

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

TTAB

In the Matter of)
Application Serial No. 78253738)
For the Mark OXY CLENZ)
In International Class 003 for "All purpose)
cleaning and stain removing preparations")
Filing Date: May 23, 2003)
Publication Date: October 5, 2004)
ORANGE GLO INTERNATONAL, INC.)
Opposer,)
v.)
TOPCO HOLDINGS, INC.,)
Applicant.)

Opposition No. _____

Box TTAB FEE
UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

NOTICE OF OPPOSITION

Opposer Orange Glo International, Inc. ("Orange Glo"), a corporation established under the laws of Colorado and having an address at 8200 East Maplewood Avenue, Greenwood Village, Colorado, 80111, believes that it will be damaged by registration of the mark shown in Serial No. 78253738, filed by Applicant Topco Holdings, Inc. ("Applicant"), and hereby opposes the same. As grounds for its Notice of Opposition, Orange Glo states as follows:

10/18/2004 ZCLIFT01 00000066 78253738
01 FC:6402 300.00 OP



10-13-2004

U.S. Patent & TMOct/TM Mail RcptDt. #22

439812.v03 10/8/04 2:41 PM 9fd003!.DOC

CERTIFICATE OF MAILING 37 C.F.R. 1.10

I hereby certify that the enclosed Notice of Opposition and postcard are being deposited with the United States Postal Service with sufficient postage, using United States Postal Service's Express Mail Post Office to Addressee service, addressed to: Box TTAB FEE, U.S. Patent and Trademark Office, Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, Virginia 22202 on the date indicated below.

DATED: October 13, 2004

Salvador K. Karotki

3257.004

1. Orange Glo is the owner of U.S. Trademark Registration No. 2,430,077 (the "'077 Registration") for the mark OXICLEAN, which was registered on the Principal Register on February 20, 2001.

2. Orange Glo's registration for OXICLEAN was in, *inter alia*, International Class 003 for "[a]ll purpose cleaning preparations, toilet bowl cleaning preparations and stain removing preparations."

3. A true and correct copy of the '077 Registration is attached hereto as Exhibit A.

4. Orange Glo's '077 Registration was based on an application filed with the U.S. Patent and Trademark Office on April 14, 2000.

5. Orange Glo's application for the OXICLEAN mark contains a first use date of August 1992.

6. Orange Glo first began using the OXICLEAN mark in interstate commerce in August 1992.

7. Orange Glo's '077 Registration for OXICLEAN is valid and subsisting.

8. Orange Glo's '077 Registration is *prima facie* evidence of Orange Glo's exclusive right to use the mark in commerce on the goods specified in the '077 Registration.

9. On May 23, 2003, Applicant filed an Application, Serial No. 78253738, (the "Application") for the mark OXY CLENZ for use in connection with the following goods:

International Class 003. All purpose cleaning and stain removing preparations.

10. Applicant filed the Application on an intent-to-use basis pursuant to § 1(b) of the Lanham Act. Upon information and belief, Applicant was not using the mark OXY CLENZ prior to May 23, 2003.

11. On October 5, 2004, the Application for OXY CLENZ was published for opposition in the Official Gazette.

12. Applicant's Application was filed after the date that Orange Glo filed its trademark application for the OXICLEAN mark and after the OXICLEAN mark was registered.

13. Applicant's Application was filed after the first use in commerce date for Orange Glo's OXICLEAN mark.

14. In view of the similarity of Applicant's OXY CLENZ mark with Orange Glo's registered OXICLEAN mark, and in view of the related or identical nature of the goods of the respective parties, Applicant's mark OXY CLENZ so resembles Orange Glo's registered OXICLEAN mark as to be likely to cause confusion, to cause mistake, or to deceive.

15. In view of the similarity of Applicant's OXY CLENZ mark with Orange Glo's registered OXICLEAN mark, and in view of the related or identical nature of the goods of the respective parties, it is alleged that Applicant's OXY CLENZ mark consists of or comprises matter that may falsely suggest a connection with Orange Glo.

16. Based upon the foregoing averments, registration of Applicant's mark will cause injury and damage to Orange Glo.

17. Orange Glo has enclosed a check in the amount of \$300 for the filing fee for this Notice of Opposition (one class). This Petition is being filed in duplicate as required by 37 C.F.R. § 2.112.

