

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

Trademark: FLOSS'N GO
Serial No.: 78/654,927
Filed: June 21, 2005
Published: March 21, 2006

Kenneth H. Nussen

Opposer,

v.

Staino, LLC

Applicant.

Opposition No. _____

Serial No.: 78/654,927

NOTICE OF OPPOSITION

Opposer, Kenneth H. Nussen (hereinafter "Opposer"), which has his principal place of business at 1112 Montana Avenue, Suite D, Santa Monica, California 90403 believes that he would be damaged by registration of the mark FLOSS'N GO shown in United States Trademark Application Serial No. 78/654,927, filed by Staino, LLC (hereinafter "Applicant") and published for opposition in the *Official Gazette* dated March 21, 2006, and therefore Opposer opposes such application for registration. The application as published in the *Official Gazette* may be summarized as follows:

In re trademark application: 78/654,927

Filed: June 21, 2005

Applicant: Staino, LLC



04-18-2006

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For: Dental Floss in International Class 21

International Class: 21

Published: March 21, 2006

The grounds for this opposition are as follows:

1. Opposer is in the business of developing and distributing a wide variety of oral hygiene products including dental floss.
2. Upon information and belief, Applicant is a limited liability company organized under the laws of New York.
3. Applicant seeks to register the mark FLOSS'N GO (hereinafter "Applicant's Mark") for "dental floss" (hereinafter "Applicant's Goods").
4. Commencing as early as April 18, 1996, well prior to the June 21, 2005 filing date in the Applicant's application, Opposer used and has continued to use FLOSS & GO as a trademark to promote its oral hygiene products.
5. Opposer was the owner of U.S. Registration No. 2,045,049 for the mark FLOSS & GO for use with "individually wrapped 18" strand of dental floss" (attached hereto as Exhibit A and incorporated herein by reference).
6. Opposer is the owner of Serial No. 78/817,898 for the mark FLOSS & GO for use with "dental floss" (attached hereto as Exhibit B and incorporated herein by reference).

7. Upon information and belief, Applicant filed the application for registration of Applicant's Mark on June 21, 2005, based on an intent to use, and, as of the date of this Notice of Opposition, has not filed an Amendment to Allege Use, therefore priority of use is resolved in Opposer's favor.

8. Opposer has offered its oral hygiene products throughout the United States under the mark FLOSS & GO for the last decade. Opposer is a premier developer and distributor of oral hygiene products and markets said products to a wide variety of distributors and retailers. As a result of its strong presence in the marketplace, Opposer has developed valuable goodwill in the mark FLOSS & GO.

9. Opposer has developed extensive common-law trademark rights in the mark FLOSS & GO.

10. By virtue of its efforts, and the expenditure of considerable sums for advertising and other forms of promotion, and by virtue of the consistent excellence of his products, Opposer has earned an extremely valuable reputation for the mark FLOSS & GO.

11. When applied to the Applicant's Goods, Applicant's Mark is the phonetic equivalent to the Opposer's mark FLOSS & GO, and as such is likely to be confused therewith and mistaken therefor.

12. Due to the practically identical appearance of the Applicant's Mark and Opposer's mark, and due further to the identical nature nature of the goods intended to be offered under Applicant's Mark and presently offered under Opposer's mark, and the consumer recognition of Opposer's mark, it is alleged that Applicant's mark so resembles Opposer's mark, as to be likely to cause confusion, or to cause mistake, or to deceive.

13. If Applicant is permitted to use and register Applicant's Mark for Applicant's Goods, confusion, deception or mistake in the trade would likely occur, thereby causing damage and injury to Opposer. Persons familiar with Opposer's mark would be likely to believe that Applicant's Goods are sponsored by or associated therewith.

14. Furthermore, any defect, objection or fault found with Applicant's Goods marketed under its mark would necessarily reflect upon and seriously injure the reputation which Opposer has established for high-quality products.

15. Applicant's U.S. Application for registration of the mark FLOSS'N GO is practically identical to Opposer's mark as to be likely when used in connection with Applicant's goods to cause or result in dilution of Opposer's famous trademark as defined in Section 43(c) of the Trademark Act, 15 U.S.C. § 1125(d).

WHEREFORE, the Opposer prays that the application Serial No. 78/654,927 be rejected, and that the mark sought for the Goods therein specified in Class 21 be denied and refused.


Opposer herewith submits this Notice of Opposition in duplicate along with the requisite filing fee in the amount of \$300. *Please charge any fees or credit any overpayment to our Deposit Account No. 02-2666.*

Respectfully submitted,

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

Dated: April 14, 2006

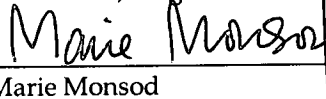
By: _____


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CERTIFICATE OF MAILING:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop TTAB - FEE, Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on April 14, 2006.


Marie Monsod

April 14, 2006

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