

ESTTA Tracking number: **ESTTA141434**

Filing date: **05/18/2007**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Cosmetic Warriors Limited
Granted to Date of previous extension	05/20/2007
Address	29 High Street, Poole Dorset BH15 1AB, UNITED KINGDOM

Domestic Representative	John A. Clifford Merchant & Gould P.C. P.O. Box 2910 Minneapolis, MN 55402 UNITED STATES dockmpls@merchantgould.com, jclifford@merchantgould.com, dmattessich@merchantgould.com Phone:(612) 332-5300
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Applicant Information

Application No	78856184	Publication date	11/21/2006
Opposition Filing Date	05/18/2007	Opposition Period Ends	05/20/2007
Applicant	JKA, Inc. 128 Singleton St Woonsocket, RI 02895 UNITED STATES		

Goods/Services Affected by Opposition

Class 008. All goods and services in the class are opposed, namely: Electric hair trimmers; Eyelash curlers; Fingernail clippers; Hair cutting scissors; Manicure implements, namely, cuticle pushers, tweezers, files and clippers; Manicure sets; Nail clippers; Nail files; Nail nippers; Nail scissors; Nail skin treatment trimmers; Pedicure implements, namely, cuticle pushers, tweezers, files and clippers; Pedicure sets
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Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2282428	Application Date	02/25/1997
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Registration Date	10/05/1999	Foreign Priority Date	NONE
Word Mark	LUSH		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 1995/04/10 First Use In Commerce: 1996/06/00 perfumes; non-medicated toilet and cosmetic preparations, namely, lotions, powders and creams for use on the skin, dentifrices, cosmetic depilatory creams, personal deodorants, preparations for the care of the hair, shampoos, soaps, and essential oils for personal use</p> <p>Class 005. First use: First Use: 1995/04/10 First Use In Commerce: 1996/06/00 [medicated hair care, skin care, teeth care and nail care preparations]</p>		

U.S. Registration No.	3102767	Application Date	01/06/2005
Registration Date	06/13/2006	Foreign Priority Date	NONE
Word Mark	LUSH FRESH HANDMADE COSMETICS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 1996/06/00 First Use In Commerce: 2002/12/00 Perfumes; non-medicated toilet and cosmetic preparations, namely lotions, powders and creams for use on the skin; preparations for cleansing and care of the skin; bath oils in solid and liquid form; personal deodorants; hair care preparations; oil based massage bars that melt on contact with the skin; solid moisturizers and skin conditioners in the form of a paste or face mask; bath bars that melt on contact with hot water to produce a soapy or oily suspension; soaps; and essential oils for personal use</p>		

U.S. Registration No.	3001303	Application Date	04/27/2004
Registration Date	09/27/2005	Foreign Priority Date	NONE
Word Mark	LUSH		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1996/05/00 First Use In Commerce: 1996/06/00 Catalogues listing and illustrating cosmetics and toiletry products; printed product lists featuring cosmetic products and toiletry products; printed point of sales display in the nature of signs and display boards; and paper bags</p>		

U.S. Registration No.	3008685	Application Date	04/27/2004
Registration Date	10/25/2005	Foreign Priority Date	NONE
Word Mark	LUSH		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 003. First use: First Use: 1995/04/10 First Use In Commerce: 1996/06/00 Perfumes; non-medicated toilet and cosmetic preparations, namely lotions, powders and creams for use on the skin; preparations for cleansing and care of the skin; bath oils in solid and liquid form; personal deodorants; hair care preparations; oil based massage bars that melt on contact with the skin; solid skin moisturizers and skin conditioners in the form of a paste or face mask; bath bars that melt on contact with hot water to produce a soapy or oily suspension; soaps; and essential oils for personal use

U.S. Application No.	78747180	Application Date	11/04/2005
Registration Date	NONE	Foreign Priority Date	06/21/2005
Word Mark	LUSH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 044. First use: Hair salon services, namely, hair styling, coloring, washing, shampooing, conditioning, applying hair masks, head massages, and scalp massages; Beauty salon therapy services, namely, cleansing of the skin, applying face masks, applying back pack masks, skin peelers, steam treatments, toning, shaving, exfoliation treatments, treatments using creams and lotions against problem skin or older skin, and facial and body treatments consisting of a combination of creams/lotions and massage; Beauty salon services; Aromatherapy services; Skin care salon services; Massage services; Nail care and manicure services; Trichology services, namely, providing advice and consultancy relating to hair disorders in the nature of greasy hair, lank hair, dry hair, dandruff and split hairs; Counseling, advisory and information services in the field of beauty and cosmetics, and providing information about beauty by way of beauty demonstrations		

