

ESTTA Tracking number: **ESTTA1007238**

Filing date: **10/07/2019**

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	Novalash, Inc.
Granted to Date of previous extension	10/06/2019
Address	6116 SKYLINE DRIVE SUITE 201 HOUSTON, TX 77057 UNITED STATES

Attorney information	THOMAS L. WARDEN CONLEY ROSE PC PO BOX 3267 HOUSTON, TX 77253-3267 UNITED STATES tmhou@conleyrose.com, mmoscicki@conleyrose.com, twarden@conleyrose.com 713-238-8000
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Applicant Information

Application No	87395581	Publication date	04/09/2019
Opposition Filing Date	10/07/2019	Opposition Period Ends	10/06/2019
International Registration No.	NONE	International Registration Date	NONE
Applicant	Sugar Lash Inc. #104, 6527 Sparrow Drive Leduc, Alberta, T9E7C7 CANADA		

Goods/Services Affected by Opposition

<p>Class 003. First Use: 2015/00/00 First Use In Commerce: 2015/00/00 All goods and services in the class are opposed, namely: (Based on 44(e)) (Based on Use in Commerce) Artificial eyelashes; cosmetic preparation for eye lashes; cosmetic kits comprised of artificial eyelashes, eyelash adhesives, and eyelash primers; Artificial eyelash and eyelash application accessories, namely, adhesives, adhesive removers, primers</p>
<p>Class 035. First Use: 2015/00/00 First Use In Commerce: 2015/00/00 All goods and services in the class are opposed, namely: (Based on 44(e)) (Based on Use in Commerce) Online and retail store services featuring artificial eyelashes, eyelash application accessories and beauty products</p>
<p>Class 041. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: (Based on 44(e)) Online training services in</p>

the use of artificial eyelashes and beauty products; Live training services in the use of artificial eye-lashes and beauty products

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3944538	Application Date	06/08/2007
Registration Date	04/12/2011	Foreign Priority Date	NONE
Word Mark	CANDIED LASHES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2007/11/06 First Use In Commerce: 2007/11/06 Cosmetics, namely, artificial eyelashes, eyelash extensions and artificial eyelash appliques		

Attachments	77201915#TMSN.png(bytes) Notice_of_Opposition_for_SugarLash.pdf(100027 bytes)
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Signature	/Thomas L. Warden/
Name	THOMAS L. WARDEN
Date	10/07/2019

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

In re U.S. Trademark Application Serial No. 87/395,581 for the mark SUGARLASH, filed on April 2, 2017, published on April 9, 2019, and having the current owner of record Sugar Lash Inc.

NovaLash, Inc.	§	
	§	
Opposer,	§	
	§	
vs.	§	Opposition No. _____
	§	
Sugar Lash Inc.,	§	
	§	
Applicant.	§	

NOTICE OF OPPOSITION

Commissioner:

NovaLash, Inc. (hereafter, the “Opposer”), a corporation organized under the laws of the state of Texas having a principal place of business at 6116 Skyline Drive, Suite 201, Houston, Texas, 77057, United States, believes that it will be damaged by Sugar Lash Inc.’s (hereafter, the “Applicant”) registration of the mark SUGARLASH in International Class 003, International Class 035, and International Class 041 as shown in U.S. Trademark Application Serial No. 87/395,581. Accordingly, Opposer hereby opposes the same under the provisions of the Trademark Act of 1946, § 1063 of Title 15 of the United States Code.

Opposer alleges the following as standing to oppose the application and as grounds for the opposition:

1. On April 2, 2017, Applicant filed U.S. Trademark Application Serial No. 87/395,581 for the mark SUGARLASH (the “Opposed Application”).

2. The Opposed Application seeks registration of the SUGARLASH mark for the following goods and/or services: *IC 003. US 001 004 006 050 051 052. G & S: Artificial eyelashes; cosmetic preparation for eye lashes; cosmetic kits comprised of artificial eyelashes, eyelash adhesives, and eyelash primers; Artificial eyelash and eyelash application accessories, namely, adhesives, adhesive removers, primers. IC 035. US 100 101 102. G & S: Online and retail store services featuring artificial eyelashes, eyelash application accessories and beauty products. IC 041. US 100 101 107. G & S: Online training services in the use of artificial eyelashes and beauty products; Live training services in the use of artificial eyelashes and beauty products.* The Opposed Application is based on Applicant’s use the mark.

