



World Intellectual Property
Organisation (WIPO)
International Bureau
34, Chemin des Colombettes
1211 Geneva 20
Switzerland

Your Reference:
International Registration No:
WO0000001291862
Examiner: Sally Howls
Direct Telephone: +44(0)1633811035
Date: 25 October 2016

Intl Reg No: WO0000001291862
Mark: ABC (Figurative)
Holder: ABC DETERJAN
SANAYI VE TICARET ANONIM SIRKETI
Class(es): 3, 5

Dear Sirs

**Notification Of A Provisional Total Refusal Of Protection Based On An
Opposition By The United Kingdom Intellectual Property Office In
Accordance With Article 5 Of The Madrid Protocol**

I am writing to inform you that following receipt of an opposition to the above trade mark, it is necessary to issue this formal provisional refusal letter. This provisional refusal covers all of the goods and services of the International Registration.

Please find attached a copy of the TM7 'Notice of Opposition', which includes details of any marks referred to in the statement of case, which was received by the United Kingdom Trade Mark Registry. Copies of these documents have been sent to the holder informing them of this provisional refusal.

If the holder of the International Registration wishes to file a counterstatement, they must complete the form TM8 'Notice of defence and counterstatement', which is available at ipo.gov.uk/tmforms and **return it to this office** within **two months** of the date of this letter ie on or before **28 December 2016**. This period cannot be extended, except in the circumstances described below. The holder should note that failure to file a TM8 will result in the provisional refusal being upheld.

If both parties to this dispute wish to negotiate and want to enter a 'cooling off period' then the time for filing the TM8 can be extended for a further seven months by the filing the form TM9c 'Request for a cooling off period, which is available at ipo.gov.uk/tmforms

The TM8 should be received on or before the date requested above unless a cooling off period is entered into by the parties.

The holder of the International Registration must provide us with an address for correspondence in the United Kingdom, another EEA state or the Channel Islands on a form TM33 'Appointment or change of agent or contact address', which is available at ipo.gov.uk/tmforms within this two month period.

If one is not provided within this time the refusal will be made final.

Yours faithfully

Sally Howls

Trade Marks Registry



**Intellectual
Property
Office**

M5-IPO-FAX
12 / OCT / 2016

J778206/ 0001 D02246 TM07.....
.12OCT16 200.00 ACCOUNT 0P000407649

Form TM7

Notice of opposition and statement of grounds

Fee ☐ £100

Opposition based on Section 5(1) and/or 5(2) ONLY

☒ £200

Opposition based on, or including, any other grounds

Note: If you wish to oppose under Section 5(1) and/or 5(2) and one or more other grounds, the fee will be £200

Use this form to notify of an opposition to a trade mark application or international registration and to set out the grounds on which you are basing this opposition.

Do not use this form if you wish to file a Fast Track opposition under Section 5(1) and/or 5(2): use Form TM7F.

1. Trade mark number Number of the trade mark you are opposing. If the opposition concerns an International Registration, help us identify the correct trade mark by adding "IR"	IR 1291862
2. Full name of applicant/holder Whose trade mark you are opposing	ABC Deterjan Sanayi ve Ticaret Anonim Sirketi
3. Full name of opponent Person opposing the trade mark	The Procter & Gamble Company
Address If the address is not within the United Kingdom, European Economic Area (EEA – which includes the European Union) or the Channel Islands you must have a representative in one of these regions and complete section 4 below	One Procter & Gamble Plaza Cincinnati United States of America Postcode 45202-3315
Email address Complete if you have no representative and would like us to correspond with you by email	
4. Representative name If you have no representative, go to section 5.	D Young & Co LLP
Address The address provided in this section must be in the UK, European Economic Area (EEA) or the Channel Islands.	120 Holborn London United Kingdom Postcode EC1N 2DY
NOTE: We will communicate with the representative if this section has been completed.	
Email address Complete if you would like us to correspond with you by email	tmfilings@dyoung.com

5. Related proceedings

If applicable, select location of any related proceedings and enter the case number allocated to the proceedings.

IPO Registry

UK Courts

EUIPO

Number

6. Opposition notification date

If you have informed the applicant/holder of an intention to oppose the trade mark application, designation – enter the date you notified them.
[**See Note]

14 September 2016

**Note: An opposition launched without giving the applicant or holder a reasonable opportunity to withdraw the application, international designation or amendment may result in the opponent being ineligible for an award of costs.

7. Declaration

I believe that the facts stated in this form and the attached statement of grounds are true.

Signature

D Young & Co LLP

Name
(BLOCK CAPITALS)

D YOUNG & CO LLP

Date

12 October 2016

8. Your reference

Complete if you would like us to quote this in communications with you, otherwise leave blank.

0051139 GMK KXM

Contact details

Name, daytime telephone number of the person to contact in case of query.

