belief, Registrant has either never used the Kertels Mark, or has ceased use of the Kertels Mark in connection with the goods identified in Registration No. 3,908,212 with no intention to resume use of the Kertels Mark.

20. On the basis of Registrant's abandonment of the Kertels Mark and intention not to resume use of the mark, the registration embodied by said mark, Registration No. 3,908,212, is

² Copies of true and correct print-outs of the pages from Megasol Cosmetic's U.S. website are attached hereto as Exhibit D.

subject to cancellation under Section 14 of the United States Trademark Act of 1946, 15 U.S.C. §1064.

Fraud

21. Further, Megasol Cosmetic fraudulently obtained the Registration for the Kertels Mark by submitting a false statement of use.

22. On October 18, 2010, Megasol Cosmetic filed a Statement of Use for the Application in which it represented and declared that the Kertels Mark was “in use in commerce on or in connection with all goods or services listed in the application” and that “[t]he mark was first used by the applicant, ... at least as early as 03/00/2002.” (*See* Exhibit E, pp. 4-5.) Megasol Cosmetic also represented and declared that it was “submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Image of product label showing use of the trademark in association with goods.” (Exhibit E, pp. 4-5.)

23. The product label submitted by Megasol Cosmetic with its October 18, 2010 Statement of Use for the Application was for the “Super Concentrated Bodyglide” product.

24. Although “EOS” is typed on the center of the label, all of the product descriptions on both sides of the label state “EROS Bodyglide.” (Exhibit E, pp. 6-7.)

25. Petitioner’s investigation of Registrant’s and Megasol Cosmetic’s use of the Kertels Mark only showed use of the mark “EROS” and did not show any use of the Kertels Mark.

26. For example, the “Super Concentrated Bodyglide” product submitted as a specimen of use for the Kertels Mark is depicted on Megasol Cosmetic’s U.S. website bearing the mark “EROS” instead of the Kertels Mark. (Exhibit D, pp. 5-8.)

27. Additionally, specimens of use submitted by Megasol Cosmetic to the U.S. Patent & Trademark Office (“USPTO”) for other trademarks demonstrate that the Super Concentrated Bodyglide product, and other similar products are sold under the mark “EROS,” and not under the Kertels Mark.

28. On May 3, 2010, Megasol Cosmetic submitted a response to an office action for Application No. 76/421,806 covering the mark EROS & Design including specimens which it declared “were in use in commerce at least as early as the filing date of the application.” (Exhibit F, pp. 1-2, 5.) Application No. 76/421,806 was filed on June 17, 2002.³ The specimens submitted were described as “[p]roduct label, image of product and point-of-purchase display showing images of products bearing branded label showing use of the trademark in association with goods.” (Exhibit F, pp. 2-3.) Both the image of the actual product and the point-of-purchase display were for the “Super Concentrated Bodyglide” product, and the specimens depict the mark “EROS” in use on the actual “Super Concentrated Bodyglide” product. (Exhibit F, pp. 9-10, 12-13.)

29. Accordingly, five months before Megasol Cosmetic filed a Statement of Use for the Application for the Kertels Mark, it filed a specimen consisting of a photograph of an actual Super Concentrated Bodyglide product (rather than just a label)--the same product as depicted in the label specimen submitted for the Kertels Mark--showing the mark EROS used on the Super Concentrated Bodyglide product instead of the Kertels Mark, and declared that the depicted actual Super Concentrated Bodyglide product with the mark “EROS” had been in use since June 17, 2002. (Compare Ex. E, pp. 6-7 with Ex. F, pp. 9-10, 12-13.)

³ A true and correct copy of the TSDR report for Application No. 76/421,806 showing the application filing date of June 17, 2002 is attached hereto as Exhibit G. Application No. 76/421,806 matured into Registration No. 4,010,690 which is currently owned by Peter Kertels. (Exhibit G, p. 2.)

30. On September 17, 2003, Megasol Cosmetic submitted a response to an office action for Application No. 76/460,889 covering the Body Design mark including specimens which it declared were “in use in commerce at least as early as the filing date of the application.” (Exhibit H, p. 2.) Application No. 76/460,889 was filed on October 24, 2002.⁴ The specimens submitted depict the mark “EROS” in use on photographs of the “Gel Bodyglide” product, and the “Woman Super Concentrated Bodyglide” product. (Exhibit H, pp. 3-6.)

31. Accordingly, approximately seven years before Megasol Cosmetic filed a Statement of Use for the Application for the Kertels Mark, it filed specimens consisting of photographs of actual “Woman Super Concentrated Bodyglide” and “Gel Bodyglide” products--products in the same product line as depicted in the label specimen submitted for the Kertels Mark--showing the mark EROS used on the Woman Super Concentrated Bodyglide and Gel Bodyglide products instead of the Kertels Mark, and declared that such specimens with the mark “EROS” had been in use since October 24, 2002. (Compare Ex. E, pp. 6-7 with Ex. H, pp. 3-6.)

32. Megasol Cosmetic is the current owner of Registration No. 3,697,335 for the mark EROS which matured from Application No. 76/408,233. (Exhibit K, p. 2.) On May 27, 2003, the applicants for Application No. 76/408,233 covering the mark EROS submitted a response to an office action including a specimen which they declared was “in use in commerce as of the filing date of this application.” (Exhibit J, p. 6.) Application No. 76/408,233 for the

⁴ A true and correct copy of the TSDR report for Application No. 76/460,889 showing the application filing date of October 24, 2002 is attached hereto as Exhibit I. Application No. 76/460,889 matured into Registration No. 3,697,337 which is currently owned by Peter Kertels. (Exhibit I, p. 2.)

mark EROS was filed on May 14, 2002.⁵ The specimens submitted depict the mark “EROS” in use on a label for the “Super Concentrated Bodyglide” product. (Exhibit J, p. 12.)

33. Accordingly, over seven years before Megasol Cosmetic filed a Statement of Use for the Application for the Kertels Mark, the specimen submitted by the applicant for the mark EROS consisted of the label for the “Super Concentrated Bodyglide” product--the same product as depicted in the specimen submitted for the Kertels Mark--which showed the mark EROS on the label for the Super Concentrated Bodyglide product instead of the Kertels Mark. Megasol further declared that the depicted label for the Super Concentrated Bodyglide product with the mark “EROS” had been in use since May 14, 2002. (Compare Ex. E, pp. 6-7 with Ex. J, p. 12.)

34. Based on Petitioner’s investigation and the specimens of use submitted by Registrant and Megasol Cosmetic to the USPTO, Registrant and Megasol Cosmetic have never used the Kertels Mark in U.S. commerce on the goods identified in the Application.

35. The representations to the USPTO made by Megasol Cosmetic, Registrant’s predecessor in interest,⁶ regarding the use in commerce of the Kertels Mark as well as the submitted specimen, as described above in paragraphs 22-26, were false at the time Registrant’s predecessor in interest made them to the Trademark Office.

36. Registrant’s predecessor in interest knew that its representations were false at the time it made them.

37. Registrant’s predecessor in interest made each such representation willfully, knew that they were false, and made them with the intent that the USPTO would rely on them in processing the Application.

⁵ A true and correct copy of the TSDR report for Application No. 76/408,233 showing the application filing date of May 14, 2002 is attached hereto as Exhibit K.

⁶ As explained in paragraph 15, Mr. Kertels is also the Chief Executive Officer for Megasol Cosmetic.

38. Registrant's predecessor in interest's representations were material to the issuance of the Registration based on the Application.

39. The USPTO relied on the representations made by Registrant's predecessor in interest in issuing the Registration.

40. The USPTO would not have issued Registration No. 3,908,212 but for the false statements of Registrant's predecessor in interest.

41. As a result of and through Megasol Cosmetic's representations, Registrant's predecessor in interest committed fraud in connection with the filing of the Statement of Use for the Application.

42. Accordingly Registration No. 3,908,212 for the Kertels Marks is subject to cancellation under Section 14 of the United States Trademark Act of 1946, 15 U.S.C. §1064.

Void Ab Initio

43. Alternatively, Kind Group petitions to cancel Registration No. 3,908,212 for the Kertels Mark on the separate and independent ground that Applicant Megasol Cosmetic did not have a bona fide intention to use the mark in commerce on the specified goods when it filed the Application for the Kertels Mark under the Lanham Act section 1(b), 15 U.S.C. §1051(b) rendering the application void *ab initio*. (See Exhibit B., p. 4.)

44. Upon information and belief, and as described in paragraphs 23 - 34, Applicant Megasol Cosmetic did not intend to use the Kertels Mark for the goods specified in the Application, but instead intended to and did use the mark EROS.

45. Accordingly the Application that matured into Registration No. 3,908,212 for the Kertels Mark is void *ab initio* and the resulting Registration No. 3,908,212 is subject to cancellation on this additional basis.

Prayer for Relief

46. Petitioner has been and will continue to be damaged by the abandoned, fraudulently obtained, and void *ab initio* Registration No. 3,908,212 for the Kertels Mark which is preventing Kind Group from obtaining federal registration for its valuable EOS Marks, and Kind Group's continued and legal use of said marks will be impaired by the continued said registration.

47. If Kind Group is unable to overcome the Examining Attorney's Section 2(d) objection for Application Nos. 85/934,823, 85/934,814, and 85/934,818, Kind Group will not be able to register its EOS Mark on the Principal Register established under the Trademark Act and will accordingly be deprived of the benefits of federal registration based upon Kertels's Registration No. 3,908,212.

WHEREFORE, Petitioner respectfully prays that Registration No. 3,908,212, be cancelled.

Respectfully submitted,

The Kind Group LLC

Date: September 22, 2014

By: /Jessica D. Bradley/

John G. Froemming
Jessica D. Bradley
Attorneys for Petitioner
Jones Day
51 Louisiana Avenue, NW
Washington DC 20001-2113
202-879-3939

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of September 2014, a true copy of the foregoing PETITION FOR CANCELLATION was served on the following counsel of record for Registrant via UPS to:

David A. Lowe
Lowe Graham Jones
701 Fifth Avenue
Suite 4800
Seattle, Washington 98104

/Jessica D. Bradley/
Jessica D. Bradley

Exhibit A

Generated on: This page was generated by TSDR on 2014-09-16 14:31:19 EDT

Mark: EOS

EOS

US Serial Number: 85934823

Application Filing Date: May 17, 2013

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: A final Office action refusing registration has been sent (issued) because the applicant neither satisfied nor overcame all requirements and/or refusals previously raised. The applicant may respond by filing (1) a request for reconsideration; and/or (2) an appeal to the Trademark Trial and Appeal Board. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Status Date: Mar. 24, 2014

Mark Information

Mark Literal Elements: EOS

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

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 incontestability; and
- Asterisks *...* identify additional (new) wording in the goods/services.

For: Lip balm; Non-medicated lip care preparations; Non-medicated lip protectors

International Class(es): 003 - Primary Class

U.S Class(es): 001, 004, 006, 050, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 01, 2009

Use in Commerce: Mar. 01, 2009

For: Medicated lip balm

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Aug. 17, 2010

Use in Commerce: Aug. 17, 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: The Kind Group, LLC

Owner Address: 307 Fifth Avenue, 5th Floor
New York, NEW YORK 10016
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: NEW YORK

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Jessica D. Bradley

Attorney Primary Email Address: nytef@jonesday.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: JESSICA D. BRADLEY
JONES DAY
51 LOUISIANA AVE NW
WASHINGTON, DISTRICT OF COLUMBIA 20001-2113
UNITED STATES

Phone: 202.879.3939

Correspondent e-mail: nytef@jonesday.com jbradley@jonesday.com tcgr-reenleaf@jonesday.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Mar. 24, 2014	NOTIFICATION OF FINAL REFUSAL EMAILED	
Mar. 24, 2014	FINAL REFUSAL E-MAILED	
Mar. 24, 2014	FINAL REFUSAL WRITTEN	82414
Mar. 05, 2014	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Mar. 04, 2014	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Mar. 04, 2014	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Sep. 06, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Sep. 06, 2013	NON-FINAL ACTION E-MAILED	6325
Sep. 06, 2013	NON-FINAL ACTION WRITTEN	82414
Sep. 05, 2013	ASSIGNED TO EXAMINER	82414
May 30, 2013	NOTICE OF PSEUDO MARK E-MAILED	
May 29, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
May 21, 2013	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: CHANG, KATHERINE S

Law Office Assigned: LAW OFFICE 115

File Location

Current Location: TMO LAW OFFICE 115 - EXAMINING
ATTORNEY ASSIGNED

Date in Location: Mar. 24, 2014

Generated on: This page was generated by TSDR on 2014-09-16 14:34:22 EDT

Mark: EOS



US Serial Number: 85934814

Application Filing Date: May 17, 2013

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: A final Office action refusing registration has been sent (issued) because the applicant neither satisfied nor overcame all requirements and/or refusals previously raised. The applicant may respond by filing (1) a request for reconsideration; and/or (2) an appeal to the Trademark Trial and Appeal Board. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Status Date: Mar. 24, 2014

Mark Information

Mark Literal Elements: EOS

Standard Character Claim: No

Mark Drawing Type: 5 - AN ILLUSTRATION DRAWING WITH WORD(S) /LETTER(S)/ NUMBER(S) INSTYLIZED FORM

Color(s) Claimed: Color is not claimed as a feature of the mark.

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 incontestability; and
- Asterisks *...* identify additional (new) wording in the goods/services.

