

ESTTA Tracking number: **ESTTA202304**

Filing date: **04/02/2008**

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 parties oppose registration of the indicated application.

**Opposers Information**

Name	Johnson & Johnson
Granted to Date of previous extension	04/02/2008
Address	One Johnson & Johnson Plaza New Brunswick, NJ 08933-7001 UNITED STATES

Name	ROC International s.a.r.l.		
Entity	Corporation	Citizenship	Luxembourg
Address	5, rue C.M. Spoo Luxembourg, LUXEMBOURG		

Attorney information	Linda T. Makings Drinker Biddle & Reath LLP 1500 K Street NW Suite 1100 Washington, DC 20005 UNITED STATES DCTrademarks@dbr.com, Andrea.Engel@dbr.com Phone:202-842-8800
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**Applicant Information**

Application No	77204072	Publication date	12/04/2007
Opposition Filing Date	04/02/2008	Opposition Period Ends	04/02/2008
Applicant	DeLuisa, Laura 4554 Lemp Ave Studio City, CA 91602 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 003. All goods and services in the class are opposed, namely: Baby care products, namely, shampoos, hair conditioners, oils, lotions, powders, body creams, bath foams, gels and milks, and lip balm
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**Grounds for Opposition**

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1015041	Application Date	03/21/1974
Registration Date	07/08/1975	Foreign Priority Date	NONE
Word Mark	ROC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: COSMETIC AND SKIN PREPARATIONS-NAMELY, EYE MAKE-UP, [ EYEBROW PENCILS, LIPSTICKS, ] LIQUID FOUNDATION, SKIN POWDER, ROUGE, SUN-TAN CREAM, MOISTURIZING CREAM, CLEANSING CREAMS, SKIN CREAMS, SKIN LOTIONS, [ NAIL POLISH, NAIL POLISH REMOVER, HAIR SHAMPOOS ] AND FACIAL SOAP		

U.S. Registration No.	1794589	Application Date	10/01/1991
Registration Date	09/28/1993	Foreign Priority Date	NONE
Word Mark	ROC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1984/00/00 First Use In Commerce: 1984/00/00 cosmetic preparations; namely, cleansing, moisturizing and body lotion, [ toilet and bath soaps, ] creams and [ oils; non-medicated make-up treatment; namely, eye make-up, eyebrow pencils, lipsticks, liquid foundations, skin powder, and rouge; non-medicated special treatments; namely, repair concentrate, skin energizing concentrate, soothing eye balm and eye contour treatment gel; ] suntan [ lotions and ] creams, [ sunscreen lotions and sunblock lotions ]		

U.S. Application No.	76671444	Application Date	01/16/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ROC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1984/00/00 First Use In Commerce: 1984/00/00 facial skin lotions, skin moisturizers, skin creams, skin toners and cleansers; body lotions; hand cream; anti-wrinkle cream; non-medicated lip protectants; and sunblock preparations		

Attachments	73016590#TMSN.gif ( 1 page )( bytes ) 74208672#TMSN.gif ( 1 page )( bytes ) 76671444#TMSN.gif ( 1 page )( bytes ) ROCCA BABY.pdf ( 14 pages )(424387 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Linda T. Makings/
Name	Linda T. Makings
Date	04/02/2008

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

**In re Ser. No. 77/204,072 – ROCCA BABY**  
**Published December 4, 2007.**

\_\_\_\_\_  
JOHNSON & JOHNSON and :  
ROC INTERNATIONAL S.A.R.L., :

Opposers, :

v. : Opposition No. \_\_\_\_\_

LAURA DELUISA, :

\_\_\_\_\_  
Applicant. :

**NOTICE OF OPPOSITION**

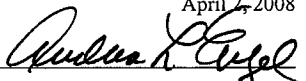
JOHNSON & JOHNSON, a New Jersey corporation, having a principal place of business at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933-7001 and its related company ROC International s.a.r.l., a Luxembourg corporation, having a principal place of business at 5, rue C.M. Spoo, Luxembourg ("Opposers"), believe that they will be damaged by the registration of application Ser. No. 77/204,072 – ROCCA BABY for "baby care products, namely, shampoos, hair conditioners, oils, lotions, powders, body creams, bath foams, gels and milks, and lip balm" in class 3; filed June 12, 2007 by Laura DeLuisa, an individual, having an address at 4554 Lemp Avenue, Studio City, California 91602 ("Applicant"), and hereby oppose the same pursuant to Section 13 of the Trademark Act of 1946 (15 U.S.C. §1063).