GEMMA KIRKLAND

023 8071 9500

Number of sheets attached to this form

26

Checklist

Please make sure you have remembered to:

- ☐ Sign and date the form
- ☐ Complete fee sheet (Form FS2)
- ☐ Enclose the fee and fee sheet. Make cheques payable to Intellectual Property Office

Where to send

Intellectual Property Office
Trade Marks Registry
Concept House
Cardiff Road
Newport
South Wales
NP10 8QQ

TM7

Please tick on what grounds you are opposing the trade mark and continue to the relevant section(s)



Opposition is based on Sections 5(1) or 5(2): The trade mark is either identical or similar to an earlier trade mark and is to be registered for identical and/or similar goods and services.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier trade mark.

> COMPLETE SECTION A



Opposition is based on Section 5(3): The trade mark is either identical or similar to an earlier trade mark which has a reputation. Using the later mark would take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier mark.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier trade mark. Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION B

Opposition is based on Section 5(4)(a): Where the use of the applicant's trade mark would be contrary to law, in particular, the law of passing off.

Note: Opposition on these grounds must be made by the 'proprietor' (owner) of the earlier right. Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION C

Opposition is based on Section 3: The trade mark is excluded from registration because it describes the goods/services, or is not distinctive, or consists of signs that are customary within the trade, or the application was made in bad faith.

Note: Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION D

Opposition is based on other grounds.

Note: Ticking this box means that the total fee for this form is £200.

> COMPLETE SECTION E

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number
Your trade mark

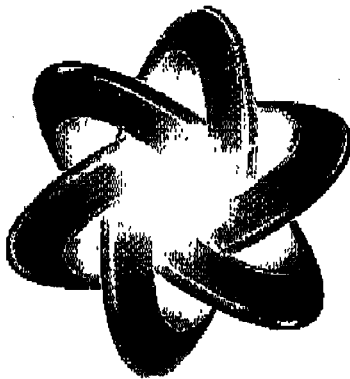
9839984

Type of mark
Please tick

<input type="checkbox"/> UK	<input checked="" type="checkbox"/>	<input type="checkbox"/> EUTM	<input type="checkbox"/> International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.



Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☐ Yes

☒ No > GO TO Q4

Q3. Has the trade mark been used?

☐ Yes

☐ No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

<input checked="checked" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

Please refer to the attached Statement of Grounds.

SECTION B: Opposition is based on section 5(3) of the Trade Marks Act on the basis of an earlier registered or pending trade mark, that is identical with or similar to an earlier mark which has a reputation.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number

Your trade mark

9939984

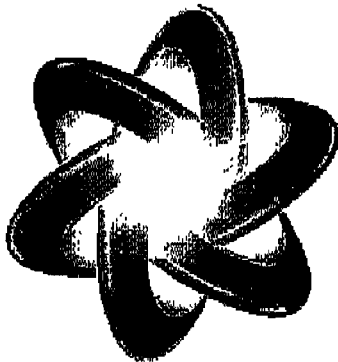
Type of mark

Please tick

<input type="checkbox"/>	UK	<input checked="" type="checkbox"/>	EUTM	<input type="checkbox"/>	International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.



Q1. For which goods or services covered by your earlier trade mark does it have a reputation?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q2. For which goods or services in the application (you are opposing) would use of the applicant's mark take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier trade mark?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q3. Is it claimed that the similarity between the reputed earlier trade mark and the later trade mark is such that the relevant public will believe that they are used by the same undertaking or think that there is an economic connection between the users of the trade marks?

☒ Yes

☐ No

Use this space to supply any further information

Please refer to the attached Statement of Grounds.

QUESTIONS 4 TO 6 SHOULD BE ANSWERED IF THERE IS ANY OTHER BASIS FOR YOUR CLAIM OTHER THAN FOR YOUR ANSWER TO Q.3

Q4. Is there any other basis for your claim of unfair advantage? If so, please explain what the advantage would be to the holder of the later mark, and why it is unfair.

Please refer to the attached Statement of Grounds.

Q5. Is there any other basis for your claim of detriment to the reputation of the earlier mark? If so, please explain what the detriment would be and how it would occur.

Please refer to the attached Statement of Grounds.

Q6. Is there any other basis for your claim of detriment to the distinctive character of the earlier mark? If so, please explain what the detriment would be and how it would affect the economic behaviour of the relevant public.

Please refer to the attached Statement of Grounds.

Q7. STATEMENT OF USE PROVISION - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☐ Yes

☒ No > GO TO Q10

Q8. Has the trade mark been used in the 5 year period ending on the date of publication of the opposed mark?

☐ Yes

☐ No > GO TO Q9b

Q9a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

> GO TO Q10

Q9b. Please state any proper reasons for non-use.