For: Lip balm; Non-medicated lip care preparations; Non-medicated lip protectors

International Class(es): 003 - Primary Class

U.S Class(es): 001, 004, 006, 050, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 01, 2009

Use in Commerce: Mar. 01, 2009

For: Medicated lip balm

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Aug. 17, 2010

Use in Commerce: Aug. 17, 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: The Kind Group, LLC

Owner Address: 307 Fifth Avenue, 5th Floor
New York, NEW YORK 10016
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: NEW YORK

Attorney/Correspondence Information

Attorney of Record**Attorney Name:** Jessica D. Bradley**Attorney Primary Email Address:** nytef@jonesday.com**Attorney Email Authorized:** Yes**Correspondent****Correspondent Name/Address:** JESSICA D. BRADLEY
JONES DAY
51 LOUISIANA AVE NW
WASHINGTON, DISTRICT OF COLUMBIA 20001-2113
UNITED STATES**Phone:** 202.879.3939**Correspondent e-mail:** nytef@jonesday.com jbradley@jonesday.com tcgr.eenleaf@jonesday.com**Correspondent e-mail Authorized:** Yes**Domestic Representative - Not Found****Prosecution History**

Date	Description	Proceeding Number
Mar. 24, 2014	NOTIFICATION OF FINAL REFUSAL EMAILED	
Mar. 24, 2014	FINAL REFUSAL E-MAILED	
Mar. 24, 2014	FINAL REFUSAL WRITTEN	82414
Mar. 05, 2014	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Mar. 04, 2014	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Mar. 04, 2014	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Sep. 06, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Sep. 06, 2013	NON-FINAL ACTION E-MAILED	6325
Sep. 06, 2013	NON-FINAL ACTION WRITTEN	82414
Sep. 05, 2013	ASSIGNED TO EXAMINER	82414
May 30, 2013	NOTICE OF PSEUDO MARK E-MAILED	
May 29, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
May 21, 2013	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information**TM Staff Information****TM Attorney:** CHANG, KATHERINE S**Law Office Assigned:** LAW OFFICE 115**File Location****Current Location:** TMO LAW OFFICE 115 - EXAMINING
ATTORNEY ASSIGNED**Date in Location:** Mar. 24, 2014

Generated on: This page was generated by TSDR on 2014-09-16 14:35:54 EDT

Mark: EOS EVOLUTION OF SMOOTH

EOS EVOLUTION OF SMOOTH

US Serial Number: 85934818

Application Filing Date: May 17, 2013

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: A final Office action refusing registration has been sent (issued) because the applicant neither satisfied nor overcame all requirements and/or refusals previously raised. The applicant may respond by filing (1) a request for reconsideration; and/or (2) an appeal to the Trademark Trial and Appeal Board. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Status Date: Mar. 24, 2014

Mark Information

Mark Literal Elements: EOS EVOLUTION OF SMOOTH

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

Related Properties Information

Claimed Ownership of US Registrations: 4205519, 4205520

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 incontestability; and
- Asterisks *...* identify additional (new) wording in the goods/services.

For: Lip balm; Non-medicated lip care preparations; Non-medicated lip protectors

International Class(es): 003 - Primary Class

U.S Class(es): 001, 004, 006, 050, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Mar. 01, 2009

Use in Commerce: Mar. 01, 2009

For: Medicated lip balm

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Aug. 17, 2010

Use in Commerce: Aug. 17, 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: The Kind Group, LLC

Owner Address: 307 Fifth Avenue, 5th Floor
New York, NEW YORK 10016
UNITED STATES

Attorney/Correspondence Information**Attorney of Record****Attorney Name:** Jessica D. Bradley**Attorney Primary Email Address:** nytef@jonesday.com**Attorney Email Authorized:** Yes**Correspondent****Correspondent Name/Address:** JESSICA D. BRADLEY
JONES DAY
51 LOUISIANA AVE NW
WASHINGTON, DISTRICT OF COLUMBIA 20001-2113
UNITED STATES**Phone:** 202.879.3939**Correspondent e-mail:** nytef@jonesday.com jbradley@jonesday.com tcgr@jonesday.com eenleaf@jonesday.com**Correspondent e-mail Authorized:** Yes**Domestic Representative - Not Found****Prosecution History**

Date	Description	Proceeding Number
Mar. 24, 2014	NOTIFICATION OF FINAL REFUSAL EMAILED	
Mar. 24, 2014	FINAL REFUSAL E-MAILED	
Mar. 24, 2014	FINAL REFUSAL WRITTEN	82414
Mar. 05, 2014	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Mar. 04, 2014	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Mar. 04, 2014	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Sep. 06, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Sep. 06, 2013	NON-FINAL ACTION E-MAILED	6325
Sep. 06, 2013	NON-FINAL ACTION WRITTEN	82414
Sep. 05, 2013	ASSIGNED TO EXAMINER	82414
May 29, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
May 21, 2013	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information**TM Staff Information****TM Attorney:** CHANG, KATHERINE S**Law Office Assigned:** LAW OFFICE 115**File Location****Current Location:** TMO LAW OFFICE 115 - EXAMINING
ATTORNEY ASSIGNED**Date in Location:** Mar. 24, 2014

EXHIBIT B



03-14-2002

U.S. Patent & TMOfo/TM Mail Ropt Dt. #22

DT-6117

APPLICANT : Megasol Cosmetic GmbH
P.O. ADDRESS : Jean-Monnet-Strasse
54343 Foehren
Germany
GOODS : Massage fluids, medical lubricants.

EOS



76382124

ATTORNEY: David Toren

ADDRESS: SIDLEY AUSTIN BROWN & WOOD LLP
875 Third Avenue
New York, NY 10022

TRADEMARK APPLICATION SERIAL NO

76382124

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

03/19/2002 MPETTY 0000071 500955 76382124
01 FC:361 325.00 CH

PTO-1555
(5/87)

*U.S. Government Printing Office: 2000 — 466-232/29119

3

SIDLEY AUSTIN BROWN & WOOD LLP

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 SEATTLE
 WASHINGTON, D.C.

875 THIRD AVENUE
 NEW YORK, NEW YORK 10022
 TELEPHONE 212 906 2000
 FACSIMILE 212 906 2021
 www.sidley.com
 FOUNDED 1866

BEIJING
 HONG KONG
 LONDON
 SHANGHAI
 SINGAPORE
 TOKYO

WRITER'S DIRECT NUMBER
 (212) 9062585

WRITER'S E-MAIL ADDRESS
 dtoren@sidley.com

Assistant Commissioner for Trademarks
 2900 Crystal Drive, BOX NEW APP FEE
 Arlington, Virginia 22202-3513

March 14, 2002

Our Ref.: DT-6117

Sir:

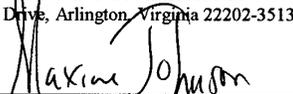
Enclosed is a new trademark application

in the name of : Megasol Cosmetic GmbH

for the trademark : EOS

comprising the following :

- (X) 1. The Commissioner is hereby authorized to charge the filing fee in the amount of \$325.00 per class to Deposit Account 50-0955. The Assistant Commissioner is hereby authorized to charge any additional fee which may be required, or credit any overpayment, to Deposit Account No. 50-0955
- (X) 2. Specification;
- (X) 3. Typed Drawing;

"EXPRESS MAIL" Label No.: ET537612441US	DATE OF DEPOSIT: 03/14/02
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the ASSISTANT COMMISSIONER FOR TRADEMARKS, 2900 Crystal Drive, Arlington, Virginia 22202-3513	
	
(typed or print name of person mailing or fee)	(signature of person mailing paper or fee)

Respectfully submitted
 for Applicant(s)


 David Toren
 Reg. No. 19,468

DT-6117

TRADEMARK/SERVICE MARK APPLICATION, PRINCIPAL REGISTER

Mark: EOS

TO THE ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS:

APPLICANT NAME:

Megasol Cosmetic GmbH

APPLICANT BUSINESS ADDRESS:

Jean-Monnet-Strasse 6
54343 Fochren
Germany

APPLICANT ENTITY:

Other: - (Specify Nature of Entity and Domicile)

Limited liability company of Germany

GOODS AND/OR SERVICES:

Applicant requests registration of the above-identified trademark/service mark shown in the accompanying drawing in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. 1051 et seq., as amended) for the following goods/services:

Massage fluids, medical lubricants.

BASIS FOR APPLICATION:

Applicant has a bona fide intention to use the mark in commerce on or in connection with the above-identified goods/services. (15 U.S.C. 1951(b), as amended.)

Specify intended manner or mode of use of mark on or in connection with the goods/services:

The trademark will be applied to the goods and/or labels or other material travelling with the goods.
(e.g., trademark will be applied to labels, service mark will be used in advertisements)

DT-6117

Applicant hereby appoints, jointly and severally, David Toren, Reg. No. 19, 468, Peter J. Toren, Shifra N. Malina and Joseph V. Jest, all of SIDLEY AUSTIN BROWN & WOOD LLP, 875 Third Avenue, New York, NY 10022, its attorneys to prosecute this application to register, with full power of substitution and revocation to transact all business in the U.S. Patent and Trademark Office connected therewith, and to receive the Certificate of Registration.

David Toren, Peter J. Toren, Shifra N. Malina and Joseph V. Jest, whose postal address is 875 Third Avenue, New York, NY 10022, are hereby designated applicant's representatives upon whom notices or process in proceedings affecting the mark may be served.

DECLARATION

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant, he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. 1051 (b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the above identified mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her knowledge are true and all statements made on information and belief are believed to be true.

Megasol Cosmetic GmbH
(Applicant)

By: **Peter Kertels**

Signature: 

Title: **Managing Director**

Dated: 04.03.2002
04. März 2002

NY1 5149805v1

EXHIBIT C

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Megasol Cosmetic GmbH		08/26/2011	CORPORATION: GERMANY
RECEIVING PARTY DATA			
Name:	Peter Kertels		
Street Address:	Jean-Monnet-StraBe 6		
City:	Fohren		
State/Country:	GERMANY		
Postal Code:	54343		
Entity Type:	INDIVIDUAL: GERMANY		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Serial Number:	76421806	EROS	
Registration Number:	3908212	EOS	
CORRESPONDENCE DATA			
Fax Number:	(206)381-3301		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	206.381.3300		
Email:	Lowe@LoweGrahamJones.com		
Correspondent Name:	David A. Lowe		
Address Line 1:	701 Fifth Avenue		
Address Line 2:	Suite 4800		
Address Line 4:	Seattle, WASHINGTON 98104		
ATTORNEY DOCKET NUMBER:	MEGA-2-1001,1002		
DOMESTIC REPRESENTATIVE			
Name:			
Address Line 1:			

OP \$65.00 76421806

Address Line 2:
Address Line 3:
Address Line 4:

NAME OF SUBMITTER:

David A. Lowe

Signature:

/David A. Lowe/

Date:

09/07/2011

Total Attachments: 1

source=MEGA-2-1001XASGN#page1.tif

TRADEMARK ASSIGNMENT

Megasol Cosmetic GmbH, a German corporation, having a place of business at Jean-Monnet-Straße 6, D-54343 Föhren, Germany (hereinafter the "Assignor"), is the holder of the entire right and title to and interest in the following marks as trademarks, service marks and trade names, including rights manifest in the following U.S. trademark registrations and application and all goodwill associated with the marks (Trademarks):

Mark	No.	Date
EOS	3908212	18 Jan 2011
	76-421806	17 Jun 2002

Peter Kertels, a German Citizen, having a principal address at Jean-Monnet-Straße 6, D-54343 Föhren, Germany (hereinafter the "Assignee"), is desirous of acquiring the entire right and title to and interest in the Trademarks, including the trademark registration and application and all associated goodwill.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, Assignor does hereby sell, assign and transfer unto Assignee his entire right and title to and interest in the Trademarks, including the trademark registration and application and all associated goodwill.

Megasol Cosmetic GmbH

Date: 26 AUG 2011


Name: PETER KERTELS
Title: CHIEF EXECUTIVE OFFICER

EXHIBIT D



Monday, Aug. 4, 2014



Welcome to MEGASOL-USA home of EROS. The name MEGASOL Cosmetic is synonymous with top-quality sun and solar cosmetics, immediate-effect products, skin-care products available in chemists, break-off and snap-cap ampoules, massage products and lubricants, the most rigorous quality controls and faultless service concept. Since 1994 MEGASOL Cosmetic has been developing and producing one of the world's best-selling lubricants. [...click here for more](#)



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EROTICX
[Aqua](#)



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EROS GEL AQUA BASED

EROS MEGA SLIDE

EROS RELAX

EROS Anal Ease

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EROS Blow N Glow

EROS Warming

EROS Tasty Fruits

EROS Anal Silicone

EROS Toyglide

EROS Dressing Aid Shining Spray

EROS Dressing Aid Fluid

EROS Hair Stopp

EROTICX Silicone Based

MEGA GLIDE Gel Aqua Based

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EROS Tasty Fruits	EROS Anal Silicone	EROS Toyalide	EROS Dressing Aid Stimula Spray
EROS Dressing Aid Fluid	EROS Hair Stopp	EROTICK Silicone Based	MEGA GLIDE Gel Aqua Based
EROTICK Aqua	BLUE Lubricant	Megasilk	Lube4 You
Glide 4 You	Lubrasilk	MEGASILK	LUBE4YOU
GLIDE4YOU	LUBRASILK®	Bodyglide	EROS
EROS Essentials		BODYGLIDE	Platinum

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http://megasolusa.com/products/11_eros_woman_relax_cont.htm

http://megasolusa.com/products.htm




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EROS[®] SUPER CONCENTRATED BODYGLIDE

EROS

The first silicon-based lubricant worldwide – a classic amongst our world famous products and our best seller! Its extremely long-lasting glide ability makes it ideal for all kinds of erotic fun.

Art. No.	Version	Content	Case	Order
E 11010	Sachet	1.5 ml	400	ORDER
E 11020	Ampoules	3 ml	320	ORDER
E 11021	Tube	7 ml	100	ORDER
E 11030	Bottle	15 ml	144	ORDER
E 11031	Bottle	30 ml	144	ORDER
E 11041	Bottle	100 ml	144	ORDER
E 11061	Bottle	250 ml	48	ORDER
E 11071	Bottle	500 ml	30	ORDER
E 11081	Bottle	1000 ml	20	ORDER



- Dermatologically tested.
- Very economical.
- For use with latex condoms.
- No preservatives.
- Practical and leak proof flip-top cap.

