

From: [David Moore](#)
To: [TTABFeedback](#)
Subject: Notice of Opposition against Serial No. 90/235,576 (Mark: DIVINE ROSE)
Date: Wednesday, December 15, 2021 11:46:51 PM
Attachments: [Opposition_DivineRose.pdf](#)

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Dear Sirs:

Please be advised that due to the unplanned maintenance event that took place, which cause certain USPTO systems to be offline on December 15, 2021, parties opposing Serial No. 90/235,576 (Mark: DIVINE ROSE) were unable to file the attached Notice of Opposition within the 60-day extension of time granted on October 18, 2021 by the Trademark Trial and Appeal Board.

Accordingly to the “USPTO system page” for the day’s unplanned maintenance event, TTAB customers were instructed to “pay by USPTO Deposit Account and submit the appropriate paperwork to TTABFeedback@USPTO.gov.”

Accordingly, the undersigned – attorney for Clean Beauty Collaborative, Inc. and Amyris Clean Beauty, Inc. (collectively “opposers) – is filing the “appropriate paperwork” to the instructed address and hereby authorizes payment of the statutorily mandated fee due today (\$2,400 according to the current fee schedule) as well any deficiency of fees [REDACTED].

Kindly contact the undersigned with any questions or concerns regarding this filing.

Very Truly Yours,

David Moore
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Phone: 703-684-1470
Attorney for Opposers

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

Clean Beauty Collaborative, Inc.)	
)	
Opposer,)	
)	
&)	
)	
Amyris Clean Beauty, Inc.)	
)	
Opposer,)	Opposition No. _____
)	
)	Serial No.: 90/235,576
v.)	Mark: DIVINE ROSE
)	Filing Date: October 5, 2020
)	Publication Date: August 17, 2021
Pat McGrath Cosmetics LLC)	
)	
Applicant.)	

Commissioner of Trademarks
PO Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Clean Beauty Collaborative, Inc., a corporation duly organized and existing under the laws of Delaware, having a principal place of business located at 5885 Hollis Street, Ste. 100, Emeryville, CA (hereinafter “CBC”) and Amyris Clean Beauty, Inc., a corporation duly organized and existing under the laws of Delaware, having a principal place of business located at 5885 Hollis Street, Ste. 100, Emeryville, CA (hereinafter “ACB”) (hereinafter, collectively referred to as “Opposers”), believes that it will be damaged by the registration of the mark shown in Application Serial No. 90/235,576 in Classes 003 and 018, filed by Pat McGrath Cosmetics LLC on October 5, 2020 and opposes Application Serial No. 90/235,576. As grounds for the opposition, it is alleged that:

1. Commencing long prior to Applicant’s filing date, Opposers have and continue to provide services in interstate commerce within cosmetics and beauty industry and engage in the educating, advertising and promotion in interstate commerce of cosmetics and beauty products.

2. Commencing long prior to Applicant’s filing date, Opposers have and continue to use the Opposers’ registered ROSE INC. mark as well as various other “ROSE INC.” marks and common law rights to the various “ROSE INC.” marks (hereinafter sometimes referred to as “Opposer’s Marks”) in the cosmetics and beauty industry and in connection with cosmetics and beauty products.

3. Collectively, Opposers are science and technology leaders in the research, development and production of sustainable ingredients in consumer products. Opposers’ predecessor-in-interest is a well-established influencer, spokesperson, model, actress, celebrity and leader in connection with cosmetics and beauty industry. Long prior to Applicant’s filing date, Opposers and their predecessor-in-interest developed and marketed the Opposers’ Marks in the cosmetics, health & beauty markets.

4. CBC is the owner of, and will rely herein upon, at least the following Federal Trademark registration(s):

MARK	REG. NO.	ISSUE DATE	SERVICES
ROSE INC.	6,441,459	August 3, 2021	Entertainment services, namely, online services in the nature of providing a website featuring non-downloadable written and audiovisual media, namely, articles, videos, and audio recordings in the field of high-end and paraben-free cosmetics and makeup, and techniques for using such cosmetics and makeup, provided by a celebrity; none of the foregoing services involving sports, exercise

			and fitness, parades or live exhibitions
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(hereinafter collectively referred to as “CBC’s Registered Mark(s)” or “Opposers’ Registered Mark(s)”). Registration of Opposers’ Registered Mark(s) is valid, subsisting and conclusive evidence of Opposers’ exclusive right to use Opposers’ Registered Mark(s) in commerce as specified in said registrations.

