

ESTTA Tracking number: **ESTTA868901**

Filing date: **01/03/2018**

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	Dennis F. Gross
Granted to Date of previous extension	01/03/2018
Address	444 Madison Avenue Suite 500 New York, NY 10022 UNITED STATES

Attorney information	Christine M. Baker Mintz Levin Cohn Ferris Glovsky & Popeo, P.C. One Financial Center Boston, MA 02111 UNITED STATES Email: IPDocketingBos@mintz.com, cbaker@mintz.com, ahan@mintz.com Phone: 6175426000
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**Applicant Information**

Application No	87202675	Publication date	09/05/2017
Opposition Filing Date	01/03/2018	Opposition Period Ends	01/03/2018
Applicant	SESDERMA, S.L. Massamagrell, 3 - Rafelbuñol Polígono Industrial Rafelbuñol Valencia, E-46138 SPAIN		

**Goods/Services Affected by Opposition**

Class 003. First Use: 2010/05/30 First Use In Commerce: 2010/05/30 All goods and services in the class are opposed, namely: Non-medicated exfoliating preparations for skin; Skin care preparations, namely, chemical peels for skin; all of the foregoing containing ferulic acid
Class 005. First Use: 2010/05/30 First Use In Commerce: 2010/05/30 All goods and services in the class are opposed, namely: medicated skin care preparations, namely, chemical peels for skin; all of the foregoing containing ferulic acid

**Grounds for Opposition**

The mark is merely descriptive	Trademark Act Section 2(e)(1)
The mark is generic	Trademark Act Sections 1, 2 and 45

Attachments	NOTICEOFOPPOSITIONFORFERULACPEEL.pdf(101526 bytes )
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	EXHIBITAREGISTRATION.pdf(25393 bytes ) EXHIBITSABC.pdf(1837474 bytes ) EXHIBITDRESPONSETOOFFICEACTIONFORFERULACPEEL.pdf(843295 bytes ) EXHIBITHJUN28RESPONSE.pdf(11025 bytes ) EXHIBITI.pdf(4900439 bytes ) EXHIBITJ.pdf(1593389 bytes ) EXHIBITSEFG.pdf(702912 bytes )
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Signature	/cmbaker/
Name	Christine M. Baker
Date	01/03/2018

Attorney Docket: 049966-407-059  
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 87/202675

for FERULAC PEEL

Published in the *Official Gazette* on September 5, 2017

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Dennis F. Gross	:	
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Opposer,	:	
	:	
v.	:	APPLICATION NO. 87/202675
	:	
	:	OPPOSITION NO.: TBA
	:	
Sesderma S.L.	:	
	:	
	:	
Applicant.	:	

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**NOTICE OF OPPOSITION**

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

Sir/Madam:

Dennis F. Gross (“Opposer”), a United States citizen, with a business address at 444 Madison Avenue, Suite 500 New York, NY 10022 believes he will be damaged by the registration of U.S. Application Serial No. 87/202675 for the mark FERULAC PEEL for the following goods:

Non-medicated exfoliating preparations for skin; Skin care preparations, namely, chemical peels for skin; all of the foregoing containing ferulic acid, in International Class 3; and

Medicated skin care preparations, namely, chemical peels for skin; all of the foregoing containing ferulic acid, in International Class 5,

which was filed by Sesderma, S.L. (“Applicant”) and published for opposition in the *Official Gazette* on September 5, 2017 and hereby opposes the same.

Pursuant to Trademark Act Sections 1, 2 and 45 and Trademark Act Section 2(e)(1) and predicated upon the following grounds, Opposer alleges the following:

1. Opposer is the creator of the award winning and global skin care brand DR DENNIS GROSS®. For several years, Opposer has been engaged in the manufacture and sale of skin care peels containing ferulic acid.
2. Opposer has regularly appeared on television shows such as Dr. OZ, The Today Show, The Doctors, CBS: The Early Show and on CNN to discuss skin health and has been lauded for his innovative approach to skin care and skin care peels containing ferulic acid by major magazines, including but not limited to, Vogue, Elle, Harper's Bazaar, and The New York Times Magazine.
3. Opposer owns Registration No. 5,283,495 for the mark FERULIC + RETINOL WRINKLE RECOVERY PEEL for non-medicated skin care preparations containing ferulic acid and retinol. As the attached Registration Certificate indicates, the Trademark Office required

Opposer to disclaim the terms FERULIC and PEEL apart from Opposer's mark FERULIC + RETINOL WRINKLE RECOVERY PEEL. See Exhibit A.

4. Upon information and belief, the Applicant is a limited liability company organized under the laws of Spain with an address of Massamagrell, 3 – Rafelbuñol, Polígono Industrial Rafelbuñol, Valencia, Spain E-46138.
5. On information and belief, Applicant is involved in the manufacture and sale of skin care products, including a ferulic peel.
6. On information and belief, Applicant sells a ferulic peel and uses the term ferulac peel in connection with its ferulic peel.
7. Applicant filed an application to register the mark FERULAC PEEL for non-medicated exfoliating preparations for skin; skin care preparations, namely, chemical peels for skin; all of the foregoing containing ferulic acid, in Class 003 and for medicated skin care preparations, namely, chemical peels for skin; all of the foregoing containing ferulic acid, in Class 005 on October 13, 2016 and the application was assigned Serial No. 87/202675. See Exhibit B.
8. In an Office Action dated December 17, 2016, the Examining Attorney denied registration of the mark FERULAC PEEL on that ground that it merely describes a feature, ingredient, characteristic, purpose, function and/or use of applicant's goods under

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