- Non-sticky.
- Flavorless and colorless.
- Extremely long-lasting glide quality.
- Oil-free and perfume-free.
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EROS - SILICONE BASED EROS - AQUA BASED EROS - MEGA SLIDE EROS - EFFECT WOMEN EROS - EFFECT MEN
 EROS - WARMING EROS - STIMULANT EROS - FLAVORED EROS - CLEANER EROS - GLIDE EROS - PLAY EROS - MASSAGE
 EROS - COSMETIC EROS - ESSENTIALS EROS - SPECIALTY MEGASOL - SILICONE BASED MEGASOL - AQUA BASED
 MEGASOL - RELAX MASSAGE MEGASOL - YOUNG GENERATION MEGASOL - BODYGLIDE

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Categories

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[Super Gel Bodyglide](#) (3)
[Love Bodyglide](#) (3)
[Eros Woman Super Concentrated](#) (5)
[Eros Woman Gel Bodyglide](#) (1)
[Eros Platinum](#) (2)
EROS - AQUA BASED-> (11)
EROS - MEGA SLIDE-> (1)
EROS - EFFECT WOMEN-> (2)
EROS - EFFECT MEN-> (7)
EROS - WARMING-> (2)
EROS - STIMULANT->
EROS - FLAVORED (21)
EROS - CLEANER->
EROS - GLIDE->
EROS - PLAY-> (3)
EROS - MASSAGE->
EROS - COSMETIC->
EROS - ESSENTIALS-> (3)
EROS - SPECIALTY-> (6)
MEGASOL - SILICONE BASED-> (1)
MEGASOL - AQUA BASED-> (2)
MEGASOL - RELAX MASSAGE-> (4)
MEGASOL - YOUNG GENERATION->
MEGASOL - BODYGLIDE-> (8)

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EROS[®] SUPER CONCENTRATED BODYGLIDE

Super Concentrated Bodyglide



Product 2/3

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Eros Super Concentrated Bodyglide - E11071

Price Unavailable

PRODUCT: Eros Super Concentrated Bodyglide
ART.#.: E11071
VERSION: Bottle
CONTENT: 500 ml
CASE COUNT: 30

[larger image](#)

- Model: E11071
- Manufactured by: Eros

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Price Unavailable



Eros Classic Silicone Bodyglide 1000 ml
Price Unavailable

Reviews [more]



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[Super Concentrated Bodyglide](#)

Product 2/3

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Eros Super Concentrated Bodyglide - E11071

Price Unavailable



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PRODUCT: **Eros Super Concentrated Bodyglide**
ART.#.: E11071
VERSION: Bottle
CONTENT: 500 ml
CASE COUNT: 30

- Model: E11071
- Manufactured by: Eros

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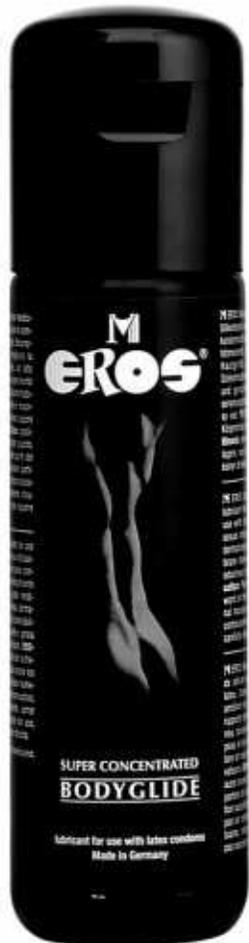
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EROS Super Concentrated Bodyglide



This is the original silicone-based lubricant. It has been dermatologically tested and safe to use with condoms. EROS Super Concentrated Bodyglide is suitable for all kinds of sexual intercourse. You will be surprised by its outstanding performance and extraordinary yield. Due to its special composition, this product can be used in the shower and even underwater - give this a try!

EROS Super Concentrated Bodyglide is non-sticky, crystal clear and made in Germany. It can also be used as a sensual massage lotion. EROS Super Concentrated Bodyglide feels silky smooth to the skin and can be washed off easily with some soap or rubbed gently from the skin with a towel.

Please consider that silicone-based lubricants will not work properly with silicone toys. Please use [EROS Liquid - Water Based](#) lubricant for this purpose.

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EXHIBIT E

Trademark/Service Mark Statement of Use (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	76382124
LAW OFFICE ASSIGNED	LAW OFFICE 105
EXTENSION OF USE	NO
MARK SECTION	
MARK	EOS
OWNER SECTION (no change)	
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	003
CURRENT IDENTIFICATION	Massage oils
GOODS OR SERVICES	KEEP ALL LISTED
FIRST USE ANYWHERE DATE	03/00/2002
FIRST USE IN COMMERCE DATE	03/00/2002
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPN0-7099136106-135658249_. MEGA-2-1001SpecimenClasses3_5.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT11\IMAGEOUT11\763\821\76382124\xml1\SOU0002.JPG
SPECIMEN DESCRIPTION	Image of product label showing use of the trademark in association with goods

INTERNATIONAL CLASS	005
CURRENT IDENTIFICATION	Medical lubricants, namely, vaginal lubricants
GOODS OR SERVICES	KEEP ALL LISTED
FIRST USE ANYWHERE DATE	03/00/2002
FIRST USE IN COMMERCE DATE	03/00/2002
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPN1-7099136106-135658249 . MEGA-2-1001SpecimenClasses3_5.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT11\IMAGEOUT11\763\821\76382124\xml1\SOU0003.JPG
SPECIMEN DESCRIPTION	Image of product label showing use of the trademark in association with goods
REQUEST TO DIVIDE	NO
PAYMENT SECTION	
NUMBER OF CLASSES IN USE	2
SUBTOTAL AMOUNT [ALLEGATION OF USE FEE]	200
TOTAL AMOUNT	200
SIGNATURE SECTION	
DECLARATION SIGNATURE	/David A. Lowe/
SIGNATORY'S NAME	David A. Lowe
SIGNATORY'S POSITION	Attorney of record
DATE SIGNED	10/18/2010
FILING INFORMATION	
SUBMIT DATE	Mon Oct 18 14:06:11 EDT 2010
	USPTO/SOU-70.99.136.106-2

TEAS STAMP

0101018140611979308-76382
124-47011ec119ee16329669b
f06980a71b285e-CC-281-201
01018135658249013

**Trademark/Service Mark Statement of Use
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

MARK: EOS

SERIAL NUMBER: 76382124

The applicant, Megasol Cosmetic GmbH, having an address of
Jean-Monnet-Strasse 6
54343 Fohren,
DE

is submitting the following allegation of use information:

For International Class 003:

Current identification: Massage oils

The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 03/00/2002, and first used in commerce at least as early as 03/00/2002, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Image of product label showing use of the trademark in association with goods.

Original PDF file:

[SPN0-7099136106-135658249 . MEGA-2-1001SpecimenClasses3_5.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File 1](#)

For International Class 005:

Current identification: Medical lubricants, namely, vaginal lubricants

The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 03/00/2002, and first used in commerce at least as early as 03/00/2002, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) Image of product label showing use of the trademark in association with goods.

Original PDF file:

[SPN1-7099136106-135658249 . MEGA-2-1001SpecimenClasses3_5.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

The applicant is not filing a Request to Divide with this Allegation of Use form.

A fee payment in the amount of \$200 will be submitted with the form, representing payment for the allegation of use for 2 classes.

Declaration

Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /David A. Lowe/ Date Signed: 10/18/2010

Signatory's Name: David A. Lowe

Signatory's Position: Attorney of record

RAM Sale Number: 281

RAM Accounting Date: 10/19/2010

Serial Number: 76382124

Internet Transmission Date: Mon Oct 18 14:06:11 EDT 2010

TEAS Stamp: USPTO/SOU-70.99.136.106-2010101814061197

9308-76382124-47011ec119ee16329669bf0698

0a71b285e-CC-281-20101018135658249013



Quality controller
TÜV
Nr. 370012/02
clinically tested

Nr.: E 11041



D-54343 Föhren · Jean-Monnet-Strabe 6
Phone ++49 (0) 6502/20011 · Fax 20187
www.megaglide.com · www.eros-bodyglide.de



4 035223 110416

M EROS Bodyglide per le scelte personalmente un divertimento erotico fantasia. **M** EROS Bodyglide è una lubrificazione alureante aluramente per ogni giorno. **Qualità:** non picca e non lasca trace · non seccánico nel suo composto genere · straordinario e lungo continuo scivoleza · tanto produttivo · no é toxicato · senza gusto · senza odore · ne profumi · spirante · ne oglio o grassi · umidita elargire, cura e proteta la pele seca · rilaschia su la pele un sentimento di seta · lavarsi dopo usato no ecesare non rilaschia a retrato · legeramente lavarsi · senza Konservazinati · senza Animaliprove · senza usando prodotti Animalí grassi. **Aviso prima di doperando:** Gli da cosi speso e danto **M** EROS Bodyglide come lei vole, su il posto preferito de korpo, dove lei preferisce piu umidita. Godersi lumico sensazione die **M** EROS Bodyglide.

M EROS Bodyglide - diseñado para múltiples usos - formulado para aumentar su placer personal y sus fantasías eróticas. **M** EROS Bodyglide también es un acondicionador de la piel, aporta humedad y al mismo tiempo es una formula para masajes de uso diario. **Características:** nunca da la sensación de pegajoso · no se seca nunca · composición única · duración extremadamente larga · económico gota a gota · no tóxico · sin sabor · sin olor · sin perfumes · no bloquea los poros de la piel · sin aceites ni grasas · acondiciona y humedece la piel · deja la piel suave y sedosa · no requiere limpieza posterior · no emite gases dañinos · no contiene conservantes · no ha sido testado en animales · no contiene ningún producto animal. **Instrucciones de uso:** Aplique una pequeña cantidad de **M** EROS Bodyglide en cualquier parte de su cuerpo que necesite humedad adicional. Utilice tantas veces como quiera. Disfrute de **M** EROS Bodyglide.

Ingredients (INCI):
Dimethicone and Dimethiconol, Cyclomethicone

C/H 30 100 ml / 3,4 fl.oz

EOS



**SUPER CONCENTRATED
BODYGLIDE**

Lubricant

Latex safe · Made In Germany

M EROS Bodyglide für vielseitige Anwendungen. Steigert das persönliche Vergnügen und die erotischen Phantasien. Ist auch ein Massagemittel für die tägliche Anwendung. **Eigenschaften:** klebt und schmiert garantiert nicht · trocknet nicht aus · öl- und fettfrei · außergewöhnlich u. lang anhaltend gleitfähig · sehr ergiebig · untoxisch · geschmacksneutral · geruchsneutral · parfümfrei · atmungsaktiv · feuchtigkeitspendend, pflegt u. schützt trockene, beanspruchte Haut · hinterlässt ein samtweiches Hautgefühl · Hautreinigung nach Gebrauch nicht notwendig · hinterlässt keine Rückstände · leicht abzuwaschen · keine Konservierungsstoffe · ohne tierische Produkte · keine Tierversuche. **Anwendung:** Geben Sie so häufig und so viel **M** EROS Bodyglide wie gewünscht auf die Körperstellen, an denen Sie extra Feuchtigkeit wünschen. Genießen Sie das einzigartige Gefühl von **M** EROS Bodyglide.

M EROS Bodyglide designed for multiple uses. Enhances your personal pleasures and your erotic fantasies. Is also a skin conditioner, moisturizer and a massage formula for daily use. **Characteristics:** unique formulation that is never sticky or tacky · extra long lasting · never dries out · no cleanup necessary · economical drop per drop · non toxic · tasteless · fragrance free · skin conditioner and moisturizer · leaves skin silky and smooth · non pore blocking · oil and fat free · scentless · no preservatives · no animal testing · no animal bi products. **Directions for use:** Apply **M** EROS Bodyglide to any area of the body where extra moisture is desired. Use as often as you like. Enjoy **M** EROS Bodyglide. **Caution:** This product may react with silicone products and cause undesirable effects.

M EROS Bodyglide - application multiple - renforce le plaisir et l'érotisme. Est aussi un produit de massage pour utilisation quotidienne. **Particularités: nous vous garantissons:** ne colle pas, ne grasse pas · sans huile et graisse · composant unique · durée de lubrification extra longue · très économique · ne desseche pas · non toxique · goût neutre · odeur neutre · sans parfum · permet à la peau de respirer · soigne et protège · laisse la peau satinée · ne laisse aucun résidu · facilement lavable · sans produit conservateur · produit non testé sur les animaux · ne aucune substance animale. **Mode d'emploi:** **M** EROS Bodyglide à utiliser aussi souvent que désirée, sur les parties du corps qui ont besoin d'une hydratation supplémentaire. Profitez du plaisir exceptionnel de **M** EROS Bodyglide.



Quality controller
TÜV
Nr. 370012/02
clinically tested

Nr.: E 11041



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4 035223 110416

M EROS Bodyglide per le scelte personalmente un divertimento erotico fantasia. **M** EROS Bodyglide è una lubrificazione alureante aluramente per ogni giorno. **Qualità:** non picca e non lasca trace · non seccánico nel suo composto genere · straordinario e lungo continuo scivoleza · tanto produttivo · no é toxicato · senza gusto · senza odore · ne profumi · spirante · ne oglio o grassi · umidita elargire, cura e proteta la pele seca · rilaschia su la pele un sentimento di seta · lavarsi dopo usato no ecesare non rilaschia a retrato · legeramente lavarsi · senza Konservazinati · senza Animaliprove · senza usando prodotti Animalí grassi. **Aviso prima di doperando:** Gli da cosi speso e danto **M** EROS Bodyglide come lei vole, su il posto preferito de korpo, dove lei preferisce piu umidita. Godersi lumico sensazione die **M** EROS Bodyglide.

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Ingredients (INCI):
Dimethicone and Dimethiconol, Cyclomethicone

C/H 30 100 ml / 3,4 fl.oz

EOS



**SUPER CONCENTRATED
BODYGLIDE**

Lubricant

Latex safe · Made In Germany

M EROS Bodyglide für vielseitige Anwendungen. Steigert das persönliche Vergnügen und die erotischen Phantasien. Ist auch ein Massagemittel für die tägliche Anwendung. **Eigenschaften:** klebt und schmiert garantiert nicht · trocknet nicht aus · öl- und fettfrei · außergewöhnlich u. lang anhaltend gleitfähig · sehr ergiebig · untoxisch · geschmacksneutral · geruchsneutral · parfümfrei · atmungsaktiv · feuchtigkeitspendend, pflegt u. schützt trockene, beanspruchte Haut · hinterlässt ein samtweiches Hautgefühl · Hautreinigung nach Gebrauch nicht notwendig · hinterlässt keine Rückstände · leicht abzuwaschen · keine Konservierungsstoffe · ohne tierische Produkte · keine Tierversuche. **Anwendung:** Geben Sie so häufig und so viel **M** EROS Bodyglide wie gewünscht auf die Körperstellen, an denen Sie extra Feuchtigkeit wünschen. Genießen Sie das einzigartige Gefühl von **M** EROS Bodyglide.

