

ESTTA Tracking number: **ESTTA235108**

Filing date: **09/08/2008**

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

Proceeding	91185942
Party	Defendant Massco Dental Inc.
Correspondence Address	MICHAEL DUNAGIN MASSCO DENTAL INC. PO BOX 795 GRAVETTE, AR 72736-0795 UNITED STATES
Submission	Answer
Filer's Name	Christine Dunagin
Filer's e-mail	dunaginco@aol.com
Signature	/Christine Dunagin/
Date	09/08/2008
Attachments	Eclipse Trial 2008.txt (3 pages)(5695 bytes)

MASSCO DENTAL
P.O. Box 795
Gravette, Arkansas 72736
(Applicant)
Commissioner for Trademarks
9/3/08
P.O. Box 1451
Alexandria, VA 22313-1451

RE: Opposition #91185942

MASSCO DENTAL (Applicant), a small regional Company out of Gravette, Arkansas could in no way, shape, or form damage Dentsply International Inc. (Opposer) by the use of the word "Eclipse". Our products are completely different products, used for different purposes, and sold through different channels.

Additionally, the Applicants use of the word Eclipse is the name of the actual product: ECLIPSE WHITE VARNISH. The Opposer's use of the word Eclipse is more generic for a number of products all with their own names and Eclipse as just a header. Eclipse in and of itself is a generic word, as well, used by Wrigley's Eclipse Gum and the Eclipse Automobile, not to mention numerous other entities.

We had never heard of their Eclipse system prior to this opposition letter, nor were we able to even find it easily on their web site to see what it was: Dentsply.com. We took it a step further and contacted some Dealers that are suppose to sell their system and they were not familiar with it either. Dental Offices that we sell directly to would not and could not use their Eclipse as it is used by Dental Laboratories only for restoration of dentures (different users and recipients).

COMPARISONS

Applicant Massco Dental's ECLIPSE WHITE VARNISH

1. .5 ml stick of white varnish
2. sold exclusively to Dental Offices directly
3. Natural Rosin product
4. Limited market area
5. Applied in a Dental Office directly on patients teeth
6. Preventive Dentistry

Opposer Dentsply International's Light Curing System & Prosthetic Resin

1. Light system & bottle of acrylic cement
2. sold exclusively through Dealers to Laboratories
3. Resin product
4. International
5. Used in a Dental Laboratory to make dentures
6. Prosthetic Dentistry

We were told by the Trademark Trial and Appeal Board to reply to each of the Opposers 17 allegations so please understand some repetition of information.

1. Applicant does not disagree with their statement that the mark Eclipse is used by them "namely for their light curing unit for use in curing dental compounds". No similarity to the Applicants White Varnish Product.

2. Applicant does not know when they started using this light system as we have never heard of it before.....being in different lines of Dentistry Sales.
3. Opposer keeps referring back to the use of the Eclipse Line for light curing products which does not apply to the Applicant.
4. Opposers expansion in the Restorative dental industry does not apply to the Applicants business in the Preventative Industry.
5. Opposers view here applies exclusively to the Restorative Industry....please refer to #3 and #4 above.
6. Opposer can have that opinion, but in no way can speak for the public who probably thinks of Eclipse Gum or the Automobile when they hear that word Eclipse . Dental Lab employees and Distributors should be the ones familiar and the Applicant is not in that Industry.
7. Applicant's address is correct.
8. Applicant does not compete in any way with any of the Opposers Eclipse Line products namely their light curing system for restorative dental procedures.
9. Applicants Eclipse White Varnish is not a preparation product, but rather a preventative product painted on the patient by the Dentist/hygienist in the office.
10. Applicant and Opposer both spell the word Eclipse the same.
11. Applicant and Opposer are not using it on the same type product or selling to the same end user.
12. Applicants use of the Eclipse has no similarity to the Opposer's.
13. Opposer's product is nothing like the Applicants and as stated numerous times above is not used for the same purpose, nor in the same place, nor by the same professionals.
14. Once again, Opposer sells their Eclipse through Distributors to Labs and the Applicant only sells directly to Dental Offices with no Lab use whatsoever.
15. No deception possible when not sold to the same end user. The Opposer would have to also contest that the gum could be confused for the same impossible reasoning.
16. No dilution possible for a mark that is not famous, but generic in nature and not sold to the same users.
17. (1).No confusion possible to the public as different end users purchase through different outlets. Applicants product is used exclusively by Dentists/Hygienists and Opposers by Labs (who can only purchase through Distributors). Applicant does not sell to Distributors and their product is not used in Labs (2). No distinctive quality or even knowledge of the Opposer's product for use in Dental Offices/Labs only (3). Eclipse is a general name and not exclusively associated or highly recognized as belonging to the Opposer. The moon/sun, the gum, and auto, the Applicants white varnish, and numerous other products are named using the word Eclipse without confusion; they are all different products sold differently and used differently. The Applicant respectfully requests that the Opposition be refused and that our application process be completed.

Thank you in advance for your consideration,
Christine Dunagin
MASSCO DENTAL

*Please note: I apologize for the document appearance due to the format change for the upload to your system. I did mail the aligned

TXT formatted letter in case there is any confusion.