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Signature	/daniellemattessich/
Name	Danielle I. Mattessich
Date	05/18/2007

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

Cosmetic Warriors Ltd.,)	
)	
Opposer,)	Opposition No. _____
)	Application No. 78/856184
v.)	Mark: LUSH
)	
JKA, Inc.,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Cosmetic Warriors Ltd, a corporation duly organized and existing under the laws of the United Kingdom, with a mailing address of 29 High Street Poole, Dorset BH15 1AB, United Kingdom, believes that it will be damaged by the registration of the Mark shown in application Serial No. 78/856184, filed on April 6, 2006 by JKA, Inc., an Rhode Island corporation with a mailing address of 128 Singleton Street, Woonsocket, RI 02895, and hereby opposes registration of the Mark. The grounds for opposition are as follows:

1. By the application herein opposed, Applicant is seeking to obtain under the provisions of the Trademark Act of 1946 as amended, registration on the Principal Register of the trademark LUSH for "electric hair trimmers; eyelash curlers; fingernail clippers; hair cutting scissors; manicure implements, namely, cuticle pushers, tweezers, files and clippers; manicure sets; nail clippers; nail files; nail nippers; nail scissors; nail skin treatment trimmers; pedicure implements, namely, cuticle pushers, tweezers, files and clippers; pedicure sets" in International Class 8. The application is based on Applicant's intention to use the mark in commerce.
2. Applicant's Mark published for opposition on November 21, 2006. Opposer was granted a 90-day extension of time to oppose by the Trademark Trial and Appeal Board on December 12,

2006, and an additional 60-day extension of time to oppose on March 19, 2007. This Notice of Opposition is timely filed.

3. Opposer is the owner of the following U.S. Trademark Registrations and pending application(s):

LUSH, U.S. Reg. No. 2,282,428, used in connection with perfumes; non- medicated toilet and cosmetic preparations, namely, lotions, powders and creams for use on the skin, dentifrices, cosmetic depilatory creams, personal deodorants, preparations for the care of the hair, shampoos, soaps, and essential oils for personal use, in International Class 3. Said registration was registered on the Principal Register on October 5, 1999 and was based on an application filed in the U.S. Patent and Trademark Office on February 25, 1997 alleging a date of first use of April 10, 1995, which is a date prior to the date of filing of Applicant's application.



, U.S. Reg. No. 3,102,767, used in connection with perfumes; non-medicated toilet and cosmetic preparations, namely lotions, powders and creams for use on the skin; preparations for cleansing and care of the skin; bath oils in solid and liquid form; personal deodorants; hair care preparations; oil based massage bars that melt on contact with the skin; solid moisturizers and skin conditioners in the form of a paste or face mask; bath bars that melt on contact with hot water to produce a soapy or oily suspension; soaps; and essential oils for personal use, in International Class 3. Said registration registered on the Principal Register on June 13, 2006 and was based on an application filed in the U.S. Patent and Trademark Office on January 6, 2005 alleging a date of first use of June 1996, which is a date prior to the date of filing of Applicant's application.

LUSH, U.S. Reg. No. 3,001,303, used in connection with catalogues listing and illustrating cosmetics and toiletry products; printed product lists featuring cosmetic products and toiletry products; printed point of sales display in the nature of signs and display boards; and paper bags, in International Class 16. Said registration registered on the Principal Register on September 27, 2005 and was based on an application filed in the U.S. Patent and Trademark Office on April 27, 2004 alleging a date of first use of May 1996, which is a date prior to the date of filing of Applicant's application.

LUSH, U.S. Reg. No. 3,008,685, used in connection with perfumes; non-medicated toilet and cosmetic preparations, namely lotions, powders and creams for use on the skin; preparations for cleansing and care of the skin; bath oils in solid and liquid form; personal deodorants; hair care preparations; oil based massage bars that melt on contact with the skin; solid skin moisturizers and skin conditioners in the form of a paste or face mask; bath bars that melt on contact with hot water to produce a soapy or oily suspension; soaps; and essential oils for personal use, in International Class 3. Said registration registered on the Principal Register on October 25, 2005 and was



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