

ESTTA Tracking number: **ESTTA260799**

Filing date: **01/15/2009**

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	Unilever Supply Chain, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	1 John Street Clinton, CT 06413 UNITED STATES		

Attorney information	Gregory P. Gulia Duane Morris LLP 1540 Broadway New York, NY 10036-4086 UNITED STATES gggulia@duanemorris.com, ewmccormick@duanemorris.com		
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Applicant Information

Application No	77976296	Publication date	01/06/2009
Opposition Filing Date	01/15/2009	Opposition Period Ends	02/05/2009
Applicant	Riebe, Lisa L 100 W Commercial Suite 1C #158 Morris, IL 60450 UNITED STATES		

Goods/Services Affected by Opposition


Class 003. All goods and services in the class are opposed, namely: Hair sprays and hair gels; Lip gloss

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	435562	Application Date	06/17/1947
Registration Date	12/30/1947	Foreign Priority Date	NONE
Word Mark	POND'S		

Design Mark	
Description of Mark	NONE
Goods/Services	Class U051 (International Class 003). First use: First Use: 1927/10/15 First Use In Commerce: 1927/10/15 TOILET AND COSMETIC PRODUCTS-NAMELY, SKIN FRESHENER, LIQUEFYING CREAM, CREAM LOTION, LIPSTICKS, DRY SKIN CREAM, A PREPARATION TO BE APPLIED TO THE FACE TO FORM A MAKE-UP BASE OR FOUNDATION, AND DUSTING POWDER

U.S. Registration No.	530393	Application Date	11/02/1949
Registration Date	09/05/1950	Foreign Priority Date	NONE

Word Mark	POND'S
Design Mark	 <i>The trade-mark was first used by apt</i>

Description of Mark	NONE
Goods/Services	Class U037 (International Class 016). First use: First Use: 1927/10/15 First Use In Commerce: 1927/10/15 PAPER TISSUES (ADAPTED FOR REMOVING SKIN CREAMS FOR USE AS HANDKERCHIEFS, AND FOR SIMILAR PURPOSES) Class U051 (International Class 003, 005). First use: First Use: 1846/00/00 First Use In Commerce: 1846/00/00 TOILET AND COSMETIC PRODUCTS NAMELY, [EXTRACT OF HAMAMELIS OR WITCH HAZEL,] COLD CREAM, [VANISHING CREAM,] [LIQUEFYING CREAM,] DRY SKIN CREAM, [HAND CREAM,] [SKIN FRESHENER,] FACE POWDER, COMBINED FOUNDATION AND FACE POWDER, [DUSTING POWDER,] [TALCUM POWDER,] [LIPSTICKS, ROUGE, AND PREPARATION TO BE APPLIED TO THE FACE TO FORM A MAKE-UP BASE OR FOUNDATION]

U.S. Registration No.	1835111	Application Date	06/11/1993
Registration Date	05/10/1994	Foreign Priority Date	NONE
Word Mark	POND'S		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1992/12/15 First Use In Commerce: 1992/12/15 facial moisturizers, facial moisturizer with sunscreen, facial moisturizer in capsules and eye gel

U.S. Registration No.	2214706	Application Date	01/20/1998
Registration Date	12/29/1998	Foreign Priority Date	NONE
Word Mark	POND'S		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1997/09/05 First Use In Commerce: 1997/09/05 facial cleansing strips		

Attachments	71524346#TMSN.gif (1 page)(bytes) 71587205#TMSN.gif (1 page)(bytes) opp77976296.pdf (6 pages)(409057 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	/Gregory P. Gulia/
Name	Gregory P. Gulia
Date	01/15/2009

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

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In the Matter of Application
Serial No. 77976296
Published: January 6, 2009

UNILEVER SUPPLY CHAIN, INC. and
CONOPCO, INC. dba UNILEVER,

Opposers,

v.

LISA L. RIEBE,

Applicant.
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Opposition No. _____

NOTICE OF OPPOSITION

Opposers, Unilever Supply Chain, Inc., a Delaware corporation with offices located at 1 John Street, Clinton, Connecticut 06413 and Conopco, Inc. dba Unilever, a New York corporation with offices located at 700 Sylvan Avenue, Englewood Cliffs, New Jersey 07632 believe that they will be damaged by registration of POND PUNKIES as a trademark for "hair sprays and hair gels, lip gloss" in International Class 3, as shown in Application Serial No. 77976296, and hereby oppose the same.

As grounds for opposition, it is alleged that:

1. Opposer Unilever Supply Chain, Inc. ("Unilever Supply Chain") is the owner of the famous trademark POND'S for various personal care products.
2. Opposer Unilever Supply Chain owns, among other registrations, the following valid, subsisting and incontestable federal registrations for the POND'S mark:

Registration No. 435,562 for “toilet and cosmetic products, namely skin freshener, liquefying cream, cream lotion and dry skin cream” in International Class 3; Registration No. 530,393 for “toilet and cosmetic products, namely, cold cream and dry skin cream” in International Class 3; Registration No. 1,835,111 for “facial moisturizers, facial moisturizer with sunscreen” in International Class 3; and Registration No. 2,214,706 for “facial cleansing strips” in International Class 3 issued by the United States Patent and Trademark Office.