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Q10. Use this space to give any further information to explain why you are opposing the application on this ground.

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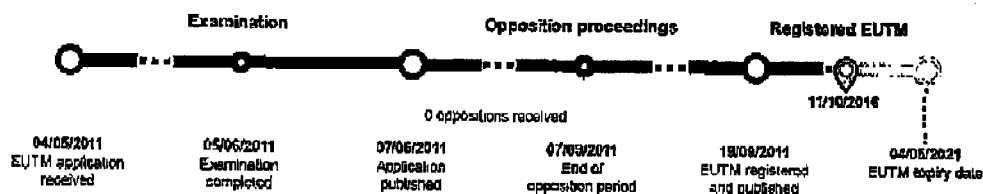
Protect your intellectual property in the European Union

EUTM file information

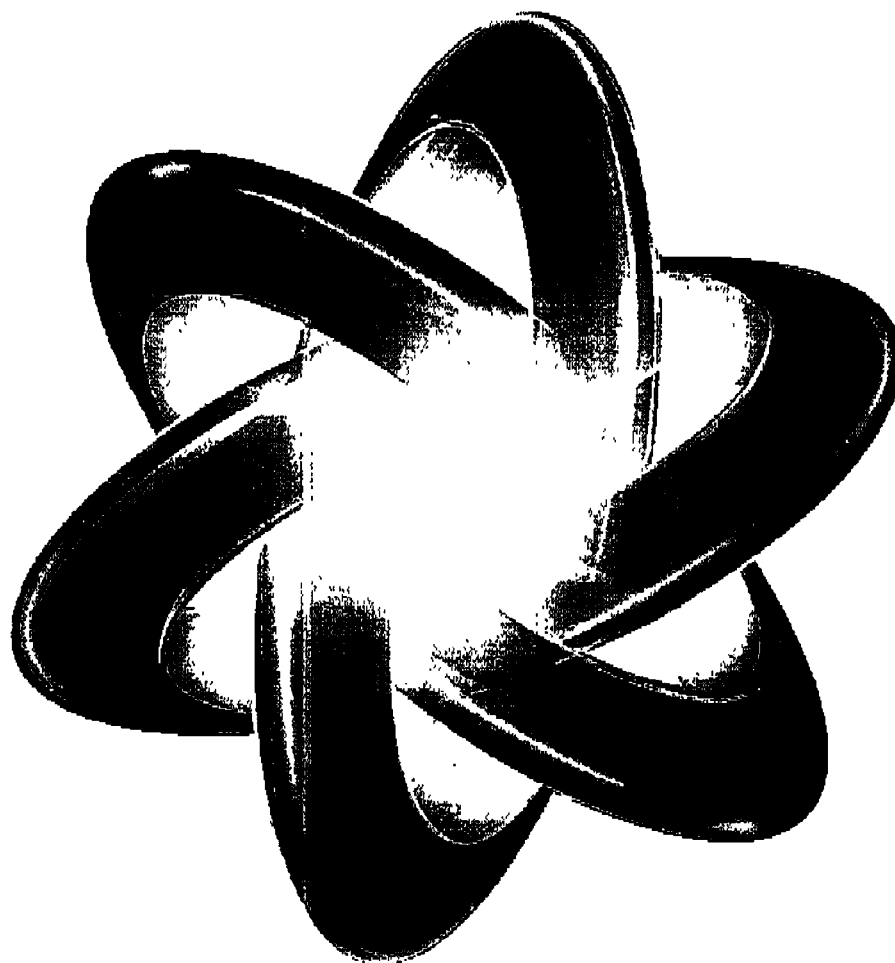
(Trade mark without text)

009939984

Timeline



Graphic representation



Trade mark information

Name	(Trade mark without text)	Filing date	04/05/2011
Filing number	009939984	Registration date	14/09/2011
Basis	EUTM	Expiry date	04/05/2021
Date of receipt	04/05/2011	Designation date	
Type	Figurative	Filing language	English
Nature	Individual	Second language	French
Nice classes	3 (Nice Classification)	Application reference	TM-548160-FC
Vienna Classification	10.01.03, 10.01.05, 10.01.11 (Vienna Classification)	Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

English (en)

3 Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; essential oils; cosmetics; hair care; dentifrices.

