

ESTTA Tracking number: **ESTTA396729**

Filing date: **03/07/2011**

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	Fresh, Inc.
Granted to Date of previous extension	03/06/2011
Address	3/F, 19 East 57th Street New York, NY 10022 UNITED STATES
Attorney information	Wendi E. Sloane Barack Ferrazzano Kirschbaum & Nagelberg LLP 200 W. Madison Street, Suite 3900 Chicago, IL 60606 UNITED STATES trademarks@bfkn.com Phone:312-984-3100

### Applicant Information

Application No	85029813	Publication date	09/07/2010
Opposition Filing Date	03/07/2011	Opposition Period Ends	03/06/2011
Applicant	Colgate-Palmolive Company 300 Park Avenue New York, NY 10022 UNITED STATES		

### Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: Deodorants and antiperspirants for personal use
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2633783	Application Date	03/11/1999
Registration Date	10/15/2002	Foreign Priority Date	NONE
Word Mark	FRESH		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1991/11/00 First Use In Commerce: 1991/11/00 Body lotions, hand creams, face creams, bath gels, shower gels, face soaps, body soaps, shampoos, hair conditioners, cosmetics, namely lipsticks, eye shadows, lip gloss, nail polish, face powders, foundations, scented incense, perfume, toilet waters, massage oils

U.S. Registration No.	2460825	Application Date	03/11/1999
Registration Date	06/19/2001	Foreign Priority Date	NONE
Word Mark	FRESH		
Design Mark			
Description of Mark	The mark is a stylized drawing of the lower case word "FRESH".		
Goods/Services	Class 035. First use: First Use: 1991/11/00 First Use In Commerce: 1991/11/00 Wholesale and retail stores featuring body lotions, hand creams, face creams, bath gels, shower gels, face and body soaps, shampoos and conditioners, cosmetics, namely lipsticks, eye shadows, lip gloss, nail polish, face powders, foundations, perfume, toilet waters and massage oils		

U.S. Registration No.	2377045	Application Date	03/11/1999
Registration Date	08/15/2000	Foreign Priority Date	NONE
Word Mark	FRESH		

Design Mark	<i>fresh</i>
Description of Mark	NONE
Goods/Services	Class 004. First use: First Use: 1997/11/00 First Use In Commerce: 1997/11/00 Scented Candles

U.S. Registration No.	2493583	Application Date	08/02/2000
Registration Date	09/25/2001	Foreign Priority Date	NONE
Word Mark	FRESH F21C		
Design Mark	FRESH F21C		
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2000/08/15 First Use In Commerce: 2001/01/02 Skin clarifiers, face cleansers, face cream, skin emollients, face lotion, face masks, face moisturizer; face scrubs, face soaps, facial toners, lip balm, shower gel, body gels, body lotions, facial masks, body masks, facial scrubs, body scrubs, makeup, lipstick, lip gloss, eye makeup, blush, mascara, hand cream, foot cream, body scrubs, sun block, after-sun lotions, perfume, colognes, toilet water, scented body oil, personal deodorant, makeup remover, toilet soap, bath foam, bath gel, bath beads, hair care preparations, hair shampoo, conditioners		

U.S. Registration No.	2713600	Application Date	06/25/2002
Registration Date	05/06/2003	Foreign Priority Date	NONE
Word Mark	FRESH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1991/11/01 First Use In Commerce: 1991/11/01 Skin Clarifiers, Face Cleansers and Makeup Remover, face cleansing wipes, Face Creams, Face Emollients, Face Lotion, Face Masks, Face Moisturizer,		

	Face Scrubs, Soaps and Toners; Shower Gels; Body Gels and Lotions; Body Masks, Scrubs and Exfoliants; Hand Cream; Foot Care preparations namely Foot Cream, Foot soak and Foot scrub; Body Scrubs; Oral Care preparations namely toothpaste, tooth polish; Perfume; Cologne; Toilet Water; Scented Body Oil for personal use; Personal Deodorant; Sun Block; After-Sun Lotions; Shaving Cream and lotions; After-Shave Cream; non-medicated Lip Balm; Toilet Soap for face and body, Bath Foam and Bath Gels Preparations; Hair Care Preparation; Hair Shampoo and Conditioner; Hair Styling Products; Makeup; Lipstick; Lip Gloss and shines; Face base and foundations and face makeup primers, concealers, face powders and blush, Eye shadows and eye shines; Mascara; Sun protection creams, sun block lotions and sticks, after-sun creams and lotions, self-tanning creams and lotions
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U.S. Registration No.	3323960	Application Date	10/18/2005
Registration Date	10/30/2007	Foreign Priority Date	NONE
Word Mark	FRESH CANNABIS SANTAL		
Design Mark			
Description of Mark	The mark consists of the word "fresh" in stylized script, above the word "CANNABIS" in stylized script, above the word "SANTAL" in stylized script.		
Goods/Services	Class 003. First use: First Use: 2005/09/15 First Use In Commerce: 2005/09/15 Eau de cologne; Eau de parfum; Eau de perfume; Eau de toilette		

Attachments	75658377#TMSN.gif ( 1 page )( bytes ) 75658398#TMSN.gif ( 1 page )( bytes ) 75658667#TMSN.gif ( 1 page )( bytes ) 76104248#TMSN.gif ( 1 page )( bytes ) 78735400#TMSN.jpeg ( 1 page )( bytes ) FRSH-0093 Notice of Opposition.pdf ( 22 pages )(4070879 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Wendi E. Sloane/
Name	Wendi E. Sloane
Date	03/07/2011

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

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Fresh, Inc.	:
	: In the matter of:
Opposer,	: Application Serial No. 85/029,813
	: For the mark:
v.	: FRESH INFUSIONS
	: Published in the <i>Official Gazette</i>
	: On September 7, 2010
	:
Colgate-Palmolive Company	:
	:
Applicant.	:
	:
	:
	:
_____	X

**NOTICE OF OPPOSITION**

Opposer Fresh, Inc. ("Opposer"), a Delaware corporation, with the address of 3/F 19 East 57th Street, New York, New York 10022, believes that it will be damaged by the registration of the mark FRESH INFUSIONS ("Applicant's Mark"), as shown in Application Serial No. 85/029,813, filed on May 4, 2010 by Colgate-Palmolive Company ("Applicant"), for "deodorants and antiperspirants for personal use" in International Class 3, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer, a Delaware corporation, is a manufacturer and seller of various high-quality cosmetic and personal care products, including make-up, skin care products, fragrances and other related merchandise, and has advertised, promoted, distributed and sold, since at least as early as November 1, 1991, a wide variety of such goods under its trademark



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