

ESTTA Tracking number: **ESTTA722424**

Filing date: **01/25/2016**

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	MCE
Granted to Date of previous extension	01/24/2016
Address	7 Rue de Tilsitt Paris, FL F-75017 FRANCE

Attorney information	Tamara A. Miller Leydig, Voit & Mayer, Ltd. Two Prudential Plaza, 180 N. Stetson Ave Suite 4900 Chicago, IL 60601 UNITED STATES tmiller@leydig.com, anaffziger@leydig.com, sbrown@leydig.com Phone:312-616-5600
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**Applicant Information**

Application No	86555859	Publication date	07/28/2015
Opposition Filing Date	01/25/2016	Opposition Period Ends	01/24/2016
Applicant	Neocutis S.A. Chemin d'Étraz, 2 Lonay, 1027 SWITZERLAND		

**Goods/Services Affected by Opposition**

Class 003. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Cosmetics and cosmetic preparations
Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Medicated cosmetics

**Grounds for Opposition**

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

U.S. Registration No.	3879360	Application Date	12/22/2009
Registration Date	11/23/2010	Foreign Priority Date	NONE
Word Mark	DERMOSTHETIQUE		

Design Mark	<b>DERMOSTHETIQUE</b>
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 0 First Use In Commerce: 0 Soaps, perfumery, essential oils, cosmetics, hair lotions

Attachments	79079767#TMSN.png( bytes ) 285348 - Notice of Opposition - DERMOSMETICS.pdf(148706 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	/Tamara A. Miller/
Name	Tamara A. Miller
Date	01/25/2016

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

MCE,	)	
	)	
Opposer,	)	Opposition No. _____
	)	
	)	Serial No. 86/555,859
v.	)	
	)	
Neocutis S.A.,	)	
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

MCE (“Opposer”), an entity incorporated under the laws of France, located at 7 Rue de Tilsitt, Paris, FL F-75017, France, hereby brings this Opposition against Application Serial No. 86/555,859 for the mark DERMOSMETICS (the “Application” or “Applicant’s Mark”), filed by Neocutis S.A. (“Applicant”), and published in the Official Gazette July 28, 2015. Opposer has secured an additional extension of time to oppose which expires January 24, 2016 (which falls on a Sunday, making the effective date January 25, 2016). Opposer believes it will be damaged by the registration of this Application and therefore opposes the same.

As grounds for the opposition, Opposer alleges as follows:

1. Opposer produces and sells a variety of cosmetic products.
2. Opposer is the owner of United States Trademark Registration No. 3,879,360 for the mark “DERMOSTHETIQUE” for use in connection with “soaps, perfumery, essential oils, cosmetics, hair lotions” in Class 3. A copy of the registration information for this mark is attached hereto as Exhibit A.
3. Applicant’s Mark is confusingly similar to Opposer’s “DERMOSTHETIQUE” mark.

4. Applicant's cosmetic goods listed in the Application are, in part, identical and otherwise closely related or complementary to the goods covered in Opposer's registration for its "DERMOSTHETIQUE" mark. Therefore, Applicant is opposing the goods in Classes 3 and 5.

5. Upon information and belief, the Applicant will be promoting, marketing and selling its products under Applicant's Mark through the same markets and trade channels and to the same customers as Opposer.

6. Due to the similarity of the marks involved, the similarity of the goods involved, the similarity of the trade channels involved, and other factors, confusion is likely as between Applicant's Mark and Opposer's "DERMOSTHETIQUE" mark, pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

7. Registration of Applicant's Mark is likely to cause confusion or mistake in the minds of the public and lead the public and prospective purchasers into believing that Applicant's goods come from Opposer, or are endorsed or sponsored by, or otherwise affiliated or connected with Opposer, or that Opposer's goods are associated with Applicant, all to the damage and injury of the purchasing public and to the damage and injury of Opposer, since Opposer will have no control over the quality of Applicant's goods.

8. In view of the above, the grant of a registration for Applicant's Mark, as sought in the Application, should be denied based on a likelihood of confusion, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

WHEREFORE, by its undersigned attorneys, Opposer respectfully requests that this Notice of Opposition be sustained as to both Classes 3 and 5 and that registration of Application Serial No. 86/555,859 be refused in full.

Opposition No. \_\_\_\_\_


Serial No. 86/555,859

Please charge deposit account No. 12-1216 in the amount of \$600.00 to cover the filing fee of this Notice of Opposition against the Application. Please charge any additional fees to Deposit Account 12-1216, as necessary.

Respectfully submitted,

Date: January 25, 2016

By:



Tamara A. Miller  
Stella M. Brown  
LEYDIG, VOIT & MAYER, LTD.  
Two Prudential Plaza, 180 N. Stetson Ave.  
Suite 4900  
Chicago, Illinois 60601-6731  
(312) 616-5600  
Attorneys for Opposer

Opposition No. \_\_\_\_\_

Serial No. 86/555,859

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that the attached NOTICE OF OPPOSITION was filed electronically with the Trademark Trial and Appeal Board on January 25, 2016:

  
\_\_\_\_\_  
Stella M. Brown

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this NOTICE OF OPPOSITION was served by First Class Mail and e-mail to the following addresses on January 25, 2016:

Michelle P. Ciotola, Esq.  
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\_\_\_\_\_  
Stella M. Brown

# Exhibit A

**United States of America**  
United States Patent and Trademark Office

**DERMOSTHETIQUE**

**Reg. No. 3,879,360**

**Registered Nov. 23, 2010**

**Int. Cl.: 3**

**TRADEMARK**

**PRINCIPAL REGISTER**

M C E (FRANCE CORPORATION)  
7, RUE DE TILSITT  
F-75017 PARIS  
FRANCE

FOR: SOAPS, PERFUMERY, ESSENTIAL OILS, COSMETICS, HAIR LOTIONS, IN CLASS  
3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

THE WORDING "DERMOSTHETIQUE" HAS NO MEANING IN A FOREIGN LANGUAGE.

OWNER OF INTERNATIONAL REGISTRATON 0554245 DATED 4-30-1990, EXPIRES 4-30-  
2020.

SER. NO. 79-079,767, FILED 12-22-2009.

REBECCA POVARCHUK, EXAMINING ATTORNEY



*David J. Kyffas*

Director of the United States Patent and Trademark Office