Description

No entry

Owners

The Procter & Gamble Company

ID	110	Country	US - United States	Correspondence address	
Organisation	The Procter & Gamble Company	State/country	Ohio	The Procter & Gamble Company	Can be accessed and changed by authorised user via the User Area
Legal status	Legal entity	Town	Cincinnati,	One Procter & Gamble Plaza	
State, district or...	Ohio	Post code	45202-3315	Cincinnati, Ohio 45202-3315	Can be accessed and changed by authorised user via the User Area
		Address	One Procter & Gamble Plaza	ESTADOS UNIDOS (DE AMÉRICA)	Can be accessed and changed by authorised user via the User Area

Representatives

Brincat, Deborah

ID	17218	Country	FR - France	Correspondence address	
Organisation	PROCTER & GAMBLE France SAS	State/country	n/a	PROCTER & GAMBLE France SAS	00 33-140885441
Legal status	Individual	Town	Asnières Cédex	Deborah Brincat	00 33-140887907
Type	Employee	Post code	92665	163, quai Aulagnier	
		Address	163, quai Aulagnier	F-92665 Asnières Cédex FRANCE	

Correspondence

From	Procedure	Filing number	Subject	Date	Actions
	EUTM	009939984	Surveillance letter	23/03/2016	
	Inspection request	002552378	Issues copies/extracts & Notification information (EUTM+RCD)	01/12/2015	
	Inspection request	002552378	D113 : Certified copy of registration certificate	01/12/2015	
	Inspection request	002552378	D123-Legalizar documentos (NB: ES only)	01/12/2015	
	Inspection request	002552378	Issue copies/extracts+Notification Information (EUTM+RCD) outside EU	01/12/2015	
	Recordal	009009799	T725M - Registration of recordal C.2.2 / B.9.2	20/11/2014	
	Recordal	009009799	Application form and attachment	19/11/2014	

From	Procedure	Filing number	Subject	Date	Actions
	Inspection request	001926408	Priority (exhibition)	23/12/2011	
	Inspection request	001926408	D108-9\Issue copies/extracts+Notification Information (EUTM+RCD) generated as a PDF	23/12/2011	
	Inspection request	001926408	D112 \ Certified copy EUTM application form generated as PDF	23/12/2011	

Showing 1 to 10 of 24 entries

IR transformation

No entry

Seniority

No entry

Exhibition priority

No entry

Priority

No entry

Publications

Bulletin number	Date	Section	Description
2011/106	07/06/2011	A.1	Applications published under article 40 EUTMR
2011/164	31/08/2011	C.2.1	Representative - Change of name and professional address
2011/177	19/09/2011	B.2	Registrations with amendments since the application was published
2014/221	24/11/2014	C.2.2	Representative - Appointment / Replacement of representative

Showing 1 to 4 of 4 entries

Cancellation

No entry

Recordals

Bulletin number	Date	Section	Filing number	Title	Subtitle
2011/164	31/08/2011	C.2.1	005867984	Representative	Change of name and professional address
2014/221	24/11/2014	C.2.2	009009799	Representative	Appointment / Replacement of representative

Showing 1 to 2 of 2 entries

Oppositions

No entry

Appeals

No entry

Decisions

No entry

Renewals

No entry

Trade mark relations

No entry

SECTION A: Opposition is based on sections 5(1) or 5(2) of the Trade Marks Act on the basis of an earlier registered or pending mark.

Please tick the relevant section(s) that apply.

<input type="checkbox"/>	5(1) It is identical with an earlier mark and for identical goods or services as the earlier mark
<input type="checkbox"/>	5(2)(a) It is identical with an earlier mark and for similar goods or services as the earlier mark.
<input checked="" type="checkbox"/>	5(2)(b) It is similar to an earlier mark and for identical or similar goods or services as the earlier mark.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number
Your trade mark

