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P.O. Box 18
1211 Geneva 20,
SWITZERLAND

NOTIFICATION OF PROVISIONAL REFUSAL OF PROTECTION BASED ON AN OPPOSITION

THIS REFUSAL IS ISSUED PURSUANT TO RULE 17(1) TO 17(3) OF THE COMMON REGULATIONS UNDER THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS AND THE PROTOCOL RELATING TO THAT AGREEMENT

Trade Mark Number: 1757917
International Registration Number: 1291862
In the name of: ABC DETERJAN SANAYI VE
TICARET ANONIM SIRKETI
Opposition by: THE PROCTER & GAMBLE
COMPANY

Trade Mark:



We advise that following receipt of a Notice of Opposition to the above Trade Mark on 11 August 2017, it is necessary to issue this formal refusal letter. This refusal covers all of the goods and/or services of the International Registration (**Rule 17(2)(vi)**). Please find attached a copy of the Notice of Intention to Oppose and the Statement of Grounds and Particulars (**Rule 17(2)(iv)**).

We also attach:

- Copies of the trade mark(s) upon which the opposition is based, (if conflicting trade mark numbers have been provided in the notice of opposition) showing all relevant details (**Rule 17(2)(v)**, **Rule 17(3)**).
- A copy of subdivision C of Division 3 of Part 17A of the *Trade Marks Regulations 1995* (**Rule 17(2)(iv)**).

Subdivision C points to other relevant sections of the *Trade Marks Act 1995* (the Act) and the *Trade Marks Regulations 1995* (the Regulations). Both the Act and the Regulations may be accessed at the following website address:

<http://www.ipaustralia.gov.au/about-us/publications-listing/ip-legislation/>

The following information can also be accessed at:

http://www.ipaustralia.gov.au/pdfs/trademarkmanual/trade_marks_examiners_manual.htm

The Trade Marks Office Manual of Practice and Procedure.

IMPORTANT INFORMATION NOTICE OF INTENTION TO DEFEND



You have **ONE MONTH** from the date of this notification to file a notice of intention to defend with IP Australia. You must provide an address for service in Australia. IP Australia will give a copy of the notice of intention to defend to the opponent.

If you do not file a notice of intention to defend, the opposition will be taken to be successful and the IRDA may not be protected in Australia.

The trade marks opposition process can be lengthy. 3 months is nominally allowed for evidence in support of the opposition and 3 months for evidence in answer. 2 months is nominally allowed for evidence in reply. These periods may be extended. The due date for filing evidence in answer to the opposition (unless an extension of time is requested) will be **3 months** from the date on which the opponent files its evidence in support.

ADDRESS FOR SERVICE IN AUSTRALIA: *important information for the holder of an opposed international registration designating Australia*

If the holder wishes to make written representations or to be heard in relation to the opposition, then the holder **must** notify the Registrar, in writing, of the holder's address for service in Australia.

Please also note that the Registrar is not required to take any action in response to a notice of intention to defend unless the holder has notified the Registrar, in writing, of the holder's address for service in Australia.



Yours faithfully,
Chris Knight
Registrar of Trade Marks
IP Australia
Direct Dial: +61 2 62832999

3 October 2017

IP Australia
Trade Mark: 1690803

Word: (NO WORD ELEMENTS)
Class(es): 3
Status: Registered/Protected
Kind: n/a
Lodgement date: 30 April 2015
Sealing date: 25 November 2015
Acceptance adv: 17 September 2015
Registered from: 30 April 2015
Registered adv: 3 December 2015

Owner(s): The Procter & Gamble Company a corporation organised and existing under the laws of the State of Ohio, United States of America
One Procter & Gamble Plaza
Cincinnati 45202 Ohio

UNITED STATES OF AMERICA

Address for service: PHILLIPS ORMONDE FITZPATRICK
PO Box 323
COLLINS STREET WEST VIC 8007
AUSTRALIA

Goods & Services:

- 3 Bleaching preparations (laundry); color-brightening chemicals for household purposes (laundry); fabric softeners (for laundry use); stain removers; perfumes for industrial purposes; laundry detergent; cleaning, polishing, scouring and abrasive preparations; soaps



IP Australia
Trade Mark: 1357977

Word: ABC
Class(es): 3
Status: Registered/Protected
Kind: n/a
Lodgement date: 22 April 2010
Sealing date: 22 March 2012
Acceptance adv: 24 November 2011
Registered from: 22 April 2010
Registered adv: 29 March 2012

