

ESTTA Tracking number: **ESTTA746940**

Filing date: **05/17/2016**

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	Lord Bernier Inc.
Granted to Date of previous extension	05/18/2016
Address	5605 de Gaspard Suite 401 Montréal, QC H2T2A4 CANADA

Attorney information	James R Menker Holley & Menker, PA PO Box 331937 Atlantic Beach, FL 32233 UNITED STATES eastdocket@holleymenker.com Phone:9042472620
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Applicant Information

Application No	79164103	Publication date	01/19/2016
Opposition Filing Date	05/17/2016	Opposition Period Ends	05/18/2016
International Registration No.	1244439	International Registration Date	01/21/2015
Applicant	Jean & Len GmbH Brunnenstr. 31 GERMANY		

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: Bleaching preparations and blueing for laundry use; biological laundry detergents; cleaning, polishing, and scouring preparations; dentifrices
Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Medical plasters; materials for use as medical dressings; all-purpose disinfectants; preparations for destroying vermin

Grounds for Opposition

No bona fide intent to use mark in commerce for identified goods or services	Trademark Act Section 1(b)
Applicant not rightful owner of mark for identified goods or services	Trademark Act Section 1
Other	Both of the above grounds pursuant to Section 66

Attachments	2016-5-17 Notice of Opposition re 79164103.pdf(183495 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	/jmenker/
Name	James R Menker
Date	05/17/2016

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

Lord Bernier Inc.,)	
)	
Opposer,)	
)	Opposition No. _____
v.)	
)	Serial No. 79164103
Jean & Len GmbH,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Lord Bernier Inc., a Canadian corporation with an address at 5605 de Gaspé, Suite 401, Montréal, QC Canada H2T2A4, (hereinafter “Opposer”) is or will be damaged by the registration of the mark **JEAN & LEN Philosophy** for “bleaching preparations and blueing for laundry use; biological laundry detergents; cleaning, polishing, and scouring preparations; dentifrices” and for “medical plasters; materials for use as medical dressings; all-purpose disinfectants; preparations for destroying vermin,” which is set forth in application Serial No. 79164103 and owned by Jean & Len GmbH, a German Gesellschaft mit beschränkter Haftung with an address at Brunnenstrasse 31, 72505 Krauchenwies, Germany (hereinafter “Applicant”), and hereby opposes the same.

As grounds for the opposition, Opposer, by its attorneys, avers as follows:

1. On June 23, 2015, Opposer submitted application Serial No. 86672018, for the mark JEAN & LEN for “laundry detergents, stain removers in the nature of oxygen brighteners, fabric softeners, dishwashing liquid preparations, all-purpose surface cleaners, scented fabric

refresher sprays, stain remover, fruit and vegetable wash; air fragrancing preparations in the nature of air fresheners, baby bottle dishwashing liquid preparations, cleaner for use on toys; body care products, namely shampoos, hair conditioners, skin conditioners, body wash, bubble bath, body oils, body lotions, bar soaps for hands, body bar soaps, body scrubs, facial scrubs, day creams, night creams, moisturizers, namely, facial moisturizers, skin moisturizers, hand moisturizers, anti-aging moisturizers, after sun moisturizers, moisturizing body lotions, moisturizing creams and moisturizing milks, make-up remover lotions, make-up remover wipes, make-up, cosmetic sunscreen preparations, sunscreen creams, sunscreen lotions, skin cleaner in the nature of sunscreen remover, after-sun lotions, cosmetics, deodorants, namely, personal deodorants, deodorants for body care, deodorant soap and deodorants for human beings, lip balms, liquid soap used in foot bath, non-medicated foot cream, foot scrubs, foot hydrating creams, hand creams, bath salts, nail polish removers, 3-in-1 hair shampoo, hair conditioner and body wash, hand soaps, non-medicated zinc diaper rash creams, body creams, face calendula creams, face creams, facial wash, pre-moistened cosmetic body wipes, pre-moistened cosmetic face wipes, pre-moistened cosmetic gel wipes, baby powder, body sprays, toothpaste, mouthwash, body powder, baby wipes; feminine care products, namely, wipes impregnated with a cleaning preparation; cotton balls and swabs for cosmetic purposes; non-medicated hair treatment preparations for cosmetic purposes, hair oil, hair colour, hairspray, hair gel, hair wax, hair mousse, shaving cream, hair detangling preparations; body oils for fading stretch marks for use during pregnancy, cosmetic body gels for fading stretch marks for use during pregnancy,

