

TTAB

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

Opposer's Ref: ATOF USA TC-05/10105

In the Matter of Application Serial No. 78/323704
Published in the Official Gazette on July 26, 2005

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ARKEMA,	:
	:
Opposer,	:
	:
- against -	:
	:
SOLAR INTEGRATED TECHNOLOGIES, INC.,	:
	:
Applicant.	:
11/07/2005	:
01 FC:6402	:
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300.00 OP

TO: TTAB

NOTICE OF OPPOSITION

Opposer, Arkema, a corporation organized and existing under the laws of France, of 4-8 Cours Michelet, 92800 Puteaux, France, believes that it would be damaged by issuance of a registration for the trademark SOLARCOAT! in stylized print, for "solar electric roofing membranes for converting conventional, industrial, or commercial rooftops to power generation centers," as applied for in the above application, and hereby opposes the same. As grounds for its opposition, Opposer, by its attorneys Fross Zelnick Lehrman & Zissu, P.C., alleges as follows:



10-31-2005

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #64

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Lisa Millington

Lisa Millington

1. A predecessor in title of Opposer adopted and began to use the mark SOLARKOTE in the United States for acrylic resins molding in 2000. Opposer continues to use the mark for such goods in the United States. The resins impart resistance to ultraviolet (sunlight) degradation to vinyl building materials and other plastic materials used outdoors.

2. Opposer owns U.S. Registration No. 2,451,738, issued May 15, 2001, for the mark SOLARKOTE for “unprocessed acrylic resins, namely, impact modified acrylic resins for co-extrusion onto thermoplastic substrates.” Opposer’s registration is valid, subsisting, and in full force and effect.

3. The rights of Opposer in Opposer’s SOLARKOTE mark pre-date any rights of Applicant in the mark here opposed.

4. On November 5, 2003, Applicant filed the opposed application based on intent-to-use.

5. Applicant’s SOLARCOAT! mark is confusingly similar to Opposer’s SOLARKOTE mark, and is thus likely, when applied to the related goods listed in the application, to cause confusion, mistake or deception, and cause the public to believe that the goods offered under Applicant’s mark emanate from or are otherwise sponsored by or endorsed by Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), with consequent damage to Opposer and the public.

6. Opposer will be damaged by the issuance of the registration of the mark to Applicant because such registration will adversely affect Opposer’s mark and goodwill.

WHEREFORE, it is respectfully requested that this opposition be sustained.

The Opposition fee in the amount of \$300 for one class is filed herewith. If for any reason this amount is insufficient, it is requested that Opposer's attorneys' Deposition Account No. 23-0825-0576900 be charged with any deficiency. This paper is filed in duplicate.

Please recognize as attorney for Opposer in this proceeding David Ehrlich whose address is Fross Zelnick Lehrman & Zissu, P.C., 866 United Nations Plaza, New York, New York 10017, telephone number (212) 813-5900.

Dated: New York, New York
October 31, 2005

Respectfully submitted,

FROSS ZELNICK LEHRMAN
& ZISSU, P.C.

By: 

David Ehrlich
866 United Nations Plaza
New York, New York 10017
(212) 813-5900

Attorneys for Opposer

cc: Anne Wang, Attorney for Applicant

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Name of Person Signing Certificate: Jessica Lazarus (paralegal)

Signature: _____

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

In re Registration No. 2,359,612

Registered June 20, 2000

75601175

TTAB

DNA Holdings, LLC

Petitioner,

v.

Kaplan, Lizabeth

Respondent.

Cancellation No. _____

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11/07/2005 6THOMAS2 00000072 2359612

01 FC:6401

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PETITION TO CANCEL

DNA Holdings, LLC, a Limited Liability Company organized under the laws of Delaware, having a principal place of business of 17555 Collins Ave., Suite 3802, Sunny Isles



Beach, FL 33160 ("Petitioner"), believing that it is being damaged by the registered mark TOUCHED shown in registration No. 2,359,612 ("the Registration") hereby petitions to cancel the same. To the best of Petitioner's knowledge, the name and address of the current owner of the registration is Kaplan, Lizabeth, a Citizen of the United States of America, located at 1155 Yogi Court, Redding, CA 96003. ("Respondent") As grounds for cancellation, it is alleged that:

1. Respondent is the owner of record of the registered mark TOUCHED which is registered in connection with "Skin emollients, skin toners, skin moisturizers, skin clarifiers, skin texturizers, skin cleansers, wrinkle removing skin care preparations, exfoliators, cuticle conditioners, after-shave lotions and hair rinse" (in International Class 3). (U.S. Registration No. 2,359,612.)

2. Petitioner is the owner of the intent to use in commerce trademark application Serial # 78/485324 for the mark TOUCH filed on September 17, 2004, to be used in connection with "Cosmetics, nail polish, and lotions" (in International Class 3) and "Nail care salons" (in International Class 44). Petitioner has a continued bona fide intention to use its mark in interstate commerce.

3. On April 25, 2005, Petitioner received an Office Action from the USPTO citing Respondent's TOUCHED mark as a Section 2(d) Likelihood of Confusion conflict with its TOUCH application. Petitioner has standing to file this cancellation as it will be refused registration of its mark if the cited TOUCHED mark is not cancelled.

4. Petitioner is informed and believes and thereon alleges that Respondent is the owner of the Registration and that Respondent's current address as reported to the Patent and Trademark Office is 1155 Yogi Court, Redding, CA 96003.

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