M EROS Bodyglide designed for multiple uses. Enhances your personal pleasures and your erotic fantasies. Is also a skin conditioner, moisturizer and a massage formula for daily use. **Characteristics:** unique formulation that is never sticky or tacky · extra long lasting · never dries out · no cleanup necessary · economical drop per drop · non toxic · tasteless · fragrance free · skin conditioner and moisturizer · leaves skin silky and smooth · non pore blocking · oil and fat free · scentless · no preservatives · no animal testing · no animal bi products. **Directions for use:** Apply **M** EROS Bodyglide to any area of the body where extra moisture is desired. Use as often as you like. Enjoy **M** EROS Bodyglide. **Caution:** This product may react with silicone products and cause undesirable effects.

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FEE RECORD SHEET

Serial Number: 76382124



RAM Sale Number: 281

Total Fees: \$200

RAM Accounting Date: 20101019

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>
Statement of Use (SOU)	7003	20101018	\$100	2	\$200

Transaction Date: 20101018



EXHIBIT F

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	76421806
LAW OFFICE ASSIGNED	LAW OFFICE 115
MARK SECTION (no change)	
GOODS AND/OR SERVICES SECTION (003)(current)	
INTERNATIONAL CLASS	003
DESCRIPTION	massage oil
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 04/18/1995
FIRST USE IN COMMERCE DATE	At least as early as 04/18/1995
GOODS AND/OR SERVICES SECTION (003)(proposed)	
INTERNATIONAL CLASS	003
DESCRIPTION	massage oil
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 04/18/1995
FIRST USE IN COMMERCE DATE	At least as early as 04/18/1995
STATEMENT TYPE	"The substitute (or new, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application" <i>[for an application based on Section 1(a), Use in Commerce]</i> OR "The substitute (or new, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use" <i>[for an application based on Section 1(b) Intent-to-Use].</i>
SPECIMEN FILE NAME(S)	

JPG FILE(S)	\\TICRS\EXPORT10\IMAGEOUT 10\764\218\76421806\xml1\ROA0003.JPG
	\\TICRS\EXPORT10\IMAGEOUT10\764\218\76421806\xml1\ROA0004.JPG
ORIGINAL PDF FILE	SPU0-7099136106-112901638_.MEGA-2-1002SpecimenClasses3_5.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT10\IMAGEOUT10\764\218\76421806\xml1\ROA0002.JPG
SPECIMEN DESCRIPTION	Product label, image of product and point-of-purchase display showing images of products bearing branded label showing use of the trademark in association with goods
GOODS AND/OR SERVICES SECTION (005)(current)	
INTERNATIONAL CLASS	005
DESCRIPTION	medical lubricants, namely, vaginal lubricants
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 04/18/1995
FIRST USE IN COMMERCE DATE	At least as early as 04/18/1995
GOODS AND/OR SERVICES SECTION (005)(proposed)	
INTERNATIONAL CLASS	005
DESCRIPTION	medical lubricants, namely, vaginal lubricants
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 04/18/1995
FIRST USE IN COMMERCE DATE	At least as early as 04/18/1995
STATEMENT TYPE	"The substitute (or new, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application" <i>[for an application based on Section 1(a), Use in Commerce]</i> OR "The substitute (or new, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use" <i>[for an application based on Section 1(b) Intent-to-Use]</i> .
SPECIMEN FILE NAME(S)	
JPG FILE(S)	\\TICRS\EXPORT10\IMAGEOUT 10\764\218\76421806\xml1\ROA0006.JPG
	\\TICRS\EXPORT10\IMAGEOUT10\764\218\76421806\xml1\ROA0007.JPG

ORIGINAL PDF FILE	SPU1-7099136106-112901638_ _MEGA-2-1002SpecimenClasses3_5.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT10\IMAGEOUT10\764\218\76421806\xml1\ROA0005.JPG
SPECIMEN DESCRIPTION	Product label, image of product and point-of-purchase display showing images of products bearing branded label showing use of the trademark in association with goods
ADDITIONAL STATEMENTS SECTION	
PRIOR REGISTRATION(S)	The applicant claims ownership of U.S. Registration Number(s) 3697335.
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of the wording EROS above the design of the back of a woman's/man's body.
STIPPLING FOR SHADING	The stippling is for shading purposes only.
CORRESPONDENCE SECTION	
ORIGINAL ADDRESS	THORSTEN SCHMIDT FULBRIGHT & JAWORSKI, LLP 666 5TH AVE NEW YORK, NY 10103-0001
NEW CORRESPONDENCE SECTION	
NAME	David A. Lowe
FIRM NAME	Black Lowe & Graham
INTERNAL ADDRESS	Suite 4800
STREET	701 Fifth Avenue
CITY	Seattle
STATE	Washington
ZIP/POSTAL CODE	98006
COUNTRY	United States
PHONE	206.381.3303
FAX	206.381.3301
EMAIL	lowe@blacklaw.com
AUTHORIZED EMAIL COMMUNICATION	Yes
SIGNATURE SECTION	
DECLARATION	

SIGNATURE	/David A. Lowe/
SIGNATORY'S NAME	David A. Lowe
SIGNATORY'S POSITION	Attorney of record
DATE SIGNED	05/03/2010
RESPONSE SIGNATURE	/David A. Lowe/
SIGNATORY'S NAME	David A. Lowe
SIGNATORY'S POSITION	Attorney of record
DATE SIGNED	05/03/2010
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Mon May 03 11:43:03 EDT 2010
TEAS STAMP	USPTO/ROA-70.99.136.106-2 0100503114303983448-76421 806-460548cf9f53651b573de d22f3f11df6852-N/A-N/A-20 100503112901638275

PTO Form 1957 (Rev 9/2005)
OMB No. 0651-0050 (Exp. 04/30/2011)

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **76421806** has been amended as follows:

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 003 for massage oil

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 04/18/1995 and first used in commerce at least as early as 04/18/1995, and is now in use in such commerce.

Proposed: Class 003 for massage oil

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 04/18/1995 and first used in commerce at least as early as 04/18/1995, and is now in use in such commerce.

Applicant hereby submits a new specimen for Class 003. The specimen(s) submitted consists of Product label, image of product and point-of-purchase display showing images of products bearing branded label showing use of the trademark in association with goods.

"The substitute (or new, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application" *[for an application based on Section 1(a), Use in Commerce]* OR **"The substitute (or new, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use"** *[for an application based on Section 1(b) Intent-to-Use].*

JPG file(s):

[Specimen File1](#)

[Specimen File2](#)

Original PDF file:

[SPU0-7099136106-112901638 . MEGA-2-1002SpecimenClasses3_5.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 005 for medical lubricants, namely, vaginal lubricants

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 04/18/1995 and first used in commerce at least as early as 04/18/1995, and is now in use in such commerce.

Proposed: Class 005 for medical lubricants, namely, vaginal lubricants

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 04/18/1995 and first used in commerce at least as early as 04/18/1995, and is now in use in such commerce.

Applicant hereby submits a new specimen for Class 005. The specimen(s) submitted consists of Product label, image of product and point-of-purchase display showing images of products bearing branded label showing use of the trademark in association with goods.

"The substitute (or new, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application" *[for an application based on Section 1(a), Use in Commerce]* OR **"The substitute (or new, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use"** *[for an application based on Section 1(b) Intent-to-Use].*

JPG file(s):

[Specimen File1](#)

[Specimen File2](#)

Original PDF file:

[SPU1-7099136106-112901638 . MEGA-2-1002SpecimenClasses3_5.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File 1](#)

CORRESPONDENCE ADDRESS CHANGE

Applicant proposes to amend the following:

Current:

THORSTEN SCHMIDT
FULBRIGHT & JAWORSKI, LLP
666 5TH AVE
NEW YORK, NY 10103-0001

Proposed:

David A. Lowe of Black Lowe & Graham, having an address of
Suite 4800 701 Fifth Avenue Seattle, Washington 98006
United States
lowe@blacklaw.com
206.381.3303
206.381.3301

ADDITIONAL STATEMENTS

Claim of Prior Registration(s)

The applicant claims ownership of U.S. Registration Number(s) 3697335.

Description of mark

The mark consists of the wording EROS above the design of the back of a woman's/man's body.

Stippling for shading

The stippling is for shading purposes only.

SIGNATURE(S)

Declaration Signature

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii); and/or the applicant has had a bona fide intention to exercise legitimate control over the use of the mark in commerce by its members. 37 C.F. R. Sec. 2.44. If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods and/or services listed in the application as of the application filing date or as of the date of any submitted allegation of use. 37 C.F.R. Secs. 2.34(a)(1)(i); and/or the applicant has exercised legitimate control over the use of the mark in commerce by its members. 37 C.F.R. Sec. 244. The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form

thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /David A. Lowe/ Date: 05/03/2010

Signatory's Name: David A. Lowe

Signatory's Position: Attorney of record

Response Signature

Signature: /David A. Lowe/ Date: 05/03/2010

Signatory's Name: David A. Lowe

Signatory's Position: Attorney of record

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Mailing Address: David A. Lowe

Black Lowe & Graham

Suite 4800

701 Fifth Avenue

Seattle, Washington 98006

Serial Number: 76421806

Internet Transmission Date: Mon May 03 11:43:03 EDT 2010

TEAS Stamp: USPTO/ROA-70.99.136.106-2010050311430398

3448-76421806-460548cf9f53651b573ded22f3

f11df6852-N/A-N/A-20100503112901638275



IT **M EROS All in ONE** è un lubrificante medicinale su base di Silicone. Sicurezza del preservativo in lattice, migliora la lubrificazione durante il rapporto, ad alto rendimento, rilascia su la pele un sentimento di seta, testato da un punto di vista dermatologico in merito a tolleranza su pelle e mucose, ne ogli o grassi, Incolore e inodore, sapore neutro, senza Konservazinati, uso specifico per oggettistica di silicone e qualunque altro tipo di oggettistica. **Utilizzo:** applicate tutte le volte che lo desiderate quanto. **EROS All in ONE** volete su quelle parti del corpo su cui desiderate un'idratazione particolare. **Avvertenza:** non è un anticoncezionale, custodire a temperatura ambiente, chiudere accuratamente dopo l'uso, non esporre all'irradiazione solare diretta.

ES **M EROS All in ONE** es un lubrificante de uso médico con base de silicón. Seguro para condones de látex, mejora el deslizamiento durante las relaciones íntimas, gran rendimiento, deja la piel suave y sedosa, dermatológicamente probado en cuanto a tolerabilidad de la piel y las mucosas, aceite y grasa libremente, incoloro e inodoro, insípido, especialmente para juguetes de silicona y todos los demás juguetes. **Utilización:** aplique **EROS All in ONE** con la frecuencia y en la cantidad deseadas sobre los puntos del cuerpo en los que se desee humedad adicional. **Nota:** no es un anticonceptivo, almacenar a temperatura ambiente, cerrar cuidadosamente el envase después del uso, no dejar expuesto a la acción solar directa.

Ingredients (INCI): Dimethicone and Dimethiconol, Cyclomethicone

Made in Germany

Art.-Nr. E 11341
100 ml / 3,4 fl.oz

LOT I/E 11



M
EROS®



all in one

especially for use with silicone
and all other erotic toys

DE **M EROS All in ONE** ist ein medizinisches Gleitmittel auf Silikonbasis. Latexkondomsicher, verbessert die Gleitfähigkeit beim Intimverkehr, sehr ergiebig, hinterlässt ein seidiges Hautgefühl, dermatologisch auf Haut- und Schleimhautverträglichkeit getestet, öl- und fettfrei, farb- und geruchlos, geschmacksneutral, keine Konservierungsstoffe, speziell zur Anwendung mit Silikon toys und allen anderen erotischen Spielzeugen. **Anwendung:** Geben Sie so häufig und so viel **EROS All in ONE** wie gewünscht auf die Körperstellen, an denen Sie extra Feuchtigkeit wünschen. **Hinweis:** kein Verhütungsmittel, bei Raumtemperatur lagern, nach Gebrauch wieder sorgfältig verschließen, keiner direkten Sonneneinstrahlung aussetzen.

EN **M EROS All in ONE** is a silicone-based medical lubricant. Suitable for use with latex condoms, improves lubrication for sexual intercourse, high yield, leaves a silky skin, dermatologically tested for skin and mucous membrane tolerance, oil and fat free, colourless and odourless, neutral tasting, no preservatives, especially for use with silicone and all other erotic toys. **Application:** Place as much **EROS All in ONE** as you want on the body parts where you require additional moisture as often as you need. **Note:** Not a contraceptive, store at room temperature, reseal carefully after use, do not expose to direct sunlight.

FR **M EROS All in ONE** est un lubrifiant médical à base de silicón. Compatible avec les préservatifs en latex, améliore le pouvoir glissant du préservatif lors des rapports intimes, très abondant, laisse la peau satinée, tolérance testée dermatologiquement sur la peau et les muqueuses, sans huile et graisse, incolore et inodore, goût neutre, sans produits conservateurs, par excellence pour l'utilisation avec des toys en silicone et facile à combiner avec tous d'autres sextoys. **Utilisation :** Appliquez **EROS All in ONE** aussi souvent et autant que vous le voulez sur les parties du corps où vous souhaitez une humidification supplémentaire. **Information :** Ce produit n'est pas un contraceptif, entreposer à température ambiante, refermer soigneusement après usage, ne pas exposer au rayonnement solaire direct.

