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

09-10-2001
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #74

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| KIMBERLY-CLARK CORPORATION, | ) | |
| | ) | |
| Opposer, | ) | |
| | ) | |
| v. | ) | Opposition No. |
| | ) | |
| PANO, INC. | ) | |
| | ) | |
| Applicant. | ) | |

NOTICE OF OPPOSITION

BOX TTAB
FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

In the matter of the application for the registration of the designation DEPEND-A-THONG for "adult diaper for use as a gag gift at parties", Serial No. 75-831,386 by Pano, Inc., (hereinafter called "Applicant"), of Bay Village, OH, published in the Official Gazette of May 15, 2001, Kimberly-Clark Corporation (hereinafter called "Opposer"), a corporation duly organized and existing under the laws of the State of Delaware, having a principal place of business in Neenah, Wisconsin, believes that it will be damaged by the proposed registration and hereby opposes the application for registration of said mark.

As grounds of opposition, it is alleged that:

1. Opposer has been and is now extensively engaged in the business of manufacturing, marketing and selling various goods in interstate commerce, including disposable incontinence products, namely, protective underwear; absorbent shields and absorbent pads and underwear for incontinence and other personal absorbency needs.

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2. Opposer's goods for incontinence are purchased largely by adults and can be considered as "adult diapers" by some consumers. Applicant's goods include "adult diapers".

3. Opposer's incontinence products under the DEPEND trademark include those in U.S. trademark registrations and applications, RN.1,199,263; RN.1,154,489; RN.2,462,652; RN.2,462,651; RN.2,456,180; RN.2,458,285; RN.2,453,929; RN.2,451,893; RN.2,458,283; RN.2,453,928; RN.2,456,159; RN.2,451,884; RN.2,313,961; and RN.1,714,955; SN.76/268,522; SN76/107,999.

4. Opposer's use of DEPEND in interstate commerce in connection with its goods is prior to the October 25, 1999 date of filing of applicant's Intent to Use Application, United States Trademark Application Serial No. 75-831,386 and, upon information and belief, prior to any use made by Applicant of the trademark, DEPEND-A-THONG.

5. Applicant's use of DEPEND-A-THONG interferes with Opposer's pre-existing and continuing use of DEPEND; and registration of the term by the Applicant will seriously damage Opposer under Section 2(d) of the Trademark Act.

WHEREFORE, Opposer believes that it shall be damaged by the requested registration and prays that it be denied.

Please charge the filing fee in the amount of $300.00 to the Deposit Account of Kimberly-Clark Corporation, No. 11-0875.

Respectfully Submitted,
KIMBERLY-CLARK CORPORATION

By: ----------
Gregg Marrazzo
Chief Trademark Counsel

401 North Lake Street
Neenah, WI 54956
Telephone: 920/721-2600
Date: September 7, 2001

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in a postage prepaid envelope addressed to: Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513 on
9/7/01
(Date)
Kimberly-Clark Corporation
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