As grounds for opposition it is alleged that:

1. Opposers have adopted and are using the mark ROC for cosmetic preparations and skin care preparations.
2. The mark ROC has been continuously used by Opposers since at least as early as 1984 for various cosmetic and skin care preparations.

31138.779/415915  
DC\634482\2

FILED ELECTRONICALLY  
April 2, 2008



3. Since long prior to Applicant's application filing date of June 12, 2007, Opposers have used the mark ROC for cosmetic preparations and skin care preparations, and own the following:
  - a) Reg. No. 1,015,041 – ROC & Design for cosmetic and skin preparations; namely, eye make-up, liquid foundation, skin powder, rouge, sun-tan cream, moisturizing cream, cleansing creams, skin creams, skin lotions, and facial soap; registered July 8, 1975. The registration is subsisting and has been twice renewed.
  - b) Reg. No. 1,794,589 – ROC Design for cosmetic preparations; namely, cleansing, moisturizing and body lotions, creams and suntan creams; registered September 28, 1993. The registration is subsisting and has been renewed.
  - c) Ser. No. 76/671,444 – ROC for facial skin lotions, skin moisturizers, skin creams, skin tones and cleansers; body lotions; hand cream; anti-wrinkle cream; non-medicated lip protectants; and sunblock preparations; filed January 16, 2007, based on use since 1984. The application was published for opposition on January 22, 2008.

A copy of each registration is attached hereto as Exhibits A-B; a printout from TESS of the details of Ser. No. 77/671,44 is attached as Exhibit C.

4. Opposers' ROC mark is famous as an indicator of source and origin as a result of the mark's long use in connection with the goods identified in the registrations and application listed above.
5. Over the years, Opposers have sold many millions of dollars worth of products under the ROC mark to Opposers' institutional customers, Opposers' distributors, Opposers' retail store customers, and to the general public.
6. Opposers have extensively advertised its ROC mark to the trade and to the general public throughout all available media, including but not limited to national print publications, broadcast and cable television media, and point-of-sale advertising in regional and national retailers, including mass merchants and via the Internet.

7. By virtue of its extensive sales and promotion, Opposers' ROC mark has become famous in the trade and to the general public, and has acquired a high degree of distinctiveness indicating source in Opposers.
8. On information and belief, Applicant had not used the mark ROCCA BABY in interstate commerce in connection with the goods identified in application Ser. No. 77/204,072 as of the June 12, 2007 filing date of the application.
9. On information and belief, Applicant has never used the mark ROCCA BABY in commerce with the United States in connection with the goods identified in application Ser. No. 77/204,072.
10. Applicant's ROCCA BABY mark is, in part, virtually identical to Opposers' ROC mark in appearance, sound and connotation.
11. The goods on which Opposers use the ROC mark and the goods for which Applicant intends to use the ROCCA BABY mark are closely related.
12. The goods on which Opposers use the ROC mark and the goods for which Applicant intends to use the ROCCA BABY mark may be sold or rendered through the same channels of trade.
13. The goods on which Opposers use the ROC mark and the goods for which Applicant intends to use the ROCCA BABY mark may be sold or rendered to the same class of purchasers.
14. The use and registration by Applicant of the ROCCA BABY mark for the goods identified in Ser. No. 77/204,072 are likely to cause confusion, mistake or deception by having the public erroneously assume or believe that the goods emanate from Opposers, or are in some other way associated or connected with Opposers' prior used ROC mark, all to Opposers' irreparable damage.

