

ESTTA Tracking number: **ESTTA88073**

Filing date: **06/30/2006**

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	BC International Cosmetic & Image Services, Inc.
Granted to Date of previous extension	07/02/2006
Address	14901 S. Orange Blossom Trail Orlando, FL 32837 UNITED STATES

Attorney information	Robert A. Becker Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza New York, NY 10017 UNITED STATES rbecker@frosszelnick.com Phone:212-813-5900
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**Applicant Information**

Application No	78486955	Publication date	01/03/2006
Opposition Filing Date	06/30/2006	Opposition Period Ends	07/02/2006
Applicant	Cosmetic Dermatology, Inc. 8798 Northwest 15th Street Miami, FL 33172 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 003. All goods and services in the class are opposed, namely: Skin creams, body lotions, body scrubs, skin lotions, skin moisturizers, skin emollients, skin masks, facial masks, skin cleansers, skin toners, skin exfoliants, eye creams, shave gels, sun screens, and sun block preparations
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Attachments	060630-0600751-Notice of Opposition-cmw.pdf ( 6 pages )(97763 bytes )
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Signature	/Robert Becker/
Name	Robert A. Becker
Date	06/30/2006

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

In the Matter of Application Serial No. 78/486,955  
Trademark: MICRODERMABRASION IN A JAR  
Opposer's Ref: BCI USA TC-06/00751

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BC INTERNATIONAL COSMETIC & IMAGE	:	
SERVICES, INC.,	:	
	:	
Opposer,	:	
	:	
v.	:	
	:	Opposition No.
COSMETIC DERMATOLOGY, INC.,	:	
	:	
Applicant.	:	
	:	
-----	X	

**Attention: BOX TTAB -- FEE**  
Assistant Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**NOTICE OF OPPOSITION**

Opposer, BC International Cosmetic & Image Services, Inc., a corporation organized and existing under the laws of Delaware, located and doing business at 14901 South Orange Blossom Trail, Orlando, FL 32837, believes that it will be damaged by registration of the mark MICRODERMABRASION IN A JAR, which is the subject of Application Serial No. 78/486,955, published in the Official Gazette of January 3, 2006, and hereby opposes same.

As grounds for the opposition, Opposer alleges as follows:

1. Opposer is the owner of the trademark MICRODERM used on moisturizing creams and gels. This trademark has been used in commerce by the Opposer's related company, BeautiControl, Inc., since at least as early as May 5, 1988.
  
2. Opposer is the owner of the following registration on the Principal Register in the U.S. Patent and Trademark Office:

<u>REG. NO.</u>	<u>MARK</u>	<u>GOODS</u>	<u>REG. DATE</u>	<u>FILING DATE</u>	<u>FIRST USE IN COMMERCE DATE</u>
1,520,448	MICRODERM	“moisturizing creams and gels” in Class 3	1/17/89	5/20/88	5/5/88

A printout of this registration from the TESS database is attached as Exhibit A. This registration is valid, subsisting, and incontestable.

3. On September 21, 2004, Applicant filed Application Ser. No. 78/486,955 to register the mark MICRODERMABRASION IN A JAR for “skin creams, body lotions, body scrubs, skin lotions, skin moisturizers, skin emollients, skin masks, facial masks, skin cleansers, skin toners, skin exfoliants, eye creams, shave gels, sun screens, and sun block preparations” in Class 3 on the basis of intent to use the mark for the aforesaid goods.

4. Upon information and belief, no use of the mark MICRODERMABRASION IN A JAR was made by Applicant prior to September 21, 2004, Applicant's filing date.

5. The mark MICRODERMABRASION IN A JAR sought to be registered by Applicant for the above goods contains as its first and dominant term Opposer’s registered MICRODERM trademark. The subject application is for goods that include the goods for which Opposer has registered its MICRODERM mark. Applicant’s mark is therefore likely to cause confusion with Opposer’s mark and goods or to cause mistake or to deceive.

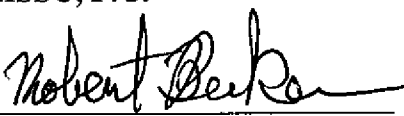
6. Use of the mark sought to be registered by Applicant is likely to cause confusion or to cause mistake or to deceive the purchasing public by reason of Opposer's previously used and registered mark, by creating the mistaken belief that Applicant's goods are approved, endorsed, or sponsored by Opposer, or that Opposer is the source of Applicant's goods, or that the goods of Applicant are in some other way associated with Opposer, all to Opposer's grave injury and harm.

WHEREFORE, Opposer respectfully requests that its opposition be sustained and the application to register the mark MICRODERMABRASION IN A JAR, Serial No. 78/486,955, be denied.

Dated: New York, New York  
June 30, 2006

Respectfully submitted,

**FROSS ZELNICK LEHRMAN  
& ZISSU, P.C.**

By: 

Robert A. Becker  
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New York, New York 10017  
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# **EXHIBIT A**



**United States Patent and Trademark Office**

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# MICRODERMABRASION IN A JAR

<b>Word Mark</b>	<b>MICRODERMABRASION IN A JAR</b>
<b>Goods and Services</b>	IC 003. US 001 004 006 050 051 052. G & S: Skin creams, body lotions, body scrubs, skin lotions, skin moisturizers, skin emollients, skin masks, facial masks, skin cleansers, skin toners, skin exfoliants, eye creams, shave gels, sun screens, and sun block preparations
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Design Search Code</b>	
<b>Serial Number</b>	78486955
<b>Filing Date</b>	September 21, 2004
<b>Current Filing Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	January 3, 2006
<b>International Registration Number</b>	;
<b>Owner</b>	(APPLICANT) Cosmetic Dermatology, Inc. CORPORATION FLORIDA 8798 Northwest 15th Street Miami FLORIDA 33172

**Attorney of Record** James A. Gale  
**Prior Registrations** 2913027  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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