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OPPOSITION  
03031-N0055A WWW/KGB

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

-----X  
 VERILUX, INC., )  
 )  
 Opposer, )  
 )  
 v. )  
 )  
 LINAYA GAIL HAHN, )  
 )  
 Applicant. )  
 -----X



05-16-2003

U.S. Patent & TMOfo/TM Mail Ropt. Dt. #40

Opposition No. \_\_\_\_\_

In Re: Trademark Application  
 Applicant : LINAYA GAIL HAHN  
 Ser. No. : 76/396,211  
 Filed : April 10, 2002  
 Trademark : INDOOR SUNSHINE  
 Published : January 14, 2003

NOTICE OF OPPOSITION

In the mater of trademark application Serial No. 76/396,211, filed April 10, 2002 and published for opposition in the Official Gazette of January 14, 2003:

NOW COMES VERILUX, INC., a Connecticut corporation, having a principal place of business at 9 Viaduct Road, Stamford, CT 06907 (hereinafter "Opposer"), by its duly authorized attorneys, who believes it will be damaged by registration of the trademark INDOOR SUNSHINE, assigned Ser. No. 76/396,211 applied for by LINAYA GAIL HAHN, an individual residing at 942 Twisted Oak Lane Buffalo Grove IL 60089 (hereinafter "Applicant"), and hereby opposes same.

Certification of Mailing: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Box TTAB-FEE, Assistant Commissioner of Trademarks; 2900 Crystal Drive; Arlington, VA 22202-3513.

May 13, 2003  
Date

JoAnne Cassone

The grounds for opposition are as follows:

1. Applicant seeks to register INDOOR SUNSHINE as a trademark for use with respect to "full spectrum lighting products, namely wall lights, illuminating light boxes, fluorescent lighting tubes, and electric light bulbs" in class 11 (hereinafter "Applicant's goods") with the filing of an intent-to-use application.

2. Applicant's application for INDOOR SUNSHINE was filed as an intent-to-use application on April 10, 2002 and was awarded Ser. No. 76/396,211.

3. Since 1956 Opposer has been engaged in the business of manufacturing and distributing full spectrum lighting products including, but not limited to, light bulbs, full spectrum fluorescent tubes, light therapy systems, and lamps (hereinafter "Opposer's goods").

4. Opposer has used, since at least as early as November 1, 1998, and continues to use in commerce, the mark SUNSHINE SIMULATOR for "electrical lighting fixtures," which mark has been awarded Ser. No. 75/914,223 with a filing date of February 9, 2000, and published for opposition.

5. Opposer has used, since at least as early as June 1, 1999, and continues to use in commerce, the mark SUNSHINE IN A BOX for "full spectrum lighting systems consisting of electric lighting fixtures, or fluorescent lighting tubes, or incandescent light bulbs," which has been awarded Registration No. 2,379,703 with an issue date of August 22, 2000.

6. Opposer has used, since at least as early as September, 2000, and continues to use in commerce, the mark SUNSHINE IN A LAMP for "apparatus for lighting, namely, desk lamps and floor lamps," which has been awarded Ser. No. 76/433,554 with a filing date of July 24, 2002, and published for opposition.

7. The marks SUNSHINE SIMULATOR, SUNSHINE IN A BOX, and SUNSHINE IN A LAMP, taken as a whole, form Opposer's Family of SUNSHINE marks.

8. Opposer claims common-law rights in and to Opposer's Family of SUNSHINE marks.

9. By virtue of Opposer's use in commerce of Opposer's Family of SUNSHINE marks in the United States in connection with Opposer's goods, the relevant trade and public have come to associate such goods bearing Opposer's Family of SUNSHINE marks with Opposer.

10. Opposer's dates of first use and/or the filing dates of Opposer's Family of SUNSHINE marks in connection with Opposer's goods predates Applicant's filing date for the application to register INDOOR SUNSHINE herein opposed.

11. On information and belief, Applicant's goods and Opposer's goods are substantially similar and related.

12. Applicant's INDOOR SUNSHINE mark, as applied to Applicant's goods set forth in the application herein opposed, so resembles Opposer's Family of SUNSHINE marks as applied to Opposer's goods that it is likely to cause confusion, mistake and/or deception.

13. The respective marks are nearly identical in sound and appearance.

14. The mark, INDOOR SUNSHINE, as used by Applicant, incorporates a prominent portion of Opposer's Family of SUNSHINE marks, i.e., the word "sunshine."

15. If Applicant is permitted to register INDOOR SUNSHINE for Applicant's goods, confusion of the trade and public is likely to result, such confusion resulting in damage and injury to Opposer.

16. If Applicant is permitted to register INDOOR SUNSHINE for the goods set forth in the application herein opposed, confusion of the relevant trade and public resulting in damage and injury to Opposer would be likely to result. Any persons familiar with the goods of Opposer would be likely to assume, in error, that Applicant's goods are goods sponsored by or produced under license from or

otherwise affiliated with Opposer, or as goods that are a part of Opposer's line of products

17. If Applicant is permitted to register INDOOR SUNSHINE for the goods set forth in the application herein opposed, any defect, objection to or fault found with Applicant's goods sold under that mark would necessarily reflect on and seriously injure the reputation that Opposer has established for its goods sold under Opposer's Family of SUNSHINE marks.

18. If Applicant were granted a registration for INDOOR SUNSHINE, the mark herein opposed, it would obtain thereby at least a *prima facie* exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that registration of the mark of application No. 76/396,211 be refused and that this opposition be sustained.

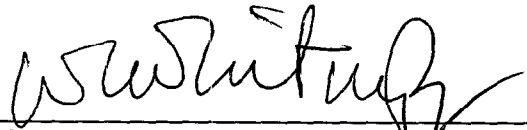
A duplicate copy of this Notice of this Opposition is enclosed herewith.

Applicant is enclosing the United States Patent & Trademark Office Credit Card Payment form to cover the filing fee of \$300.00. Any additional fees or deficiencies deemed to be due and owing in connection with this opposition may be charged to Deposit Account No. 19-4516 and any overpayment may be credited thereto.

Respectfully submitted,  
VERILUX, INC.

Date: May 13, 2003

By:



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