3. Registration Nos. 435,562; 530,393; 1,835,111 and 2,214,706 are incontestable registrations pursuant to §15 of the Lanham Act, 15 U.S.C. §1065, meaning that, pursuant to §33(b) of the Lanham Act, 15 U.S.C. §1115(b), the registrations are conclusive evidence of the validity of the registered marks and of the registrations of the mark, of Unilever Supply Chain’s ownership of the marks, and of Unilever Supply Chain’s exclusive right to use the registered marks in commerce in connection with the goods specified in the registrations.
4. Opposer, Conopco, Inc. dba Unilever is the exclusive licensee of Unilever Supply Chain, Inc. to sell personal care products under the POND’S trademark in the United States. Conopco, Inc. dba Unilever and Unilever Supply Chain, Inc. are hereinafter collectively referred to as “Opposers.”
5. Opposers and their predecessors have manufactured, distributed and sold personal care products under the POND’S trademark continuously in interstate commerce in the United States since at least as early as 1927, long prior to any date on which Applicant can rely for purposes of priority.

6. Applicant filed her United States trademark application Serial No. 77976296 to register POND PUNKIES on August 12, 2008 under §1(b) of the Lanham Act, 15 U.S.C. § 1051(b).
7. POND'S personal care products are available and sold to consumers throughout the United States and in various other countries.
8. Over the years, the volume of sales of goods in the United States sold under Opposers' POND'S trademark has been enormous.
9. The POND'S brand of personal care products is among the largest selling brands for such products in the United States.
10. The extraordinary success of Opposers' POND'S brand products over many years has engendered wide renown with the trade and the public and the products sold under the mark have a reputation for being of the highest quality.
11. The POND'S trademark and products are continuously and extensively advertised and promoted throughout the United States.
12. Since 1927, Opposers and their predecessors have spent millions of dollars advertising and promoting the POND'S trademark and products throughout the United States.
13. The POND'S brand has been promoted and advertised in a wide variety of national media, including national television, nationally circulated newspapers and over the Internet.
14. Because of Opposers and their predecessors' extensive advertising, promotion and use of the POND'S trademark, the trademark has acquired enormous value and

has become extremely well known to the consuming public as identifying and distinguishing POND'S products from those of competitors.

15. POND'S is a distinctive and famous trademark and represents and symbolizes a valuable business, which belongs exclusively to Opposers.
16. As a result of Opposers' extensive use of the POND'S trademark, the mark has come to be recognized by the public as identifying Opposers as the source of goods bearing the mark, and represents enormous goodwill belonging exclusively to Opposers.
17. The POND'S trademark is famous, was famous as of the filing date of Applicant's application for POND PUNKIES, and became famous long prior to any date on which Applicant can rely for purposes of priority.
18. Opposers believe they will be damaged by registration of POND PUNKIES as a mark under § 13 of the Lanham Act, 15 U.S.C. § 1063, because consumers, familiar with Opposers' famous POND'S trademark are likely to believe, mistakenly, that Applicant and/or her products emanate from, are sponsored or authorized by, or are otherwise associated or affiliated with Opposers, in violation of § 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).
19. Opposers believe they will be damaged by registration of POND PUNKIES as a mark under §13 of the Lanham Act, 15 U.S.C. §1063, because Applicant's use of POND PUNKIES could dilute the distinctive quality of Opposers' famous POND'S trademark by lessening the capacity for the trademark to identify and distinguish Opposers exclusively as the source of goods provided under the

POND'S trademark, in violation of §43(c) of the Lanham Act, 15 U.S.C.


§1125(c).

20. By reason of the foregoing, Opposers will be damaged by registration of POND PUNKIES as shown in Application Serial No. 77976296 and Applicant is therefore not entitled to a registration for POND PUNKIES.

WHEREFORE, Opposers respectfully request that this Opposition be sustained and that registration to Applicant be in all respects refused and denied.

Dated: New York, New York
January 15, 2009

DUANE MORRIS LLP

By: 

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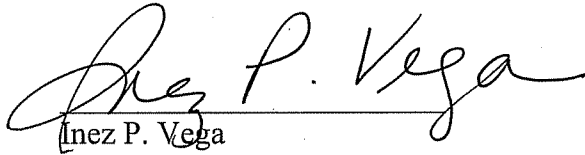
Attorneys for Opposers

Unilever Supply Chain, Inc.
Conopco, Inc. dba Unilever

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Applicant Lisa L. Riebe by mailing said copy on January 15, 2009 via first-class mail, postage prepaid to:

Lisa L. Riebe
Suite 1C #158
100 W. Commercial
Morris, Illinois 60450


Inez P. Vega