

ESTTA Tracking number: **ESTTA574987**

Filing date: **12/05/2013**

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	Ole Henriksen of Denmark, Inc.		
Entity	Corporation	Citizenship	California
Address	16665 Arminta St. Van Nuys, CA 91406 UNITED STATES		

Correspondence information	Douglas H. Morseburg Attorney at Law Sheldon Mak & Anderson PC 100 Corson Street, 3rd Floor Pasadena, CA 91103 UNITED STATES douglas.morseburg@usip.com		
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Applicant Information

Application No	85950036	Publication date	11/12/2013
Opposition Filing Date	12/05/2013	Opposition Period Ends	12/12/2013
Applicant	Calvin Klein Trademark Trust Composed of the Wilmington Trust Company (DelawareTrust) 205 West 39th Street New York, NY 10018 GERMANY		

Goods/Services Affected by Opposition

Class 003. First Use: 2000/06/15 First Use In Commerce: 2000/06/15
All goods and services in the class are opposed, namely: PERFUMERY

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3173981	Application Date	01/03/2006
Registration Date	11/21/2006	Foreign Priority Date	NONE
Word Mark	TRUTH SERUM		

Design Mark	TRUTH SERUM		
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2000/05/02 First Use In Commerce: 2000/05/02 non-medicated skin care preparations		

U.S. Registration No.	3229833	Application Date	06/19/2006
Registration Date	04/17/2007	Foreign Priority Date	NONE
Word Mark	EXPRESS THE TRUTH		
Design Mark	EXPRESS THE TRUTH		
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2006/01/13 First Use In Commerce: 2006/01/13 non-medicated skin care preparations		

U.S. Registration No.	3229832	Application Date	06/19/2006
Registration Date	04/17/2007	Foreign Priority Date	NONE
Word Mark	VISUAL TRUTH		

Design Mark	VISUAL TRUTH
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2006/01/13 First Use In Commerce: 2006/01/13 non-medicated skin care preparations

Attachments	78784279#TMSN.jpeg(bytes) 78911081#TMSN.jpeg(bytes) 78911069#TMSN.jpeg(bytes) 20131205 Statement of Opposition.pdf(28331 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	/dougashmorseburg/
Name	Douglas H. Morseburg
Date	12/05/2013

STATEMENT OF OPPOSITION

Opposer Ole Henriksen of Denmark, Inc. (hereafter, “Opposer”) believes that it will be damaged by the registration of the mark shown in application Serial No. 85/950,036 and it hereby opposes same. As grounds for its opposition, Opposer hereby alleges as follows:

1. Opposer is a corporation duly organized and existing under the laws of the State of California with its principal place of business located in the County of Los Angeles, California.

2. At least as early as May 2000, Opposer adopted a mark consisting of the words TRUTH SERUM and used it in interstate commerce in connection with the sale of at least one skin care product.

3. Since adopting the TRUTH SERUM mark, Opposer has used it continuously to identify its goods and to distinguish them from goods made and sold by others by, among other things, prominently displaying the mark on the containers and packaging for the goods.

4. The consuming public has come to associate the TRUTH SERUM mark with skin care products sold by, or emanating from, Opposer. Opposer has developed extensive goodwill in the TRUTH SERUM mark. As a consequence, the mark has attained considerable value.

5. On or about January 3, 2006, Opposer applied to register TRUTH SERUM with the U.S. Patent and Trademark Office (“PTO”) for use in connection with “non-medicated skin care preparations” in IC 003. The mark was registered in the PTO on November 21, 2006 and it was assigned U.S. Registration No. 3,173,981.

6. At least as early as January 2006, Opposer adopted a mark consisting of the words EXPRESS THE TRUTH and used it in interstate commerce in connection with the sale of at least one skin care product.

7. Since adopting the EXPRESS THE TRUTH mark, Opposer has used it continuously to identify its goods and to distinguish them from goods made and sold by others by, among other things, prominently displaying the mark on the containers and packaging for the goods.

8. The consuming public has come to associate the EXPRESS THE TRUTH mark with skin care products sold by, or emanating from, Opposer. Opposer has developed extensive goodwill in the EXPRESS THE TRUTH mark. As a consequence, the mark has attained considerable value.

9. On or about June 19, 2006, Opposer applied to register EXPRESS THE TRUTH with the PTO for use in connection with “non-medicated skin care preparations” in IC 003. The

mark was registered in the PTO on April 17, 2007 and it was assigned U.S. Registration No. 3,229,833.

10. At least as early as January 2006, Opposer adopted a mark consisting of the words VISUAL TRUTH and used it in interstate commerce in connection with the sale of at least one skin care product.

11. Since adopting the VISUAL TRUTH mark, Opposer has used it continuously to identify its goods and to distinguish them from goods made and sold by others by, among other things, prominently displaying the mark on the containers and packaging for the goods.

12. The consuming public has come to associate the VISUAL TRUTH mark with cosmetic products sold by, or emanating from, Opposer. Opposer has developed extensive goodwill in the VISUAL TRUTH mark. As a consequence, the mark has attained considerable value.

13. On or about June 19, 2006, Opposer applied to register VISUAL TRUTH with the PTO for use in connection with “non-medicated skin care preparations” in IC 003. The mark was registered in the PTO on April 17, 2007 and it was assigned U.S. Registration No. 3,229,832.

14. Despite Opposer’s prior adoption and use of its family of TRUTH marks, Opposer is informed and it believes, that on or about June 4, 2013, Calvin Klein Trademark Trust Composed of the Wilmington Trust Company (Delaware Trust), a business trust organized under the laws of the State of Delaware and having its principal place of business at c/o Calvin Klein Inc., 205 West 39th Street, New York, New York 10018 (“Applicant”), filed application Serial No. 85/950,036 (the “’036 Application”) with the PTO seeking to register the term TRUTH CALVIN KLEIN for use in connection with the sale of “perfumery” in IC 003. The ‘036 Application was published for opposition on November 12, 2013.

15. Opposer is informed and it believes that its adoption and use of its TRUTH family of marks in connection with the sale of goods in IC 003 was prior to the filing date of the ‘036 Application and prior to any actual or constructive date of first use by Applicant of Applicant’s mark with goods in that class.

16. The mark which is the subject of the ‘036 Application is similar to Opposer’s pleaded marks in that it includes the term TRUTH which is common to each of Opposer’s pleaded marks. As described in the ‘036 Application, Applicant intends to use its mark in connection with goods that are closely related to the goods Opposer sells under the pleaded marks, namely, skin care products. Additionally, on information and belief, Applicant intends to offer its goods to the same classes of persons to whom Opposer offers its goods and through the same channels of trade.

17. Applicant's use of the term TRUTH CALVIN KLEIN on or in connection with Applicant's goods in IC 003 is likely to cause confusion, mistake or deception in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), in that persons familiar with Opposer's pleaded marks would be likely to buy Applicant's goods believing they are Opposer's goods or to believe that Applicant's goods are made, sold or sponsored by, or otherwise associated with, Opposer. Furthermore, any defect, objection or fault found with goods sold by Applicant would necessarily reflect upon Opposer, and irreparably and seriously injure Opposer's reputation and goodwill.

Accordingly, Opposer respectfully requests that registration of the '036 Application be denied.