

ESTTA Tracking number: **ESTTA66516**

Filing date: **02/15/2006**

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	Lander Co., Inc.
Granted to Date of previous extension	02/15/2006
Address	2000 Lenox Drive Suite 202 Lawrenceville, NJ 08648 UNITED STATES

Attorney information	Todd A. Denys Mathews, Shepherd, McKay & Bruneau, P.A. 100 Thanet Circle Suite 306 Princeton, NJ 08540 UNITED STATES tdenys@mathewslaw.com Phone:609-924-8555
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**Applicant Information**

Application No	78529981	Publication date	10/18/2005
Opposition Filing Date	02/15/2006	Opposition Period Ends	02/15/2006
Applicant	Lancer, Harold A. Penthouse, 9735 Wilshire Boulevard Beverly Hills, CA 90211 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 003. All goods and services in the class are opposed, namely: cosmetics; non-medicated skin care preparations; sunscreens; skin, nail and cuticle moisturizers; skin and nail cleansers; skin polishers; non-medicated preparations to protect the skin from wind, cold, heat and environmental pollution
Class 010. All goods and services in the class are opposed, namely: multi-purpose, electrically operated, foot conditioner, namely an orthopedically-engineered appliance that cleanses, soothes, hydrates and properly dries the feet

Attachments	Notice of Opposition 021506.pdf ( 8 pages )
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Signature	/todd a denys/
Name	Todd A. Denys
Date	02/15/2006

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

In the matter of Application Serial Number 78/529,981, published for Opposition in the Official Gazette on October 18, 2005, page TM 321:

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LANDER CO., INC., :  
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 :  
 vs.                    Opposer, :                    Opposition No.:  
 :  
 HAROLD A LANCER :  
 :  
 :  
                    Applicant. :  
 :  
----- X

**NOTICE OF OPPOSITION**

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

LANDER CO., INC., a corporation of the State of Delaware, having its principal place of business at 2000 Lenox Drive, Suite 202 Lawrenceville, New Jersey 08648, believes it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes registration.

As grounds for opposition, it is alleged that:

## FACTS COMMON TO ALL COUNTS

1. Opposer, LANDER CO., INC., is presently engaged in the business of the manufacture, distribution and sale of among other things, a variety of health, beauty and cosmetic products, including a line of baby care products and numerous bath products, as well as over the counter pharmaceutical products.

2. Opposer, through its predecessor in interest, adopted and used the mark "LANDER" in connection with various goods in International Classes 3 and 5 since at least as early as February 21, 1921; adopted and used the mark "LANDER" in interstate commerce since at least as early as February 21, 1921; and Opposer is currently using said mark.

3. Opposer directly and through its predecessor in interest has so used the mark "LANDER" in connection with goods in International Classes 3 and 5 such that the public has come to associate the mark "LANDER" with Opposer and as indicating that any "LANDER" health, beauty, cosmetic, baby care, bath or over the counter pharmaceutical product originates with Opposer. As a result, Opposer has created and is the owner of substantial goodwill in the "LANDER" mark.

4. Opposer is the owner of United States Trademark Registration Number 650,237, registered on August 13, 1957 for the mark "LANDER" for goods in International Classes 3 and 5, by way of assignment and subsequent name change. Said assignment and name change have

been recorded with the Assignment Branch of the United States Patent and Trademark Office at Reel 2778 Frame 0726 and Reel 2848 Frame 0577.

5. Said Trademark Registration Number 650,237 is valid, incontestable, and in full force and effect.

6. Opposer is the owner of United States Trademark Registration Number 1,107,685, registered on December 5, 1978 for the mark "LANDER" for goods in International Class 3, by way of assignment and subsequent name change. Said assignment and name change have been recorded with the Assignment Branch of the United States Patent and Trademark Office at Reel 2778 Frame 0726 and Reel 2848 Frame 0577.

7. Said Trademark Registration Number 1,107,685 is valid, incontestable, and in full force and effect.

8. Opposer is the owner of United States Trademark Registration Number 1,682,578, registered on April 14, 1992 for the mark "LANDER" for goods in International Classes 3 and 5, by way of assignment and subsequent name change. Said assignment and name change have been recorded with the Assignment Branch of the United States Patent and Trademark Office at Reel 2778 Frame 0726 and Reel 2848 Frame 0577.

