

TTAB

Assistant Commissioner for Trademarks
ATTN: Box TTAB NO FEE
2900 Crystal Drive
Arlington, VA 22202-3513

RE: Our File: FORTE 6.0-003

OPP.
~~Serial/Reg.~~ No.: 9115 7909

Applicant/Registrant:
FE Sinclair Oil Corp vs

Law Office:

Filed: FORTE Sole Holding AG Trademark Attorney:

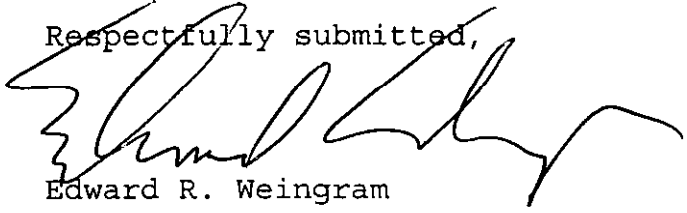
For: OPPOS WITH SINCLAIR

Enclosed for filing in the U.S. Patent and Trademark Office are:

- (X) Law Firm Transmittal Letter () Response/Amendment
- () Petition () Extension of Time
- () Affidavit () Declaration/Power of Attorney
- () Notice of Appeal () Specimen(s)
- () Assignment and cover sheet () Statement of Use
- () Communication/Letter (X) Postcard acknowledging receipt of above-identified material
- () Check No. _____ - \$ _____
- () Claim of Priority-Cert'd Copies () Use/Intent to Use Trademark Appln.
- () Renewal Application (X) Response to Office to Show Cause why Default
- () _____ (X) Answer to Not of OPP Judge should not be entered
- () Drawing ___ sheet - (X) copy of Cert. of Service

Conditional Petition and Fee for Extension of Time: If any extension of time for the accompanying response is required, applicant requests that this be considered a petition therefor.

In connection with the above-identified matter, please charge any additional charges or any other charges relating to this matter to Deposit Account No. 23-0812. A duplicate copy of this letter is enclosed.


Respectfully submitted,


Edward R. Weingram
Registration No. 24,493
WEINGRAM & ASSOCIATES, P.C.
P.O. Box 927
197 W. Spring Valley Avenue
Maywood, NJ 07607
TEL: (201) 843-6300 FAX: (201) 843-6495

Dated 2/6/04

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE WITH SUFFICIENT POSTAGE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: ASST COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DR., ARLINGTON, VA 22202-3513 ON

Dated: 2/6/04

Signature: 

Assistant Commissioner for Trademarks
ATTN: Box TTAB NO FEE
2900 Crystal Drive
Arlington, VA 22202-3513

RE: Our File: FORTE 6.0-003

Serial/Reg. No.: 91157909

Applicant/Registrant:
Re Sinclair Oil Corp vs.

Law Office:

Filed: FORTE Sole Holding AG Trademark Attorney:

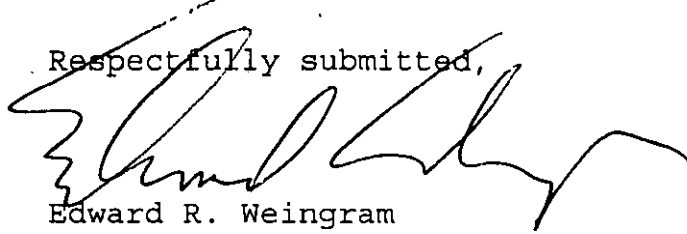
For: OPPOS. WITH SINCLAIR

Enclosed for filing in the U.S. Patent and Trademark Office are:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Law Firm Transmittal Letter | <input type="checkbox"/> Response/Amendment |
| <input type="checkbox"/> Petition | <input type="checkbox"/> Extension of Time |
| <input type="checkbox"/> Affidavit | <input type="checkbox"/> Declaration/Power of Attorney |
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| <input type="checkbox"/> Claim of Priority-Cert'd Copies | <input type="checkbox"/> Use/Intent to Use Trademark Appln. |
| <input type="checkbox"/> Renewal Application | <input checked="" type="checkbox"/> <u>Response to Order to Show Cause why Default</u> |
| <input type="checkbox"/> _____ | <input checked="" type="checkbox"/> <u>Answer to Not of OPP</u> |
| <input type="checkbox"/> Drawing _____ sheet - | <input checked="" type="checkbox"/> <u>copy of Cert. of Service</u> |
- Jury should be entered.*

