

ESTTA Tracking number: **ESTTA493031**

Filing date: **09/06/2012**

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

Proceeding	85227983
Applicant	Pro-Tek Chemical, Inc.
Applied for Mark	TITAN ORANGE
Correspondence Address	SCOTT D SWANSON DYKAS & SHAVER LLP PO BOX 877 BOISE, ID 83701-0877 UNITED STATES swanson@dykaslaw.com, judy@dykaslaw.com
Submission	Reply Brief
Attachments	prok403_2012_09_06_reply_brief.pdf ( 9 pages )(365173 bytes )
Filer's Name	Judy M. Hopkins
Filer's e-mail	judy@dykaslaw.com
Signature	/Judy M. Hopkins/
Date	09/06/2012

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

**Serial No. 85227983**

**Mark: TITAN ORANGE**

**APPLICANT: Pro-Tek Chemical, Inc.**

**Examining Attorney: Cimmerian Coleman**

**Examining Office 102**

Applicant respectfully reiterates that the Examining Attorney incorrectly dissected the Applicant's mark into its individual components. The mark should be considered as a whole as TITAN ORANGE due to the large number of Titans, found both on the submitted Internet printouts as well as the printouts from the Trademark Office's website. As the Examiner specifically stated, "[t]he weakness or dilution of a particular mark is generally determined in the context of the number and nature of similar marks in use in the marketplace in connection with similar goods and/or services." Examining Atty's Brief at page 5. The printout of Internet websites of third party uses of the mark TITAN for cleaners and/or degreasers with or without a second word, such as TITAN GREEN, is specifically what the Examining Attorney states is needed to show dilution/weakness of a mark but has failed to consider.

Applicant further disputes that the Applicant's use of the term ORANGE is descriptive. Applicant disclaimed this portion of the mark to further the prosecution of the mark in what Applicant thought would speed prosecution of the mark. Applicant's product uses an orange peel extract as the active ingredient in Applicant's cleaning product. Specifically the ingredient is d-limonene, a chemical common to household cleaners. Thus Applicant's use of the term ORANGE, is suggestive of the chemical used as the cleaner as opposed to descriptive of the actual cleaner itself. Further, as set forth by the Wikipedia printout, Limonene is a colorless liquid that "give[s] a lemon orange scent" and in fact comes from a variety of citrus fruits. Thus the term is suggestive of what is in the Applicant's cleaner and degreaser. Applicant's cleaner and degreaser is not made of oranges, orange peels, or anything that makes the term ORANGE anything less than suggestive. Further when the term ORANGE is used in TITAN ORANGE, there are no descriptive properties of the term and thus the mark TITAN ORANGE should be viewed as a whole.

Applicant further disputes the Examiner's statement that "[t]he fact that other entities use the wording TITAN is not relevant with respect to the case at hand." Third party uses of the term TITAN are relevant to show that consumers will distinguish between the marks *based on the secondary wording of the marks*. Many of the Applicant's cited marks use descriptive terminology such as GREEN, DEGREASER, etc. thus a consumer would *look to the marks as a whole* in order to distinguish between each mark's overall commercial impression because there are so many marks using the term TITAN on the marketplace. Further, the Examining Attorney's cited marks being in the fields of 1) cleaning and 2) degreasing along with the Examining Attorney's submission of third party marks (attached to the initial office action) to show that cleaning and degreasing products emanate *from the same source* specifically show that the Examiner's cited marks are ***indicative that the mark TITAN are diluted, weak, and entitled to extremely limited protection.*** Accordingly Applicant respectfully submits that the Examining Attorney has not established a likelihood of confusion between the marks because the mark TITAN ORANGE should be considered in its entirety with no one portion of the mark being dominant because there are a very large number of TITANs already in existence which leads consumers to consider differences between each individual mark.

Dated this 6th day of September, 2012. Respectfully submitted,

/Scott D. Swanson/  
Scott D. Swanson  
Reg. No. 60170  
DYKAS & SHAVER, LLP  
1403 W. Franklin Street  
P.O. Box 877  
Boise, Idaho 83709  
(208) 345-1122  
Attorney for Applicant

# Limonene

From Wikipedia, the free encyclopedia

**Limonene** is a colourless liquid hydrocarbon classified as a cyclic terpene. The more common D isomer possesses a strong smell of oranges.<sup>[1]</sup> It is used in chemical synthesis as a precursor to carvone and as a renewably based solvent in cleaning products.

Limonene takes its name from the lemon, as the rind of the lemon, like other citrus fruits, contains considerable amounts of this compound, which contributes to their odor. Limonene is a chiral molecule, and biological sources produce one enantiomer: the principal industrial source, citrus fruit, contains D-limonene ((+)-limonene), which is the (*R*)-enantiomer (CAS number 5989-27-5, EINECS number 227-813-5). Racemic limonene is known as dipentene.<sup>[2]</sup> D-Limonene is obtained commercially from citrus fruits through two primary methods: centrifugal separation or steam distillation.

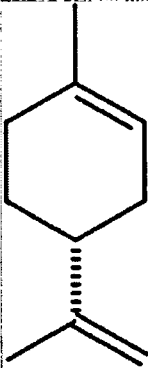
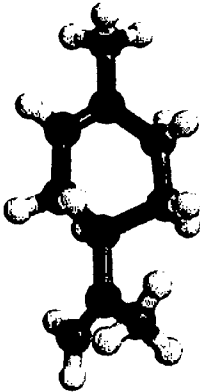
## Contents

- 1 Chemical reactions
  - 1.1 Biosynthesis
- 2 Uses
- 3 Safety
- 4 Compendial status
- 5 See also
- 6 References
- 7 Further reading
- 8 External links

## Chemical reactions

Limonene is a relatively stable terpene and can be distilled without decomposition, although at elevated temperatures it cracks to form isoprene.<sup>[3]</sup> It oxidizes easily in moist air to

# EXHIBIT A

Limonene	
	
<b>IUPAC name</b>	
1-methyl-4-(1-methylethenyl)-cyclohexene	
<b>Other names</b>	
4-isopropenyl-1-methylcyclohexene Racemic: DL-limonene; dipentene	
<b>Identifiers</b>	
CAS number	5989-27-5 ✓
PubChem	22311, 439250 (S-isomer)
ChemSpider	20939 (Racemic) ✓, 388386 (S-isomer), 389747 (R-isomer)
UNII	GFD7C86Q1W ✓
KEGG	D00194 ✓
ChEBI	CHEBI:15384 ✓
ChEMBL	CHEMBL449062 ✗
Jmol-3D images	Image 1 ( <a href="http://chemapps.stolaf.edu/jmol/jmol.php?model=CC1%3DCCC%28CC1%29C%28%3DC%29C">http://chemapps.stolaf.edu/jmol/jmol.php?model=CC1%3DCCC%28CC1%29C%28%3DC%29C</a> )
<b>SMILES</b>	
<b>InChI</b>	
<b>Properties</b>	
Molecular formula	C <sub>10</sub> H <sub>16</sub>
Molar mass	136.24 g/mol
Density	0.8411 g/cm <sup>3</sup>

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.