

ESTTA Tracking number: **ESTTA131928**

Filing date: **03/26/2007**

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	03/25/2007
Address	707 Sterling Drive Orchard Park, NY 14127 UNITED STATES

Attorney information	Leigh Ann Lindquist Sughrue Mion 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	78775579	Publication date	09/26/2006
Opposition Filing Date	03/26/2007	Opposition Period Ends	03/25/2007
Applicant	OxyBand Technologies Inc 108 Caledonia Sausalito, CA 94965 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Oxygenated gel which accelerates healing and reduces infection by delivering a continuous supply of oxygen directly to the skin
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Attachments	Notice of Opposition OXYDERM '579.pdf (3 pages)(71669 bytes)
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Signature	/LAL/
Name	Leigh Ann Lindquist
Date	03/26/2007

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

The Mentholatum Company,

Opposer,

v.

Oxyband Technologies Inc.,

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 OXYDERM which is the subject of Application Serial No. 78/775,579 filed by Oxyband Technologies Inc.

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 various skin care products including, but not limited to, acne medications, skin care preparations, skin wash and skin cleansers.

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 various trademarks which comprise or include the term OXY, either alone or combined with another word or words, to identify its various skin care products.

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

MARK	REGISTRATION NUMBER	ISSUE DATE	GOODS
OXY	1,869,207	12/27/1994	Acne medication
OXY (Stylized)	1,873,555	01/17/1995	Acne medication
OXY (Stylized)	2,919,983	01/18/2005	Topical acne medication, medicated face wash and medicated skin wipes

4. As a result of Opposer's long and extensive use and promotion of its various OXY marks in the skin care products field through its predecessors in interest, the term OXY, used both by itself and together with other words, 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 OXYDERM for goods in Class 5 described as "Oxygenated gel which accelerates healing and reduces infection by delivering a continuous supply of oxygen directly to the skin." The application was filed based on Applicant's intent to use the mark and has a filing date of December 17, 2005. The application was published for opposition on September 26, 2006. Opposer timely filed extensions of time to oppose Serial No. 78/775,579 and the last extension was granted until March 25, 2007. Accordingly, this opposition is timely filed.

6. Applicant's mark so resembles Opposer's previously used and registered OXY and OXY formative marks as to be likely, when applied to Applicant's goods identified in

Notice Of Opposition
Mark: OXYDERM
Serial Nos.: 78/775,579

Class 5, to cause confusion, mistake or deception for purposes of Section 2(d) of the Trademark Act, thereby resulting in damage to Opposer.

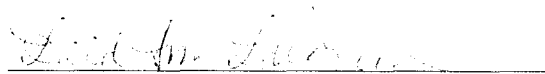
Please charge the \$300 opposition fee to the undersigned's Deposit Account No. 19-4880. Please charge any deficiency or credit any overpayment to Deposit Account No. 19-4880 as well.

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 26, 2007