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

COFINLUXE,

Opposer,

v.

NICHOLAS DIMITRI,

Applicant.

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

Hon. Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Sir:

In the matter of the application for registration of the trademark **CAFÉ DEL MAR** for fragrances for personal use, room fragrances, essential oils and incenses in class 3, Serial No. 77/012,346, filed October 3, 2006 by Nicholas Dimitri, and published for Opposition on June 19, 2007; Cofinluxe, a French Company, having its principal place of business at rue Anatole de la Forge, 75017, Paris, France, believes that it would be damaged by such registration and hereby opposes registration

09-13-2007

of said alleged trademark as it applies to the goods set forth therein.

Opposer has obtained an extension of time through October 17, 2007 in which to file this Notice of Opposition.

As grounds for the opposition, it is alleged that:

1. Applicant, Nicholas Dimitri, is on information and belief a citizen of Italy with an address at Via Bosco Berizzi, 4, Dese-Favero, Veneto (Ve), Italy; and seeks to register the trademark **CAFÉ DEL MAR and Design** for fragrances for personal use, room fragrances, essential oils in class 3, as set forth in the above noted application. The application was filed on October 3, 2006 based upon an intent-to-use the mark in commerce. There is no claim of actual use of the mark. The application was published on June 19, 2007 in the Official Gazette of the United States Patent and Trademark Office.
2. Opposer is well known throughout the world in the field of cosmetics, perfumery and similar beauty products and has and is presently engaged in the manufacture and marketing of its products in the United States as well as throughout the world.

3. Opposer or its predecessors in interest have used their well-recognized trademarks **CAFÉ and Design** and **CAFÉ CAFÉ PURO** and **CAFE EXPRESSO** on cosmetic goods in the United States marketplace. Opposer has used its **CAFÉ and Design** mark in commerce for over twenty years.

4. Opposer's mark **CAFÉ and Design** is the subject of United States Trademark Registration No. 1,177,730, registered on November 17, 1981. This registration is incontestible under Section 15 and has been renewed and is in full force and effect.<sup>1</sup>

5. Opposer's registration identified in Paragraph 4, supra, covers perfumes and toilet waters in Class 3.

6. Opposer's mark **CAFÉ CAFÉ PURO** is the subject of United States Trademark Registration No. 2,785,628, registered on November 25, 2003. This registration covers soaps for personal use; essential oils used for manufacture of

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<sup>1</sup> Certified copies showing status and title of each of Opposer's registrations will be introduced during the trial phase of this proceeding.

perfumery; perfume; toilet water; perfumed water; cosmetics, namely, lipsticks, lip pens, eye shadow, facial make up, mascaras, hair lotions, and tooth paste in Class 3.

7. Opposer's mark **CAFÉ EXPRESSO** is the subject of United States Trademark Registration No. 2,545,924, registered on March 12, 2002. This registration covers toilet soap, hair shampoo, perfume products, namely, perfumes, toilet waters, perfumed skin lotion, eau de cologne, personal deodorants, after-shave lotions, essential oils for personal use; bath and shower gels, body milks and lotions,; cosmetics, namely, blushes, lipsticks, perfumed talc, hydrating creams for the skin, powders for the skin, eye shadow, mascara, nail polish; and dentifrices in Class 3.

8. Opposer packages its goods in distinctive containers and the marks of the Opposer are prominently displayed on such packaging.

9. Opposer's trademarked goods, noted above, are distributed in commerce throughout the United States and elsewhere and enjoy a high degree of consumer acceptance and recognition.

10. Opposer's **CAFE** goods are advertised in various media distributed throughout the United States.

11. Applicant's mark is so similar to Opposer's marks as to be likely to cause confusion, mistake or deception as to the source of the goods of the Applicant, especially since the Applicant's mark is intended to be used in conjunction with cosmetic products that are identical or closely related to the goods of the Opposer.

12. The marks here in issue are visually and phonetically similar, and present the same connotation to the consumer of the goods and the applicant's mark incorporates Opposer's famous "CAFE" brand.

13. If the Applicant is permitted to use and register the mark herein opposed for the goods specified in it's application, confusion in the trade and for the consumer will

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