9. Said Trademark Registration Number 1,682,578 is valid, incontestable, and in full force and effect.

10. Opposer is the owner of United States Trademark Registration Number 1,833,100, registered on April 26, 1994 for the mark "LANDER" for goods in International Class 5, by way of assignment and subsequent name change. Said assignment and name change have been recorded with the Assignment Branch of the United States Patent and Trademark Office at Reel 2778 Frame 0726 and Reel 2848 Frame 0577.

11. Said Trademark Registration Number 1,833,100 is valid, incontestable, and in full force and effect.

12. Opposer is the owner of United States Trademark Registration Number 2,232,073, registered on March 16, 1999 for the mark "LANDER" for goods in International Class 3, by way of assignment and subsequent name change. Said assignment and name change have been recorded with the Assignment Branch of the United States Patent and Trademark Office at Reel 2778 Frame 0726 and Reel 2848 Frame 0577.

13. Said Trademark Registration Number 2,232,073 is valid, incontestable, and in full force and effect.

14. In view of the extensive and long use and registration of the mark "LANDER," Opposer has built up substantial rights in its "LANDER" mark.

15. Applicant filed Serial Number 78/529,981 for the mark “LANCERX” (STYLIZED) on December 9, 2004, said application having been published in the Official Gazette on October 18, 2005, page TM 321.

16. Opposer’s “LANDER” mark and Applicant’s “LANCERX” (STYLIZED) mark are confusingly similar. In addition, the International Class 3 goods identified by Applicant as intended to be sold under its “LANCERX” (STYLIZED) mark and the goods sold by Opposer under the “LANDER” mark are virtually identical. Furthermore, the International Class 10 goods identified by Applicant as intended to be sold under its “LANCERX” (STYLIZED) mark and the goods sold by Opposer under the “LANDER” mark are related. Moreover, Applicant’s goods and the goods sold by Opposer are likely to travel in the same or similar channels of trade, and could easily be offered for sale by the same retail outlets and purchased by the same end users.

**COUNT ONE**

17. Opposer asserts each fact and allegation set forth in paragraphs 1-16 as if fully set forth in this Count.

18. The mark “LANCERX” (STYLIZED) of Applicant, used in conjunction with the goods within International Classes 3 and 10 that Applicant identified in Application Serial Number 78/529,981, so resembles Opposer’s “LANDER” mark, which includes that mark as previously used by Opposer in connection with virtually identical goods, as to cause confusion or to cause mistake, or to deceive as to the source of origin or sponsorship of Applicant’s goods.

19. Furthermore, registration of Applicant’s mark on the Principal Register of the United States Patent and Trademark Office would presumptively give Applicant *prima facie* exclusive ownership and rights to the same and would therefore cause confusion and uncertainty in the industry and handicap and damage the legitimate present and future activities of Opposer, LANDER CO., INC., by placing Applicant in a position to raise doubts as to Opposer’s right to use Opposer’s “LANDER” mark. As a result, Opposer’s “LANDER” mark will eventually be deprived of all distinctiveness, since Applicant’s use will blur Opposer’s “LANDER” mark and the goods identified with said mark such that the association which said mark has come to convey will be tarnished.

20. Based on the foregoing, registration of the mark depicted in Application Number 78/529,981 filed on December 9, 2004 on the Principal Register of the United States Patent and Trademark Office will cause injury and damage to Opposer.

## COUNT TWO

21. Opposer repeats and realleges the statements and allegations set forth in paragraphs 1-20 as if fully set forth in this Count.

22. Opposer's "LANDER" mark is a famous mark, becoming famous before Applicant's first use of the mark "LANCERX" (STYLIZED).

23. Registration of Applicant's mark will dilute Opposer's rights in its "LANDER" mark pursuant to Section 43(c) of the Trademark Act.

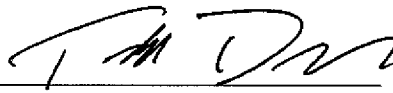
24. As a result, registration of the mark depicted in Application Number 78/529,981 filed on December 9, 2004, on the Principal Register of the United States Patent and Trademark Office will cause injury and damage to Opposer.



WHEREFORE, Opposer requests that registration of Applicant's mark be denied,  
and this Opposition sustained.

Respectfully Submitted,

LANDER CO., INC.

BY:   
Todd A. Denys

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Dated: 2/15/2006

/tad

**CERTIFICATE OF FILING**

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via the Trademark Trial and Appeal Board's Electronic System for Trademark Trials and Appeals [ESTTA] on-line filing process.

2/15/2006  
(Date of Deposit)

  
(Signature)

2/15/2006  
(Date of Signature)