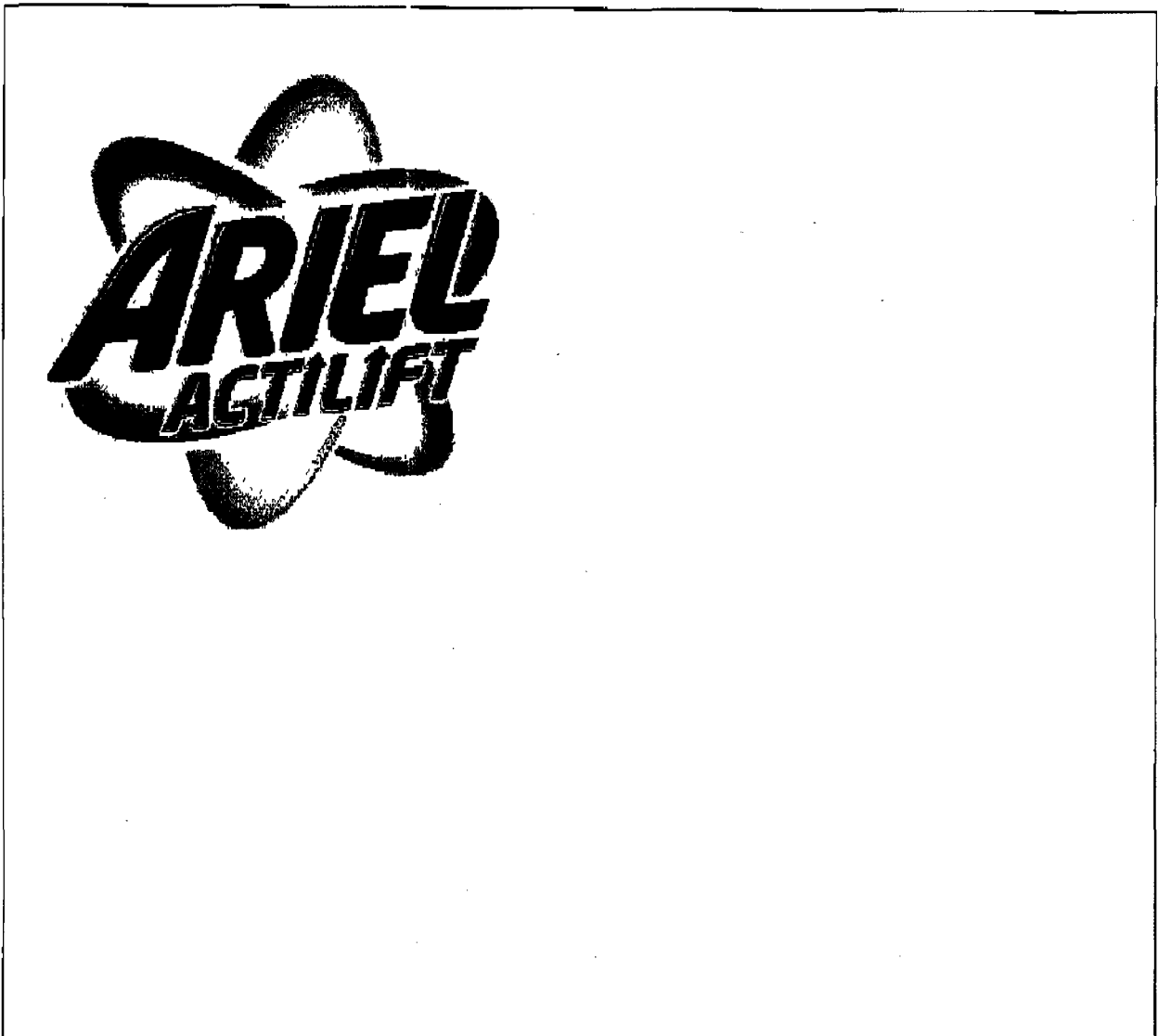
7437874

Type of mark
Please tick

<input type="checkbox"/>	UK	<input checked="" type="checkbox"/>	EUTM	<input type="checkbox"/>	International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.



TM¹³

Q1. Which goods or services covered by the earlier trade mark are relied upon for the opposition?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q2. STATEMENT OF USE - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☒ Yes☐ No > GO TO Q4

Q3. Has the trade mark been used?

☐ Yes☐ No > GO TO Q3b

Q3a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

> GO TO Q4.

Q3b. Please state any proper reasons for non-use.

DETAILS OF THE TRADE MARK YOU ARE OPPOSING

Q4. Which goods or services in the application that you are opposing do you claim are identical or similar to those covered by the earlier mark which you have listed at Q1 or Q3a (whichever is applicable)?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q5. Use this space to supply any further information about why you consider there is a likelihood of confusion and e.g. why you consider the respective marks or goods and/or services to be similar.

Please refer to the attached Statement of Grounds.

SECTION B: Opposition is based on section 5(3) of the Trade Marks Act on the basis of an earlier registered or pending trade mark, that is identical with or similar to an earlier mark which has a reputation.

