

TTAB

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*[Signature]*

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

In the matter of trademark application Serial No. 76/438,534  
Filed August 5, 2002  
For the mark BLU JEL MDC  
Published in the Official Gazette on April 29, 2003



06-02-2003  
U.S. Patent & TMO/TM Mail Rpt Dt. #22

HERAEUS-KULZER, INC.,

Opposer,

v.

MANUFACTURERA DENTAL  
CONTINENTAL, S.A. de C.V.,

Applicant.

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

06/10/2003 K6IBBONS 00000228 76438534  
01 FC:6402 300.00 DP

NOTICE OF OPPOSITION

In the matter of the trademark application of MANUFACTURERA DENTAL CONTINENTAL, S.A. de C.V., Zapopan, Jalisco, Mexico, for registration of its alleged trademark BLU JEL MDC for Dental Impression Material in International Class 5, Serial No. 76/438,534, filed August 5, 2002, published in the Official Gazette of the United States Patent and Trademark Office on April 29, 2003, HERAEUS-KULZER, INC., a corporation duly organized and existing under the laws of the State of Delaware, located

and doing business at 99 Business Park Drive, Armonk, New York 10504, believes it would be damaged by such registration and hereby opposes the same.

The grounds for this opposition are as follows:

1. Opposer manufactures and sells a broad range of simple and complex dental products, and has done so through its predecessor in interest and itself continuously since well more than a quarter of a century before the filing of the opposed application (which is based on intent to use).

2. During all the period referred to in the preceding paragraph, and continuously so, opposer and its predecessor extensively and conspicuously used in connection with said business marks or names or both which included the syllable JEL.

3. Opposer acquired the assets of its predecessor in interest above mentioned, a Delaware corporation named "J. F. Jelenko & Co.", by merger in Delaware on January 1, 2001. These assets will be mentioned hereinafter as "Opposer's", and the word "Opposer" will be hereinafter collectively used to include both said predecessor in interest and the present literal Opposer.

4. Opposer is the owner of the following U.S. trademark registrations currently in full force:

<u>Mark</u>	<u>Registration No.</u>	<u>Issue Date</u>
JEL	926,487	1/4/72
JEL-BIOS 10	2,347,191	5/2/00
JEL BLAST	2,622,611	9/24/02
JEL-BURN	2,367,049	7/11/00
JELDENT	2,606,736	8/13/02
JELENKO	1,361,340	9/24/85
JELENKO BBC	875,883	9/2/69
JELENKO VIRTUOSO	2,365,316	7/4/00
JELFINE 52	2,492,395	9/25/01
JELFIRE	2,170,410	6/30/98
JEL-40	2,173,819	7/14/98
JELGLOSS	2,160,958	5/26/98
JELSTAR	1,030,548	1/20/76
JELTEMP	2,616,160	9/10/02

5. Opposer was the owner of the following U.S. trademark registrations, among others, including the JEL syllable:

<u>Mark</u>	<u>Registration No.</u>	<u>Expiration Date</u>
JELBON	1,043,937	7/20/96
JELCRAFT	1,093,173	6/13/98
JEL-PAC	690,004	12/15/99
J. F. JELENKO & CO. and Design	151,150	1/24/02
J. F. JELENKO & CO. and Design	277,064	11/4/90

These registrations and use under them has contributed to the secondary meaning of JEL, as a syllable and otherwise.

6. Opposer did business in dental products until 2001 under the trade name "J. F. Jelenko & Co." This trade name use produced a further strong and important commercially secondary meaning with respect to dental products.

7. Opposer's uses and activities with respect to its marks and name as set forth in paragraphs 1 through 6 and in the registrations set forth in paragraphs 4 and 5 and otherwise have created a secondary meaning in JEL and other marks including the JEL syllable, as well as a secondary meaning in the JEL syllable as indicating Opposer and its dental products.

8. Applicant's intended use is likely to cause confusion as to source and sponsorship of its goods, and to falsely suggest a connection, all in violation of Opposer's rights and of 15 U.S.C. §1052(a) and (d), in view of one or more or all of said registrations and said rights owing to name and secondary meaning.

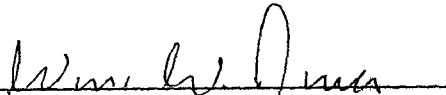
9. Opposer's uses and activities as set forth hereinabove have resulted in that the mark JEL and the marks and uses incorporating it as a syllable are famous and were so before (and continuing since) the filing of the intent to use application here opposed, or other activity, on information and belief, of applicant.

10. The intended use by applicant must cause dilution of the distinctive quality of the mark JEL and the marks and uses incorporating it as a syllable, in violation of 15 U.S.C. §1125(c)(1).

WHEREFORE, Opposer prays that this opposition be sustained and the applicant adjudged not entitled to the registration of the mark BLU JEL MDC.

This Notice of Opposition is filed in duplicate, as required by the Rules of Practice, and the requisite Government fee of Three Hundred Dollars (\$300.00) is enclosed herewith.

Respectfully submitted,

  
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May 29, 2003

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