

ESTTA Tracking number: **ESTTA897024**

Filing date: **05/16/2018**

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	Primal Elements, Inc.
Granted to Date of previous extension	05/16/2018
Address	18062 Redondo Circle Huntington Beach, CA 92648 UNITED STATES
Correspondence information	Kit M. Stetina Stetina Brunda Garred & Brucker 75 Enterprise, Suite 250 Aliso Viejo, CA 92656 UNITED STATES Email: opposition@stetinalaw.com

Applicant Information

Application No	87603502	Publication date	01/16/2018
Opposition Filing Date	05/16/2018	Opposition Period Ends	05/16/2018
Applicant	In A Lather 5129 East 68th Street Indianapolis, IN 46220 UNITED STATES		

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: Bath bombs; Body butter; Body scrub; Hair care preparations; Lip balm; Skin soap; Hair conditioner; Hair shampoo; Skin lotion
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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.	3013525	Application Date	06/01/2001
Registration Date	11/08/2005	Foreign Priority Date	NONE
Word Mark	IN A LATHER		

Design Mark	IN A LATHER
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2003/05/00 First Use In Commerce: 2003/05/00 Non-medicated bath soaps and toilet soaps; Non-medicated skin creams and lotion; Perfume and perfume oils

Attachments	76265823#TMSN.png(bytes) NoticeOfOpposition.pdf(76793 bytes)
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Signature	/Kit M. Stetina/
Name	Kit M. Stetina
Date	05/16/2018

Case: FREEM-417M

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Application Serial No. 87/603,502

Primal Elements, Inc.,)	Opposition No.:
)	
Opposer)	
)	
vs.)	
)	
In A Lather,)	
)	
Applicant)	

NOTICE OF OPPOSITION

In the matter of the application of In A Lather, of Indianapolis, Indiana (hereinafter “Applicant”) for registration of the mark GET LATHERED, Application Serial No. 87/603,502 published in the Official Gazette on January 16, 2018 at TM 5397, Primal Elements, Inc., a California corporation, with offices at 18062 Redondo Circle, Huntington Beach, CA 92648 (hereinafter “Opposer”), believes that it will be damaged by registration of the mark shown in Serial No. 87/603,502, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is and has been for many years engaged in the extensive development, advertising, and marketing of a variety of products and services in the field of skin lotions and creams, bath salts and soaps, potpourri, candles, incense, and publications relating thereto. In connection therewith, Opposer has used, or filed federal applications with an intent to use, in interstate commerce, the mark IN A LATHER, for

the aforementioned goods since long prior to Applicant's filing date of the application of Serial No. 87/603,502 for the mark GET LATHERED.

2. Since at least as early as 2003, Opposer has made use of its IN A LATHER mark throughout the United States in interstate commerce. Since adoption of its IN A LATHER mark, Opposer has continuously used those marks throughout the United States in interstate commerce.

3. Opposer has expended considerable sums in exerting every effort to maintain the highest standard of quality for its products, and has created valuable goodwill among the purchasing public under its IN A LATHER mark.

4. As a result of the continuous and extensive use of the IN A LATHER mark by Opposer, those marks have become and continue to function as a valuable business and marketing asset of Opposer, and serve to indicate to the trade and consuming public the products originating from Opposer and its authorized representative.

5. Opposer has obtained United States Trademark Registration No. 3,013,525, registered November 8, 2005, for the mark IN A LATHER for the goods set forth in that registration, which registration is incontestable. A copy of that registration is attached hereto as **Exhibit 1**.

6. Pursuant to Trademark Rules of Practice 2.102, Opposer filed a Request to Extend Time for Filing this Notice of Opposition against Application Serial No. 87/603,502 to March 16, 2018. A copy of said Request to Extend Time is attached hereto as **Exhibit 2**.

7. Notwithstanding Opposer's rights in and to said IN A LATHER mark on September 11, 2017 Applicant, on information and belief, filed an application for

registration of the mark GET LATHERED in International Class 003, for bath bombs, body butter, body scrub, hair care preparations, lip balm, skin soap, hair conditioner, hair shampoo, skin lotion. Said application was published for opposition in the Official Gazette on January 16, 2018 at TM 5397.

8. Applicant's GET LATHERED mark is confusingly similar to Opposer's IN A LATHER mark and its registration and use by Applicant on the goods claimed in the subject application are likely to cause confusion, deception and mistake.

9. Applicant's use of its GET LATHERED mark interferes with Opposer's use of its IN A LATHER mark and dilutes the strength of Opposer's trademark and use of, or registration of Applicant's mark by Applicant will seriously damage Opposer.

WHEREFORE, Opposer believes that it will be damaged by said registration and prays that registration of Application Serial No. 87/603,502 to Applicant be denied.

Opposer authorizes the filing fee for this Opposition in the amount of \$400 (one international class) to be charged to Opposer's Deposit Account.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Dated: May 16, 2018

By: Kit M. Stetina/
Kit M. Stetina, Reg. No. 29,445
75 Enterprise, Suite 250
Aliso Viejo, CA 92656
(949) 855-1246

Counsel for Opposer
Primal Elements, Inc.

Exhibit 1

Int. Cl.: 3

Prior U.S. Cls.: 1, 4, 6, 50, 51, and 52

United States Patent and Trademark Office

Reg. No. 3,013,525

Registered Nov. 8, 2005

**TRADEMARK
PRINCIPAL REGISTER**

IN A LATHER

PRIMAL ELEMENTS, INC. (CALIFORNIA COR-
PORATION)
12472 EDISON WAY
GARDEN GROVE, CA 92841

FIRST USE 5-0-2003; IN COMMERCE 5-0-2003.

SN 76-265,823, FILED 6-1-2001.

FOR: NON-MEDICATED BATH SOAPS AND TOI-
LET SOAPS; NON-MEDICATED SKIN CREAMS
AND LOTION; PERFUME AND PERFUME OILS,
IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

PAUL F. GAST, EXAMINING ATTORNEY

Exhibit 2

ESTTA Tracking number: **ESTTA873022**

Filing date: **01/24/2018**

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

Applicant:	In A Lather
Application Serial Number:	87603502
Application Filing Date:	09/11/2017
Mark:	GET LATHERED
Date of Publication	01/16/2018

First 90 Day Request for Extension of Time to Oppose for Good Cause

Pursuant to 37 C.F.R. Section 2.102, Primal Elements, Inc., 18062 Redondo Circle, Huntington Beach, CA 92648, UNITED STATES, a corporation organized under the laws of CA , respectfully requests that it be granted a 90-day extension of time to file a notice of opposition against the above-identified mark for cause shown .

Potential opposer believes that good causes are established for this request by:

- The potential opposer needs additional time to investigate the claim
- The potential opposer needs additional time to confer with counsel

The time within which to file a notice of opposition is set to expire on 02/15/2018. Primal Elements, Inc. respectfully requests that the time period within which to file an opposition be extended until 05/16/2018.

Respectfully submitted,

/kms/

01/24/2018

Kit M. Stetina

Stetina Brunda Garred & Brucker

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Aliso Viejo, CA 92656

UNITED STATES

nroberts@stetinalaw.com, opposition@stetinalaw.com

949-855-1246