

ESTTA Tracking number: **ESTTA60292**

Filing date: **01/04/2006**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Avon Products, Inc.
Granted to Date of previous extension	01/04/2006
Address	1251 Avenue of the Americas New York, NY 10020-1104 UNITED STATES

Attorney information	Michelle M. Graham Kelley Drye & Warren LLP 101 Park Avenue New York, NY 10178 UNITED STATES mgraham@kelleydrye.com Phone:212-808-5127
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Applicant Information

Application No	78496853	Publication date	09/06/2005
Opposition Filing Date	01/04/2006	Opposition Period Ends	01/04/2006
Applicant	GB Promotions, LLC 947 East Park Center Blvd., Suite 345 Boise, ID 83706 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. First Use: 2004/10/01 First Use In Commerce: 2004/10/01
All goods and services in the class are opposed, namely: Anti-wrinkle creams

Attachments	Avotone.PDF (5 pages)
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Signature	/Michelle M. Graham/
Name	Michelle M. Graham
Date	01/04/2006

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

NOTICE OF OPPOSITION

In the Matter of Application
Serial No. 78/496,853 Published
in the Official Gazette of September 6, 2005

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AVON PRODUCTS, INC., :
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 Opposer, :
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 v. :
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GB PROMOTIONS, LLC, : **Opposition No.**
 :
 Applicant. :
 :
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TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

AVON PRODUCTS, INC., a New York corporation with a place of business at 1251 Avenue of the Americas, New York, New York 10020 (hereinafter "Opposer") believes that it will be damaged by registration of the designation AVOTONE for "Anti-wrinkle creams" in International Class 3 shown in Application Serial No. 78/496,853 filed on October 8, 2004 by GB PROMOTIONS, LLC, an Idaho Limited Liability Company, with a place of business at 947 East Park Center Blvd., Suite 345, Boise, Idaho 83706 (hereinafter "Applicant") ("the '853 application") and hereby opposes the same.

As grounds therefor, it is alleged that:

1. Opposer is and has for many years been engaged in distributorship and direct sales services, door-to-door retail merchandising, telephone shop at home services, mail order catalog sales, and interactive retail sales rendered by means of a global computer information network, all in the fields of beauty care, salon and spa services, housewares,

clothing, toiletries, skin care products, cosmetics, jewelry, gift items, collectibles, toys, personal care products, pre-recorded videos, audio tapes and compact discs throughout the United States and the world.

2. Since at least as early as 1929, and long prior to the October 2004 claimed first use date listed in the application herein opposed, Opposer adopted, has used and is using the trademark AVON for a wide range of cosmetics, perfumes, skin care preparations and toiletries (including anti-wrinkle creams) in International Class 3, as well as additional categories of goods and services in other classes. Opposer has prior use in interstate commerce of the AVON trademark for cosmetics, perfumes, skin care preparations and toiletries (including anti-wrinkle creams) and since the adoption and first use of the AVON trademark as aforesaid, Opposer has and continues to make, distribute and sell AVON cosmetics, perfumes, skin care preparations and toiletries (including anti-wrinkle creams) in interstate commerce in the United States. Accordingly, Opposer's rights in and to its AVON trademark are valid and enforceable.

3. Opposer has advertised and promoted throughout the United States the sale and distribution in interstate commerce of its goods bearing the AVON trademark for more than seventy-five years. As a result, the AVON trademark has become famous and identified in the minds of the public and trade as evidencing products that emanate from Opposer.

4. Opposer is the owner of, among others: Registration No. 633,318 for AVON for "Cosmetics and toiletries- namely perfume, toilet water, powder compacts, lipstick, rouge, liquid rouge, face powder, talcum powder, dusting powder, cologne, sachet powder, body, face and hand creams, antiseptic cream, skin lotions, deodorants, astringents, skin freshener and tonic, after shaving lotion, hair lotion, hair cream, wave setting lotion, nail polish, nail polish remover, cuticle oil and softener, nail and cuticle cream, tooth powder, tooth paste, mascara, eyebrow pencil, eye shadow, cake make-up, sun tan lotion, bubbling bath preparation and styptic

cream” issued August 21, 1956; Registration No. 663,255 for AVON for “Shampoo preparations; toilet soaps; antiseptic soaps; and white shoe dressing” issued June 17, 1958; Registration No. 692,928 for AVON for “Perfumery, cosmetics and dentifrices” issued February 9, 1960; Registration No. 1,122,624 for AVON for “After shave lotion, shaving cream, talcum powder, cologne, dusting powder, toothpaste, mascara, lipstick, nail enamel, filled powder compact, bubble bath and toilet soap” issued July 24, 1979; Registration No. 1,538,820 for AVON for “Sun tanning lotion” issued May 16, 1989; and Registration No. 1,555,418 for AVON for “Bubble bath” issued September 12, 1989. Said registrations are valid and subsisting, unrevoked and uncancelled, and in full force and effect.

