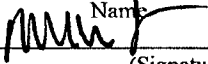


I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Trademarks, Box TTAB Fee, 2900 Crystal Drive, Arlington, VA 22202-3514, on August 14, 2004



Richard G. Martin
Name

(Signature)
August 14, 2004
(Date of signature)

08-20-2004
U.S. Patent & TMO/TM Mail Rcpt Dt. #78

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

D & E Pharmaceuticals, Inc.)
)
 Opposer,)
) **Serial No. 78-305,431**
 v.)
)
 S.A.N. Corporation) **Mark: FULL IMPACT BOLT**
)
 Applicant,)
)

August 14, 2004

Honorable Commissioner
For Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

NOTICE OF OPPOSITION

Opposer, by and through counsel, hereby submits this Notice of Opposition. Opposer opposes U.S. Trademark Application Serial No. 78-305,431 in the name of Applicant for the mark FULL IMPACT BOLT and as grounds alleges the following:

1. Opposer makes and sells various products, including sports and nutritional supplements, dietary weight loss supplements, and other products.
2. Opposer markets certain of its products throughout the U.S. under various trademarks, including Opposer's BOLT family of marks, including BOLT MAGNUM, BOLT COLD PLUS, BOLT PSEUDO-EPHEDRINE, BOLT ENERGY, BOLT ENERGY BAR, BOLT EPHEDRINE, and BOLT NATURAL.
3. Opposer owns the following U.S. federal trademark registrations ("the BOLT Marks"):
 - (a) BOLT ENERGY, Registration #1,627,946, registered on December 18, 1990 and first used in commerce on January 25, 1990.
 - (b) BOLT MAGNUM, Registration #1,665,625, registered on November 26, 1991, and first used in commerce on January 25, 1990.
 - (c) BOLT NATURAL, Registration #1,781,059, registered on July 13, 1993, and first used in commerce on January 25, 1990.
 - (d) BOLT EPHEDRINE, Registration #1,884,797, first used in commerce on January 25, 1990.
 - (e) BOLT ENERGY BAR, Registration #2,242,471, registered on May 4, 1990, and first used in commerce on August 29, 1996.
 - (f) BOLT COLD PLUS, Registration #2,621,102, registered on September 17, 2002, and first used in commerce on January 1, 1991.
 - (g) BOLT PSEUDO-EPHEDRINE, Registration #2,666,309, registered on December 24, 2002, and first used in commerce on January 1, 1990.
4. The Opposer's registrations for the BOLT Marks are valid and subsisting, have not been canceled and constitute prima facie evidence as to the validity of the registered marks, of the registration of such marks, of Opposer's ownership of such marks and of Opposer's exclusive right to use the marks in commerce. Opposer also holds common law trademark rights in the BOLT Marks.

5. Opposer has used and is using the BOLT Marks to identify its nutritional and dietary supplements and to distinguish them from other products.
6. The BOLT Marks are well known among the relevant consuming public in the dietary and nutritional supplement industry. As a result, the consuming public and trade have come to know that nutritional and dietary supplements marketed under Opposer's BOLT Marks are associated with Opposer.
7. Opposer has continuously exercised great care in the selection of ingredients which go into making the products marketed under the Bolt Marks as well as the manufacturing, production and packaging of those products. Opposer exercises care to insure its products are of a uniform, high grade quality. As a result of this care, Opposer's products have acquired and maintained a reputation for excellence.
8. As a result of its long term and continuous use of the BOLT Marks, the associated products' commercial success under these marks and the substantial advertising and promotional efforts made in connection therewith, Opposer has developed substantial goodwill in the BOLT Marks.
9. The trade purchasing public have come to know, recognize and identify goods bearing the BOLT Marks as the high quality goods of Opposer. The BOLT Marks have come to represent the valuable goodwill and reputation of Opposer as a provider of high quality sports and nutritional supplements.
10. Opposer has not authorized Applicant to use the BOLT Marks.
11. Applicant has applied to register the mark FULL IMPACT BOLT for use on a "dietary supplement used in conjunction with diet and exercise."
12. Applicant's proposed mark FULL IMPACT BOLT is confusingly similar to Opposer's BOLT family of marks.

13. Opposer's and Applicant's products are identical or closely related, Opposer's and Applicant's customers are found in the same consumer base, and the respective goods are marketed through the same or similar channels of trade.
14. Applicant's registration and use of the mark FULL IMPACT BOLT is likely to cause confusion, mistake or deception as to the origin of Applicant's products and to mislead the trade and public into believing that Applicant's products originate from, or are affiliated or connected with, or licensed, sponsored, authorized, approved or sanctioned by Opposer, and/or are part of an extension of Opposer's BOLT line of products.

For the reasons set forth above, Opposer believes that the registration of the Applicant's mark FULL IMPACT BOLT would irreparably damage and injure Opposer.

Wherefore, Opposer prays that this Opposition be sustained and that Application Serial Number 78-305,431 be refused registration.

This Notice of Opposition is being sent in triplicate via U.S. mails to the following address:

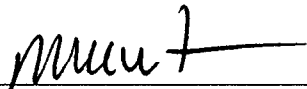
Commissioner for Trademarks
Box TTAB FEE
2900 Crystal Drive
Arlington, VA 22202

The Opposer hereby authorizes the Trademark Trial and Appeal Board to charge the \$300 fee for this Notice of Opposition to Deposit Account 50-3156. A separate fee authorization is enclosed, also in triplicate.

1-37194

Respectfully Submitted,
D & E Pharmaceuticals, Inc.

Dated: August 14, 2004

By: 
Richard G. Martin
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Counsel for the Opposer

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J. Matthew Buchanan*
J. Douglas Miller

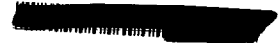
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*Admitted in Michigan Only

TTAB

August 14, 2004



08-20-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #78

Honorable Assistant
Commissioner for Trademarks
Box TTAB FEE
2900 Crystal Drive
Arlington, VA 22202-3514

Re: U.S. Trademark Opposition
Application Serial No. 78/305,431
FULL IMPACT BOLT
Applicant: S.A.N. Corporation
Opposer: D & E Pharmaceuticals, Inc.
(1-37194)

To the Trademark Trial and Appeal Board:

Enclosed is the Notice of Opposition of D & E Pharmaceuticals, Inc. against U.S. Trademark Application Serial No. 78/305,431 FULL IMPACT BOLT, filed in the name of S.A.N. Corporation.

The TTAB is hereby authorized to charge the fee for the Opposition, in the amount of \$300.00, to Deposit Account No. 50-3156.

This letter is being sent in triplicate.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "r. martin", written over a horizontal line.

Richard G. Martin

ATTORNEYS
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Perrysburg, OH 43551
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