3. The Opposed Application published on April 9, 2019. The U.S. Trademark Trial and Appeal Board granted Opposer extensions of time to file this opposition through Saturday, October 6, 2019.

4. Pursuant to the U.S. Trademark Office records, the current owner of the Opposed Application is Sugar Lash Inc., at address 6527 Sparrow Drive, Leduc, Alberta CANADA T9E7C7.

5. Opposer is the owner of the trademark CANDIED LASHES, which it has used in commerce on and in connection with goods and services, including Opposer NovaLash’s well-known artificial eyelashes. Opposer’s mark CANDIED LASHES is registered under U.S. Trademark Registration No. 3,944,538, which issued on the Principal Register on April 12, 2011.

6. Opposer's use of the CANDIED LASHES mark began at least as early as November 6, 2007 in interstate commerce on or in connection with the recited goods and services, "*Cosmetics, namely, artificial eyelashes, eyelash extensions and artificial eyelash appliqués,*" and such use has been continuous and continues to date.

7. Opposer's rights with respect to the CANDIED LASHES mark predate any rights Applicant can claim to the mark represented by Applicant's Opposed application.

8. The goodwill embodied in the CANDIED LASHES trademark, and consequently Opposer's valuable reputation and credibility in the cosmetics industry, and among its consumers, depends on the integrity of the CANDIED LASHES trademark as an identification used exclusively by Opposer, and not of any other source.

9. Applicant's Opposed SUGARLASH mark is similar to Opposer's CANDIED LASHES trademark. Pursuant to §2(d), 15 U.S.C. § 1052(d), Opposer asserts, and intends to prove at trial, that Applicant's mark, as applied to the goods set forth in Applicant's U.S. Trademark Application Serial No. 87/395,581 for the mark SUGARLASH, so resembles Opposer's Registered mark as to be likely to cause confusion, mistake, or deception.

10. Applicant's Opposed SUGARLASH mark so resembles Opposer's CANDIED LASHES mark as to be likely, when applied to Applicant's goods or services, to cause confusion, to cause mistake or to deceive with respect to Opposer's CANDIED LASHES mark, and Opposer will be damaged by the registration sought by Applicant.

11. Applicant's Opposed SUGARLASH mark so resembles Opposer's CANDIED LASHES mark as to be likely, when applied to Applicant's goods or services, to dilute Opposer's CANDIED LASHES mark, and Opposer will be damaged by the registration sought by Applicant.

WHEREFORE, Opposer prays that registration of the mark shown in U.S. Trademark Application Serial No. 87/395,581 be refused and that this Notice of Opposition be sustained in favor of Opposer.

Authorization is hereby granted to the U.S. Patent and Trademark Office to deduct the filing fee for the present opposition in the amount of \$300.00 from Conley Rose Deposit Account No. 032769. Should any additional fees be due, please also charge them to Deposit Account No. 032769.

Respectfully submitted,

Dated: August 7, 2019

By: /Thomas L. Warden/
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ATTORNEY FOR OPPOSER

CERTIFICATE OF TRANSMISSION UNDER TBMP 110

I HEREBY CERTIFY that a true and correct copy of this document, *Notice of Opposition*, opposing registration of U.S. Trademark Application Serial No. 87/395,581 for the mark SUGARLASH, is being filed electronically through <http://esta.uspto.gov> via the Trademark Trial and Appeal Board Electronic Filing System.

On the 7th day of August, 2019.

CERTIFICATE OF SERVICE UNDER TBMP 113

I HEREBY CERTIFY that a true and correct copy of the foregoing *Notice of Opposition*, opposing registration of U.S. Trademark Application Serial No. 87/395,581 for the mark SUGARLASH, is being sent by First Class International U.S. Mail, postage prepaid, to counsel for Applicant, Sugar Lash Inc., as follows:

David L. Oppenhuizen
Oppenhuizen Law PLC
McKay Tower, Ste. 730
146 Monroe Center St. NW
Grand Rapids, MI 49503

On the 7th day of August, 2019.

/Thomas L. Warden/
Thomas L. Warden