

ESTTA Tracking number: **ESTTA1387906**

Filing date: **10/07/2024**

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

Proceeding no.	91289728
Party	Defendant SO Supportive Ltd
Correspondence address	IRENE Y. LEE RUSS, AUGUST & KABAT 12424 WILSHIRE BLVD, 12TH FL. LOS ANGELES, CA 90025 UNITED STATES Primary email: trademark@raklaw.com No phone number provided
Submission	Opposition/Response to Motion
Filer's name	Irene Y. Lee
Filer's email	trademark@raklaw.com
Signature	/Irene Y. Lee/
Date	10/07/2024
Attachments	241007 Applicants Opp to Mtn to Amnd Final.pdf(133662 bytes) 241007 LA Decl. Applicants Opp to Mtn to Amnd.pdf(83057 bytes) Exhibit 1.pdf(298801 bytes) 241007 SO Decl Applicants Opp to Mtn to Amnd.pdf(282909 bytes)

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

Beauty Pioneers S.R.L.,

Opposer,

v.

SO Supportive Ltd,

Applicant.

Opposition No.: 91289728

Mark: NVNT

Serial No.: 97/782,426

Publication Date: December 12, 2023

Filed: February 6, 2023

Applicant: SO Supportive Ltd

**APPLICANT’S OPPOSITION TO OPPOSER’S MOTION TO AMEND NOTICE OF
OPPOSITION**

Applicant, SO Supportive Ltd (“Applicant”), by and through its undersigned counsel, respectfully submits the following opposition to Opposer, Beauty Pioneers S.R.L. (“Opposer”)’s Motion to Amend Notice of Opposition (“Motion”).

I. OPPOSER’S MOTION SHOULD BE DENIED BECAUSE OPPOSER DID NOT SET FORTH ANY EXPLANATION FOR DELAY AND ITS PURPORTEDLY “NEW” ALLEGATIONS ARE FACTS THAT WERE WELL WITHIN OPPOSER’S KNOWLEDGE AT THE TIME IT FILED THE ORIGINAL NOTICE OF OPPOSITION.

Opposer’s Motion is an eleventh hour and unjustified attempt at amending the Notice of Opposition based on facts that were known to Opposer since at least the filing of the Notice of Opposition. The Motion fatally does not set forth an explanation for the seven-month delay in moving to amend the Notice of Opposition. Further, Opposer’s Motion and proposed amended Notice of Opposition fail to present any new facts discovered; the proposed amended Notice of Opposition is plainly based on facts that were well within Opposer’s knowledge at least since the filing of the Notice of Opposition back in February 2024. As such, the Motion should be denied

because it fatally fails to explain why Opposer delayed in moving to seek leave to amend its Notice of Opposition, nor does the proposed amended Notice of Opposition set forth allegations based on newly discovered facts. *See Trek Bicycle Corp. v. StyleTrek Ltd.*, 64 U.S.P.Q.2d 1540, 1541 (T.T.A.B. 2001) (motion to amend opposition denied where it was filed eight months after filing of notice of opposition, with no explanation for the delay, and appeared to be based on facts within opposer’s knowledge at the time opposition was filed); *International Finance Corp. v. Bravo Co.*, 64 U.S.P.Q.2d 1597, 1604 (T.T.A.B. 2002) (motion denied where although discovery still open, movant provided no explanation for two-year delay in seeking to add new claim); and *Media Online Inc. v. El Clasificado Inc.*, 88 U.S.P.Q.2d 1285, 1286 (T.T.A.B. 2008) (motion for leave to amend to add claims of descriptiveness and fraud denied; petitioner unduly delayed in adding claims which were based on facts within petitioner’s knowledge at time petition to cancel was filed).

II. OPPOSER’S MOTION SHOULD BE DENIED BECAUSE OF OPPOSER’S BAD FAITH AND DILATORY MOTIVE IN SEEKING THE AMENDMENT. ADDITIONALLY, APPLICANT WILL BE PREJUDICED.

Opposer’s Motion should also be denied. In addition to undue delay and prejudice, the Board may consider bad faith or dilatory motive in seeking the amendment. *Embarcadero Techs., Inc. v. Delphix Corp.*, 117 U.S.P.Q.2d 1518, 1523 (T.T.A.B. 2016) (“In deciding whether to grant leave to amend, the Board may consider undue delay, prejudice to the opposing party, bad faith or dilatory motive, futility of the amendment, and whether the party has previously amended its pleadings.”); *see also Media Online Inc. v. El Clasificado Inc.*, 88 U.S.P.Q.2d 1285, 1286 (T.T.A.B. 2008) (motion for leave to amend to add claims of descriptiveness and fraud denied; petitioner unduly delayed in adding claims which were based on facts within petitioner’s knowledge at time petition to cancel was filed). In *Media Online Inc. v. El Clasificado Inc.*, 88