15. The use and registration by Applicant of the ROCCA BABY mark for the goods identified in Ser. No. 77/204,072 will cause dilution of the distinctive quality of Opposers' famous ROC mark, contrary to 15 U.S.C. §§ 1063(a) and 1125(c).

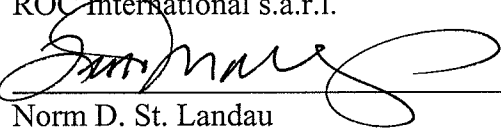
For the reasons set forth herein, Opposers believes and believing asserts that it will be damaged by the registration of Ser. No. 77/204,072. Accordingly, Opposers pray that this Opposition be sustained, and that Applicant be refused registration of the ROCCA BABY mark for the goods set forth in application Ser. No. 77/204,072.

The \$600.00 filing fee is submitted electronically herewith. Should additional fees be required, please charge them to the deposit account of Opposer's counsel, No. 50-0573.

Respectfully submitted,

JOHNSON & JOHNSON and  
ROC International s.a.r.l.

By:

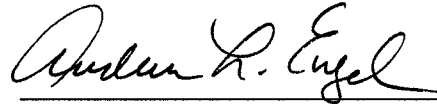


Norm D. St. Landau  
Linda T. Makings  
Drinker Biddle & Reath LLP  
1500 K Street, N.W., Suite 1100  
Washington, D.C. 20005  
Tel: (202) 842-8800  
Fax: (202) 842-8465  
DCTrademarks@dbr.com  
*Attorneys for Opposer*

CERTIFICATE OF SERVICE

I hereby certify that a copy of this NOTICE OF OPPOSITION was served on counsel for Applicant, at the following address of record, by first class mail, postage prepaid, this 2nd day of April 2008:

Kenneth L. Wilton, Esq.  
Seyfarth Shaw LLP  
2029 Century Park E  
Suite 3300  
Los Angeles, CA 90067-3019

  
\_\_\_\_\_



Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

United States Patent and Trademark Office

Amended

Reg. No. 1,015,041  
Registered July 8, 1975  
OG Date June 25, 1996

TRADEMARK  
PRINCIPAL REGISTER



ROC INTERNATIONAL (LUXEMBOURG  
LIMITED COMPANY),  
5 RUE C.M. SPOO  
LUXEMBOURG, LUXEMBOURG

OWNER OF FRANCE REG. NO. 534969,  
DATED 7-9-1965.

THE WORD "ROC" IS A FRENCH  
WORD MEANING "ROCK" AND ALSO  
MEANS "ROOK" OR "CASTLE" IN  
CHESS.

FOR: COSMETIC AND SKIN PREP-  
ARATIONS—NAMELY, EYE MAKE-UP,  
[EYEBROW PENCILS, LIPSTICKS,]  
LIQUID FOUNDATION, SKIN POWDER,  
ROUGE, SUN-TAN CREAM, MOISTUR-  
IZING CREAM, CLEANSING CREAMS,  
SKIN CREAMS, SKIN LOTIONS, [NAIL  
POLISH, NAIL POLISH REMOVER,  
HAIR SHAMPOOS] AND FACIAL SOAP,  
IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND  
52).

SER. NO. 73-016,590, FILED 3-21-1974.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on June 25, 1996.*

COMMISSIONER OF PATENTS AND TRADEMARKS

EXHIBIT A

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

United States Patent and Trademark Office

10 Year Renewal

Reg. No. 1,015,041

Registered July 8, 1975

Renewal Term Begins July 8, 1995

**TRADEMARK  
PRINCIPAL REGISTER**



ROC INTERNATIONAL (LUXEMBOURG LIMITED COMPANY),  
5 RUE C.M. SPOO  
LUXEMBURG, LUXEMBOURG, BY ASSIGNMENT AND CHANGE OF NAME FROM ROC S.A. (FRANCE CORPORATION). COLOMBES (HAUTS-DE-SEINE), FRANCE.