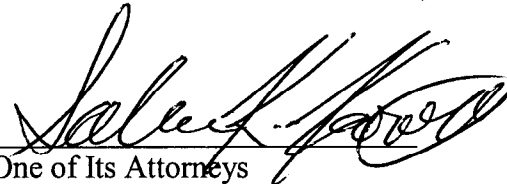
WHEREFORE, Opposer Orange Glo respectfully requests that Serial No. 78253738 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Orange Glo.

Opposer Orange Glo International, Inc. hereby appoints Salvador K. Karottki of the firm GOLDBERG, KOHN, BELL, BLACK, ROSENBLOOM & MORITZ, LTD. as its Attorney of Record in the above-captioned Opposition Proceeding to prosecute this Notice of Opposition, to transact all business with the United States Patent and Trademark Office and the United States Courts connected with this Opposition Proceeding, to sign his name to all papers which may hereafter be filed in connection with this Opposition Proceeding, and to receive the official communications relating to this Opposition Proceeding.

DATED: October 8, 2004

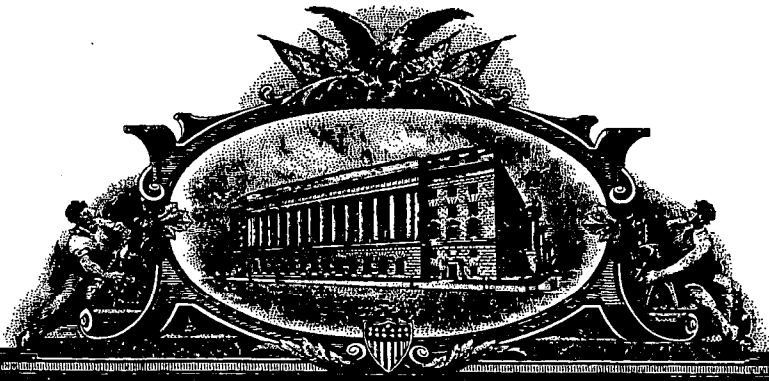
Respectfully Submitted,

ORANGE GLO INTERNATIONAL, INC.

By 
One of Its Attorneys

Oscar L. Alcantara
Salvador K. Karottki
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(312) 201-4000

715832



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

**UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office**

February 13, 2004

**THE ATTACHED U.S. TRADEMARK REGISTRATION 2,430,077 IS
CERTIFIED TO BE A TRUE COPY OF THE REGISTRATION ISSUED BY
THE UNITED STATES PATENT AND TRADEMARK OFFICE WHICH
REGISTRATION IS IN FULL FORCE AND EFFECT.**

**REGISTERED FOR A TERM OF 10 YEARS FROM *February 20, 2001*
SAID RECORDS SHOW TITLE TO BE IN: *Registrant***



**By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS**

T. Wallace
T. WALLACE
Certifying Officer

Int. Cls.: 3 and 5

**Prior U.S. Cls.: 1, 4, 6, 18, 44, 46, 50, 51 and
52**

Reg. No. 2,430,077

United States Patent and Trademark Office

Registered Feb. 20, 2001

**TRADEMARK
PRINCIPAL REGISTER**

OXICLEAN

**ORANGE GLO INTERNATIONAL, INC. (COLORADO
CORPORATION)
P.O. BOX 3998
LITTLETON, CO 80161**

**FOR: ALL PURPOSE CLEANING PREPARATIONS,
TOILET BOWL CLEANING PREPARATIONS AND
STAIN REMOVING PREPARATIONS, IN CLASS 3
(U.S. CLS. 1, 4, 6, 50, 51 AND 52).**

**FIRST USE 8-0-1992; IN COMMERCE 8-0-1992.
FOR: ODOR NEUTRALIZING PREPARATIONS
FOR USE ON CARPETING AND OTHER TEXTILES,
IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).
FIRST USE 8-0-1992; IN COMMERCE 8-0-1992.**

SER. NO. 76-024,788, FILED 4-14-2000.

TRICIA SONNEBORN, EXAMINING ATTORNEY