

ESTTA Tracking number: **ESTTA1288328**

Filing date: **05/31/2023**

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	Symrise AG		
Entity	AG	Citizenship	Germany
Address	MÄ¼HLENFELDSTRAÄ#E 1 HOLZMINDEN, 37603 GERMANY		
Attorney information	STEPHEN R. BARRESE DILWORTH & BARRESE, LLP 1000 WOODBURY ROAD, SUITE 405 WOODBURY, NY 11797 UNITED STATES Primary email: sbarrese@dilworthbarrese.com Secondary email(s): lforsythe@dilworthbarrese.com, rduran@dilworthbarrese.com 5162288484		
Docket no.	1507-233A		

Applicant information

Application no.	97498271	Publication date	05/30/2023
Opposition filing date	05/31/2023	Opposition period ends	06/29/2023
Applicant	Sixbright Shea Butter LLC 5900 BALCONES DRIVE, STE 4872 AUSTIN, TX 78731 UNITED STATES		

Goods/services affected by opposition

Class 003. First Use: May 2, 2022 First Use In Commerce: May 2, 2022
All goods and services in the class are opposed, namely: Cosmetic creams; Cosmetic creams for skin care; Shea butter for cosmetic purposes; Body butter; Body cream; Hair butter

Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
--------------------------------------	----------------------------

Mark cited by opposer as basis for opposition

U.S. registration no.	5557879	Application date	10/06/2017
Register	Principal		
Registration date	09/11/2018	Foreign priority	NONE

		date	
Word mark	SYMBRIGHT		
Design mark			
Description of mark	NONE		
Goods/services	<p>Class 001. First use: First Use: None First Use In Commerce: None Chemical compositions and materials, namely, soothing agents, anti-inflammatory agents, skin lightening agents, and skin conditioning agents for use in cosmetics; chemical substances for use in the manufacture of scented cosmetics</p> <p>Class 003. First use: First Use: None First Use In Commerce: None Cosmetics; non-medicated body cleaning and beauty care preparations; non-medicated skin care preparations; non-medicated skin care creams; skin care lotions for cosmetic use; skin whitening preparations</p>		

Attachments	Opposition.pdf(97168 bytes)
-------------	------------------------------

Signature	/SRB/
Name	Stephen R. Barrese
Date	05/31/2023

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

-----X	:	Serial No. 97498271
SYMRISE AG	:	
	:	Mark: SIXBRIGHT
Opposer	:	
	:	
v.	:	
	:	
Sixbright Shea Butter LLC.,	:	
	:	Publication Date: May 30, 2023
Applicant	:	
-----X	:	

NOTICE OF OPPOSITION

Opposer, SYMRISE AG ("Opposer"¹) believes that it will be damaged by registration of the mark shown in U.S. Trademark Application Serial No. 97498271 SIXBRIGHT (Applicant's Mark) and hereby opposes the same. As grounds for opposition, Opposer alleges as follows:

1. Opposer is AG organized under the laws of Germany, with a principal place of business at Mühlenfeldstraße 1, Holzminden, Germany 37603.

2. Opposer engages in the business of creating fragrances, flavors, natural nutrition and cosmetic ingredients solutions.

3. Opposer owns all right, title and interest in and to the mark **SYMBRIGHT**, U.S. Trademark Registration No. 5557879 (Opposer's Mark), which is registered on the U.S. Trademark Office Principal Register, for use in association with chemical compositions and materials, namely, soothing agents, anti-inflammatory agents, skin lightening agents, and skin conditioning agents for use in cosmetics; chemical substances in Class 1 and cosmetics non-medicated body cleaning and beauty care preparations; non-medicated skin care preparations; non-medicated skin care creams;

skin care lotions for cosmetic use; skin whitening preparations in Class 3, based on International Registration No. 1379141, which registered on October 6, 2017.

4. Notwithstanding Opposer's prior rights in and to the mark **SYMBRIGHT**, Applicant, on information and belief, on July 11, 2022, filed an application for registration of the trademark **SIXBRIGHT** for "Cosmetic creams; Cosmetic creams for skin care; Shea butter for cosmetic purposes; Body butter; Body cream; Hair butter " in Class 3, on a use basis.

5. Opposer's Mark registered on September 11, 2018, based on International Trademark Registration No. 1379141, which registered on October 6, 2017, both dates preceding Applicant's date of first use, i.e., May 2, 2022, thereby establishing Opposer's Mark's prior use.

FIRST CLAIM FOR RELIEF

(Likelihood of Confusion)

6. Opposer repeats and realleges the allegations in preceding paragraphs 1 through 5, inclusive, as if fully set forth herein.

7. As a result of Opposer's long use of Opposer's mark, Opposer has developed substantial goodwill in its mark, and the public has come to associate this mark with the goods of Opposer.

8. Opposer's use of Opposer's Mark, is long prior to the filing dates associated with Applicant's Mark, and long prior to any use by Applicant of the Petitioned Mark.

9. Opposer enjoys priority of use over Applicant in this case.

10. Applicant's Mark is confusingly similar to Opposer's Mark.

11. Opposer's Goods and Applicant's Goods travel or exist in the same or related channels of trade.

12. Applicant's use and continued registration of the opposed Mark will inevitably lead, and may have already lead, to confusion, to mistake, or to deception of

the public within the meaning of Section 2(d) of the Lanham Act, 15 USC §1052(d), all to Opposer's grave and irreparable damage.

13. Applicant's Mark should be refused registration based on likelihood of confusion with Opposer's Mark, in violation of the Lanham Act, 15 USC §1052(d).

SECOND CLAIM FOR RELIEF

(Likelihood of Confusion with Previously-Used Trademark)

14. Opposer repeats and realleges the allegations in preceding paragraphs 1 through 13, inclusive, as if fully set forth herein.

15. The Applicant's Mark shown in the Opposed Application so resembles Opposer's previously used and not abandoned Opposer's Mark as to be likely, when used on or in connection with the goods identified in the Opposed Application, to cause confusion, to cause mistake, or to deceive, and Applicant's mark is thus unregistrable under Section 2(d) of the United States Trademark Act, 15 U.S.C. 1052(d).

16. Opposer will be damaged by registration of the mark shown in the Opposed Application because registration will give Applicant prima facie evidence of its ownership of, and its exclusive nationwide right to use, a mark that is confusingly similar to Opposer's previously used and not abandoned Marks.

THIRD CLAIM FOR RELIEF

(Likelihood of Dilution)

17. Opposer repeats and realleges the allegations in preceding paragraphs 1 through 16, inclusive, as if fully set forth herein.

18. The Applicant's Mark shown in the Opposed Application so resembles Opposer's previously used and not abandoned Mark as to be likely to blur the distinctiveness of Opposer's Mark and Applicant's mark is thus unregistrable under Section 43(c) of the United States Trademark Act, 15 U.S.C. 1125(c).

19. Opposer will be damaged by registration of the mark shown in the Opposed Application because registration will give Applicant prima facie evidence of its

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.