OWNER OF FRANCE REG. NO. 534969,  
DATED 7-9-1965.

THE WORD "ROC" IS A FRENCH WORD MEANING "ROCK" AND ALSO MEANS "ROOK" OR "CASTLE" IN CHESS.

FOR: COSMETIC AND SKIN PREPARATIONS—NAMESLY, EYE MAKE-UP, [EYEBROW PENCILS, LIPSTICKS,] LIQUID FOUNDATION, SKIN POWDER, ROUGE, SUN-TAN CREAM, MOISTURIZING CREAM, CLEANSING CREAMS, SKIN CREAMS, SKIN LOTIONS, [NAIL POLISH, NAIL POLISH REMOVER, HAIR SHAMPOOS] AND FACIAL SOAP, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

SER. NO. 73-016,590, FILED 3-21-1974.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Aug. 15, 1995.*

COMMISSIONER OF PATENTS AND TRADEMARKS

EXHIBIT A

**Int. Cl.: 3**

**Prior U.S. Cl.: 51, 52**

**United States Patent Office**

**Reg. No. 1,015,041**  
**Registered July 8, 1975**

**TRADEMARK**  
**Principal Register**



Roc S.A. (French corporation)  
48-50, Rue de Seine  
Colombes (Hauts-de-Seine), France

For: COSMETIC AND SKIN PREPARATIONS—  
NAMELY, EYE MAKE-UP, EYEBROW PENCILS,  
LIPSTICKS, LIQUID FOUNDATION, SKIN POW-  
DER, ROUGE, SUN-TAN CREAM, MOISTURIZING  
CREAM, CLEANSING CREAMS, SKIN CREAMS,  
SKIN LOTIONS, NAIL POLISH, NAIL POLISH RE-  
MOVER, HAIR SHAMPOOS AND FACIAL SOAP—in  
CLASS 3 (U.S. CLS. 51 and 52).

The word "Roc" is a French word meaning "rock" and  
also means "rook" or "castle" in chess.

Owner of French Reg. No. 534,969, dated July 9, 1965  
(Seine); Natl. Inst. No. 256,219.

Ser. No. 16,590, filed Mar. 21, 1974.

**EXHIBIT A**

Int. Cl.: 3

Prior U.S. Cls.: 51 and 52

**United States Patent and Trademark Office** **Reg. No. 1,794,589**  
Registered Sep. 28, 1993

**TRADEMARK  
PRINCIPAL REGISTER**



ROC INTERNATIONAL (FRANCE LIMITED  
LIABILITY COMPANY)  
5 RUE C.M. SPOO  
LUXEMBOURG

FOR: COSMETIC PREPARATIONS;  
NAMELY, CLEANSING, MOISTURIZING AND  
BODY LOTION, TOILET AND BATH SOAPS,  
CREAMS AND OILS; NON-MEDICATED  
MAKE-UP TREATMENT; NAMELY, EYE  
MAKE-UP, EYEBROW PENCILS, LIPSTICKS,  
LIQUID FOUNDATIONS, SKIN POWDER, AND  
ROUGE; NON-MEDICATED SPECIAL TREAT-  
MENTS; NAMELY, REPAIR CONCENTRATE,

SKIN ENERGIZING CONCENTRATE, SOOTH-  
ING EYE BALM AND EYE CONTOUR TREAT-  
MENT GEL; SUNTAN LOTIONS AND  
CREAMS, SUNSCREEN LOTIONS AND SUNB-  
LOCK LOTIONS, IN CLASS 3 (U.S. CLS. 51  
AND 52).

FIRST USE 0-0-1984; IN COMMERCE  
0-0-1984.

OWNER OF U.S. REG. NO. 1,015,041.

SER. NO. 74-208,672, FILED 10-1-1991.

