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

Proceeding	92047240
Party	Defendant Colorlab Cosmetics, Inc. Colorlab Cosmetics, Inc. 1112 - 5th Avenue Rockford, IL 61104
Correspondence Address	Colorlab Cosmetics, Inc. 1112 - 5th Avenue Rockford, IL 61104 UNITED STATES aheinisc@reinhartlaw.com
Submission	Answer
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Astarté Cosmetics,	)	
	)	
Petitioner,	)	Opposition No. 92047240
	)	Appln. Reg. No. 2,990,223
vs.	)	<b>RBVD Case No. 501993-OPP</b>
	)	<b>GO AHEAD MAKE MY SHADE</b>
Colorlab Cosmetics, Inc.,	)	
	)	
Registrant.	)	

**ANSWER**

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Dear Sir or Madam:

1. Registrant is without knowledge or information sufficient to form a belief as to the truth of the averment of paragraph 1, therefore the averment of paragraph 1 is denied.

2. Registrant is without knowledge or information sufficient to form a belief as to the truth of the averment of paragraph 2, therefore the averment of paragraph 2 is denied.

3. Applicant admits there is what appears to be a USPTO print-out at Exhibit A and a picture of a product at Exhibit B. Registrant is without knowledge or information sufficient to form a belief as to the truth as to the contents of Exhibit A and B, and is without knowledge or information sufficient to form a belief as to the remaining averments of paragraph 3, therefore any and all remaining portions of the averment of paragraph 3 are denied.

4. Registrant is without knowledge or information sufficient to form a belief as to the truth of the averment of paragraph 4, therefore the averment of paragraph 4 is denied.

5. Registrant is without knowledge or information sufficient to form a belief as to the truth of the averment of paragraph 5, therefore the averment of paragraph 5 is denied.

6. Registrant admits the allegation that Colorlab Cosmetics, Inc. is a corporation organized and existing under the laws of the State of Illinois with a business address of 1112 5<sup>th</sup> Avenue, Rockford Illinois.

7. Registrant admits that it used and used in commerce the mark "GO AHEAD MAKE MY SHADE" at least as early as September 21, 2004; other than as expressly admitted any and all remaining portions of the averment of paragraph 7 are denied.

8. Registrant is without knowledge or information sufficient to form a belief as to the truth of the averment of paragraph 8, therefore the averment of paragraph 8 is denied.

9. Registrant is without knowledge or information sufficient to form a belief as to the truth of the averment of paragraph 9, therefore the averment of paragraph 9 is denied.

10. Registrant is without knowledge or information sufficient to form a belief as to the truth of the averment of paragraph 10, therefore the averment of paragraph 10 is denied.

11. Registrant is without knowledge or information sufficient to form a belief as to the truth of the averment of paragraph 11 therefore the averment of paragraph 11 is denied.

10 [sic]<sup>1</sup>. Registrant is without knowledge or information sufficient to form a belief as to the truth of the averment of paragraph 10 [sic], therefore the averment of paragraph 10 [sic] is denied.

11 [sic]. Registrant is without knowledge or information sufficient to form a belief as to the truth of the averment of paragraph 11 [sic] therefore the averment of paragraph 11 [sic] is denied.

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<sup>1</sup> Registrant notes a numerical sequence error in the Petitioner's complaint, with paragraph numbers 10 and 11 being used twice in the complaint.

Any remaining unnumbered paragraphs are not believed to be averments; However Registrant admits that it registered "GO AHEAD MAKE MY SHADE" (U.S. Registration No. 2,990,223) and that the registration is valid and subsisting; other than that to the extent there are any additional averments (if any) in any unnumbered paragraphs above and beyond what is plead and has been responded to above in numbered paragraphs 1-11 (including 10(sic) and 11(sic)), such averments (if any) are denied to the extent they need to be denied.

#### AFFIRMATIVE DEFENSES

1. On information and belief, Registrant's alleged use of the mark "MY SHADE" in association with certain cosmetics does not constitute a trademark, is a phrase commonly used in the cosmetic industry as can be evidenced by widespread use in the cosmetics industry and is descriptive if not generic.

2. Petitioner lacks relevant common law trademark rights to "MY SHADE" as plead that would predate the use and/or registration rights of Registrant to "GO AHEAD MAKE MY SHADE" either in whole or in part.

Respectfully submitted,

Date: April 9, 2007

/Andrew J. Heinisch/  
Andrew J. Heinisch  
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Rockford, IL 61107  
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ATTORNEYS FOR REGISTRANT,  
COLORLAB COSMETICS, INC.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that true and correct copies of the following documents:

1. Applicant's Answer; and
2. Certificate of Service

have been served upon counsel for Petitioner, Astarté Cosmetics, this 9th day of  
April, 2007, directed to Registrant at the following address and in the below-stated manner:

Astarté Cosmetics  
c/o Louis C. Paul, Attorney and  
Authorized Representative  
Louis C. Paul & Associates, PLLC  
730 Fifth Avenue, 9th Floor  
New York, NY 10019

**VIA FIRST CLASS MAIL**

Respectfully submitted,

Dated: April 9, 2007

/Andrew J. Heinisch/  
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Rockford, IL 61107  
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ATTORNEYS FOR REGISTRANT  
COLORLAB COSMETICS, INC.

**CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that this Answer is being transmitted to the Trademark Trial and Appeal Board of the United States Patent and Trademark Office via the Electronic Mailing System, on the date indicated below.

Date: April 9, 2007

/Nancy J. Kloster/