

ESTTA Tracking number: **ESTTA91908**

Filing date: **07/27/2006**

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	Top Oil Products Company
Granted to Date of previous extension	07/28/2006
Address	851 Burlway Road, Suite 600 Burlingame, CA 94010 UNITED STATES

Attorney information	Gary J. Nelson Christie Parker & Hale, LLP P.O. Box 7068 Pasadena,, CA 91109-7068 UNITED STATES pto@cph.com Phone:626-795-9900
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Applicant Information

Application No	78449903	Publication date	02/28/2006
Opposition Filing Date	07/27/2006	Opposition Period Ends	07/28/2006
Applicant	Life Automotive Products Suite 101 1210 Midas Cove Cordova, TN 38018 UNITED STATES		

Goods/Services Affected by Opposition

Class 001. All goods and sevicees in the class are opposed, namely: chemical additive for automotive transmission, engine, fuel and radiator for the purpose of enhancing performance, fuel economy, heat transfer, and providing corrosion protection

Attachments	T122.pdf (6 pages)(181684 bytes)
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Signature	/Gary J. Nelson/
Name	Gary J. Nelson
Date	07/27/2006

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

In the matter of Application **Serial No. 78/449,903** filed July 13, 2004 for the mark **1 SMART BLEND SYNTHETICS ONE ADVANCED FORMULA and Design** in Class 01, as published in the Trademark *Official Gazette* on page TM223 of the February 28, 2006 issue.

TOP OIL PRODUCTS COMPANY)	Opposition No.
)	
Opposer,)	
)	NOTICE OF OPPOSITION
v.)	
)	
LIFE AUTOMOTIVE PRODUCTS)	Mark: 1 SMART BLEND SYNTHETICS
)	ONE ADVANCED FORMULA
Applicant.)	and Design
)	Serial No.: 78/449,903
)	Filed: July 13, 2004
)	

Top Oil Products Company ("Opposer" or "Top Oil"), a State of California corporation having a place of business at 851 Burlway Road, Suite 600, Burlingame, California 94010, believes it will be damaged by the registration of the mark shown in Application Serial No. 78/499,903 in International Class 001 and hereby opposes the registration of this mark.

As grounds for opposition, Top Oil alleges:

- 1. Top Oil filed Requests for Extension of Time to File a Notice of Opposition against United States Trademark Serial No. 78/499,903 on March 28, 2006; May 1, 2006; and June 28, 2006. These requests were granted and created a due date of July 28, 2006 by which Top Oil could timely file a Notice of Opposition.

2. Applicant Life Automotive Products ("Applicant" or "LAP") seeks to register 1 SMART BLEND SYNTHETICS ONE ADVANCED FORMULA and Design as a trademark for CHEMICAL ADDITIVE FOR AUTOMOTIVE TRANSMISSION, ENGINE, FUEL AND RADIATOR FOR THE PURPOSE OF ENHANCING PERFORMANCE, FUEL ECONOMY, HEAT TRANSFER, AND PROVIDING CORROSION PROTECTION in International Class 001, with a filing date of July 13, 2004, as evidenced by the publication of this mark in the *Official Gazette* on page TM 223 of the February 28, 2006 issue.

3. Top Oil is in the business of selling and distributing synthetic motor oil, fuel system treatments, greases, chemicals, automatic transmission fluid, among other products. Top Oil is headquartered in Burlingame, California and has sales offices in China, Hong Kong, Indonesia, Japan, Malaysia, Singapore, Philippines, Thailand and Latin America. Top Oil is a thriving organization and its extensive [NUMERAL ONE] branded automotive products are recognized in the United States and throughout the world for quality and versatility.

4. Top Oil has invested a great deal of time, money and effort in promoting these products under its [NUMERAL ONE] trademarks, and is continuing to extensively promote these products in association with the [NUMERAL ONE] trademarks.

5. Top Oil is the owner of United States Trademark Registration No. 1,387,200 for TOP 1 FORMULA-1 and Design for INDUSTRIAL OILS AND GREASES, LUBRICANTS- NAMELY, MOTOR OIL, MOTOR OIL ADDITIVES HAVING A PETROLEUM BASE AND GREASE in International Class 004, registered on March 25, 1986, with a date of first use at least as early as August 20, 1982. This registration has been renewed and became incontestable on or about April 24, 1992.