You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

ABOUT THE EARLIER TRADE MARK

Trade mark number

Your trade mark

7437874

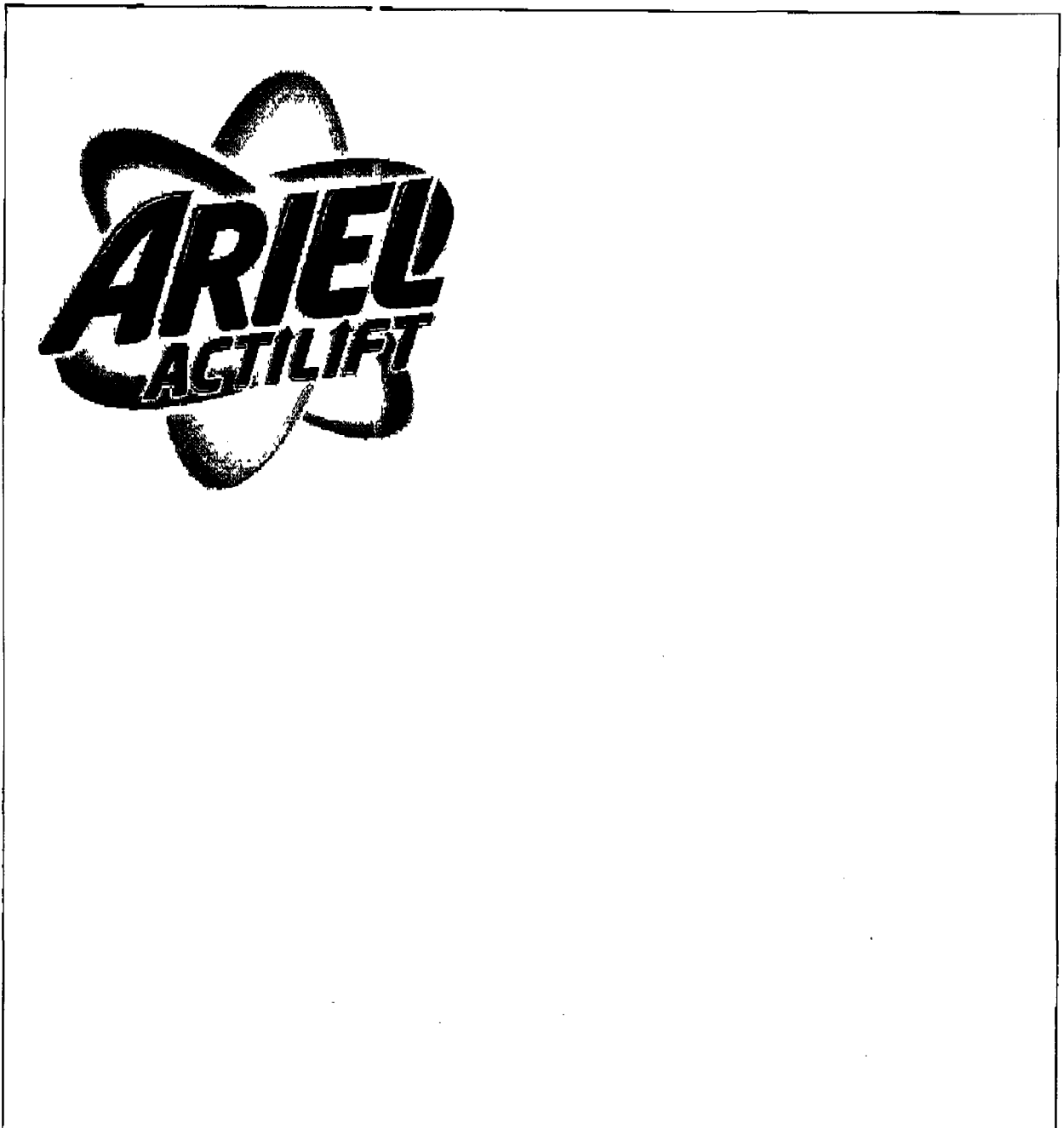
Type of mark

Please tick

<input type="checkbox"/>	UK	<input checked="" type="checkbox"/>	EUTM	<input type="checkbox"/>	International
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Representation of your trade mark

Enter your trade mark in the space provided - use a continuation sheet if necessary.



Q1. For which goods or services covered by your earlier trade mark does it have a reputation?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q2. For which goods or services in the application (you are opposing) would use of the applicant's mark take unfair advantage of, or be detrimental to, the distinctive character or reputation of the earlier trade mark?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

Q3. Is it claimed that the similarity between the reputed earlier trade mark and the later trade mark is such that the relevant public will believe that they are used by the same undertaking or think that there is an economic connection between the users of the trade marks?

☒ Yes

☐ No

Use this space to supply any further information

Please refer to the attached Statement of Grounds.

QUESTIONS 4 TO 6 SHOULD BE ANSWERED IF THERE IS ANY OTHER BASIS FOR YOUR CLAIM OTHER THAN FOR YOUR ANSWER TO Q.3

Q4. Is there any other basis for your claim of unfair advantage? If so, please explain what the advantage would be to the holder of the later mark, and why it is unfair.

Please refer to the attached Statement of Grounds.

Q5. Is there any other basis for your claim of detriment to the reputation of the earlier mark? If so, please explain what the detriment would be and how it would occur.

Please refer to the attached Statement of Grounds.

Q6. Is there any other basis for your claim of detriment to the distinctive character of the earlier mark? If so, please explain what the detriment would be and how it would affect the economic behaviour of the relevant public.

Please refer to the attached Statement of Grounds.

Q7. STATEMENT OF USE PROVISION - Was the registration or protection process for the earlier trade mark completed 5 years or more before the publication date of the application you wish to oppose?

☒ Yes

☐ No > GO TO Q10

Q8. Has the trade mark been used in the 5 year period ending on the date of publication of the opposed mark?

☒ Yes

☐ No > GO TO Q9b

Q9a. For which of the goods and services listed at Q1 is trade mark use being claimed?

