

ESTTA Tracking number: **ESTTA687184**

Filing date: **08/03/2015**

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

Proceeding	91218304
Party	Defendant Marcus Asam, Mirjam Asam, Ruth Axel
Correspondence Address	WILLIAM C WRIGHT EPSTEIN DRANGEL LLP 60 E 42ND ST , STE 2410 NEW YORK, NY 10165-0011 UNITED STATES mail@ipcounselors.com
Submission	Other Motions/Papers
Filer's Name	William C. Wright
Filer's e-mail	mail@ipcounselors.com
Signature	/William C. Wright/
Date	08/03/2015
Attachments	DOC0803152nd.pdf(245606 bytes )

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

---

KOSAN KOZMETIK SANAYI VE TICARET  
ANONIM SIRKETI,

OPPOSER,

V.

MIRJAM ASAM, MARCUS ASAM, and  
AXEL RUTH

APPLICANTS.

---

Opp. No. 91218304

---

**SECOND AMENDED ANSWER TO NOTICE OF  
OPPOSITION AND COUNTERCLAIM**

---

Applicants, by its undersigned attorney, hereby answers the allegations set forth in the Notice of Opposition as follows:

1. Applicants lack sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 1 and therefore deny same.
2. Applicants lack sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 2 and therefore deny same.
3. Applicants lack sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 3 and therefore deny same.
4. Applicants lack sufficient knowledge or information to form a belief as to the

truth of the allegations in Paragraph 4 and therefore deny same.

5. Applicants lack sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 5 and therefore deny same.

7. Applicants admit that they filed an application to register the mark FLORA MARE and Design, Ser. No. 86080166, and that said application was published on July 22, 2014, but deny all other allegations in Paragraph 7.

8. Deny.

10. Deny.

### COUNTERCLAIM

MIRJAM ASAM, MARCUS ASAM, and AXEL RUTH, individuals and German citizens, (hereinafter "ASAM") hereby, by its undersigned attorney, believe that they are or will be damaged by the U.S. registrations of FLORMAR and FLORMAR TURK MALI and Design, as reflected in Reg. Nos. 4626632 and 4472860 ("FLORMAR Marks") and hereby petitions to cancel same. The grounds for this counterclaim are set forth below.

1. Upon information and belief, on November 6, 2006, Opposer applied to register the mark FLORMAR TURK MALI and Design, Ser. No. 76668601, for "hand, face and body soaps for personal use, bath foam and bath salt, shampoos, hair tonics, hair conditioners, hair lotions styling gel, pomade for cosmetic purposes, preparations for hair cleaning, hair waving preparations, hair dyes, hair sprays, depilatory preparations, mouth washes not for medical purposes, toothpastes, cosmetic creams and cosmetic lotions, essential oils for personal use, make up powders, sun-tanning preparations, shaving foam and soap, non-medicated cosmetic preparations for skin care, namely, cleansing milk for toilet purposes, cosmetic cream, lotions for cosmetic purposes, tissues impregnated with cosmetic lotions, petroleum jelly for

cosmetic purposes, skin whitening creams, cosmetic preparations for slimming purposes; cleaning preparations for skin care, cleaning preparations for skin, skin moisturizers, beauty masks, make-up, make-up preparations, mascaras, cosmetic pencils, lipsticks, nail polish, nail varnish, nail polish remover, make-up removers, perfumes, colognes, after shave lotions and creams, deodorants for personal use; and baby-care products, namely, baby oil, baby powder, baby hair tonics, baby body creams, and cleaning milk for babies”. (FLORMAR TURK MALI and Design Application”). Said application issued to registration under Section 44(e) of the Trademark Act on January 28, 2014 under Reg. No. 4472860.

2. Upon information and belief, on January 18, 2012, Opposer applied to register the mark FLORMAR, Ser. No. 79115824, for “Soaps for personal use, bath foam and salt, shampoos, hair tonics, hair conditioners, hair lotions, styling gel, brilliantine, preparations for hair cleaning, hair waving preparations, hair dyes, hair sprays, depilatory preparations, mouth washes not for medical purposes, tooth pastes, cosmetic creams and lotions, essential oils, make up powders, sun-tanning preparations, shaving foam and soap, cosmetic preparations for skin care, cleaning preparations for skin, skin tonics, moisturizers, cosmetic creams, beauty masks, make-up, make-up powder, make-up preparations, mascaras, cosmetic pencils, lipsticks, nail polish, nail varnish, nail polish remover, make-up removers, perfumes, colognes, aftershave lotions and creams, deodorants for personal use, baby lotions, baby oil, baby powder and skin tonics for cosmetic use, cosmetic creams, cleaning milk for babies”. (FLORMAR Application”). Said application issued to registration under Section 66(a) of the Trademark Act on October 28, 2014 under Reg. No. 4626632.