6. Top Oil is the owner of United States Trademark Registration No. 1,428,019 for TOP 1 FORMULA-1 and Design for FLUIDS USED WITH INTERNAL COMBUSTION ENGINES, NAMELY, ENGINE COOLANT, RUST INHIBITOR, AND CRANKCASE FLUSH in International Class 001, registered on February 10, 1987, with a date of first use at least as early as April 12, 1983. This registration became incontestable on or about February 25, 1993.

7. Top Oil is the owner of United States Trademark Registration No. 2,017,159 for TOP 1 FORMULA-1 and Design for CHEMICAL AUTOMOTIVE ADDITIVES FOR THE CRANKCASE AND FUEL SYSTEM, RADIATOR FLUSH AND RADIATOR ADDITIVES TO PREVENT RUST, AND BRAKE FLUID in International Class 001; and for SYNTHETIC MOTOR OIL, SYNTHETIC DIESEL OIL, SYNTHETIC HIGH TEMPERATURE GREASE, SYNTHETIC LUBRICANTS, GREASES, AND GEAR LUBRICANTS, TRANSMISSION FLUID, AND HYDRAULIC OIL SYNTHETIC AUTOMATIC TRANSMISSION FLUIDS in International Class 004, registered on November 19, 1996, with a date of first use at least as early as April 12, 1983 for the International Class 001 goods and August 20, 1982 for the International Class 004 goods. This registration became incontestable on or about February 5, 2003. The subject marks of United States Trademark Registration Nos. 1,387,200 and 1,428,019 and 2,017,159 are collectively referred to as the "[NUMERAL ONE] Trademarks."

8. As a result of the high quality of Top Oil's products and the extensive promotion, sales, and public acceptance thereof, Top Oil's products have acquired an outstanding reputation and the relevant consumer now associates these products with Top Oil and its [NUMERAL ONE] Trademarks.

9. Applicant's 1 SMART BLEND SYNTHETICS ONE ADVANCED FORMULA and Design is substantially similar to Top Oil's [NUMERAL ONE] Trademarks, at least as to visual appearance, sound, commercial impression and connotation.

10. The products used in association with Top Oil's [NUMERAL ONE] Trademarks are identical and/or related to the products listed in Applicant's 1 SMART BLEND SYNTHETICS ONE ADVANCED FORMULA and Design Application Serial No. 78/449,903. The simultaneous use of each parties' mark in association with their respective products will result in a likelihood of confusion as to the source or sponsorship of such products.

11. The marketing and channels of trade for Top Oil's products used in association with Top Oil's [NUMERAL ONE] Trademarks, and the marketing and channels of trade for Applicant's products listed in Applicant's 1 SMART BLEND SYNTHETICS ONE ADVANCED FORMULA and Design Application Serial No. 78/449,903 are identical and/or related.

12. Top Oil's rights in its [NUMERAL ONE] Trademarks precede any rights Applicant may have in the designation 1 SMART BLEND SYNTHETICS ONE ADVANCED FORMULA and Design. Top Oil began using its [NUMERAL ONE] Trademarks for automotive products at least as early as August 20, 1982, a date prior to the when Applicant filed its Intent-To-Use-trademark application for 1 SMART BLEND SYNTHETICS ONE ADVANCED FORMULA and Design (i.e., July 13, 2004).

13. Registration and use of Applicant's designation 1 SMART BLEND SYNTHETICS ONE ADVANCED FORMULA and Design is likely to cause injury to Top Oil's business reputation and to injure and impair Top Oil's rights in its [NUMERAL ONE]

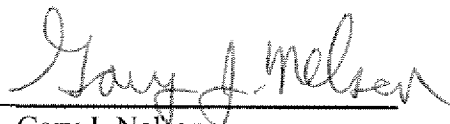
Trademarks by causing confusion, mistake, and/or deception as to the respective rights of the parties, and as to the source or sponsorship of products associated with these trademarks.

WHEREFORE, Top Oil requests that this Opposition be sustained, Application Serial No. 78/449,903 be rejected, and that Applicant's designation 1 SMART BLEND SYNTHETICS ONE ADVANCED FORMULA and Design be refused registration.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

Dated: July 27, 2006

By 
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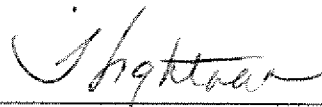
GJN/tll

CERTIFICATE OF TRANSMISSION

I certify that on July 27, 2006, the foregoing **NOTICE OF OPPOSITION** is being electronically filed with:

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

By: _____



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