<input checked="" type="checkbox"/>	All goods and services
<input type="checkbox"/>	Some goods and services (please specify below, use a continuation sheet if necessary)

> GO TO Q10

Q9b. Please state any proper reasons for non-use.

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Q10. Use this space to give any further information to explain why you are opposing the application on this ground.

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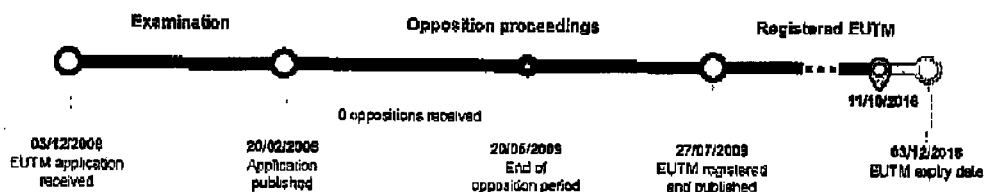
Protect your intellectual property in the European Union

EUTM file information

ARIEL ACTILIFT

007437874

Timeline



Graphic representation



Trade mark information

Name	ARIEL ACTILIFT	Filing date	03/12/2008
Filing number	007437874	Registration date	21/07/2009
Basis	EUTM	Expiry date	03/12/2018
Date of receipt	03/12/2008	Designation date	
Type	Figurative	Filing language	English
Nature	Individual	Second language	French
Nice classes	3 (Nice Classification)	Application reference	FCD8OH510599
Vienna Classification	01.13.01, 27.05.12 (Vienna Classification)	Trade mark status	Registered
		Acquired distinctiveness	No

Goods and services

English (en)

- 3 Washing and bleaching preparation for household purposes including laundry-related use; detergents.

Description

English (en)

Description

Colour Red, green, blue and white.

Owners**The Procter & Gamble Company**

ID	110	Country	US - United States	Correspondence address	
Organisation	The Procter & Gamble Company	State/country	Ohio	The Procter & Gamble Company One Procter & Gamble Plaza Cincinnati, Ohio 45202-3315 ESTADOS UNIDOS (DE AMÉRICA)	Can be accessed and changed by authorised user via the User Area
Legal status	Legal entity	Town	Cincinnati		
State, district or L...	Ohio	Post code	45202-3315		Can be accessed and changed by authorised user via the User Area
		Address	One Procter & Gamble Plaza		Can be accessed and changed by authorised user via the User Area

Representatives**Brincat, Deborah**

ID	17218	Country	FR - France	Correspondence address	
Organisation	PROCTER & GAMBLE France SAS	State/country	n/a	PROCTER & GAMBLE France SAS Deborah Brincat 163, quai Aulagnier F-92665 Asnières Cédex FRANCE	00 33-140885441 00 33-140887907
Legal status	Individual	Town	Asnières Cédex		
Type	Employee	Post code	92665		
		Address	163, quai Aulagnier		

Correspondence

From	Procédure	Filing number	Subject	Date	Action
EUTM		007437874	Surveillance letter for EUTMs	09/09/2010	
Recordal		004754647	T725M - Registration of recordal C.2.2 / B.9.2	06/05/2010	
Recordal		004754647	Letter to the EUIPO	28/04/2010	
Recordal		004754647	Miscellaneous	28/04/2010	
EUTM		007437874	Certificate of Registration	14/08/2009	
EUTM		007437874	Cover letter for registration certificate.	14/08/2009	
EUTM		007437874	Notification of acceptance for publication	31/03/2009	
EUTM		007437874	Examination of application finished	20/01/2009	
Inspection request		001303129	D112 - Certified copy of the European Union trade mark application	15/12/2008	
Inspection request		001303129	D108-9: Issue copies / extracts + Notification Information (EUTM+RCD).	15/12/2008	

Showing 1 to 10 of 13 entries

IR transformation

No entry

Seniority

No entry

Exhibition priority

No entry

Priority

No entry

Publications

Bulletin number	Date	Section	Description
2009/007	20/02/2009	A.1	Applications published under article 40 EUTMR
2009/028	27/07/2009	B.1	Registrations with no amendments since the application was published
2010/084	10/05/2010	C.2.2	Representative - Appointment / Replacement of representative

Showing 1 to 3 of 3 entries

Cancellation

No entry

Records

Bulletin number	Date	Section	Filing number	Title	Status
2010/084	10/05/2010	C.2.2	004754647	Representative	Appointment / Replacement of representative

Showing 1 to 1 of 1 entries

Oppositions

No entry

Appeals

No entry

Decisions

No entry

Renewals

No entry

Trade mark relations

No entry

TRADE MARKS ACT 1994

IN THE MATTER OF International Registration No.
1291862 designating the UK ABC & Atomium Device in
the name of ABC Deterjan Sanayi ve Ticaret Anonim
Sirketi

