

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

In the matter of Application Serial No. 86293737
Published in the Official Gazette on October 21, 2014

_____)
Meeshaa Inc.,)
dba Diamond Essence,)
Opposer,)

v.)

Anaya Gems Inc.,)
Applicant.)
_____)

Opposition No. _____

NOTICE OF OPPOSITION

S I R:

Opposer, Meeshaa Inc., dba Diamond Essence, a New Jersey corporation with a business address at 3906 Cricket Circle, Edison, NJ, 08820, believes that it will be damaged by registration of the DIAMOND ESSENCE mark shown in Application Serial No. 86293737 of Applicant, Anaya Gems Inc., filed May 28, 2014 and published in the Official Gazette of October 21, 2014 for diamond jewelry, and, through its counsel, hereby opposes the same.

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11-24-2015

U.S. Patent and Trademark Office #72

As grounds of opposition, it is alleged that:

1. Since long before January 1, 2013, which is Applicant's alleged date of first use, Opposer has continuously used and is now using and owns the trademark and tradename DIAMOND ESSENCE for simulated diamonds and simulated diamond jewelry.

2. Opposer has advertised and sold its aforesaid DIAMOND ESSENCE goods nationwide on its diamond-essence.com website, through mail order catalogs, and otherwise.

3. Opposer's trademark and tradename DIAMOND ESSENCE are, and have been ever since their adoption, conspicuously used by Opposer for and in connection with its goods and have been used in association with Opposer's goods in other appropriate ways.

4. As a consequence of Opposer's advertising and promotion, and with widespread and substantial sales, Opposer has acquired and built up an extensive and valuable business under its DIAMOND ESSENCE trademark and tradename which have come to have, and now have, great value as an identification of source to the trade and public throughout the United States, and the goodwill represented thereby belongs exclusively to Opposer.

5. Applicant seeks to register the mark DIAMOND ESSENCE for diamond jewelry under Application Serial No. 86293737 ("Applicant's Application").

6. Applicant's Application was filed on May 28, 2014 and alleges a first use date of January 1, 2013.

7. On information and belief, Applicant had not used the mark DIAMOND ESSENCE in connection with any goods prior to the alleged first use date of January 1, 2013.

8. On information and belief, Applicant had not used the mark DIAMOND ESSENCE in connection with diamond jewelry sold or shipped in the ordinary course of trade in commerce with or within the United States prior to January 1, 2013.

9. Opposer has used its DIAMOND ESSENCE mark prior to Applicant's use of its DIAMOND ESSENCE mark and therefore Opposer has priority of use of the mark DIAMOND ESSENCE.

10. Applicant's applied for mark is the same as Opposer's DIAMOND ESSENCE mark.

11. The goods identified in Applicant's Application are identical to or closely related to the goods with which Opposer has used and is using its DIAMOND ESSENCE mark.

12. On information and belief, Applicant's goods identified in Applicant's Application are offered through the same channels of trade to the same classes of customers who purchase, have access to, or are exposed to, the goods in connection with which Opposer uses its DIAMOND ESSENCE mark.

13. Applicant is herein seeking to register the trademark DIAMOND ESSENCE which falsely suggests a connection with Opposer and which comprises an erosion of the public's identification of its trademark and tradename DIAMOND ESSENCE with Opposer, thus diminishing their selling power, distinctiveness, uniqueness, effectiveness and connotation.

14. By the application here opposed, Applicant seeks to register a mark that falsely suggests sponsorship and endorsement by Opposer.

15. Applicant's mark DIAMOND ESSENCE is virtually identical to Opposer's mark and name DIAMOND ESSENCE, as previously used in the United States by Opposer, and use of the mark DIAMOND ESSENCE by Applicant for diamond jewelry is likely to cause confusion, or to cause mistake, or to deceive, to the consequent injury to Opposer by reason of damage to Opposer's goodwill and the diversion thereof to and for Applicant's benefit.