5. Opposer is also the owner of Registration No. 1,492,828 for AVON MOISTURE THERAPY for “Body lotion and hand cream” issued June 21, 1988; Registration No. 2,253,734 for AVON SUN for “Sun tan products, namely - sun tan lotions, creams, gels and sunless tanning lotions” issued June 15, 1999; Registration No. 2,290,282 for AVON BODY for “Skin care products, namely, gel cleanser and moisturizing body lotion” issued November 2, 1999; Registration No. 2,492,961 for AVON SPA for “Parfum, eau de parfum, perfume oil, scented body spray, body lotion, body cream, hand cream, toilet soap, non-medicated bath salts, bath foam, bath oil, bath and shower gel, talcum powder, dusting powder, makeup remover, skin cleansing scrub, facial cleaner, eye cream, facial cream, facial lotion, facial mask, facial skin toner, lip moisturizer, non-medicated lip balm, skin lightener, sun tanning gel, sun tanning lotion, sun tanning oil, sun tanning cream, sun tanning spray, pre-moistened towelettes containing sun screen, lipstick, lip liner, lip gloss, facial foundation, facial powder, facial concealer, blush, mascara, eyebrow pencil, eyeshadow, eye liner, hair shampoo, hair conditioner, hair gel, hair mousse, hair spray, nail enamel, nail strengthener, nail polish base coat, nail polish top coat, and cuticle conditioner” issued September 25, 2001; Registration No. 2,745,199 for AVON

SOLUTIONS for “Skin care products, namely, facial moisturizing lotions, cream and gels; facial cleansers; facial masks; facial toners; eye lotions, creams and gels; moisturizing body lotions, creams and gels” issued July 29, 2003 and Registration No. 2,988,035 for AVON SMILE for “Fragrance and toiletry products, namely, eau de toilette, body lotion, body powder, shower gel” issued August 23, 2005. Said registrations are valid and subsisting, unrevoked and uncanceled, and in full force and effect.

6. By the application herein opposed, Applicant seeks to register the designation AVOTONE for “Anti-wrinkle creams” in International Class 3.

7. Applicant’s designation AVOTONE in the ‘853 application so resembles Opposer’s previously used and registered AVON trademark as to be likely, when used on and in connection with Applicant’s goods, to cause confusion, to cause mistake and to deceive with consequent injury to Opposer and the public.

8. Opposer will be damaged by the registration sought by Applicant because such registration would support and assist Applicant in the confusing and misleading use of Applicant’s trademark and would give to Applicant color of exclusive statutory rights to such designation in violation and derogation of the prior and superior rights of Opposer. Any faults or defects which might be found in Applicant’s goods would reflect adversely upon and seriously injure the valuable reputation and goodwill of Opposer.

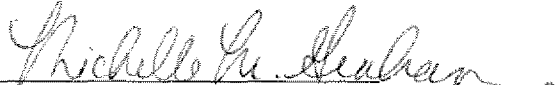
9. WHEREFORE, Opposer believes that it would be damaged by registration of Applicant’s mark and prays that this opposition be sustained and registration for the ‘853 application denied.

Please recognize as attorneys for Opposer William R. Golden, Jr. and Michelle M. Graham (members of the Bar of the State of New York) and the firm of Kelley Drye & Warren

LLP, 101 Park Avenue, New York, New York 10178. Please address all communications to
Michelle M. Graham, Esq. of said firm.

Dated: New York, New York
January 4, 2006

KELLEY DRYE & WARREN LLP
Attorneys for Opposer
AVON PRODUCTS, INC.

By: 
William R. Golden, Jr.
Michelle M. Graham
101 Park Avenue
New York, New York 10178
(212) 808-7800