Owner(s): ABC Tissue Products Pty Limited
34-36 Redfern Street
WETHERILL PARK NSW 2164
AUSTRALIA

Address for service: FB Rice Pty Ltd
Level 23
44 Market Street
SYDNEY NSW 2000
AUSTRALIA

Goods & Services:

3 Soaps and detergents including foam soap and liquid hand soap

Endorsements:

Provisions of paragraph 44(3)(b) and/or Reg 4.15A(3)(b) applied.* Provisions of subsection s44(4) and/or Reg 4.15A(5) applied. *

ABC

IP Australia
Trade Mark: 1468173

Word: ABC
Class(es): 5
Status: Registered/Protected
Kind: n/a
Lodgement date: 7 December 2011
Sealing date: 14 October 2013
Acceptance adv: 19 April 2012
Registered from: 7 December 2011
Registered adv: 17 October 2013

Owner(s): FOSHAN NANHAI DANZAO XINNONG ZHONGXING LEATHER
PRODUCTS FACTORY
Hengjiang Development Zone, Danzao,
Nanhai, Foshan Guangdong

CHINA

Address for service: Refer to WIPO Address for Correspondence

Goods & Services:

5. Sanitary napkins; sanitary pads; sanitary panties

ABC

Subdivision C—Opposition to IRDA

17A.29 Definitions

In this Subdivision:

extension of protection means the extension of protection in Australia to the trade mark that is the subject of the IRDA.

notice of intention to defend means a notice filed under regulation 17A.34H.

notice of intention to oppose means a notice filed under regulation 17A.33.

notice of opposition means:

- (a) a notice of intention to oppose; and
- (b) a statement of grounds and particulars.

opponent means a person who files:

- (a) a notice of intention to oppose; and
- (b) a statement of grounds and particulars.

party means an IRDA holder or opponent.

statement of grounds and particulars means a statement by an opponent that sets out:

- (a) the grounds on which the opponent intends to rely; and
- (b) the facts and circumstances forming the basis for the grounds.

Note: The following terms are defined in section 6 of the Act:

- (a) applicant;
- (b) approved form;
- (c) employee;
- (d) file;
- (e) month;
- (f) person.

17A.30 Registrar may give direction about filing document or evidence

- (1) If a document or evidence may or must be filed under this Subdivision, the Registrar may give a direction specifying:
 - (a) how many copies of the document or evidence must be filed; and
 - (b) the form in which the document or evidence is to be filed; and
 - (c) the means by which the document or evidence is to be filed.
- (2) If a party does not comply with the direction, the Registrar may:
 - (a) treat the document or evidence as not having been filed; or
 - (b) tell the party to comply with the direction.
- (3) The Registrar may make or revoke the direction as the Registrar sees fit.
- (4) Regulation 17A.31 does not apply to this regulation.

17A.31 Notification and opportunity to make representations

- (1) This regulation applies if:
 - (a) a party makes a request to the Registrar under this Subdivision; or
 - (b) the Registrar proposes to make a decision on the Registrar's own initiative under this Subdivision.
- (2) The Registrar must:
 - (a) for paragraph (1)(a)—notify the other party of the request, including by giving the other party a copy of the request; or
 - (b) for paragraph (1)(b)—notify the parties of the proposed decision.
- (3) If the Registrar proposes to grant the request, the Registrar must give the parties an opportunity to make representations:

- (a) in writing; or
 - (b) at a hearing; or
 - (c) by other means that the Registrar states in the notification.
- (4) The Registrar must notify the parties of the Registrar's decision.

17A.32 Filing of notice of opposition

- (1) A notice of opposition is taken to be filed when the notice of intention to oppose and the statement of grounds and particulars have been filed under regulations 17A.33 and 17A.34A.
- (2) The Registrar must notify the International Bureau of the filing of the notice of opposition in accordance with rule 17, as applicable, of the Common Regulations.

17A.33 Filing of notice of intention to oppose

- (1) If the Registrar advertises the acceptance of an IRDA in the *Official Journal*, a person may oppose the extension of protection by filing a notice of intention to oppose within 2 months from the advertisement of the acceptance.
- (2) The notice must be in an approved form.
- (3) The Registrar must give a copy of the notice to the applicant.