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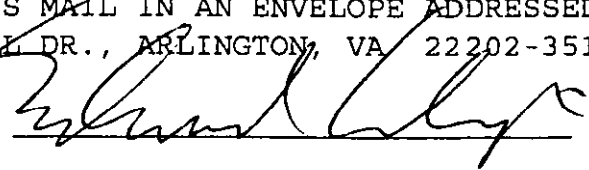
Respectfully submitted,


Edward R. Weingram
Registration No. 24,493
WEINGRAM & ASSOCIATES, P.C.
P.O. Box 927
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TEL: (201) 843-6300 FAX: (201) 843-6495

Dated 2/6/04

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Dated: 2/6/04

Signature: 

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

In The Matter of Trademark Application No.: 76/457,853
Published in the Official Gazette of June 24, 2003, at page TM440, Int'l Class 32
Mark: SUN DESIGN



SINCLAIR OIL CORPORATION :
:
Opposer, :
:
v. :
:
FONTE SOLE HOLDING AG :
:
Applicant. :

02-09-2004
U.S. Patent & TMO's/TM Mail Rcpt Dt. #78

Opposition No.: 91157909

Assistant Commissioner for Trademarks
Box TTAB No Fee
2900 Crystal Drive
Arlington, Virginia 22202-3513

RESPONSE TO AN ORDER TO SHOW CAUSE WHY
JUDGEMENT BY DEFAULT SHOULD NOT BE ENTERED

This responds to the Order To Show Cause dated January 9, 2004, informing the Applicant that an Answer to a Notice of Opposition was due on November 8, 2003, and that neither an Answer, nor a motion to extend the time to answer had been filed. The Order gives Applicant thirty days from the mailing date of the Order to show cause why judgement by default should not be entered against Applicant.

Applicant, Fonte Sole Holding AG ("Applicant"), by its attorneys, Weingram & Associates, P.C., hereby moves that default judgment should not be entered against Applicant.

Attorneys for Applicant did not timely file an Answer to the Notice of Opposition, nor a motion to extend the time to answer, because Attorneys for Applicant had no record of receiving a Notice of Opposition in this matter.

Upon receipt of the Order dated January 9, 2004, Attorneys for Applicant obtained a copy of the Notice of Opposition by accessing the United States Patent and Trademark Office's website. Accordingly, Attorneys for Applicant submit herewith an Answer to the outstanding Notice of Opposition. A copy of Applicant's Answer along with this Response is being served on Opposer's counsel concurrently herewith.

Accordingly, Attorneys for Applicant respectfully request that Judgement for Default not be entered against Applicant and that Applicant's Answer be accepted.

Dated: February 6, 2004

FORTE SOLE HOLDING AG

By: 

Edward R. Weingram, Esq.

WEINGRAM & ASSOCIATES, P.C.

P.O. Box 927

Maywood, New Jersey 07607

Tel: (201) 843-6300

Fax: (201) 843-6495

Attorneys for Applicant

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

In The Matter of Trademark Application No.: 76/457,853
Published in the Official Gazette of June 24, 2003, at page TM440, Int'l Class 32
Mark: SUN DESIGN



SINCLAIR OIL CORPORATION :
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Opposer, :
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FONTE SOLE HOLDING AG :
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Applicant. :

02-09-2004
U.S. Patent & TMOs/TM Mail Rcpt Dt. #78

Opposition No.: 91157909

Assistant Commissioner for Trademarks
Box TTAB No Fee
2900 Crystal Drive
Arlington, Virginia 22202-3513

**APPLICANT'S ANSWER
TO NOTICE OF OPPOSITION**

Applicant, through its attorneys, answers the Notice of Opposition as follows:

- 1) Applicant admits the truth of the first averment of the Notice of Opposition.

- 2) Applicant admits the truth of the second averment of the Notice of Opposition.