M MEGASOL
COSMETIC GMBH

D-54343 Föhren b. Trier, GERMANY, Jean-Monnet-Str. 6
Phone +49 (0) 65 02/20011, Fax +49 (0) 65 02/20187
www.megasol.de · www.eros-bodygl.de



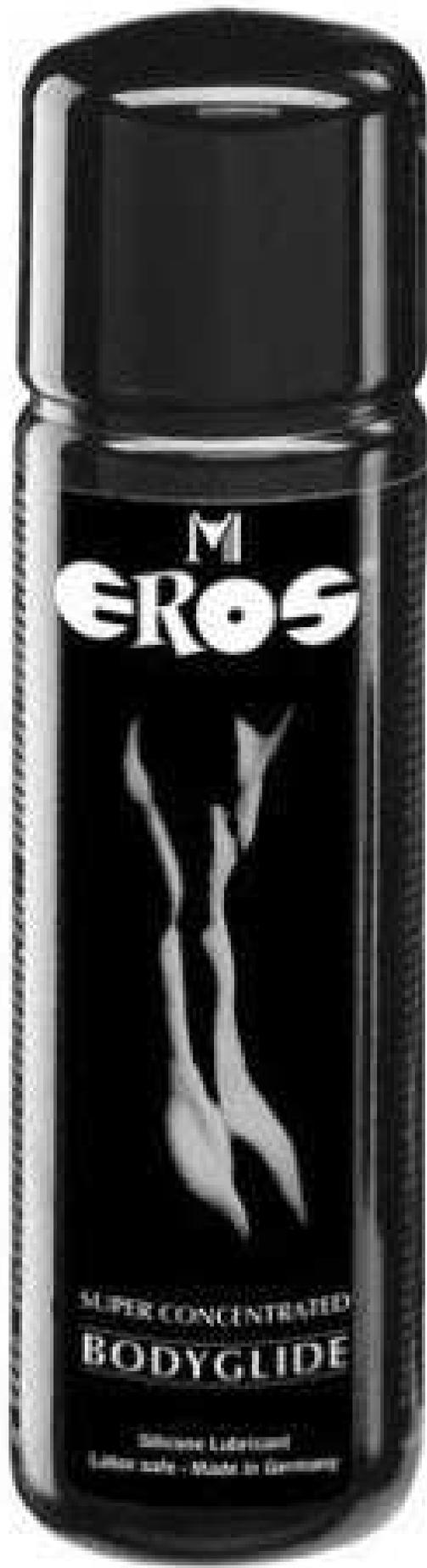
4 035223 113417



EROS[®]

**SUPER CONCENTRATED
BODYGLIDE**

Slide into the pleasure of the erotic with **EROS SUPER CONCENTRATED BODYGLIDE**. Whether you want a well lubricated fondle or an intensive massage, **EROS SUPER CONCENTRATED BODYGLIDE** will ensure that you enjoy the action to the full by stimulating your senses and giving you fresh love-making energy.





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ES **M EROS All in ONE** es un lubrificante de uso médico con base de silicón. Seguro para condones de látex, mejora el deslizamiento durante las relaciones íntimas, gran rendimiento, deja la piel suave y sedosa, dermatológicamente probado en cuanto a tolerabilidad de la piel y las mucosas, aceite y grasa libremente, incoloro e inodoro, insípido, especialmente para juguetes de silicona y todos los demas juguetes. **Utilización:** aplique **EROS All in ONE** con la frecuencia y en la cantidad deseadas sobre los puntos del cuerpo en los que se desee humedad adicional. **Nota:** no es un anticonceptivo, almacenar a temperatura ambiente, cerrar cuidadosamente el envase después del uso, no dejar expuesto a la acción solar directa.

Ingredients (INCI): Dimethicone and Dimethiconol, Cyclomethicone

Made in Germany

Art.-Nr. E 11341
100 ml / 3,4 fl.oz

LOT I/E 11



M
EROS®



all in one

especially for use with silicone
and all other erotic toys

DE **M EROS All in ONE** ist ein medizinisches Gleitmittel auf Silikonbasis. Latexkondomsicher, verbessert die Gleitfähigkeit beim Intimverkehr, sehr ergiebig, hinterlässt ein seidiges Hautgefühl, dermatologisch auf Haut- und Schleimhautverträglichkeit getestet, öl- und fettfrei, farb- und geruchlos, geschmacksneutral, keine Konservierungsstoffe, speziell zur Anwendung mit Silikon toys und allen anderen erotischen Spielzeugen. **Anwendung:** Geben Sie so häufig und so viel **EROS All in ONE** wie gewünscht auf die Körperstellen, an denen Sie extra Feuchtigkeit wünschen. **Hinweis:** kein Verhütungsmittel, bei Raumtemperatur lagern, nach Gebrauch wieder sorgfältig verschließen, keiner direkten Sonneneinstrahlung aussetzen.

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M MEGASOL
COSMETIC GMBH

D-54343 Föhren b. Trier, GERMANY, Jean-Monnet-Str. 6
Phone +49 (0) 65 02/20011, Fax +49 (0) 65 02/20187
www.megasol.de · www.eros-bodygl.de



4 035223 113417



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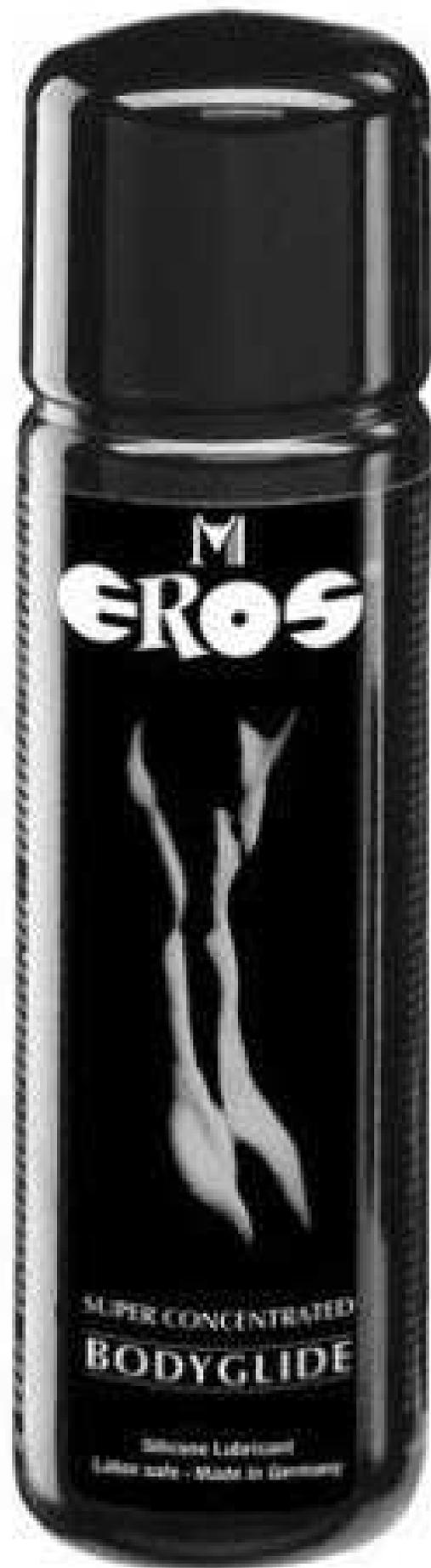


EXHIBIT G

Generated on: This page was generated by TSDR on 2014-09-16 11:58:55 EDT

Mark: EROS



US Serial Number: 76421806

Application Filing Date: Jun. 17, 2002

US Registration Number: 4010690

Registration Date: Aug. 16, 2011

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Aug. 16, 2011

Publication Date: May 31, 2011

Mark Information

Mark Literal Elements: EROS

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of the wording "EROS" above the design of the back of a woman's/man's body.

Design Search Code(s): 26.11.21 - Rectangles that are completely or partially shaded

Related Properties Information

Claimed Ownership of US Registrations: 3697335

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 incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: massage oil

International Class(es): 003 - Primary Class

U.S Class(es): 001, 004, 006, 050, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 18, 1995

Use in Commerce: Apr. 18, 1995

For: medical lubricants, namely, vaginal lubricants

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 18, 1995

Use in Commerce: Apr. 18, 1995

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: KERTELS, PETER
Owner Address: JEAN-MONNET-STRABE 6
 FOHREN 54343
 GERMANY
Legal Entity Type: INDIVIDUAL **Citizenship:** GERMANY

Attorney/Correspondence Information

Attorney of Record

Attorney Name: David A. Lowe **Docket Number:** MEGA-2-1002
Attorney Primary Email Address: Lowe@LoweGrahamJones.com **Attorney Email Authorized:** No

Correspondent

Correspondent Name/Address: David A. Lowe
 Lowe Graham Jones
 701 Fifth Avenue
 Suite 4800
 Seattle, WASHINGTON 98104
 UNITED STATES
Phone: 2063813300 **Fax:** 2063813301
Correspondent e-mail: Lowe@LoweGrahamJones.com **Correspondent e-mail Authorized:** No

Domestic Representative

Domestic Representative Name: David A. Lowe **Phone:** 2063813300
Fax: 2063813301
Domestic Representative e-mail: Lowe@LoweGrahamJones.com **Domestic Representative e-mail Authorized:** Yes

Prosecution History

Date	Description	Proceeding Number
Sep. 14, 2011	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Aug. 16, 2011	REGISTERED-PRINCIPAL REGISTER	
Aug. 12, 2011	ATTORNEY REVOKED AND/OR APPOINTED	
Aug. 12, 2011	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
May 31, 2011	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
May 31, 2011	PUBLISHED FOR OPPOSITION	
Apr. 26, 2011	LAW OFFICE PUBLICATION REVIEW COMPLETED	73797
Apr. 26, 2011	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 21, 2011	AMENDMENT FROM APPLICANT ENTERED	73797
Mar. 21, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	73797
Mar. 17, 2011	FAX RECEIVED	
Dec. 13, 2010	NOTIFICATION OF FINAL REFUSAL EMAILED	
Dec. 13, 2010	FINAL REFUSAL E-MAILED	
Dec. 13, 2010	FINAL REFUSAL WRITTEN	74819
Nov. 17, 2010	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Nov. 17, 2010	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Nov. 17, 2010	TEAS RESPONSE TO OFFICE ACTION RECEIVED	

May 20, 2010	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
May 20, 2010	NON-FINAL ACTION E-MAILED	6325
May 20, 2010	NON-FINAL ACTION WRITTEN	74819
May 03, 2010	ATTORNEY REVOKED AND/OR APPOINTED	
May 03, 2010	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
May 03, 2010	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
May 03, 2010	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
May 03, 2010	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
May 03, 2010	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Nov. 09, 2009	NON-FINAL ACTION MAILED	
Nov. 07, 2009	NON-FINAL ACTION WRITTEN	74819
Oct. 20, 2009	LIE CHECKED SUSP - TO ATTY FOR ACTION	73797
Oct. 20, 2009	ASSIGNED TO LIE	73797
Apr. 16, 2009	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	74221
Oct. 16, 2008	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	74221
Sep. 18, 2008	ATTORNEY REVOKED AND/OR APPOINTED	
Sep. 18, 2008	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Apr. 16, 2008	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	74221
Oct. 16, 2007	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	74221
Apr. 03, 2007	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	74221
Apr. 03, 2007	ASSIGNED TO LIE	74221
Sep. 18, 2006	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	68123
Jul. 06, 2006	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
May 08, 2006	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Feb. 16, 2006	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	68123
Jul. 12, 2005	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	68171
Dec. 08, 2004	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	76529
Jul. 14, 2003	LETTER OF SUSPENSION MAILED	
Apr. 03, 2003	CORRESPONDENCE RECEIVED IN LAW OFFICE	
May 15, 2003	CASE FILE IN TICRS	
Apr. 03, 2003	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Apr. 03, 2003	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Dec. 16, 2002	ASSIGNED TO EXAMINER	74819
Oct. 03, 2002	NON-FINAL ACTION MAILED	
Sep. 23, 2002	ASSIGNED TO EXAMINER	71997

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Aug. 16, 2011

Assignment Abstract Of Title Information

Summary

Total Assignments: 1

Registrant: Megasol Cosmetic GmbH

Assignment 1 of 1

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [4618/0171](#)

Pages: 3

Date Recorded: Sep. 07, 2011

Supporting Documents: [assignment-tm-4618-0171.pdf](#)

Assignor

Name: [MEGASOL COSMETIC GMBH](#)
Legal Entity Type: CORPORATION

Execution Date: Aug. 26, 2011
State or Country Where Organized: GERMANY

Assignee

Name: [KERTELS, PETER](#)
Legal Entity Type: INDIVIDUAL
Address: JEAN-MONNET-STRABE 6
FOHREN, GERMANY 54343
Citizenship: GERMANY

Correspondent

Correspondent Name: DAVID A. LOWE
Correspondent Address: 701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

Domestic Representative - Not Found

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Opposition

Proceeding Number: [91181706](#) Filing Date: Jan 02, 2008
Status: Terminated Status Date: Sep 15, 2009
Interlocutory Attorney: ANGELA LYKOS

Defendant

Name: Dieter Laros and DUX S.A. Holding
Correspondent Address: James D. Weinberger
Fross Zelnick Lehrman & Zissu, P.C.
866 United Nations Plaza, 6th Floor
New York NY , 10017
UNITED STATES
Correspondent e-mail: jweinberger@frosszelnick.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
EROS	Registered	76408233	3697335

Plaintiff(s)

Name: Megasol Cosmetic GmbH
Correspondent Address: Thorsten Schmidt
Fulbright & Jaworski LLP
666 Fifth Avenue, 31st Floor
New York NY , 10103
UNITED STATES
Correspondent e-mail: tschmidt@fulbright.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
EROZONE	Section 8 and 15 - Accepted and Acknowledged	78225023	3071704
EROTICX	Section 8 and 15 - Accepted and Acknowledged	78206429	2886289
EROS	Registered	76421806	4010690
EOS	Registered	76382124	3908212

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jan 02, 2008	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jan 07, 2008	Feb 16, 2008
3	PENDING, INSTITUTED	Jan 07, 2008	
4	CHANGE OF CORRESPONDENCE ADDRESS	Feb 15, 2008	
5	ANSWER D'S MOT TO SUSP PEND DISP CIV ACTION	Feb 15, 2008	

6	D'S MOT TO SUSP PEND DISP CIV ACTION	Mar 17, 2008	
7	SUSPENDED PENDING DISP OF CIVIL ACTION	Mar 20, 2008	
8	RESPONSE DUE 30 DAYS (DUE DATE)	Mar 21, 2009	Apr 20, 2009
9	P'S RESPONSE TO BOARD ORDER/INQUIRY	Apr 17, 2009	
10	SUSPENDED PENDING DISP OF CIVIL ACTION	May 05, 2009	
11	WITHDRAWAL OF OPPOSITION	Sep 14, 2009	
12	BD'S DECISION: DISMISSED W/ PREJUDICE	Sep 15, 2009	
13	TERMINATED	Sep 15, 2009	

EXHIBIT H

PTO Form 1957 (Rev 9/98)

OMB Control #0651-0009 (Exp. 08/31/2004)

Response to Office Action**To the Commissioner for Trademarks:**

Please amend application serial no. **76460889** as follows:

?

?