17A.34 Grounds for opposing IRDA

- (1) The extension of protection may be opposed on any of the grounds on which an IRDA may be rejected under Subdivision 2, except the ground that the trade mark cannot be represented graphically.
- (2) The extension of protection may also be opposed on any of the grounds set out in sections 58 to 61 and 62A of the Act, as affected by subregulation (3).
- (3) Sections 58 to 61 and 62A of the Act apply in relation to an IRDA as if:
 - (a) a reference in those sections:
 - (i) to an application for the registration of a trade mark were a reference to the IRDA; and
 - (ii) to an applicant were a reference to the holder of the IRDA; and
 - (iii) to the registration of a trade mark were a reference to the extension of protection in Australia to the trade mark that is the subject of the IRDA; and
 - (b) the reference in paragraph 60(a) of the Act to the priority date for the registration of the trade mark were a reference to the priority date for the trade mark that is the subject of the IRDA.
- (4) The extension of protection may also be opposed on the grounds that:
 - (a) a document filed in support of the IRDA was amended contrary to the Act; or
 - (b) the Registrar accepted the IRDA on the basis of evidence provided, or a representation made, by the holder that was false in a material particular.

Note: Section 66 of the Act provides for the amendment of documents filed with the Registrar.

17A.34A Filing of statement of grounds and particulars

- (1) A statement of grounds and particulars must be filed within one month from the day the notice of intention to oppose is filed.
- (2) The statement must be in an approved form.

17A.34B Statement of grounds and particulars must be adequate

- (1) The Registrar must assess the adequacy of a statement of grounds and particulars.
- (2) If the Registrar decides that the statement is adequate, the Registrar must give a copy of the statement to the applicant.
- (3) If the Registrar decides that the statement is inadequate:
 - (a) the Registrar may direct the opponent to rectify the inadequacy by filing more information on the basis for one or more of the grounds; or
 - (b) if all the grounds are inadequately particularised, the Registrar may dismiss the opposition: or

- (c) if only some of the grounds are inadequately particularised, the Registrar may:
 - (i) delete from the statement some or all of the material that is inadequate; and
 - (ii) treat the result as the statement for the purposes of these Regulations; and
 - (iii) give a copy of the amended statement to the opponent.
- (4) If the Registrar decides that the statement is still inadequate after the information is filed under paragraph (3)(a):
 - (a) the Registrar may dismiss the opposition; or
 - (b) the Registrar may:
 - (i) delete from the statement some or all of the material that is inadequate; and
 - (ii) treat the result as the statement for the purposes of these Regulations; and
 - (iii) give a copy of the amended statement to the opponent.
- (5) If the Registrar decides that the information filed under paragraph (3)(a) rectifies the inadequacy of the statement, the Registrar must give a copy of the statement and the information filed in relation to paragraph (3)(a) to the applicant.
- (6) The opponent may apply to the Administrative Appeals Tribunal for review of a decision under this regulation to dismiss the opposition or delete material from the statement of grounds and particulars.
- (7) Regulation 17A.31 does not apply to this regulation.

17A.34C Extension of time for filing—application

- (1) A person who intends to oppose the extension of protection may request the Registrar to extend:
 - (a) the period for filing a notice of intention to oppose under subregulation 17A.33(1); or
 - (b) the period for filing a statement of grounds and particulars under subregulation 17A.34A(1).
- (2) A request under paragraph (1)(a) or (b) may be made:
 - (a) within the period for filing the document in question; or
 - (b) before the extension of protection of the IRDA is entered on the Record of International Registrations under paragraph 17A.37(1)(b).

Note: See subparagraph (3)(b)(ii) and subregulation 17A.34D(2) in relation to the consequences of making the request after the filing period has ended.
- (3) The request must:
 - (a) be in an approved form; and
 - (b) be accompanied by a declaration stating:
 - (i) the facts and circumstances forming the basis for the grounds; and
 - (ii) if the period for filing the notice or the statement of grounds and particulars has ended—the reason why the request was not made within the period.

Note: Regulations 21.6 and 21.7 deal with making and filing declarations.
- (4) The request must be made only on either or both of the following grounds:
 - (a) an error or omission by the person, the person's agent, the Registrar or an employee;
 - (b) circumstances beyond the control of the person, other than an error or omission by the person, the person's agent, the Registrar or an employee.
- (5) Subsection 52(5) of the Act applies to the request.
- (6) Regulation 17A.31 does not apply to this regulation.

17A.34D Extension of time for filing—grant

- (1) The Registrar may grant a request under subregulation 17A.34C(1) for an extension of time if the Registrar is satisfied that the grounds set out in the request justify the extension.
- (2) However, if the request is made after the period for filing the notice or statement of grounds and particulars has ended, the Registrar must not grant the extension unless the Registrar is satisfied that there is sufficient reason for the delay in making the request.
- (3) The Registrar must decide the length of the extended period having regard to what is reasonable in the circumstances.

