

ESTTA Tracking number: **ESTTA129918**

Filing date: **03/14/2007**

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	THE MENTHOLATUM COMPANY
Granted to Date of previous extension	03/14/2007
Address	707 STERLING DRIVE ORCHARD PARK, NY 14127 UNITED STATES

Attorney information	Leigh Ann Lindquist Sughrue Mion, PLLC 2100 Pennsylvania Avenue NW Washington, DC 20037 UNITED STATES tm@sughrue.com, klash@sughrue.com Phone:2022937060
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Applicant Information

Application No	78857331	Publication date	11/14/2006
Opposition Filing Date	03/14/2007	Opposition Period Ends	03/14/2007
Applicant	Siegel, Douglas B. Suite 20B 160 Meister Ave North Branch, NJ 08876 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 003. All goods and services in the class are opposed, namely: Beauty creams for body care; Body and beauty care cosmetics; Body and beauty care preparations; Conditioners; Cosmetic creams for skin care; Cosmetic preparations for body care; Cosmetic preparations for skin renewal; Cosmetic products in the form of aerosols for skin care; Cosmetic products in the form of aerosols for skincare; Deodorants for body care; Exfoliants for skin; Hair care creams; Hair care lotions; Hair care preparations; Lotions for face and body care; Lotions for skin; Mousse for skin; Oil baths for hair care; Skin abrasive preparations; Skin bronzing creams; Skin care products, namely, non-medicated skin serum; Skin clarifiers; Skin cleansers; Skin cleansing cream; Skin cleansing lotion; Skin conditioners; Skin cream; Skin creams; Skin creams in liquid and in solid form; Skin creams in liquid and solid; Skin creams in liquid and solid form; Skin emollients; Skin gels for accelerating, enhancing or extending tans; Skin lighteners; Skin lightening creams; Skin lotion; Skin lotions; Skin masks; Skin moisturizer; Skin moisturizer masks; Skin polishing rice bran (arai-nuka); Skin soap; Skin texturizers; Skin toners; Skin whitening creams; Soaps for body care; Sun care lotions; Wrinkle removing skin care preparations</p>
<p>Class 005. All goods and services in the class are opposed, namely: Herbal anti-itch and sore skin ointment for pets; Medicated hair care preparations; Medicated skin care preparations; Medicated sun care</p>

preparations; Medicinal creams for skin care; Nutritional supplements in lotion form sold as a component of nutritional skin care products

Attachments	Notice of Opposition PHYTODERM.pdf (3 pages)(91176 bytes)
Signature	/LAL/
Name	Leigh Ann Lindquist
Date	03/14/2007

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

The Mentholatum Company,

Opposer,

v.

Douglas B. Siegel,

Applicant.

Opposition No.: _____

NOTICE OF OPPOSITION

Opposer, The Mentholatum Company, a Delaware corporation with a business address of 707 Sterling Drive, Orchard Park, New York 14127 hereby opposes the registration of the mark PHYTODERM which is the subject of Application Serial No. 78/857,331 filed by Douglas B. Siegel.

As grounds in support of this opposition, Opposer alleges that:

1. The Mentholatum Company (hereinafter "Opposer") has, through its predecessors in interest, for many years manufactured, sold and distributed skin care products.

2. Opposer, through its predecessors in interest, for many years and since long prior to any date of first use upon which Applicant can rely, has adopted and used the trademark PHISODERM to identify its skin care products.

3. Opposer is the owner, by assignment, of the following United States Principal Register registrations, which are valid, subsisting, unrevoked and unexpired:

Notice of Opposition
Mark: PHYTODERM
Serial No.: 78/857,331

MARK	REGISTRATION NUMBER	ISSUE DATE	GOODS
PHISODERM (stylized)	408,558	8/15/1944	Lathering, emollient and detergent preparation
PHISODERM	3,011,144	11/1/2005	Lathering, emollient and detergent preparation, namely skin cleansers

4. As a result of Opposer's long and extensive use and promotion of its PHISODERM mark in the skin care products field through its predecessors in interest, the term PHISODERM has become a renowned, well known and famous designation for such skin care products, indicating products that exclusively originate with and are exclusively associated with Opposer.

5. Applicant has applied to register the mark PHYTODERM for goods in Class 3 described as "Beauty creams for body care; Body and beauty care cosmetics; Body and beauty care preparations; Conditioners; Cosmetic creams for skin care; Cosmetic preparations for body care; Cosmetic preparations for skin renewal; Cosmetic products in the form of aerosols for skin care; Cosmetic products in the form of aerosols for skincare; Deodorants for body care; Exfoliants for skin; Hair care creams; Hair care lotions; Hair care preparations; Lotions for face and body care; Lotions for skin; Mousse for skin; Oil baths for hair care; Skin abrasive preparations; Skin bronzing creams; Skin care products, namely, non-medicated skin serum; Skin clarifiers; Skin cleansers; Skin cleansing cream; Skin cleansing lotion; Skin conditioners; Skin cream; Skin creams; Skin creams in liquid and in solid form; Skin creams in liquid and solid; Skin creams in liquid and solid form; Skin emollients; Skin gels for accelerating, enhancing or extending tans; Skin lighteners; Skin lightening creams; Skin lotion; Skin lotions; Skin masks; Skin moisturizer; Skin moisturizer masks; Skin polishing rice bran (arai-nuka); Skin soap; Skin texturizers; Skin toners; Skin whitening creams; Soaps for body care; Sun care lotions;

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Wrinkle removing skin care preparations” and goods in Class 5 described as “Herbal anti-itch and sore skin ointment for pets; Medicated hair care preparations; Medicated skin care preparations; Medicated sun care preparations; Medicinal creams for skin care; Nutritional supplements in lotion form sold as a component of nutritional skin care products.” The application was filed based on the Applicant’s intent to use the mark on April 19, 2006. The application was published for opposition on November 14, 2006. Opposer timely filed an extension of time to oppose Serial No. 78/857,331 which was granted until March 14, 2007.

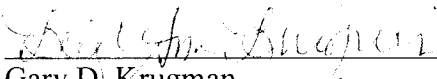
6. Applicant’s mark so resembles Opposer’s previously used and registered PHISODERM mark as to be likely, when applied to Applicant’s goods identified in Classes 3 and 5, to cause confusion, mistake or deception for purposes of Section 2(d) of the Trademark Act, thereby resulting in damage to Opposer.

Please charge the \$600 opposition fee to the undersigned’s Deposit Account No. 19-4880. Please charge any deficiency or credit any overpayment to Deposit Account No. 19-4880 as well.

WHEREFORE, Opposer prays that registration to Applicant be refused and that the opposition be sustained.

Respectfully submitted,

THE MENTHOLATUM COMPANY

By: 
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Date: March 14, 2007
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