U.S.P.Q.2d 1285, 1286 (T.T.A.B. 2008), the Board, noted as follows:

The Board also finds that respondent would suffer prejudice if petitioner is permitted to add the claims at this juncture. In this particular instance, petitioner did not claim that it learned of these newly asserted claims through discovery or was otherwise unable to learn about these new claims prior to or shortly after filing its first complaint. Petitioner therefore had ample time to file a motion for leave to amend its pleading at an earlier stage in the proceeding. It is incumbent upon petitioner to identify all claims promptly in order to provide respondent with proper notice. **Otherwise, allowing piecemeal prosecution of this case would unfairly prejudice respondent by increasing the time, effort, and money that respondent would be required to expend to defend against petitioner's challenge to its registration.**

(Emphasis added.) Opposer's Motion, proposed amended Notice of Opposition, and self-serving and unilateral offer to extend discovery deadlines are nothing more than Opposer's calculated ploy to further delay the registration of Applicant's NVNT mark thereby severely prejudicing Applicant and its ongoing marketing and sales of the NVNT branded products. According to the Board's February 12, 2024 Order, discovery opened on April 22, 2024. However, Opposer held off on serving a single discovery request up until a little under two hours before it filed the Motion on September 17, 2024. Kasis Declaration, ¶3. Instead of conducting discovery and prosecuting this opposition proceeding it initiated on February 12, 2024, Opposer spent the last several months interfering with Applicant's continued effort to market and sell its NVNT branded products and build the NVNT brand power. Opposer initiated the instant opposition proceeding thereby halting the entire examination process of Applicant's application to register the NVNT mark. Opposer then targeted Applicant's existing and prospective business partners and distributors and made

false claims that Applicant does not own the trademark rights to the NVNT mark simply because it does not have a federal trademark registration for the mark. Ostler Declaration, ¶¶3-5. In response, Applicant’s business partners started questioning Applicant’s ability to market and sell the NVNT branded products instead of finalizing negotiation of purchase orders. *Id.* Indeed, as a direct result of Opposers’ false claim concerning Applicant’s trademark rights in the NVNT mark, at least one international retail client decided to stop significant purchase orders for Applicant’s NVNT product until the alleged “trademark dispute” is settled. *Id.*

It is no surprise that there is not a single legal or factual basis to support Opposer’s Motion. Amending the Notice of Opposition was never the goal of Opposer’s Motion. Its goal here is to delay the proceeding, which Opposer banks on obtaining simply by having *a* motion—no matter how frivolous it is—before the Board. Opposer’s Motion is not based on newly discovered facts nor did it offer a single explanation for the delay in seeking leave to amend the Notice of Opposition. Opposer purposely and willfully held off on seeking leave to amend its Notice of Opposition for seven months, counting on the Board to automatically grant leave to amend its Notice of Opposition, and the Board’s so granting would push back all the deadlines thereby further delaying this proceeding and Applicant’s NVNT mark from registering. Accordingly, this Motion should be denied as the Motion and the proposed amended Notice of Opposition merely are attempts at prejudicing Applicant.

Dated: October 7, 2024

Respectfully submitted,

/s/ Leeran Kasis

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Attorneys for Opposer
SO Supportive LTD

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **APPLICANT'S OPPOSITION TO OPPOSER'S MOTION TO AMEND NOTICE OF OPPOSITION** has been served on Applicant via electronic mail, to the following e-mail address(es):

John J. O' Malley
Volpe Koenig
30 South 17th Street, Suite 1800
Philadelphia, PA 19103
Litigation@vklaw.com; JOMalley@vklaw.com; CSteadman@vklaw.com;
LitigationParalegals@vklaw.com
Attorney for Opposer

Dated: October 7, 2024

/s/ Natalie Centeno
Natalie Centeno

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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v.

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Applicant.

Opposition No.: 91289728

Mark: NVNT

Serial No.: 97/782,426

Publication Date: December 12, 2023

Filed: February 6, 2023

Applicant: SO Supportive Ltd

**DECLARATION OF LEERAN KASIS IN SUPPORT OF APPLICANT’S OPPOSITION
TO OPPOSER’S MOTION TO AMEND NOTICE OF OPPOSITION**

I, Leeran Kasis, declare as follows:

1. I am an attorney duly licensed to practice law before all the courts of the State of California and I am a member of the firm Russ, August & Kabat, attorneys of record for applicant, SO Supportive Ltd (“Applicant”). I have personal knowledge of the facts set forth herein and if called and sworn as a witness, could and would testify competently thereto.

2. This Declaration is submitted in support of Applicant’s Opposition to opposer, Beauty Pioneers S.R.L.’s (“Opposer”) Motion to Amend Notice of Opposition (“Motion”).