16. Opposer's goodwill and reputation have been or will be jeopardized by Applicant's use and/or registration of the mark DIAMOND ESSENCE, and the trade and purchasing public will be confused and deceived and will believe that Applicant's goods on or in connection with which it uses the mark DIAMOND ESSENCE are in some way associated, connected, sponsored, authorized, or warranted by Opposer, all to the detriment of Opposer, and any faults or imperfections in the goods of Applicant will reflect adversely on Opposer and its established goodwill and reputation unless this opposition is sustained.

17. Registration of the DIAMOND ESSENCE mark to Applicant will cause irreparable damage and injury to Opposer, because it will support and assist Applicant in the confusing and misleading use of the mark sought to be registered, and will create statutory rights in the Applicant in violation and derogation of the prior rights of Opposer.

18. Applicant was not at the time of the filing of Application Serial No. 86293737 and is not now entitled to registration of the mark thereof for the reasons as aforesaid.

WHEREFORE, Opposer prays that this opposition be sustained and that the mark depicted in Application Serial No. 86293737 be refused registration. Opposer further requests other such relief as the Board deems just and proper.

Respectfully submitted,

Meeshaa Inc.,
dba Diamond Essence
Opposer

By: 

Bruce L. Adams

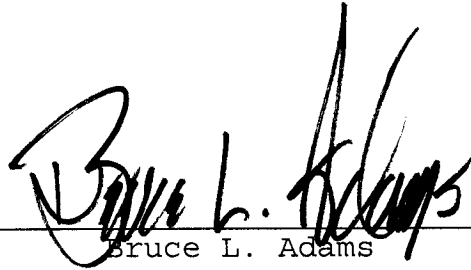
ADAMS & WILKS
17 Battery Place
Suite 1343
New York, NY 10004
(212) 809-3700

Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION has been served by first class mail, postage prepaid, this 19th day of November, 2014, on applicant's attorney, at the following address:

Tal Hirschberg, Esq.
72 Mercer Street
New York, NY 10012-4494



Bruce L. Adams

ADAMS & WILKS

ATTORNEYS AND COUNSELORS AT LAW
17 BATTERY PLACE
SUITE 1343
NEW YORK, NEW YORK 10004

BRUCE L. ADAMS
VAN C. WILKS*

JOHN R. BENEFIEL*
FRANCO S. DE LIGUORI□

* NOT ADMITTED IN NEW YORK
□ REGISTERED PATENT AGENT

TELEPHONE
(212) 809-3700

FACSIMILE
(212) 809-3704

EMAIL
adamswilks@aol.com

November 19, 2014

ATTN: Trademark Trial and Appeal Board
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Re: IN THE MATTER OF APPLICATION SERIAL NO. 86293737
Published in the Official Gazette on October 21, 2014
Meeshaa Inc., dba Diamond Essence v. Anaya Gems Inc.
Opposition No. (not yet assigned)

S I R:

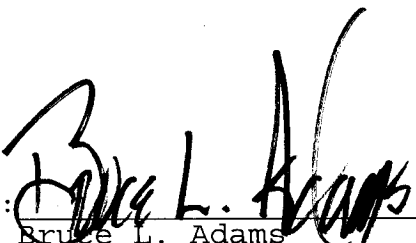
Enclosed kindly find for filing the following papers:

- a) Notice of Opposition to oppose Application
Serial No. 86293737 with proof of service, and
- b) Check in the sum \$300 to cover the required fee.

Should the enclosed check prove insufficient for any reason or should additional fees be required, authorization is hereby given to charge any such insufficiency or additional fees to Deposit Account No. 01-0268.

It is respectfully requested that the opposition papers be transmitted to the Trademark Trial and Appeal Board for institution of opposition proceedings.

Respectfully submitted,

By: 
Bruce L. Adams
Attorney for Opposer

BLA:dr
Enclosures

Commissioner for Trademarks
November 19, 2014
Page 2

MAILING CERTIFICATE

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to ATTN: Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, VA 22313-1451 on the date indicated below.

Donna Riccardulli

Name

Donna Riccardulli

Signature

NOVEMBER 19, 2014

Date