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Filing date: **09/17/2009**

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

Proceeding	91191154
Party	Defendant JCA DEVELOPMENT OF MIAMI, INC.
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Submission	Answer
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Date	09/17/2009
Attachments	JCA Dev v. Clarins - Opp. 91191154.pdf (8 pages)(919040 bytes)

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

**In the Matter of Application Serial No. 77/629,620
Mark: Claris**

CLARINS GROUPE, S.A.R.L.,

Opposer,

v.

Opposition No. 91191154

JCA Development of Miami, Inc.

Applicant.

ANSWER

Applicant, JCA Development of Miami, Inc, by and through undersigned counsel, answers the Notice of Opposition of Novartis AG and alleges as follows:

1. Applicant is without sufficient knowledge to admit or deny the allegations of paragraph 1 of the Opposition.

2. Applicant is without sufficient knowledge to admit or deny the allegations of paragraph 2 of the Opposition.

3. Applicant admits the allegations of paragraph 3 of the Opposition.

4. Applicant denies the allegations of paragraph 4 of the Opposition.

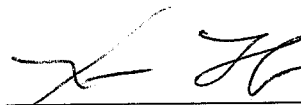
5. Applicant denies the allegations of paragraph 5 of the Opposition. The Marks are different in sound and meaning, making them easily distinguishable, for at least the following reasons: (a) Opposer's Mark spells out the Spanish word "clarin," which is a musical instrument (a bugle), (b) Opposer's Mark has much greater chance of confusion with other Marks that also involve the word "clarin" and evoke that sound and the mentioned musical instrument, as shown in Exhibit A hereto, drawn from TESS and containing 27 similar Marks; (c) Applicant's Mark evokes a totally different reference to clarity and is thus picked up by a host of products that begin with the letters "clari" but have no "n," as shown in Exhibit B hereto, drawn from TESS and containing 71 similar Marks.

6. There is no likelihood of confusion between Opposer's non-prescription product, which is a cosmetic, and Applicant's product, which is prescribed by medical professionals to treat dermatological conditions.

7. As further illustration of the above, Applicant would show the Board Exhibit C as proof that Opposer uses packing that clearly labels its product as a "cleansing beauty care" product, making it evident to the consumer that this is an over-the-counter cosmetic or beauty product and not a prescription, medical product.

WHEREFORE, Applicant respectfully requests that the Board dismiss this Opposition as totally without merit.

Submitted, signed and filed with the US Patent and Trademark Office, Trademark Trial and Appeal Board, PO Box 1451 Alesandria, Va. 22313-1451 and served via fax (212) 813-5901 and US mail on Michelle Foxman, of Fross Zelnick Lerrman and Zissu, P.C., 866 United Nations Plaza, New York, N.Y. 10017, Attorneys for Opposer on this the 25th day of August, 2009.

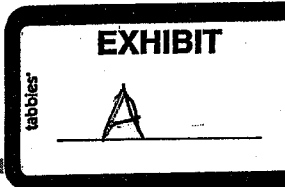


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Current Search: S3: (clarins)[COMB] docs: 27 occ: 96

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1	79021744		CLARINS SKIN SPA	TARR	DEAD
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3	78702052		EL REAL CLARIN CLASIFICADO	TARR	DEAD
4	78700879		EL CLARIN	TARR	DEAD
5	78697080		EL CLARIN BUGLE	TARR	DEAD
6	77384646	3578941	CLARIN DIGITAL	TARR	LIVE
7	77384632	3578940	CLARIN DIGITAL	TARR	LIVE
8	76414412	2820703	CLARIN A DIVISION OF GREENWICH INDUSTRIES, L.P.	TARR	LIVE
9	75912313	2861854	BUSCADOR.CLARIN	TARR	LIVE
10	75659984		CLARIN GRANDE BOIS	TARR	DEAD
11	75609897		CLARIN	TARR	DEAD
12	75320930	2187582	INSTITUT CLARINS PARIS	TARR	DEAD
13	75193507	2130175	CLARIN	TARR	LIVE
14	75193504	2130173	CLARIN	TARR	LIVE
15	75193503	2130172	CLARIN	TARR	LIVE
16	75284649	2220933	CLARINS PARIS METHOD	TARR	DEAD
17	75193506	2130174	CLARIN DIGITAL	TARR	DEAD
18	75193505	2134057	CLARIN DIGITAL	TARR	DEAD
19	74250235		ELYSIUM CLARINS	TARR	DEAD
20	73746658	1574179	CLARINS	TARR	LIVE
21	73309299	1256508	CLARINS PARIS	TARR	LIVE
22	73715539		CLARINS	TARR	DEAD

23	73565472	1398208	CLARINS DOUBLE SERUM MULTI-REGENERANT HYDRO LIPO	TARR	DEAD
24	71530169	0501181	CLARIN	TARR	DEAD
25	72276103	0851911	CLARIN	TARR	LIVE
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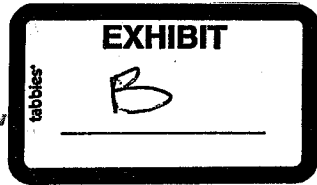
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5	78354094		CLARI-T	TARR	DEAD
6	77802848		CLARI-D	TARR	LIVE
7	77608461		CLARIS	TARR	DEAD
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9	77629620		CLARIS	TARR	LIVE
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11	77409479		CLARIS	TARR	LIVE
12	77538657		CLARIS	TARR	DEAD
13	77409483		LIPTON CLARIS	TARR	LIVE
14	77436269		CLARISONIC	TARR	LIVE
15	77445606	3629729	CLARIS	TARR	LIVE
16	77434770		CLARI-C	TARR	DEAD
17	77280937	3627827	CLARI-FI	TARR	LIVE
18	77444226		MULTI-LINK CLARIS	TARR	DEAD
19	77164078		CLARI-TEE	TARR	DEAD
20	76697948		CLARIS	TARR	LIVE
21	76686635	3589503	CLARIS	TARR	LIVE
22	76576640	3108411	CLARIS	TARR	LIVE
23	76325650		CLARI-PACK	TARR	DEAD
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26	75761938	2599947	CLARIS	TARR	DEAD
27	75597356	2530221	CLARIS	TARR	DEAD
28	75785723	2383048	CLARI-DISC	TARR	LIVE
29	75657337	2400910	CLARI-PRESS	TARR	LIVE
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38	75659659		CLARI-FINE	TARR	DEAD
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41	75193281		CLARIS BETTER BUSINESS	TARR	DEAD
42	75146743		CLARIS HOME SITE	TARR	DEAD
43	75117247	2129485	CLARIS HOME PAGE	TARR	DEAD
44	75089817	2118414	CLARISLINK	TARR	DEAD
45	75003801	2078480	CLARIS EMAILER	TARR	DEAD
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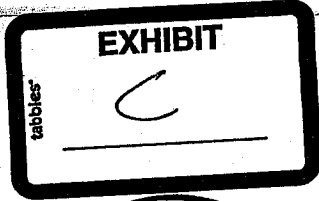
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ACCIONES

- Quita con suavidad el maquillaje de los ojos.
- Ayuda a fortalecer las pestañas.
- Alivia y refresca.

CARACTERISTICAS

- No grasa, sin perfume.
- Rica en extractos de plantas naturales apaciguantes.
- Respeta el pH de las lágrimas.
- Ideal para ojos sensibles y para los que usan lentes de contacto.
- Probada oftalmológica y dermatológicamente.

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4.2 Fl. Oz

CLARINS-PARIS

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