Classification and Listing of Goods/Services

Applicant hereby amends the following class of goods/services in the application as follows:

Original: Class 003 for Perfumery goods, ethereal oils, massage fluids, preparations for body and beauty care; medical lubricants

Proposed: Class 003 for Perfumery, ethereal oils, namely, essential oils for personal use; massage fluids, namely, massage lotions and oils; preparations for body and beauty care, namely, mascara, moisturizing body lotion

?

Priority based on foreign filing:

Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services and asserts a claim of priority based upon a foreign application. 15 U.S.C. Section 1126(d), as amended. Based on _____ application number 30222735.0/05 filed _____.

Based on Foreign Registration:

Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and will submit a certification or certified copy of the foreign registration before the application may proceed to registration. 15 U. S.C. Section 1126(e), as amended. The applicant will submit _____ registration number _____ registered _____ with a renewal date of _____ and an expiration date of 05/31/2012 before the application may proceed to U.S. registration, under Section 44(e) (15 U.S.C. Section 1126(e).

?

Applicant hereby adds the following class of goods/services to the application:

New:

Class 005 for Medical lubricants, namely, vaginal lubricants.

Use in Commerce:

The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, or the applicant's predecessor in interest used the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used on 00/00/1993 and first used in commerce on 00/00/1993, and is now in use in such commerce.

Priority based on foreign filing:

Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services and asserts a claim of priority based upon a foreign application. 15 U.S.C. Section 1126(d), as amended. Based on Germany application number 30222735.0/05 filed 05/08/2002.

Based on Foreign Registration:

Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and will submit a certification or certified copy of the foreign registration before the application may proceed to registration. 15 U. S.C. Section 1126(e), as amended. The applicant will submit Germany registration number 30222735 registered 08/21/2002 with a renewal date of _____ and an expiration date of 05/31/2012 before the application may proceed to U.S. registration, under Section 44(e) (15 U.S.C. Section 1126(e).

?

Specimens

Applicant hereby submits a specimen for Class 003.

For an application based on 1(a), Use in Commerce, "The substitute specimen(s) was in use in commerce as of the filing date of the application."

Image: [1982326211-17173546322-DT-6323-Class_3.jpg](#)

?

Applicant hereby submits a specimen for Class 005.

The specimen(s) submitted consists of Scanned packaging.

For an application based on 1(a), Use in Commerce, "The substitute specimen(s) was in use in commerce as of the filing date of the application."

Image: [1982326211-17173547014-DT-6323-Class_5.jpg](#)

?

?

Additional Statements

"The stippling is for shading purposes only."

?

?

Fees

Additional fee(s) in the amount of \$335 is being submitted.

?

Declaration

?

Declaration Signature

Signature: /David Toren/ ???Date: 09/17/2003

Signatory's Name: David Toren

Signatory's Position: Attorney

?

Response Signature

Signature: /David Toren/ ???Date: 09/17/2003

Signatory's Name: David Toren

Signatory's Position: Attorney

[Go Back](#)









RAM SALE NUMBER: 342
RAM ACCOUNTING DATE: 20030918

INTERNET TRANSMISSION DATE:
2003/09/17

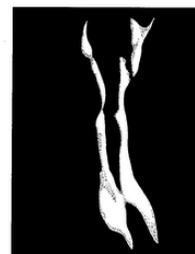
SERIAL NUMBER:
76/460889

Description	Fee Code	Transaction Date	Fee	Number Of Classes	Total Fees Paid
New App	7001	2003/09/17	335	1	335

EXHIBIT I

Generated on: This page was generated by TSDR on 2014-09-16 12:01:15 EDT

Mark:



US Serial Number: 76460889 **Application Filing Date:** Oct. 24, 2002
US Registration Number: 3697337 **Registration Date:** Oct. 20, 2009
Register: Principal
Mark Type: Trademark
Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.
Status Date: Oct. 20, 2009
Publication Date: Dec. 30, 2003

Mark Information

Mark Literal Elements: None
Standard Character Claim: No
Mark Drawing Type: 2 - AN ILLUSTRATION DRAWING WITHOUT ANY WORDS(S)/ LETTER(S)/NUMBER(S)
Lining and Stippling Statement: The stippling is for shading purposes only.
Design Search Code(s): 26.11.21 - Rectangles that are completely or partially shaded
26.13.28 - Quadrilateral shapes (miscellaneous overall shape); Miscellaneous designs with overall quadrilateral shape

Foreign Information

Priority Claimed: Yes
Foreign Application Number: 30222735.0/0 **Foreign Application Filing Date:** May 08, 2002
Foreign Registration Number: 30222735 **Foreign Registration Date:** Aug. 21, 2002
Foreign Application/Registration Country: GERMANY **Foreign Expiration Date:** May 31, 2012

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 incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Perfumery, ethereal oils, namely, essential oils for personal use; massage fluids, namely, massage lotions and oils; preparations for body and beauty care, namely, mascara, moisturizing body lotion

International Class(es): 003 - Primary Class **U.S Class(es):** 001, 004, 006, 050, 051, 052

Class Status: ACTIVE

Basis: 1(a) 44(e)

First Use: 1993 **Use in Commerce:** 1993

For: Medical lubricants, namely, vaginal lubricants

International Class(es): 005 - Primary Class **U.S Class(es):** 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a) 44(e)

First Use: 1993 **Use in Commerce:** 1993

Basis Information (Case Level)

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

Current Owner(s) Information

Owner Name: PETER KERTELS
Owner Address: JEAN-MONNET-STRASSE 6
D-54343 FOEHREN
GERMANY
Legal Entity Type: INDIVIDUAL
Citizenship: GERMANY

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Katrin Lewertoff and Michael A. Grow
Docket Number: 029818.00006
Attorney Primary Email Address: lewertoff.katrin@arentfox.com
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Katrin Lewertoff and Michael A. Grow
Arent Fox LLP
1675 Broadway
New York, NEW YORK 10019
UNITED STATES
Phone: 212 484 3900
Fax: 212 484 3990
Correspondent e-mail: lewertoff.katrin@arentfox.com
Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Name: Katrin Lewertoff
Phone: 212 484 3900
Fax: 212 484 3990
Domestic Representative e-mail: lewertoff.katrin@arentfox.com
Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Jul. 20, 2011	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jul. 11, 2011	ATTORNEY REVOKED AND/OR APPOINTED	
Jul. 11, 2011	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Oct. 20, 2009	REGISTERED-PRINCIPAL REGISTER	
Sep. 16, 2009	TTAB RELEASE CASE TO TRADEMARKS	161162
Sep. 16, 2009	OPPOSITION TERMINATED NO. 999999	161162
Sep. 16, 2009	OPPOSITION DISMISSED NO. 999999	161162
Sep. 18, 2008	ATTORNEY REVOKED AND/OR APPOINTED	
Sep. 18, 2008	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jul. 06, 2006	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jul. 06, 2004	OPPOSITION INSTITUTED NO. 999999	161162
Mar. 11, 2004	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jan. 30, 2004	EXTENSION OF TIME TO OPPOSE RECEIVED	
Jan. 07, 2004	PAPER RECEIVED	
Dec. 30, 2003	PUBLISHED FOR OPPOSITION	
Dec. 10, 2003	NOTICE OF PUBLICATION	

Nov. 03, 2003 APPROVED FOR PUB - PRINCIPAL REGISTER
 Sep. 17, 2003 CORRESPONDENCE RECEIVED IN LAW OFFICE
 Oct. 24, 2003 CASE FILE IN TICRS
 Sep. 17, 2003 TEAS RESPONSE TO OFFICE ACTION RECEIVED
 Mar. 31, 2003 NON-FINAL ACTION MAILED
 Mar. 26, 2003 ASSIGNED TO EXAMINER
 Dec. 20, 2002 PAPER RECEIVED

77768

TM Staff and Location Information

TM Staff Information - None File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Oct. 20, 2009

Assignment Abstract Of Title Information

Summary

Total Assignments: 1

Registrant: Megasol Cosmetic GmbH

Assignment 1 of 1

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [4579/0767](#)

Pages: 3

Date Recorded: Jul. 11, 2011

Supporting Documents: [assignment-tm-4579-0767.pdf](#)

Assignor

Name: [MEGASOL COSMETIC GMBH](#)

Execution Date: Jun. 12, 2011

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: GERMANY

Assignee

Name: [PETER KERTELS](#)

Legal Entity Type: INDIVIDUAL

Citizenship: GERMANY

Address: JEAN-MONNET-STRASSE 6
D-54343 FOEHREN, GERMANY

Correspondent

Correspondent Name: KATRIN LEWERTOFF AND MICHAEL A. GROW

Correspondent Address: ARENT FOX LLP
1675 BROADWAY
NEW YORK, NY 10019

Domestic Representative

Domestic Representative Name: KATRIN LEWERTOFF

Domestic Representative Address: ARENT FOX LLP
1675 BROADWAY
NEW YORK, NY 10019

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: [91161162](#)

Filing Date: Apr 29, 2004

Status: Terminated

Status Date: Sep 16, 2009

Interlocutory Attorney: ANDREW P BAXLEY

Defendant

Name: Megasol Cosmetic GmbH

Correspondent Address: Thorsten Schmidt
Fulbright & Jaworski LLP
666 Fifth Avenue
New York NY, 10103
UNITED STATES

Correspondent e-mail: tschmidt@fulbright.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
	Registered	76460889	3697337

Plaintiff(s)

Name: DIETER LAROS & DUX, S.A.

Correspondent Address: CRAIG S. MENDE
FROSS ZELNICK LEHRMAN & ZISSU, P.C.
866 UNITED NATIONS PLAZA
NEW YORK NY , 10017
UNITED STATES

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Apr 29, 2004	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jul 06, 2004	Aug 16, 2005
3	PENDING, INSTITUTED	Jul 06, 2004	
4	NOTICE OF DEFAULT	Oct 15, 2004	
5	BOARD'S ORDER NOTICE OF DEFAULT VACATED	Oct 25, 2004	
6	CHANGE OF CORRESPONDENCE ADDRESS	Jul 10, 2006	
7	CHANGE OF CORRESPONDENCE ADDRESS	Jul 25, 2007	
8	CHANGE OF CORRESPONDENCE ADDRESS	Oct 10, 2008	
9	WITHDRAWAL OF OPPOSITION	Sep 11, 2009	
10	BD'S DECISION: DISMISSED W/ PREJUDICE	Sep 16, 2009	
11	TERMINATED	Sep 16, 2009	

Type of Proceeding: Extension of Time

Proceeding Number: [76460889](#)

Filing Date: Jan 28, 2004

Status: Terminated

Status Date: Jan 30, 2004

Interlocutory Attorney:

Defendant

Name: Megasol Cosmetic GmbH

Correspondent Address: David Toren
Sidley Austin Brown & Wood LLP
787 Seventh Avenue
New York NY , 10019
UNITED STATES

Associated marks

Mark	Application Status	Serial Number	Registration Number
	Registered	76460889	3697337

Potential Opposer(s)

Name: DIETER LAROS AND DUX, S.A.

Correspondent Address: JAMES D. WEINBERGER
FROSS ZELNICK LEHRMAN & ZISSU, P.C.
866 UNITED NATIONS PLAZA
NEW YORK NY , 10017
UNITED STATES

Name: DIETER LAROS & DUX, S.A.

Correspondent Address: CRAIG S. MENDE
FROSS ZELNICK LEHRMAN & ZISSU, P.C.
866 UNITED NATIONS PLAZA
NEW YORK NY , 10017
UNITED STATES

Associated marks

Mark	Application Status	Serial Number	Registration Number
------	--------------------	---------------	---------------------

Prosecution History			
Entry Number	History Text	Date	Due Date
1	INCOMING - EXT TIME TO OPPOSE FILED	Jan 28, 2004	
2	EXTENSION OF TIME GRANTED	Jan 30, 2004	
3	D'S UNDELIVERABLE MAIL RETURNED	Feb 19, 2004	

4	CHANGE OF CORRESPONDENCE ADDRESS	Mar 17, 2004
5	OTHER FILING	May 03, 2004
6	OTHER FILING	May 03, 2004

EXHIBIT J

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	DUX S.A. Holding and Dieter Laros	:	
Serial No:	76/408233	:	Jennifer McGarry Martin
Mark:	EROS	:	Examining Attorney
Filed:	May 15, 2002	:	Law Office 116
Our Ref:	WDCS 02/02945	:	

RESPONSE TO OFFICE ACTION

Director of the U.S. Patent and Trademark Office
2900 Crystal Drive
Arlington, Virginia 22202-3513
Attn: Box RESPONSES NO FEE

This is in response to the Office Action mailed on November 26, 2002.