3. On October 1, 2013, Applicants filed a U.S. application to register the mark FLORA MARE and Design, Ser. No. 86080166, in Class 3, and that application was approved for publication on July 22, 2014.

4. On September 11, 2014, Opposer filed a Notice of Opposition, alleging a likelihood of confusion with its FLORMAR Marks.

5. Upon information and belief, Opposer as of its filing date of its FLORMAR TURK MALI and Design Application, did not have a bona fide intention to use the mark FLORMAR TURK MALI and Design for each and every item set forth in the FLORMAR TURK MALI and Design Application.

6. Upon information and belief, Opposer has never used the mark FLORMAR TURK MALI and Design, as reflected in Ser. No. 76668601, for any of the goods set forth in the FLORMAR TURK MALI and Design Application.

7. Upon information and belief, Opposer's registration of FLORMAR TURK MALI and Design, Reg. No. 4472860, is void ab initio.

8. Opposer has admitted in its response to Applicant's First Set of Requests for the Production of Documents and Things that it has not used in commerce the mark FLORMAR TURK MALI.

9. On information and belief, Opposer has not used in commerce or has stopped using in commerce the mark FLORMAR TURK MALI and Design on any of the goods covered by Reg. No. 4472860 and has no intent to resume or commence use in commerce of said mark.

10. Upon information and belief, Opposer's mark FLORMAR TURK MALI and Design and the U.S. registration thereof, Reg. No. 4472860, have been abandoned.

11. Upon information and belief, Opposer as of its filing date of its

FLORMAR Application, did not have a bona fide intention to use the mark FLORMAR for each and every item set forth in the FLORMAR Application.

12. Upon information and belief, Opposer's registration of FLORMAR, Reg. No. 4626632, is void ab initio.

13. Upon information and belief, Opposer has never used the mark FLORMAR, as reflected in Reg. No. 4626632, for all of the goods set forth in the FLORMAR Application.

14. Opposer has failed to produce any documents in response to Applicant's first set of discovery requests which support its use in commerce of the mark FLORMAR, as reflected in Reg. No. 4626632.

15. On information and belief, Opposer has not used in commerce or has stopped using in commerce the mark FLORMAR, as reflected in Reg. No. 4626632, on any of the goods covered by Reg. No. 4626632 and has no intent to resume or commence use in commerce of said mark.

16. On information and belief, Opposer has not used in commerce or has stopped using in commerce the mark FLORMAR, as reflected in Reg. No. 4626632, on the following goods covered by Reg. No. 4626632 and has no intent to resume or commence use in commerce of said mark for these goods.

Soaps for personal use, bath foam and salt, shampoos, hair tonics, hair conditioners, hair lotions, styling gel, brilliantine, preparations for hair cleaning, hair waving preparations, hair dyes, hair sprays, depilatory preparations, mouth washes not for medical purposes, tooth pastes, essential oils, sun-tanning preparations, shaving foam and soap, cosmetic preparations for skin care, cleaning preparations for skin, skin tonics, moisturizers, beauty masks, mascaras, cosmetic pencils, lipsticks, nail polish remover, make-up removers, perfumes, colognes, aftershave lotions and creams, deodorants for personal use, baby lotions, baby oil, baby powder and skin tonics for cosmetic use, cosmetic creams, cleaning milk for babies

17. Upon information and belief, Opposer's mark FLORMAR and the

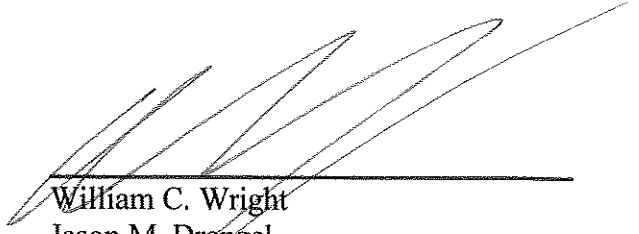
U.S. registration thereof, Reg. No. 4626632, have been abandoned for all or some of the goods set forth in U.S. Reg. No. 4626632.

Respectfully submitted,

**EPSTEIN DRANGEL, LLP**

Dated: August 3, 2015

By:



---

William C. Wright  
Jason M. Drangel  
Robert L. Epstein  
60 East 42<sup>nd</sup> Street, Suite 2410  
New York, New York 10165  
Tel.: (212) 292-5390  
Fax: (212) 292-5391

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **SECOND AMENDED ANSWER TO NOTICE OF OPPOSITION AND COUNTERCLAIM** was served by First Class Mail, with sufficient postage prepaid on this 3<sup>rd</sup> day of August, 2015, upon Opposer's counsel:

P JAY HINES  
MUNCY GEISSLER OLDS & LOWE PC  
4000 LEGATO RD, STE 310  
FAIRFAX, VA 22033  
UNITED STATES

By: \_\_\_\_\_

A handwritten signature in black ink is written over a horizontal line. The signature is stylized and appears to be 'P. Jay Hines'.