

ESTTA Tracking number: **ESTTA525957**

Filing date: **03/11/2013**

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	Elizabeth Arden, Inc.
Granted to Date of previous extension	03/13/2013
Address	2400 S.W. 145 Avenue 2nd Floor Miramar, FL 33027 UNITED STATES

Attorney information	Bret Parker Elizabeth Arden, Inc. 200 Park Avenue South 2nd Floor New York, NY 10003 UNITED STATES bret.parker@elizabetharden.com, pto@elizabetharden.com Phone:212-261-1011
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Applicant Information

Application No	85477868	Publication date	11/13/2012
Opposition Filing Date	03/11/2013	Opposition Period Ends	03/13/2013
Applicant	Coty US LLC 2 Park Avenue New York, NY 10016 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: mascara
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Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2027829	Application Date	05/08/1995
Registration Date	12/31/1996	Foreign Priority Date	NONE
Word Mark	CURVE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1996/08/12 First Use In Commerce: 1996/08/12 perfumes, colognes, body creams/lotions, talcum powder, bath soap, toilet soap, bath gel, shower gel and [body scrub]

U.S. Registration No.	4180104	Application Date	10/20/2010
Registration Date	07/24/2012	Foreign Priority Date	NONE

Word Mark	CURVE APPEAL
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2011/12/17 First Use In Commerce: 2011/12/17 After-shave balms; After-shave lotions; Body lotion; Body sprays; Body wash; Cologne; Deodorant for personal use; Fragrances

U.S. Registration No.	3255533	Application Date	04/12/2006
Registration Date	06/26/2007	Foreign Priority Date	NONE

Word Mark	CURVE CHILL
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 003. First use: First Use: 2006/04/03 First Use In Commerce: 2006/04/03 Cosmetics, namely; nail polish and lipstick, perfumes, colognes, toilet soap, potpourri, personal cleaning and bath products, namely; soaps, face and body powders; personal care products, namely, moisturizer, bath oils, skin cleansers, skin scrubs, shower gels, bubble bath, after shave lotion and deodorant; hair care products, namely; shampoo, conditioner and styling compounds; tanning
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	and sun products, namely, sun tan gel, sun tan lotion, and sun tan oil		
U.S. Registration No.	2973691	Application Date	09/02/2003
Registration Date	07/19/2005	Foreign Priority Date	NONE
Word Mark	CURVE CRUSH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2003/11/15 First Use In Commerce: 2003/11/15 Perfumes, colognes, body creams/lotions, talcum powder, bath soap, toilet soap, bath gel, shower gel and body scrub		

Attachments	85157271#TMSN.jpeg (1 page)(bytes) 78860102#TMSN.jpeg (1 page)(bytes) Notice of Opposition_CURVE ALERT_No 85477868_TTAB.pdf (2 pages)(43084 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/bretparker/
Name	Bret Parker
Date	03/11/2013

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

In the Matter of Application Serial No. 85477868
Published on November 13, 2012

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ELIZABETH ARDEN, INC.,	:	
Opposer,	:	Opposition No.
- against -	:	<u>NOTICE OF OPPOSITION</u>
	:	
COTY US LLC	:	
	:	
Applicant.	:	
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Opposer Elizabeth Arden, Inc., a Florida corporation having its principal place of business at 2400 S.W 145 Avenue, Miramar, FL, believes it will be damaged by registration of the mark CURVE ALERT sought to be registered in Application Serial No. 85477868 published in the Official Gazette on November 13, 2012 in International Class 3 for various goods and having been granted an extension of time to oppose this application until March 13, 2013, hereby opposes same.

As grounds for opposition, it is alleged that:

1. Elizabeth Arden, Inc., its predecessors-in-interest and related companies (“EA”) are now, and for many years past have been, engaged in the manufacture, distribution and sale of a wide variety of perfumery, cosmetics and other products.

2. EA is the owner of registrations on the Principal Register of the United States Patent and Trademark Office, for marks such as CURVE (Reg. No. 2027829), CURVE APPEAL (Reg. No. 4180104), CURVE CHILL (Reg. No. 3255533) and CURVE CRUSH (Reg. No. 2973691), among others, in International Class 3 for various products by assignment from

LC Licensing Inc., or its related entities, all with various priority dates – for example, the registration for CURVE was issued on December 31, 1996.

3. Before the filing date of the application herein opposed, EA has used the trademarks in connection with perfumery and other products with such use supported by extensive advertising and promotion.

4. By the application herein opposed, applicant seeks to register the mark CURVE ALERT in International Class 3 for various goods. Said mark is likely, when applied to applicant's goods, which are identical and/or similar to EA's products as identified in its aforesaid registrations for marks such as CURVE, CURVE APPEAL, CURVE CHILL and CURVE CRUSH, to cause confusion, and mistake and to deceive, with consequent injury to EA, the consuming public and the trade.

5. EA will be damaged by the registration sought by applicant because such registration will support and assist applicant in the confusing and misleading use of applicant's mark sought to be registered, and will give color of exclusive statutory rights to applicant in violation and derogation of the prior and superior rights of EA.

WHEREFORE EA believes that it will be damaged by registration of applicant's mark and prays that this opposition be sustained, and the application be denied.