AMENDMENTS

1. Please amend the identification of goods as follows:

- Class 3: (Based on Section 1(a)) Massage oils
- Class 3: (Based Sections 1(b) and 44(d)) Aphrodisiacs, namely, essential oils, body oil and cream, bath oil, skin soap, body lotion, skin moisturizers
- Class 5: (Based on Section 1(a)) Gels and creams for use as personal lubricant, creams and gels for use as personal lubricants and vaginal lubricants

<small>Certificate of Mailing Under 37 CFR 1.8(a)</small>	
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on:	
<u>May 27, 2003</u> <small>(Date of Deposit)</small>	 <small>(Signature)</small>
<u>Katie Kirby</u> <small>(Printed name of person mailing paper or fee)</small>	<u>May 27, 2003</u> <small>(Date of Signature)</small>

Class 5: **(Based on Sections 1(b) and 44(d))** Pharmaceutical products, namely, pharmaceutical preparations for the inducement of erections; aphrodisiacs, namely, pharmaceutical preparations for arousing sexual desires; medicated massage oils; medical sexual auxiliaries, namely, oral contraceptives; substances for internal and external use to build up potency, namely, creams and gels used to prolong the physical erection in men during sexual intercourse, oral gels to enhance oral stimulation and masturbation; orgasm creams, namely, genital vasodilators in the form of a topical cream for promoting orgasms in females; substances to prolong the sexual act, namely, spray used to prolong the physical erection in men during sexual intercourse and masturbation, oral gels to enhance oral stimulation

Class 10: **(Based on Sections 1(b) and 44(d))** Medical and sanitary instruments and apparatus, namely, chemiluminescent light for use in endoscopic exams; artificial limbs; hygienic rubber products, namely, gloves for medical use; condoms; massage apparatus; adult sexual aids, namely, vibrators and vibrator sleeves; godemiches, namely, dildoes; sexually auxiliaries for partners, namely, enema apparatus, pumps and constriction rings for use in maintaining penile rigidity in men with erectile dysfunction and to build up potency, vacuum pumps and vacuum pump accessories, namely, a cylinder, sleeve, cushion inserts, constriction rings and constriction ring loaders for use to maintain penile rigidity, penis enlargers; articles conducive to erection and orgasms for the exclusive use on the human, namely, rubber rings to be worn about the penis, benwa balls; reproductions of human parts of the body, namely, penises, penises and testicles, vaginas, breasts and mouths; auxiliaries for the sexual stimulation, namely, electric and non-electric massage devices and accessories for massaging or vibrating portions of the face and body, devices for aiding in sexual intercourse and masturbation, namely reproduction of parts of the male and female anatomy and life-sized anatomically correct mannequins, inflatable life-sized dolls used in masturbation, sexual aid consisting of a nylon harness used as a swing and to obtain multiple positions during sexual intercourse, wands for erotic massages, massage mitt, masturbation sleeves, anal invader and anal beads for sexual stimulation, penis enhancement rings, anal chains, massage balls

- Class 14: **(Based on Sections 1(b) and 44(d))** Jewelry for intimate parts of the body
- Class 18: **(Based on Sections 1(b) and 44(d))** Leather and leather imitation goods, namely, leatherette masks; whips
- Class 20: **(Based on Sections 1(b) and 44(d))** Non-medical sexual auxiliaries, namely, furniture for facilitating adult sexual intercourse
- Class 25: **(Based on Sections 1(b) and 44(d))** Clothing, namely, underwear and sexy underwear made of leather, rubber or latex, suits made of leather, rubber or latex, night dresses, night shirts, night gowns, pajamas, skirts, dresses, sweatshirts, sweatsuits, jackets, jeans, shorts, socks, tank tops, bandanas, vests, rainwear, gloves, mittens, underwear not of latex or rubber, coats, t-shirts, boxer shorts, bras, foundation garments, lingerie and panties, suspenders; belts; footwear; headgear, namely, hats, caps, visors, rubber or latex masks
- Class 28: **(Based on Sections 1(b) and 44(d))** Games and playthings, namely, card games, sexual toys, namely, inflation life-sized dolls and board games, toy chains, toy handcuffs; gymnastic and sporting articles, namely, gymnastic apparatus; dolls; novelty love dolls and love swings for love games

2. Please make of record the enclosed signed copy of the original application, which includes a signed declaration attesting to the facts set forth in the application as of the application filing date.
3. Please make of record the enclosed specimen showing use of the mark in commerce, along with the Declaration of Acceptable Specimen.

REMARKS

Identification of Goods

The Office Action objected to the identifications of goods on the ground that they are indefinite. Applicants have now amended the identifications responsive to this request.

Signed Declaration and Bona Fide Intent Statement

The Office Action noted that this application was originally filed unsigned. A signed copy of the original application is enclosed. The application form includes a declaration attesting to the facts set forth in the application and a statement of Applicants' bona fide intent to use the mark on the goods as of the application filing date.

Specimen of Use and Supporting Declaration

The Office Action requested a specimen supporting use of the above mark in commerce in connection with the goods identified in the application. Applicants have enclosed an appropriate specimen of use along with the declaration confirming that this specimen was in use in commerce at least as early as the filing date of this application.

Bases Information

The Office Action inquired as to the filing bases of the application. Applicant wishes to maintain both the Section 1(b) and Section 44 filing bases.

Likelihood of Confusion

The Office Action has refused registration on the grounds that Applicants' mark is so similar to Registration No. 2088938 as to be likely to cause confusion. The cited registration is for the mark EROS owned by Mr. Mark Hundahl. Applicants have filed a Petition for Cancellation of the cited registration, and a Notice of Default was mailed to the cited registrant on April 1, 2003. Applicants are awaiting the final disposition of the cancellation proceeding.

CONCLUSION

With the above, Applicants respectfully request that this application be suspended pending the outcome of the cancellation proceeding against the cited registration and pending Applicants' submission of the home country registrations for this mark, once available.

Dated: New York, New York
May 27, 2003

Respectfully submitted,

FROSS ZELNICK LEHRMAN
& ZISSU, P.C.

By: 
Nancy C. DiConza
Attorneys for Applicants
866 United Nations Plaza
New York, New York 10017
(212) 813 5900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Dux S.A. Holding	:	
	and	:	
	Dieter Laros	:	
Serial No:	76/408233	:	Jennifer Martin
Mark:	EROS	:	Examining Attorney
		:	Law Office 116
Classes:	3, 5, 10, 14, 18, 20, 25 and 28	:	
Our Ref:	WDCS 02/02945	:	

DECLARATION ACCOMPANYING RESPONSE TO OFFICE ACTION WITH SPECIMEN

I am authorized to execute this document on behalf of the applicants.

Upon information and belief, Applicants were using the mark in commerce for the goods listed in this application as of the application filing date, and the specimen filed herewith was in use in commerce as of the filing date of this application.

All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application of any registration resulting therefrom.

DUX S.A. HOLDING

By: _____
 [signature]

Name: Colinich Laros
 [printed or typed]

Title (if applicable): _____

Date: 31.3.03

Dieter Laros

Date: 21.03.03

**UNITED STATES PATENT AND TRADEMARK OFFICE
APPLICATION FOR REGISTRATION OF A TRADEMARK**

MARK: EROS
CLASSES: 3, 5, 10, 14, 18, 20, 25, 28
JOINT APPLICANTS: DUX S.A. Holding, a joint stock company organized and existing under the laws of Luxembourg

and

Dieter Laros, a German citizen

ADDRESSES: DUX S.A. Holding
4, rue Henri Schnadt
1019 Luxembourg

Dieter Laros
Saarstrasse 23
54290 Trier
Federal Republic of Germany

OUR REF: WDCS 0202945

**BOX NEW APP
FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513**

The above-identified joint applicants have adopted and are using in commerce the mark shown in the accompanying drawing on or in connection with the following goods, and request that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 under Section 1(a):

3 massage-fluids, lubricants and glide-gels

The mark was first used anywhere for the goods at least as early as January 1996 and was first used for the goods in commerce at least as early as January 1996.

EV076596282US

"Express Mail" mailing label No. <u>EV076596282US</u> Date of Deposit <u>May 15 2002</u> I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513. <u>Witte Caricich</u> (Printed name of person mailing paper or fee)	<u>Ante Caricich</u> (Signature)
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The above-identified joint applicants have a bona fide intention to use in commerce the mark shown in the accompanying drawing for the following goods, and request that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 under Section 1(b):

- 5 pharmaceutical products, medical sexual auxiliaries, included in Class 5; aphrodisiacs, substances for internal and external use to build up potency, glide creams, orgasm creams, substances to prolong the sexual act; massage-fluids, massage-oils, lubricants and glide-gels, also for medical use
- 10 medical and sanitary instruments and apparatus, artificial limbs, hygienic rubber products, condoms; massage apparatus, vibrators (for personal use), godemiches; sexually auxiliaries for partners, especially enema utensils, pumps and rings to build up potency; articles conducive to erection and orgasm for the exclusive use on the human body (included in Class 10), including reproductions of human parts of the body; auxiliaries for the sexual stimulation (included in Class 10)
- 14 jewelry for intimate parts of the body
- 18 leather and leather imitation goods, included in Class 18; chains and whips
- 20 non-medical sexual auxiliaries, included in Class 20
- 25 clothing, especially underwear and sexy underwear made of leather, rubber or latex; belts; footwear; headgear
- 28 games and playthings; gymnastic and sporting articles, included in Class 28; dolls; handcuffs, chains (not made of leather), love dolls and love swings for love games

Application to register said mark in Germany was filed on November 15, 2001 under Application No. 301 65 788. Applicants assert a claim of priority based upon this application in accordance with Section 44(d), for the following goods:

- 3 massage-fluids, massage-oils, lubricants and glide gels
- 5 massage-fluids, massage-oils, lubricants and glide gels, also for medical use

Application to register said mark in Community Trademark Union was filed on February 20, 2002 under Application No. 002585362. Applicants assert a claim of priority based upon this application in accordance with Section 44(d), for the following goods in Class 5, namely, "pharmaceutical products, medical sexual auxiliaries, included in Class 5; aphrodisiacs, substances for internal and external use to build up potency, glide creams, orgasm creams, substances to prolong the sexual act," and the above-referenced goods in Classes 10, 14, 18, 20, 25 and 28.

ADDRESS FOR CORRESPONDENCE

Applicants request that all correspondence in connection with this application be directed to its attorneys, the law firm of Fross Zelnick Lehrman & Zissu, P.C., 866 United Nations Plaza, New York, New York 10017, Attention: Nancy C. DiConza (Telephone 212-813-5900).

APPOINTMENT OF DOMESTIC REPRESENTATIVE

Fross Zelnick Lehrman & Zissu, P.C., 866 United Nations Plaza, New York, New York 10017 (Telephone: 212-813-5900), is hereby designated applicants' representative upon whom notices or process in proceedings affecting the mark may be served.

If this application is signed after the application filing date, the applicants verify that they had a bona fide intention to use the mark in commerce for the goods and services listed in this application as of the application filing date.

DECLARATION

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark or service mark sought to be registered, or, if the application is being filed under 15 U.S.C. 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the above identified mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods or services of such other person, to cause confusion, or to cause mistake, or to deceive; and all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

DUX S.A. Holding

Dieter Laros

By: _____
[Signature]

By: _____

Name: Gabriel Rex
[Typed or printed]Date: 21.03.03

Title (if applicable): _____

Date of signature: 31.3.03

I:\ACARC\CH\ndel020412-0202945-EROS- itu and 44d.doc

Joint Applicants: DUX S.A. Holding and Dieter Laros

Addresses: DUX S.A. Holding
4, rue Henri Schnadt
1019 Luxembourg

Dieter Laros
Saarstrasse 23
54290 Trier
Federal Republic of Germany

Bases: Section 1(a), Section 1(b), Section 44(d)

Priority Claimed: German Application No.: 301 65 788
Filed: November 15, 2001

CTM Application No.: 002585362
Filed: February 20, 2002

Date of First Use for
goods under Section 1(a): at least as early as January 1996

Date of First Use in
commerce for
goods under Section 1(a): at least as early as January 1996

Goods: Classes 3, 5, 10, 14, 18, 20, 25, 28: (see attached schedule)

EROS

Attorney: Nancy C. DiConza

Address: Fross Zelnick Lehrman & Zissu, P.C.
866 United Nations Plaza
New York, New York 10017
(212) 813-5900

Our Ref: WDCS 0202945

Mark: EROS
Joint Applicants: DUX S.A. Holding
and
Dieter Laros
Our Ref: WDCS 0202945

SCHEDULE OF GOODS

- 3 massage-fluids, massage oils, lubricants and glide-gels
- 5 pharmaceutical products, medical sexual auxiliaries, included in Class 5; aphrodisiacs, substances for internal and external use to build up potency, glide creams, orgasm creams, substances to prolong the sexual act; massage-fluids, massage-oils, lubricants and glide-gels, also for medical use
- 10 medical and sanitary instruments and apparatus, artificial limbs, hygienic rubber products, condoms; massage apparatus, vibrators (for personal use), godemiches; sexually auxiliaries for partners, especially enema utensils, pumps and rings to build up potency; articles conducive to erection and orgasm for the exclusive use on the human body (included in Class 10), including reproductions of human parts of the body; auxiliaries for the sexual stimulation (included in Class 10)
- 14 jewelry for intimate parts of the body
- 18 leather and leather imitation goods, included in Class 18; chains and whips
- 20 non-medical sexual auxiliaries, included in Class 20
- 25 clothing, especially underwear and sexy underwear made of leather, rubber or latex; belts; footwear; headgear
- 28 games and playthings; gymnastic and sporting articles, included in Class 28; dolls; handcuffs, chains (not made of leather), love dolls and love swings for love games

GESAMT SEITEN 08

EXHIBIT K

Generated on: This page was generated by TSDR on 2014-09-16 16:48:00 EDT

Mark: EROS

EROS

US Serial Number: 76408233 **Application Filing Date:** May 15, 2002
US Registration Number: 3697335 **Registration Date:** Oct. 20, 2009
Register: Principal
Mark Type: Trademark
Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.
Status Date: Oct. 20, 2009
Publication Date: Sep. 04, 2007

Mark Information

Mark Literal Elements: EROS
Standard Character Claim: No
Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Foreign Information

Priority Claimed: Yes
Foreign Application Number: 30165788.2/0 **Foreign Application Filing Date:** Nov. 15, 2001
Foreign Registration Number: 30165788 **Foreign Registration Date:** Jan. 31, 2002
Foreign Application/Registration Country: GERMANY **Foreign Expiration Date:** Nov. 30, 2011

Priority Claimed: Yes
Foreign Application Number: 002585362 **Foreign Application Filing Date:** Feb. 20, 2002
Foreign Registration Number: 002585362 **Foreign Registration Date:** Mar. 20, 2005
Foreign Application/Registration Country: EUROPEAN (EU) OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET (OHIM) **Foreign Expiration Date:** Feb. 20, 2012

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 incontestability; and
- Asterisks "*" identify additional (new) wording in the goods/services.