3. According to the Board’s February 12, 2024 Order, discovery opened on April 22, 2024. Opposer did not serve any discovery until a little under two hours before it filed the Motion on September 17, 2024. Attached hereto as exhibit 1 is a true and correct copy of the service emails for the Motion and Opposer’s initial discovery.


The signatory, being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of this submission, declares that all the statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

Dated: October 7, 2024

/s/Leeran Kasis

Leeran Kasis

Exhibit 1

From: Desiree L. Wolf DWolf@vklaw.com 
Subject: Beauty Pioneers S.r.l. v. SO Supportive Ltd. (NVNT MARK) - United States Trademark Opposition Proceeding No. 91289728 - Opposer's Motion to Amend Opposition with Proposed Amended Notice of Opposition and Exhibits
Date: September 17, 2024 at 3:14 PM
To: ilee@raklaw.com, jmaio@raklaw.com, labukasis@raklaw.com, trademark@raklaw.com
Cc: John O'Malley JOMalley@vklaw.com, Chelsea A. Steadman CSteadman@vklaw.com, _Litigation-Paralegals _Litigation-Paralegals@vklaw.com

Dear Counsel:

Attached please find a service copy of Opposer's Motion to Amend Opposition with Proposed Amended Notice of Opposition and Exhibits filed via TTAB today with regard to the above-referenced matter.

If you have any questions, please contact us.

Thank you,
Desiree



Intellectual Property Law

Desiree L. Wolf

Paralegal Specialist

Trademark Team Leader

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[005] TTAB Opposer's Motion to Amend Opposition with Propose...



From: William D. Harger WHarger@vklaw.com 
Subject: Beauty Pioneers S.r.l. v. SO Supportive Ltd. Opposition No. 91289728 - Opposer's Discovery Request
Date: September 17, 2024 at 1:29 PM
To: ilee@raklaw.com, jmaio@raklaw.com, labukasis@raklaw.com, trademark@raklaw.com
Cc: John O'Malley JOMalley@vklaw.com, Chelsea A. Steadman CSteadman@vklaw.com, Desiree L. Wolf DWolf@vklaw.com

The attached is being sent on behalf of attorney John J. O'Malley.

Counsel,

Please find here attached:

1. Opposer's First Set of Interrogatories 2024.9.17
2. Opposer's First Set of Requests for Admission 2024.9.1
3. Opposer's First Set of Requests for Production 2024.9.17

Best regards,

William Harger



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Interrogatories 2024.9.17.pdf



FINAL Opposer's First Set of
Requests for Admission 2024.9....



FINAL Opposer's First Set of
Requests for Production...



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Applicant.

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Publication Date: December 12, 2023

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Applicant: SO Supportive Ltd

**DECLARATION OF SARAH OSTLER IN SUPPORT OF APPLICANT'S OPPOSITION
TO OPPOSER'S MOTION TO AMEND NOTICE OF OPPOSITION**

I, Sarah Ostler, declare as follows:

1. I am the Secretary and an executive of applicant, SO Supportive Ltd ("Applicant"). I have personal knowledge of the facts set forth herein and if called and sworn as a witness, could and would testify competently thereto.

2. This Declaration is submitted in support of Applicant's Opposition to opposer, Beauty Pioneers S.R.L.'s ("Opposer") Motion to Amend Notice of Opposition ("Motion").

3. Opposer spent the last several months interfering with Applicant's continued effort to market and sell its NVNT branded products and build the NVNT brand power.

4. I have learned that Opposer's owner and executive, Giannantonio Negretti, has contacted Applicant's existing and prospective business partners and distributors and made false claims that Applicant does not own the trademark rights to the NVNT mark simply because it does not have a federal trademark registration for the mark. In response, Applicant's business partners started questioning Applicant's ability to market and sell the NVNT branded products instead of finalizing negotiation of purchase orders.

5. For example, over the last several months, Applicant has developed a business relationship with an international retail client that was planning on submitting hundreds of thousands of dollars' worth of purchase orders. However, Mr. Negretti reached out to this client

and made various false assertions regarding Applicant's ownership of the NVNT mark, including that Applicant does not own the trademark rights to the NVNT mark simply because it does not have a federal trademark registration for the mark. This international retail client has completely halted all significant purchase orders for Applicant's NVNT product until the alleged "trademark dispute" is settled.

The signatory, being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of this submission, declares that all the statements made of her own knowledge are true and all statements made on information and belief are believed to be true.

Dated: 10.7.24


Sarah Ostler

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **DECLARATION OF SARAH OSTLER IN SUPPORT OF APPLICANT'S OPPOSITION TO OPPOSER'S MOTION TO AMEND NOTICE OF OPPOSITION** has been served on Applicant via electronic mail, to the following e-mail address(es):

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LitigationParalegals@vklaw.com
Attorney for Opposer

Dated: 10/7/2024

/s/ Natalie Centeno
Natalie Centeno