

ESTTA Tracking number: **ESTTA67652**

Filing date: **02/22/2006**

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	Poulsen Roser A/S
Granted to Date of previous extension	02/22/2006
Address	Kratbjerg 332 Fredensborg, 3480 DENMARK

Attorney information	Louis K. Ebling Greenebaum Doll & McDonald PLLC 2800 Chemed Center255 East Fifth Street Cincinnati, OH 45202-4728 UNITED STATES lke@gdm.com Phone:513.455.7644
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Applicant Information

Application No	78557556	Publication date	10/25/2005
Opposition Filing Date	02/22/2006	Opposition Period Ends	02/22/2006
Applicant	Floragem, LLC 3742 Blue Bird Canyon Road Vista, CA 92084 UNITED STATES		

Goods/Services Affected by Opposition

Class 031. All goods and sevicees in the class are opposed, namely: Live plants
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Attachments	COVERALLS Opposition.pdf (4 pages)
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Signature	/Louis Ebling/
Name	Louis K. Ebling
Date	02/22/2006

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

Poulsen Roser A/S	:	
	:	
Opposer,	:	Opposition No.: _____
	:	
v.	:	Mark: COVERALLS
	:	
Floragem, LLC	:	
	:	Serial No.: 78/557,556
	:	
Applicant.	:	

NOTICE OF OPPOSITION

Opposer, Poulsen Roser A/S, a Danish corporation, having an address at Hillerodvejen 49, Fredensborg 3480, Denmark, believes that it will be damaged by registration in Class 31 of the mark COVERALLS in Application Serial No. 78/557,556, and hereby opposes registration of the same by Floragem, LLC (“Applicant”).

As grounds of opposition, it is alleged that:

1. Applicant, Floragem, LLC, applied for registration on the Principal Register of the mark COVERALLS in International Class 31 under Section 1(b) of the Lanham Act on February 1, 2005. The description of goods in the application is “live plants.” This application was assigned Serial No. 78/557,556 and was published for opposition on October 25, 2005, in the Official Gazette of the United States Patent and Trademark Office. In the application, Applicant listed its address as 3742 Blue Bird Canyon Rd., Vista California 92084-7432.

2. Opposer requested and was granted extensions of the deadline to file an opposition by the U.S. Patent and Trademark Office Trademark Trial and Appeal Board ("TTAB"), which extended the deadline to file an opposition to February 22, 2006.

3. Opposer is the owner of the mark COVER, and trademark Registration No. 2,293,346 therefor, registered November 16, 1999 on the Principal Register of the U.S. Patent and Trademark Office under Section 1(a) of the Lanham Act, based on use at least as early as July 5, 1988, and use in U.S. Commerce at least as early as November 25, 1998, for "living plants" in International Class 31, and which registration is valid and subsisting ("Opposer's Mark").

4. Opposer has sold the goods listed in the aforesaid registration goods under Opposer's Mark throughout the United States.

5. Opposer's Mark has become highly distinctive of the goods sold under the mark. The distinctiveness of Opposer's Mark would be lost if Applicant's mark is allowed to register.

6. Priority is not an issue. Opposer and its predecessors in interest have used Opposer's Mark continuously since at least as early as July 5, 1988, and in U.S. Commerce at least as early as November 25, 1998, as set forth in Registration No. 2,293,346, long prior to Applicant's application filing date herein, and Opposer is currently using Opposer's Mark in the U.S.

7. Applicant's mark COVERALLS is similar in sound, appearance and commercial impression to Opposer's Mark.

8. The goods identified in Application No. 78/557,556 are identical to the goods set forth in Opposer's federal Registration No. 2,293,346, and to those sold under Opposer's Mark.

9. Opposer is being damaged by pending Application Serial No. 78/557,556, and will be damaged by registration of said application because the mark COVERALLS is so similar to Opposer's Mark that use and registration will tend to cause confusion or mistake, or will deceive purchasers into the erroneous belief that Applicant's goods are the goods of Opposer, or that such goods are authorized and/or sponsored by or are otherwise connected with Opposer, and thus, such use and registration will appropriate to Applicant substantial aspects of the goodwill Opposer has established in Opposer's Mark.

10. The mark COVERALLS in Application No. 78/557,556 so resembles Opposer's Mark previously used by Opposer in commerce as to be likely, when applied to the goods of Applicant, to cause confusion, to cause mistake, or to deceive within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

11. Opposer has no control over the nature and quality of Applicant's goods under the mark Applicant seeks to register, and any dissatisfaction with Applicant's goods by the affected public would reflect adversely on Opposer, thus damaging Opposer's valuable and established goodwill and reputation.

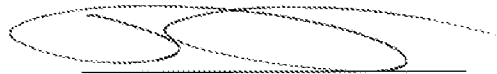
12. The registration of the mark COVERALLS will impair Opposer's trademark rights. If Applicant is permitted to register COVERALLS, such registration will eventually result in the inability of Opposer's Mark to function as an indication of origin.

13. Registration of the mark COVERALLS would create statutory rights under the Trademark Act of 1946 in favor of Applicant, and would tend to restrict, interfere with, and damage Opposer in the unhampered conduct of its business and protection of its legitimate interests.

Please charge the filing fee of \$300 and any additional fees to Greenebaum Doll & McDonald PLLC's Deposit Account, No. 50-2904, the account of Opposer's counsel noted below.

Please direct all correspondence to Louis K. Ebling, Esq., at Greenebaum Doll & McDonald PLLC, 2800 Chemed Center, 255 East Fifth Street, Cincinnati, Ohio 45202-4728, and all calls to the same at (513) 455-7644.

Respectfully submitted,



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Date: February 22, 2006