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

Proceeding	91174937
Party	Plaintiff PHCP Inc.
Correspondence Address	Robyn S. Lederman Cantor Colburn LLP 55 Griffin Road South Bloomfield, CT 06002 UNITED STATES rlederman@cantorcolburn.com
Submission	Motion for Summary Judgment
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Attachments	GALGROOMMSJ.pdf (11 pages)(272954 bytes) GALGROOMEXHIBITS.pdf (56 pages)(1106785 bytes)

PHCP Inc.,)	
)	
)	Opposition No. 91174937
Opposer,)	Application Serial No. 76/643,242
)	Mark: GALGROOM
v.)	Filed: July 20, 2005
)	
)	
LG International Inc.)	
)	
Applicant.)	
)	

Opposer, PHCP Inc., hereby moves the Board for an order, pursuant to Rule 2.127(d) of the Trademark Rules of Practice and Rule 56(a) of the Federal Rules of Civil Procedure, granting summary judgment in its favor on the ground that no genuine issue as to any material fact exists and that the mark at issue is confusingly similar as a matter of law.

This motion is based upon the application file, Opposer's U.S. Registration No. 3,278,053 and related holdings, the pleadings, Applicant's answers to written discovery (attached hereto as Exhibit A), Opposer's verified answers to Applicant's First Set of Interrogatories (attached hereto as Exhibit B), and the arguments presented herein.

In the event that a decision on the instant motion does not dispose of the proceedings, Opposer requests additional time for follow-up discovery.

On July 20, 2005, Applicant, LG International Inc., filed Application Serial No. 76/643,242 for the mark GALGROOM in connection with “Lipstick, lip liner pencils, mascara, nail polish, eye shadow, eyeliner pencils, eyebrow pencils, foundation makeup, face powders, and rouges, soaps, perfume, hair shampoo, hair conditioner, hair spray, face and skin lotion, toothpaste, and mouthwash,” in International Class 3 and “Retail store services including electronic catalog services, catalog ordering services, mail order catalog services and online

retail store services in the fields of personal health, beauty and grooming products and cosmetics, and clothing and related accessories,” in International Class 35. The intent-to-use based application also included goods and services in Classes 25, 44 and 45 which are not the subject of this proceeding. The application was published for opposition on September 5, 2006. Subsequent to obtaining an extension of time to oppose through January 3, 2007, the Notice of Opposition was filed on January 3, 2007.

The opposition is based upon Opposer’s common law rights in the marks MENSGROOM and MENSGROOM & Design and the following pending, approved and registered US records:

<u>MARK</u>	<u>APP. SERIAL NO./FILING DATE</u>	<u>REG. NO./ REG. DATE</u>	<u>GOODS/SERVICES</u>
MENSGROOM & Design	78/978,481 June 3, 2005	3,278,053 August 7, 2007	toiletries for hair and body, namely, shampoos, hair conditioners, hair nourishers, styling gels, hair styling foam, pomades, hair balsam, hair spray, hair care lotions and emollients, scalp treatment, facial cleansers, facial scrubs, skin toners for the face, skin moisturizer masks for the face, skin moisturizers for the face, night cream, eye cream, soaps for personal use, shaving cream, after shave gels, after shave lotions, after shave balms, after shave emulsions, shaving foam, bath and shower gel, moisturizers for the

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			body, body cream, body lotion, body scrubs, non-medicated foot cream, hand cream, scented oils, namely body oils and bath oils, in Class 3
LADIESGROOM & Design	78/652,884 June 17, 2005 NOA issued June 13, 2006		Toiletries for hair and body, namely, shampoo, conditioner, hair mask, styling gel, styling foam, pomade, hair putty, hair spray, hair serum, scalp treatment, hair color, facial cleanser, facial toner, face mask, face moisturizer, night creme, eye creme, soap, shave creme, after shave, after shave balm, after shave oil, shave foam, deodorant, bath and shower gel, body moisturizer, body creme, body lotion, body powder, foot creme, hand creme, fragrances, perfume, eau de parfum, eau de toilette, cologne, scented oils; potpourri, in Class 3; candles, pillar candles, votive candles, travel candles, in Class 4

<u>MARK</u>	<u>APP. SERIAL NO./FILING DATE</u>	<u>REG. NO./ REG. DATE</u>	<u>GOODS/SERVICES</u>
MENSGROOM	78/858,827 April 11, 2006	3,236,713 May 1, 2007	candles, pillar candles, votive candles, travel candles, in Class 4
LADIESGROOM	78/858,821 April 11, 2006	3,236,712 May 1, 2007	candles, pillar candles, votive candles, travel candles, in Class 4
MENSGROOM	78/852,580 April 3, 2006 Suspended May 15, 2008		toiletries for hair and body, namely, shampoos, hair conditioners, hair nourishers, styling gels, hair styling foam, pomades, hair balsam, hair spray, hair care lotions and emollients, scalp treatment, hair color, facial cleansers, facial scrubs, skin toners for the face, skin moisturizer masks for the face, skin moisturizers for the face, night cream, eye cream, lip balm, soaps for personal use, shaving cream, after shave gels, after shave lotions, after shave balms, after shave emulsions, shaving foam, deodorant, bath and shower gel, moisturizers for the body, body cream, body lotion, body

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