- and -

Opposition thereto by The Procter & Gamble Company

STATEMENT OF GROUNDS

1. The opponent, The Procter & Gamble Company, is the proprietor of EU Trade Mark Registration Nos. 9939984 Atomium Device and 7437874 ACTI-LIFT & Atomium Device (hereinafter collectively referred to as "the P&G Trade Marks") as detailed in the Notice of Opposition.
2. The P&G Trade Marks are earlier trade marks under the provisions of Section 6(1)(a) of the Trade Marks Act 1994. Full details of the trade marks relied upon are attached to the Notice of Opposition.
3. International Registration No. 1291862 designating the UK should be refused for the goods applied for in Classes 3 and 5 for the following reasons.
4. When considering the overall impression of the trade marks, it is clear that the ABC & Atomium Device trade mark is closely similar to the P&G Trade Marks. International Registration No. 1291862 contains an Atomium device with the letters ABC featured in the middle. The P&G Trade Marks also contain a similar Atomium device and in respect of EU Registration No. 7437874, also contain a word beginning with the letter "A" across the middle of the Atomium device. The contested goods in Classes 3 and 5 are also identical or closely similar to the Class 3 goods protected by the P&G Trade Marks. Indeed, it is noted that the Class 3 goods in particular largely appear to be directed towards laundry and cleaning preparations, which are the exact goods of interest to the opponent under the P&G Trade Marks. The goods are therefore likely to have the same trade channels, be sold and marketed in the same manner, and have the same users as the goods of the applicant. Therefore, it is likely that consumers would be confused as to the origin of the goods applied for under the ABC & Atomium Device trade mark in the UK.
5. As such, the opponent believes that there is a very real likelihood of confusion arising between the trade marks, including a likelihood of association on the part of the public, taking into account the principles of imperfect recollection and the fact that minor differences between the trade marks are unlikely to be noticed by the relevant consumers. The application should therefore be

refused for the contested goods in Classes 3 and 5 under the provisions of Section 5(2)(b) of the Trade Marks Act 1994.

6. Further or in the alternative, International Registration No. 1291862 ABC & Atomium Device should be refused under the provisions of Section 5(3) of the Trade Marks Act 1994 on the grounds that the application is likely to take unfair advantage of and/or be detrimental to the distinctive character and repute that the opponent enjoys under its P&G Trade Marks in the UK. As will be demonstrated through the opposition proceedings, the opponent has a significant reputation in its Atomium and ARIEL trade marks in the UK for the Class 3 goods for which its marks are registered and used. In view of the identity and similarity of the goods in question to those under the P&G Trade Marks, and taking into account the close similarities of the trade marks themselves, consisting of Atomium devices and verbal elements beginning with the letter "A" across the middle of the Atomium devices, the opponent believes that consumers will easily assume that there is an economic connection between the two trade marks, when there is not.
7. The opponent submits that the ABC & Atomium Device application is likely to take unfair advantage of the opponent's P&G Trade Marks in the UK or the distinctive character thereof. Taking unfair advantage of a trade mark includes freeriding on the coat-tails of the earlier trade mark which has a reputation. The opponent submits that any sales the applicant may enjoy under the ABC & Atomium Device trade mark in relation to the contested goods in Classes 3 and 5 would be as a direct result of the opponent's reputation in its P&G Trade Marks. Consumers will also be less able to identify the goods being offered by the opponent under its P&G Trade Marks and may choose the goods offered by the applicant in the mistaken belief that these are offered by or in production with the opponent.
8. The opponent further submits that there is a risk of detriment being caused to the distinctive character of its prior registered P&G Trade Marks if the ABC & Atomium Device application is allowed to proceed to registration for the contested goods in Classes 3 and 5. Detriment is caused when a similar sign is used by a third party and may be perceived by the public in such a way that the trade mark's allure and attraction is reduced. The opponent has the highest respect for standards and offers top quality fabric and laundry care goods under its P&G Trade Marks. The existence of a highly similar trade mark for identical or similar goods is likely to result in the opponent no longer having exclusivity in its P&G Trade Marks in the UK. The offering of less adequate goods under a confusingly similar mark would dilute the distinctive character enjoyed by the earlier P&G Trade Marks. In addition, any sales made under the contested mark by the applicant could foreseeably result in a loss of sales and a change in the economic behaviour of the relevant consumers in relation to the opponent's earlier P&G Trade Marks.
9. The opponent therefore submits that International Registration No. 1291862 ABC & Atomium Device in the UK should be refused for the contested goods in Classes 3 and 5, and the opponent granted costs in these opposition proceedings.
10. The opponent reserves its right to file further evidence and detailed arguments in relation to each of the claims made during the course of the opposition proceedings.

Dated this 12th day of October 2016

D Young & Co LLP

D Young & Co LLP
Agents for the Opponent