17A.34E Opposition may proceed in name of other person

Section 53 of the Act applies to a notice of intention to oppose filed under this Subdivision.

17A.34F Amendment of notice of intention to oppose

- (1) An opponent may request the Registrar to amend a notice of intention to oppose to correct a clerical error or obvious mistake.
- (2) If an opposition proceeds in the name of another person under section 53 of the Act, the person may request the Registrar to amend the notice of intention to oppose to record the person's name.
- (3) The Registrar may grant a request under subregulation (1) or (2) on terms that the Registrar considers appropriate.
- (4) If the Registrar grants the request, the Registrar must give a copy of the notice of the amended intention to oppose to the IRDA holder.
- (5) Regulation 17A.31 does not apply to this regulation.

17A.34G Amendment of statement of grounds and particulars

- (1) An opponent may request the Registrar to amend the statement of grounds and particulars to:
 - (a) correct an error or omission in the grounds of opposition or the facts and circumstances forming the basis for the grounds; or
 - (b) amend a ground of opposition; or
 - (c) add a new ground of opposition; or
 - (d) to amend the facts and circumstances forming the basis for the grounds.
- (2) The Registrar may grant the request on terms that the Registrar considers appropriate.
- (3) However, the Registrar may grant a request to:
 - (a) amend a ground of opposition; or
 - (b) add a new ground of opposition;only if the Registrar is satisfied that the amendment or addition relates to information of which the opponent could not reasonably have been aware at the time of filing the statement.
- (4) If the Registrar grants the request, the Registrar must give a copy of the amended statement to the IRDA holder.

17A.34H Filing of notice of intention to defend

- (1) The IRDA holder must file a notice of intention to defend within one month from the day the Registrar notifies the International Bureau under subregulation 17A.32(2).
- (2) The holder must file an Australian address for service with the notice.
- (3) The Registrar must give a copy of the notice to the opponent.
- (4) If the holder does not file the notice within the period mentioned in subregulation (1), the Registrar may decide to:
 - (a) take the opposition to have succeeded; and
 - (b) refuse protection to the holder.
- (5) The Registrar is not required to take any action in response to a notice of intention to defend filed under subregulation (1) unless the opponent has notified the Registrar, in writing, of the opponent's address for service in Australia.
- (6) A requirement to:
 - (a) give a document to a person; or
 - (b) give a person an opportunity to make written representations or to be heard;does not apply if no address for service of the person is recorded in the Record of International Registrations.
- (7) The Registrar must notify the parties of the Registrar's decision.

17A.34J Filing of evidence

- (1) The Registrar must notify the parties that:
 - (a) all the evidence for an evidentiary period mentioned in this regulation has been filed; or
 - (b) no evidence was filed for the period.
- (2) The Registrar must give a copy of any evidence filed by a party under this regulation to the other party:
 - (a) before the end of the relevant evidentiary period, if the Registrar considers it appropriate to do so; or
 - (b) after the evidentiary period ends.

Evidence in support

- (3) An opponent must file any evidence in support of the opposition within 3 months from the day the opponent is given a copy of the notice of intention to defend.

Evidence in answer

- (4) If the opponent files evidence in support of the opposition, the IRDA holder must file any evidence in answer to the evidence in support within 3 months from the day the Registrar:
 - (a) gives the IRDA holder:
 - (i) all the evidence in support; or
 - (ii) if the opponent files the evidence in support in instalments—the final instalment of the evidence in support; and
 - (b) notifies the IRDA holder that all the evidence in support has been filed.
- (5) If the opponent does not file any evidence in support of the opposition, the IRDA holder must file any evidence in answer to the statement of grounds and particulars within 3 months from the day the Registrar notifies the IRDA holder that no evidence in support was filed.

Evidence in reply

- (6) If the IRDA holder files evidence in answer under subregulation (4) or (5), the opponent must file any evidence in reply to the evidence in answer within 2 months from the day the Registrar:
 - (a) gives the opponent:
 - (i) all the evidence in answer; or
 - (ii) if the IRDA holder files the evidence in answer in instalments—the final instalment of the evidence in answer; and
 - (b) notifies the opponent that all the evidence in answer has been filed.