hydrating body lotions, body butter, body butter in the nature of a breast skin cream, non-medicated body soaks for the bath, bath salts, massage oils,” to the United States Patent and Trademark Office (“US PTO”).

2. Opposer owns application Serial No. 86672018.

3. On January 21, 2015, Applicant submitted application Serial No. 79164103 to the US PTO. Application Serial No. 79164103 is an extension of protection of International Registration No. 1244439.

4. On January 19, 2016, application Serial No. 79164103 was published for opposition.

5. Opposer’s application Serial No. 86672018 has been conditionally refused registration by the US PTO under Section 2(d) of the Trademark Act and, upon information and belief, application Serial No. 86672018 will be refused registration by the US PTO under Section 2(d) of the Trademark Act should application Serial No. 79164103 issue as a registration.

6. Opposer has standing to oppose the registration of application Serial No. 79164103.

7. Applicant filed application Serial No. 79164103, without the authorization of Opposer, and therein claimed that it is the owner of the mark in contravention of 15 U.S.C. § 1141 and TMEP Section 1904.01(c).

8. Applicant filed application Serial No. 79164103, without the authorization of Opposer, and therein claimed that it is entitled to use the applied-for mark in commerce on or in

connection with the goods specified therein in contravention of 15 U.S.C. § 1141 and TMEP Section 1904.01(c).

9. Because Applicant is not the owner of the mark set forth in application Serial No. 79164103, Application Serial No. 79164103 is void *ab initio*.

10. Because Applicant is not entitled to use the applied-for mark in commerce on or in connection with the goods specified in application Serial No. 79164103, Application Serial No. 79164103 is void *ab initio*.

11. Upon information and belief, Applicant did not, at the time application Serial No. 79164103, have a *bona fide* intention to use the applied-for mark in commerce in connection with the goods specified in application Serial No. 79164103.

12. Upon information and belief, Applicant has no *bona fide* intent to make use of the applied-for mark in commerce in connection with the goods specified in application Serial No. 79164103.

13. Use of the applied-for mark in commerce in connection with the goods specified in application Serial No. 79164103 is without Opposer's consent or authorization.

14. The application for registration by Applicant of the applied-for mark for the goods specified in application Serial No. 79164103 was filed without Opposer's consent or authorization.

15. Registration of the applied-for mark by Applicant will provide Applicant with *prima facie* exclusive rights therein, and would harm Opposer by interfering with Opposer's

rights to the mark set forth in application Serial No. 86672018.

16. Opposer will be damaged by the issuance of this registration. Specifically, the mark set forth in application Serial No. 79164103 consists of or comprises a mark which so resembles the mark set forth in application Serial No. 86672018 that registration of application Serial No. 86672018 will be refused by the US PTO should application Serial No. 79164103 issue as a registration.

WHEREFORE, Opposer requests that application Serial No. 79164103 be refused registration. The required filing fee is submitted herewith.

Respectfully submitted,

LORD BERNIER INC.

By: /jmenker/
James R. Menker

Opposer's Attorneys

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing “NOTICE OF OPPOSITION” was served on Applicant’s attorney of record, Jeffrey R. Gray of Barnes & Thornburg LLP, via first class mail, postage prepaid, on **May 17, 2016**, at the following address of record:

P.O. Box 2786
Chicago, Illinois 60690-2786

By: /jmenker/
James R. Menker