For: (Based on Use in Commerce) massage oils; (Based on 44(e)) Aphrodisiacs, namely, essential oils for personal use, body oil and cream, bath oil, skin soap, body lotion, skin moisturizers
International Class(es): 003 - Primary Class **U.S Class(es):** 001, 004, 006, 050, 051, 052
Class Status: ACTIVE
Basis: 1(a) 44(e)
First Use: Dec. 07, 1995 **Use in Commerce:** Dec. 07, 1995

For: (Based on Use in Commerce) Gels and creams for use as personal lubricant, creams and gels for use as personal lubricants and vaginal lubricants; (Based on 44(e)) Pharmaceutical products, namely, pharmaceutical preparations for the inducement of erections; aphrodisiacs, namely, pharmaceutical preparations for arousing sexual desires; medicated massage oils; medical sexual auxiliaries, namely, oral contraceptives; substances for internal and external use to build up potency, namely, creams and gels used to prolong the physical erection in men during sexual intercourse, oral gels to enhance oral stimulation and masturbation; orgasm creams, namely, genital vasodilators in the form of a topical cream for promoting orgasms in females; substances to prolong the sexual act, namely, spray used to prolong the physical erection in men during sexual intercourse and masturbation, oral gels to enhance oral stimulation
International Class(es): 005 - Primary Class **U.S Class(es):** 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a) 44(e)

First Use: Dec. 07, 1995

Use in Commerce: Dec. 07, 1995

For: (Based on 44(e)) Medical and sanitary instruments and apparatus, namely, chemiluminescent light for use in endoscopic exams; artificial limbs; hygienic rubber products, namely, gloves for medical use; condoms; massage apparatus; adult sexual aids, namely, vibrators and vibrator sleeves; godemiches, namely, dildoes; sexually auxiliaries for partners, namely, enema apparatus, pumps and constriction rings for use in maintaining penile rigidity in men with erectile dysfunction and to build up potency, vacuum pumps and vacuum pump accessories, namely, acylinder, sleeve, cushion inserts, constriction rings and constriction ring loaders for use to maintain penile rigidity, penis enlargers; articles conducive to erection and orgasms for the exclusive use on the human, namely, rubber rings to be worn about the penis, benwa balls; reproductions of human parts of the body, namely, penises, penises and testicles, vaginas, breasts and mouths; auxiliaries for the sexual stimulation, namely, electric and non-electric massage devices and accessories for massaging or vibrating portions of the face and body, devices for aiding in sexual intercourse and masturbation, namely reproduction of parts of the male and female anatomy and life-sized anatomically correct mannequins, inflatable life-sized dolls used in masturbation, sexual aid consisting of a nylon harness used as a swing and to obtain multiple positions during sexual intercourse, wands for erotic massages, massage mitt, masturbation sleeves, anal invader and anal beads for sexual stimulation, penis enhancement rings, anal chains, massage balls

International Class(es): 010 - Primary Class

U.S Class(es): 026, 039, 044

Class Status: ACTIVE

Basis: 44(e)

For: (Based on 44(e)) JEWELRY FOR INTIMATE PARTS OF THE BODY

International Class(es): 014 - Primary Class

U.S Class(es): 002, 027, 028, 050

Class Status: ACTIVE

Basis: 44(e)

For: (Based on 44(e)) Leather and leather imitation goods, namely, whips

International Class(es): 018 - Primary Class

U.S Class(es): 001, 002, 003, 022, 041

Class Status: ACTIVE

Basis: 44(e)

For: (Based on 44(e)) Non-medical sexual auxiliaries, namely, furniture for facilitating adult sexual intercourse

International Class(es): 020 - Primary Class

U.S Class(es): 002, 013, 022, 025, 032, 050

Class Status: ACTIVE

Basis: 44(e)

For: (Based on 44(e)) Novelty love dolls and love swings for love games

International Class(es): 028 - Primary Class

U.S Class(es): 022, 023, 038, 050

Class Status: ACTIVE

Basis: 44(e)

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: Yes

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: Yes

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: MEGASOL COSMETIC GMBH

Owner Address: JEAN-MONNET-STRASSE 6
INDUSTRIEPARK
D-54343 FOHREN
GERMANY

Legal Entity Type: GMBH

State or Country Where Organized: GERMANY

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Nancy C. DiConza

Docket Number: WDGS 0202945

Attorney Primary Email Address: fzlj@frosszelnick.com

Attorney Email Authorized: No

Correspondent

Correspondent Name/Address: James D. Weinberger
 Fross Zelnick Lehrman & Zissu, P.C.
 866 United Nations Plaza
 6th Floor
 New York, NEW YORK 10017
 UNITED STATES

Phone: 212-813-5900

Fax: (212) 813-5901

Correspondent e-mail: fzlj@frosszelnick.com

Correspondent e-mail Authorized: No

Domestic Representative

Domestic Representative Name: Fross Zelnick Lehrman & Zissu, P.C.

Phone: 212-813-5900

Fax: (212) 813-5901

Domestic Representative e-mail: fzlj@frosszelnick.com

Domestic Representative e-mail Authorized: No

Prosecution History

Date	Description	Proceeding Number
Dec. 04, 2009	CERTIFICATE OF CORRECTION ISSUED	76533
Dec. 04, 2009	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76533
Nov. 03, 2009	TEAS SECTION 7 REQUEST RECEIVED	
Oct. 20, 2009	REGISTERED-PRINCIPAL REGISTER	
Sep. 16, 2009	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Sep. 15, 2009	TTAB RELEASE CASE TO TRADEMARKS	181706
Sep. 15, 2009	OPPOSITION TERMINATED NO. 999999	181706
Sep. 15, 2009	OPPOSITION DISMISSED NO. 999999	181706
Sep. 09, 2009	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Sep. 09, 2009	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Jan. 07, 2008	OPPOSITION INSTITUTED NO. 999999	181706
Sep. 28, 2007	EXTENSION OF TIME TO OPPOSE RECEIVED	
Sep. 04, 2007	PUBLISHED FOR OPPOSITION	
Aug. 15, 2007	NOTICE OF PUBLICATION	
Jul. 27, 2007	LAW OFFICE PUBLICATION REVIEW COMPLETED	76568
Jul. 24, 2007	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 01, 2007	NON-FINAL ACTION MAILED	
Jun. 01, 2007	NON-FINAL ACTION WRITTEN	74671
May 25, 2007	AMENDMENT FROM APPLICANT ENTERED	76568
May 25, 2007	CORRESPONDENCE RECEIVED IN LAW OFFICE	76568
May 25, 2007	ASSIGNED TO LIE	76568
May 10, 2007	PAPER RECEIVED	
Nov. 06, 2006	INQUIRY AS TO SUSPENSION MAILED	
Nov. 06, 2006	SUSPENSION INQUIRY WRITTEN	74671
May 04, 2006	LETTER OF SUSPENSION MAILED	
May 03, 2006	SUSPENSION LETTER WRITTEN	74671
May 03, 2006	ASSIGNED TO EXAMINER	74671
May 03, 2006	ASSIGNED TO EXAMINER	74671
May 02, 2006	AMENDMENT FROM APPLICANT ENTERED	68171
Apr. 11, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	68171
Apr. 11, 2006	PAPER RECEIVED	
Nov. 04, 2005	NON-FINAL ACTION MAILED	
Nov. 04, 2005	NON-FINAL ACTION WRITTEN	74786
Oct. 15, 2005	AMENDMENT FROM APPLICANT ENTERED	73793

Sep. 23, 2005	CORRESPONDENCE RECEIVED IN LAW OFFICE	73793
Sep. 23, 2005	PAPER RECEIVED	
Apr. 18, 2005	INQUIRY AS TO SUSPENSION MAILED	
Apr. 18, 2005	SUSPENSION INQUIRY WRITTEN	74786
Oct. 15, 2004	LETTER OF SUSPENSION MAILED	
Oct. 12, 2004	SUSPENSION LETTER WRITTEN	74786
Sep. 23, 2004	AMENDMENT FROM APPLICANT ENTERED	68171
Sep. 09, 2004	CORRESPONDENCE RECEIVED IN LAW OFFICE	68171
Sep. 09, 2004	PAPER RECEIVED	
Mar. 04, 2004	INQUIRY AS TO SUSPENSION MAILED	
Sep. 09, 2003	PAPER RECEIVED	
Jul. 17, 2003	LETTER OF SUSPENSION MAILED	
May 29, 2003	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Jun. 19, 2003	CASE FILE IN TICRS	
May 29, 2003	PAPER RECEIVED	
Nov. 26, 2002	NON-FINAL ACTION MAILED	
Nov. 21, 2002	ASSIGNED TO EXAMINER	74786

Maintenance Filings or Post Registration Information

Change in Registration: Yes

Correction made to Registration: In the statement, Page 1, Line (s) 1-3, should be deleted, and "MEGASOL COSMETIC GMBH (GMBH GERMANY), JEAN-MONNET-STRASSE 6, INDUSTRIEPARK, D-54343 FOHREN, GERMANY AND", should be inserted.

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: POST REGISTRATION

Date in Location: Jan. 27, 2010

Assignment Abstract Of Title Information

Summary

Total Assignments: 2

Registrant: Laros, Dieter

Assignment 1 of 2

Conveyance: NUNC PRO TUNC ASSIGNMENT EFFECTIVE 12212006

Reel/Frame: [4054/0196](#)

Pages: 4

Date Recorded: Aug. 28, 2009

Supporting Documents: [assignment-tm-4054-0196.pdf](#)

Assignor

Name: [LAROS, DIETER](#)

Execution Date: Aug. 26, 2009

Legal Entity Type: INDIVIDUAL

Citizenship: GERMANY

Name: [DUX S.A. HOLDING](#)

Execution Date: Aug. 26, 2009

Legal Entity Type: JOINT STOCK COMPANY

State or Country Where Organized: LUXEMBOURG

Assignee

Name: [DUX S.A. HOLDING](#)

Legal Entity Type: JOINT STOCK COMPANY

State or Country Where Organized: LUXEMBOURG

Address: 4, RUE HENRI SCHNADT
L-1019, LUXEMBOURG

Name: [PJUR GROUP LUXEMBOURG, S.A.](#)

Legal Entity Type: SOCIETE ANONYME

State or Country Where Organized: LUXEMBOURG

Address: 44 ESPLANADE DE LA MOSELLE
6637 WASSERBILLIG, LUXEMBOURG

Correspondent

Correspondent Name: NANCY DICONZA

Correspondent Address: FROSS ZELNICK LEHRMAN & ZISSU, P.C.
866 UNITED NATIONS PLAZA
NEW YORK, NY 10017

Domestic Representative - Not Found

Assignment 2 of 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [4061/0039](#)

Pages: 4

Date Recorded: Sep. 14, 2009

Supporting Documents: [assignment-tm-4061-0039.pdf](#)

Assignor

Name: [DUX S.A. HOLDING](#)

Execution Date: Sep. 14, 2009

Legal Entity Type: JOINT STOCK COMPANY

State or Country Where Organized: LUXEMBOURG

Name: [PJUR GROUP LUXEMBOURG, S.A.](#)

Execution Date: Sep. 14, 2009

Legal Entity Type: SOCIETE ANONYME

State or Country Where Organized: LUXEMBOURG

Assignee

Name: [MEGASOL COSMETIC GMBH](#)

Legal Entity Type: GMBH

State or Country Where Organized: GERMANY

Address: JEAN-MONNET-STRASSE 6
INDUSTRIEPARK
D-54343 FOHREN, GERMANY

Correspondent

Correspondent Name: THORSTEN SCHMIDT

Correspondent Address: 666 FIFTH AVENUE
NEW YORK, NY 10103

Domestic Representative - Not Found

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: [91181706](#)

Filing Date: Jan 02, 2008

Status: Terminated

Status Date: Sep 15, 2009

Interlocutory Attorney: ANGELA LYKOS

Defendant

Name: Dieter Laros and DUX S.A. Holding

Correspondent Address: James D. Weinberger
Fross Zelnick Lehrman & Zissu, P.C.
866 United Nations Plaza, 6th Floor
New York NY , 10017
UNITED STATES

Correspondent e-mail: jweinberger@frosszelnick.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
EROS	Registered	76408233	3697335

Plaintiff(s)

Name: Megasol Cosmetic GmbH

Correspondent Address: Thorsten Schmidt
Fulbright & Jaworski LLP
666 Fifth Avenue, 31st Floor
New York NY , 10103
UNITED STATES

Correspondent e-mail: tschmidt@fulbright.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
EROZONE	Section 8 and 15 - Accepted and	78225023	3071704

EROTICX	Acknowledged	78206429	2886289
	Section 8 and 15 - Accepted and Acknowledged		
EROS	Registered	76421806	4010690
EOS	Registered	76382124	3908212

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jan 02, 2008	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jan 07, 2008	Feb 16, 2008
3	PENDING, INSTITUTED	Jan 07, 2008	
4	CHANGE OF CORRESPONDENCE ADDRESS	Feb 15, 2008	
5	ANSWER	Feb 15, 2008	
6	D'S MOT TO SUSP PEND DISP CIV ACTION	Mar 17, 2008	
7	SUSPENDED PENDING DISP OF CIVIL ACTION	Mar 20, 2008	
8	RESPONSE DUE 30 DAYS (DUE DATE)	Mar 21, 2009	Apr 20, 2009
9	P'S RESPONSE TO BOARD ORDER/INQUIRY	Apr 17, 2009	
10	SUSPENDED PENDING DISP OF CIVIL ACTION	May 05, 2009	
11	WITHDRAWAL OF OPPOSITION	Sep 14, 2009	
12	BD'S DECISION: DISMISSED W/ PREJUDICE	Sep 15, 2009	
13	TERMINATED	Sep 15, 2009	

Type of Proceeding: Extension of Time

Proceeding Number: [76408233](#) Filing Date: Sep 28, 2007
 Status: Terminated Status Date: Jan 07, 2008

Interlocutory Attorney:

Defendant

Name: DUX S.A. Holding

Correspondent Address: NANCY C. DICONZA
 FROSS ZELNICK LEHRMAN & ZISSU, P.C.
 866 UNITED NATIONS PLAZA
 NEW YORK NY , 10017
 UNITED STATES

Associated marks

Mark	Application Status	Serial Number	Registration Number
EROS	Registered	76408233	3697335

Potential Opposer(s)

Name: Group Kaitu, LLC

Correspondent Address: Pamela C. Gavin
 Gavin Law Offices
 1127 Gaskins Road, Ste. 600
 Richmond VA , 23238
 UNITED STATES

Correspondent e-mail: pgavin@gavinlawoffices.com

Name: Megasol Cosmetic GmbH

Correspondent Address: Katrin Lewertoff and Leslie K. Mitchell
 Arent Fox LLP
 1675 Broadway
 New York NY , 10019
 UNITED STATES

Correspondent e-mail: lewertoff.katrin@arentfox.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
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Prosecution History

Entry Number	History Text	Date	Due Date
1	INCOMING - EXT TIME TO OPPOSE FILED EXTENSION OF TIME GRANTED	Sep 28, 2007	

2	EXTENSION OF TIME GRANTED	Sep 28, 2007
3	INCOMING - EXT TIME TO OPPOSE FILED	Oct 01, 2007
4	EXTENSION OF TIME GRANTED	Oct 01, 2007