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

Proceeding	91193892
Party	Defendant GREEK ISLAND LABS, LLC
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Attachments	Microsoft Word - Answer to Notice of Opposition FINAL.pdf (6 pages)(111992 bytes)

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

9 In the Matter of Application Serial No. 76/688,686
10 Application Filing Date: April 17, 2008
11 Proposed Mark: BROW REVÍVE and Design
12 Date of Publication: October 27, 2009

13 In the Matter of Application Serial No. 76/688,684
14 Application Filing Date: April 17, 2008
15 Proposed Mark: ADONIA ORGANICS BROW REVÍVE and Design
16 Date of Publication: December 1, 2009

16 Gurwitch Products, L.L.C.,)
17)
18 Opposer,) Opposition No. 91193892
19)
20 v.) **ANSWER TO NOTICE**
21) **OF OPPOSITION**
22 Greek Island Labs, L.L.C.,)
23)
24 Applicant.)
25)

23 In Response to the Notice of Opposition issued by the Board on February 24, 2010,
24 Applicant Greek Island Labs, L.L.C. (“Greek Island”) admits, denies, and affirmatively alleges
25 as follows:

- 26 1. Applicant admits that Paragraph 1 of the Notice of Opposition.
- 27 2. Applicant lacks any information whatsoever regarding the “respect” of Opposer
28 in the business community. It appears, however, that the products sold by Opposer are not

1 “specifically for eye care.” Rather, Applicant affirmatively alleges that the products sold by
2 Opposer are relegated to acne preparations, and other ameliorative skin care preparations.
3 Indeed, according to Opposer, its products use “egf (Epidermal Growth Factor)” which
4 Opposer claims is a naturally occurring protein found in your skin and is a molecule that
5 increases skin cell renewal.” Moreover, Opposer does not sell or market any product for
6 eyebrow use whatsoever, let alone a confusingly similar mark. Accordingly, Applicant denies
7 Paragraph 2 of the Notice of Opposition.

8 3. To the extent that Paragraph 3 of the Notice of Opposition suggests that the
9 Opposer is the owner of any type of “house” mark, Applicant denies same. Applicant lacks
10 information and belief regarding Opposer’s ownership of the Marks identified in Paragraph 3
11 of the Notice of Opposition. Accordingly, Applicant denies same.

12 4. Applicant denies that there is a “Nobel prize” awarded for cosmetics. Applicant’s
13 hyperbole aside, Opposer has not identified any preparation sold under a mark confusingly
14 similar to Applicant’s Mark for use on brows. Accordingly, Applicant denies paragraph 4 of
15 the Notice of Opposition.

16 5. Applicant denies Paragraph 5 of the Notice of Opposition. In particular,
17 Applicant affirmatively alleges that the Marks identified in Paragraph 3 of the Notice of
18 Opposition were not in use “as early as March 1997.” Rather, as Applicant’s own Applicant,
19 for instance, Serial No. 77415089, did not begin such Mark in commerce until April 2004,
20 Applicant denies Paragraph 5 of the Notice of Opposition.

21 6. First, Opposer has not sought nor received trademark registrations for the
22 trademarks identified in Paragraph 6 of the Notice of Opposition allegedly for use “in the eye
23 area.” Moreover, Applicant denies that the alleged date of first use of any of the products
24 under the marks alleged in Paragraph 6 predate Applicant’s use. Accordingly, Applicant
25 denies Paragraph 6 of the Notice of Opposition.

26 7. Applicant denies Paragraph 7 of the Notice of Opposition.

27 8. Applicant denies Paragraph 8 of the Notice of Opposition.

28 9. Applicant denies Paragraph 9 of the Notice of Opposition.

- 1 10. Applicant denies Paragraph 10 of the Notice of Opposition.
- 2 11. Applicant denies Paragraph 11 of the Notice of Opposition.
- 3 12. Applicant denies Paragraph 12 of the Notice of Opposition.
- 4 13. Applicant does not deny that Applicant holds a registration on the principal
5 Register of the United States Patent and Trademark Office for “RÉ-VIVE under Registration
6 No. 25394034” “in medicated skin products” and “creams, lotions, gels, toners, cleaners and
7 peels.” Applicant affirmatively alleges that such mark is not in use—and has not been used—
8 for brow products. Applicant does not deny that Opposer holds a Registration under No.
9 2875712 for “creams, lotions, gels, toners, cleaners and peels,” and not brow related products.
10 Applicant does not deny that Opposer has filed a trademark application under No. 77/415,089
11 for “creams, lotions, gels, toners, cleaners and peels,” under the Mark “RÉ-VIVE ACNE
12 REPARATIF.” Applicant denies all other allegations of Paragraph 13 of the Notice of
13 Opposition.
- 14 14. Applicant denies that Opposer has a registration for marks other than 2539403
15 and 2875712. Accordingly, Applicant denies Paragraph 14 of the Notice of Opposition.
- 16 15. Applicant does not deny Paragraph 15 of the Notice of Opposition.
- 17 16. Applicant does not deny Paragraph 16 of the Notice of Opposition.
- 18 17. Applicant denies Paragraph 17 of the Notice of Opposition.
- 19 18. Applicant admits Paragraph 18 of the Notice of Opposition.
- 20 19. Applicant admits Paragraph 19 of the Notice of Opposition.
- 21 20. Applicant denies Paragraph 20 of the Notice of Opposition.
- 22 21. Applicant denies Paragraph 21 of the Notice of Opposition.
- 23 22. Applicant denies Paragraph 22 of the Notice of Opposition.
- 24 23. Applicant denies Paragraph 23 of the Notice of Opposition.
- 25 24. Applicant denies Paragraph 24 of the Notice of Opposition.
- 26 25. Applicant denies Paragraph 25 of the Notice of Opposition.
- 27 26. Applicant denies Paragraph 26 of the Notice of Opposition.
- 28 27. Applicant denies Paragraph 27 of the Notice of Opposition.

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CERTIFICATE OF MAILING

I, Scot Claus, do hereby certify that the foregoing original document is being sent through the Electronic System for Trademark Trials and Appeals on June 4, 2010 8, and a copy of the foregoing document is being deposited with the United States Postal Service on the same day to:

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