5. In addition to CBC’s Registered Mark(s), Opposers’ Marks and Opposers’ Registered Mark(s) specified above, Opposers shall rely herein upon their individual and collective common law usage of their other ROSE INC. Marks and ROSE INC. related marks for various services and promotional and licensed products (all hereafter collectively referred to as “Opposers’ ROSE INC. Family of Marks”). Given the continuous actual use in commerce, resulting fame and widespread favorable public recognition of Opposers’ ROSE INC. Family of Marks, use on other products and services in the beauty industry (including cosmetics, cosmetic bags, makeup, makeup bags, *etc.*) is a natural extension of Opposers’ and its predecessor-in-interest earlier usage.

6. Opposers have and continue to make substantial investment in advertising and promoting the services under Opposers’ ROSE INC. Family of Marks. Opposers have and continue to extensively use, advertise, promote and provide Opposers’ services bearing Opposers’ ROSE INC. Family of Marks to the public through various channels of trade in commerce, with the result that Opposers’ customers and the public in general have come to know and recognize Opposers’ ROSE INC. Family of Marks and associate the same with Opposers and/or the products sold by Opposers.

7. As a result of the aforesaid advertising and promotion, Opposers’ ROSE INC. Family of Marks are famous and distinctive and became famous and distinctive well prior to the

filing of this application and/or well prior to the Applicant's actual use or intended use of the alleged mark.

8. Upon information and belief, notwithstanding Opposers' rights in and to Opposers' ROSE INC. marks, on August 31, 2020, Applicant filed an application for registration of the proposed DIVINE ROSE mark for "Cosmetics; Makeup" in International Class 003 and "Bags, namely, tote bags, shoulder bags; Makeup bags sold empty; All-purpose reusable carrying bags; Tote bags; All-purpose carrying bags" in International Class 018 (hereinafter "DIVINE ROSE" or "DIVINE ROSE application" or the "576 Application"). Said application was assigned Serial No. 90/235,576 and was published for Opposition in the Official Gazette of August 17, 2021.

10. The overall commercial impression created by Applicant's DIVINE ROSE application is the same as Opposer's ROSE INC. marks.

11. Applicant's DIVINE ROSE application so resembles Opposers' ROSE INC. marks as to be likely, when applied to the services of Opposers, to cause confusion or mistake or to deceive purchasers resulting in damage and detriment of Opposers and its reputation. In this regard, it should be noted that Opposers' ROSE INC. Marks are frequently displayed in the cosmetics and beauty industry and in connection with cosmetics and beauty products. Thus, use of beauty products (including cosmetics, cosmetic bags, makeup, makeup bags, *etc.*) in the Applicant's DIVINE ROSE application is likely to further strengthen the public's connection of Applicant's design with Opposers' ROSE INC. Family of Marks.

10. Applicant's DIVINE ROSE application, when used in connection with the proposed goods of Application Serial No. 90/235,576, is deceptively misdescriptive.

11. Opposers, upon information and belief, avers that Opposers' ROSE INC. Marks and the dominant and/or literal elements of Applicant's DIVINE ROSE application share the common element ROSE, and are deceptively and confusingly similar.

12. Opposers, upon information and belief, avers that Applicant's use of its alleged DIVINE ROSE name falsely suggests a connection with Opposers' ROSE INC. Marks and identity.

13. Opposers, upon information and belief, avers that their collective customers, and the general public, are likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant's proposed goods of Application Serial No. 90/235,576 to be marketed under Applicant's proposed DIVINE ROSE mark and misled into believing that such goods emanate from, are licensed by, or are in some way directly or indirectly associated with, approved by or sponsored by either Opposer, to the damage and detriment of the Opposers and their reputation, either individually or collectively.

14. Opposers, upon information and belief, avers that they will be damaged by the registration by Applicant of the proposed DIVINE ROSE mark, as set forth in Applicant's Trademark Application Serial No. 90/235,576, in that the mark is substantially similar to Opposers' ROSE INC. Marks and their respective/collective common law rights and will be used in connection with goods that, as described in Applicant's application, would directly compete with Opposers' own products and/or services offered to the public by Opposers and/or their controlled licensees, either individually or collectively.

15. Opposers, upon information and belief, also avers that they will be damaged by the registration by Applicant of the DIVINE ROSE application, as set forth in Applicant's Trademark Application Serial No. 90/235,576, in that the alleged mark will dilute the

distinctiveness of Opposers' famous ROSE INC. Marks within the meaning of the provisions of the Federal Trademark Dilution Act of 1995, as amended by the Trademark Revision Act of 2006.

WHEREFORE, Opposers, Clean Beauty Collaborative, Inc., and Amyris Clean Beauty, Inc., collectively and individually, believe and aver that they are and will continue to be damaged by registration of the proposed DIVINE ROSE trademark as aforesaid, prays that the said Application Serial No. 90/235,576 be rejected in accordance with the provisions of the Trademark Act, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer(s).

Respectfully submitted,

BRUNDIDGE & STANGER, P.C.

Dated: December 15, 2021

By: /David E. Moore/

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