3) Applicant is without knowledge or information sufficient to admit, or deny the first sentence of the third averment of the Notice of Opposition. Applicant denies the truth of the second(last) sentence of the third averment of the Notice of Opposition.

4) Applicant is without knowledge or information sufficient to form a belief as to the truth of the fourth averment of the Notice of Opposition.

5) Applicant is without knowledge or information sufficient to form a belief as to the truth of the fifth averment of the Notice of Opposition.

6) Applicant is without knowledge or information sufficient to form a belief as to the truth of the sixth averment of the Notice of Opposition.

7) Applicant is without knowledge or information sufficient to form a belief as to the truth of the seventh averment of the Notice of Opposition.

8) Applicant is without knowledge or information sufficient to form a belief as to the truth of the eighth averment of the Notice of Opposition.

9) Applicant is without knowledge or information sufficient to form a belief as to the truth of ninth averment of the Notice of Opposition.

10) Applicant is without knowledge or information sufficient to form a belief as to the truth of the tenth averment of the Notice of Opposition.

11) Applicant denies the truth of the eleventh averment of the Notice of Opposition.

12) Applicant denies the truth of the twelfth averment of the Notice of Opposition.

13) Applicant denies the truth of the thirteenth averment of the Notice of Opposition.

14) Applicant denies the truth of the fourteenth averment of the Notice of Opposition.

15) Applicant admits the truth of the first sentence of the fifteenth averment of the Notice of Opposition. Applicant denies the truth of the second sentence of the fifteenth averment of the Notice of Opposition.

16) Applicant denies the truth of the sixteenth averment of the Notice of Opposition.

AFFIRMATIVE DEFENSE

FIRST AFFIRMATIVE DEFENSE

17) Opposer is barred by laches to oppose Applicant's application.

SECOND AFFIRMATIVE DEFENSE

18) Opposer is barred by acquiescence to oppose Applicant's application.

THIRD AFFIRMATIVE DEFENSE

19) Opposer is barred by estoppel to oppose Applicant's application.

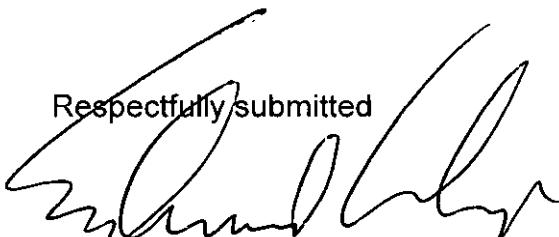
FOURTH AFFIRMATIVE DEFENSE

20) The Notice of Opposition should be barred because Opposer's opposition to Applicant's application constitutes a vexatious filing without merit.

WHEREFORE, Applicant requests that the Notice of Opposition be dismissed with prejudice, that Applicant's application be allowed, and that Applicant's mark be registered on the Principal Register.

Dated: 2/6/04

Respectfully submitted



WEINGRAM & ASSOCIATES, P.C.

Attorneys for Applicant

Edward R. Weingram

Reg. No. 24,493

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Maywood, New Jersey 07607

Tel. (201) 843-6300

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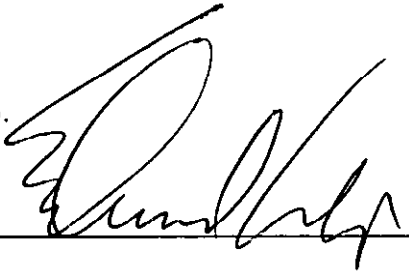
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer to the Notice of Opposition and the Response to the Order to show cause why default judgement should not be enter, is being deposited with the United States Postal Service first class mail under 37 CFR 1.10 on the date indicated below and is addressed to attorney for Opposer :

John C. Stringham, Registration No. 40,831
Attorney for Opposer
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

postage prepaid, on the 6th day of February 6, 2003.

By: _____



Edward R. Weingram, Esq.
WEINGRAM & ASSOCIATES, P.C.
P.O. Box 927
Maywood, New Jersey 07607
Tel: (201) 843-6300
Fax: (201) 843-6495
Attorneys for Applicant
Registration No. 24,493