LINDA E. BLOHM, EXAMINING ATTORNEY

EXHIBIT B



United States Patent and Trademark Office

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Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Apr 2 04:12:57 EDT 2008

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Logout Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

TARR Status ASSIGN Status TDR TTAB Status ( Use the "Back" button of the Internet Browser to return to TESS)

**ROC**

Word Mark ROC  
 Goods and Services IC 003. US 001 004 006 050 051 052. G & S: facial skin lotions, skin moisturizers, skin creams, skin toners and cleansers; body lotions; hand cream; anti-wrinkle cream; non-medicated lip protectants; and sunblock preparations. FIRST USE: 19840000. FIRST USE IN COMMERCE: 19840000

Standard Characters Claimed  
 Mark Drawing Code (4) STANDARD CHARACTER MARK

Trademark Search Facility LETTER-3-OR-MORE ROC Combination of three or more letters as part of the mark  
 Classification SHAPES-MISC Miscellaneous shaped designs  
 Code

Serial Number 76671444  
 Filing Date January 16, 2007  
 Current Filing Basis 1A  
 Original Filing Basis 1A  
 Published for Opposition January 22, 2008  
 Owner (APPLICANT) JOHNSON & JOHNSON CORPORATION NEW JERSEY One Johnson & Johnson Plaza New Brunswick NEW JERSEY 089337001

Attorney of Record Richard F. Biribauer  
 Prior Registrations 1015041;1794589;2281761;2526440  
 Type of Mark TRADEMARK  
 Register PRINCIPAL  
 Live/Dead

EXHIBIT C

Indicator LIVE

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**This page was generated by the TARR system on 2008-04-02 15:09:54 ET**

**Serial Number:** 76671444 Assignment Information      Trademark Document Retrieval

**Registration Number:** (NOT AVAILABLE)

**Mark**

**ROC**

**(words only):** ROC

**Standard Character claim:** Yes

**Current Status:** Application has been published for opposition.

**Date of Status:** 2008-01-22

**Filing Date:** 2007-01-16

**The Information will be/was published in the Official Gazette on** 2008-01-22

**Transformed into a National Application:** No

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 114

**Attorney Assigned:**  
I DAVID C

**Current Location:** 650 -Publication And Issue Section

**Date In Location:** 2007-12-20

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

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1. JOHNSON & JOHNSON

**Address:**

JOHNSON & JOHNSON  
One Johnson & Johnson Plaza  
New Brunswick, NJ 089337001  
United States

**Legal Entity Type:** Corporation  
**State or Country of Incorporation:** New Jersey  
**Phone Number:** (732) 524-2845

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**GOODS AND/OR SERVICES**

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**International Class:** 003

**Class Status:** Active

facial skin lotions, skin moisturizers, skin creams, skin toners and cleansers; body lotions; hand cream; anti-wrinkle cream; non-medicated lip protectants; and sunblock preparations

**Basis:** 1(a)

**First Use Date:** 1984-00-00

**First Use in Commerce Date:** 1984-00-00

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**ADDITIONAL INFORMATION**

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**Prior Registration Number(s):**

1015041

1794589

2281761

2526440

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2008-01-22 - Published for opposition

2008-01-02 - Notice of publication

2007-12-20 - Law Office Publication Review Completed

2007-12-20 - Assigned To LIE

2007-11-13 - Approved for Pub - Principal Register (Initial exam)

2007-11-09 - Teas/Email Correspondence Entered

2007-11-09 - Communication received from applicant

2007-11-09 - TEAS Response to Office Action Received

2007-05-09 - Non-final action mailed



2007-05-08 - Non-Final Action Written

2007-04-20 - Assigned To Examiner

2007-01-30 - Application Filing Receipt Mailed

2007-01-24 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

Richard F. Biribauer

**Correspondent**

RICHARD F. BIRIBAUER

Johnson & Johnson

One Johnson & Johnson Plaza

New Brunswick, NJ 08933-7001

Phone Number: (732) 524-2845

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