17A.34K Extension of time for filing

- (1) A party may request the Registrar to extend a period for filing evidence mentioned in regulation 17A.34J.
- (2) The Registrar may extend the period only if the Registrar is satisfied that:
 - (a) the party:
 - (i) has made all reasonable efforts to comply with all relevant filing requirements of this Subdivision; and
 - (ii) despite acting promptly and diligently at all times to ensure the filing of the evidence within the period, is unable to do so; or
 - (b) there are exceptional circumstances that justify the extension.
- (3) The Registrar:
 - (a) must decide the length of the extended period having regard to what is reasonable in the circumstances; and
 - (b) may do so on terms that the Registrar considers appropriate.
- (4) In this regulation:

exceptional circumstances includes the following:

- (a) a circumstance beyond the control of a party that prevents the party from complying with a filing requirement under this Subdivision;

- (b) an error or omission by the Registrar or an employee that prevents a party from complying with a filing requirement under this Subdivision;
- (c) an order of a court or a direction by the Registrar that the opposition be stayed.

17A.34L Registrar may allow cooling-off period

- (1) This regulation applies to an opposition if:
 - (a) the notice of opposition has been filed; and
 - (b) the Registrar has not made a decision on the opposition under regulation 17A.34N; and
 - (c) the opposition has not been dismissed under regulation 17A.34B.
- (2) If the Registrar is satisfied that the parties agree to a cooling-off period, the Registrar must allow a cooling-off period of 6 months.
- (3) The Registrar must extend the cooling-off period for 6 months if, before the end of the period, the Registrar is satisfied that the parties agree to the extension.
- (4) The Registrar must not:
 - (a) further extend the cooling-off period; or
 - (b) allow more than one cooling-off period for an opposition.
- (5) If a party files a notice in an approved form requesting the Registrar to discontinue the cooling-off period, the Registrar must do so.
- (6) The Registrar may direct the parties on steps they must take:
 - (a) if the cooling-off period is discontinued; or
 - (b) otherwise—when the cooling-off period ends.
- (7) The opposition resumes:
 - (a) if the cooling-off period is discontinued; or
 - (b) otherwise—when the cooling-off period ends.
- (8) If:
 - (a) the cooling-off period begins during the period mentioned in regulation 17A.34H or an evidentiary period mentioned in regulation 17A.34J; and
 - (b) the opposition resumes;
 the period mentioned in regulation 17A.34H or 17A.34J restarts when the opposition resumes.

17A.34M Hearing

- (1) This regulation applies to an opposition if:
 - (a) the opposition has not been dismissed under regulation 17A.34B; or
 - (b) the opposition has not been decided under regulation 17A.34N; or
 - (c) the opposition is not taken to have succeeded under regulation 17A.34H.
- (2) An applicant may request the Registrar to hold a hearing if:
 - (a) the evidentiary period mentioned in subregulation 17A.34J(3) has ended; and
 - (b) either:
 - (i) all evidence for the opposition proceeding has been filed; or
 - (ii) no evidence has been filed in that period.
- (3) A party may request the Registrar to hold a hearing if:
 - (a) an evidentiary period mentioned in any of subregulations 17A.34J(4) to (6) has ended; and
 - (b) either:
 - (i) all evidence for the opposition proceeding has been filed; or
 - (ii) no evidence has been filed in that period.
- (4) The Registrar:
 - (a) must hold a hearing of the opposition if requested by a party in writing; or
 - (b) may decide, on the Registrar's own initiative, to hold a hearing of the opposition.
- (5) The hearing may, at the Registrar's discretion, be:
 - (a) an oral hearing; or
 - (b) by written submissions.

- (6) If the Registrar decides on an oral hearing:
 - (a) the Registrar must notify the parties of the date, time and place of the hearing; and
 - (b) the opponent must file a summary of submissions at least 10 business days before the hearing; and
 - (c) the applicant must file a summary of submissions at least 5 business days before the hearing.
 - (7) The Registrar may take into account a party's failure to file a summary of submissions under subregulation (6) in making an award of costs.
- Note: Regulations 21.15 and 21.16 deal with hearings.

17A.34N Decision on opposition

- (1) Unless the opposition proceedings are discontinued or dismissed, the Registrar must decide:
 - (a) to refuse protection in respect of all of the goods or services listed in the IRDA; or
 - (b) to extend protection in respect of some or all of the goods or services listed in the IRDA (with or without conditions or limitations);having regard to the extent (if any) to which the grounds on which the IRDA was opposed have been established.
- (2) The Registrar must notify the International Bureau of the Registrar's decision.

17A.34P Appeal

- (1) Section 56 of the Act applies in relation to the Registrar's decision on the opposition as if a reference in that section:
 - (a) to an applicant were a reference to the holder of an IRDA; and
 - (b) to a decision under section 55 of the Act were a reference to a decision under regulation 17A.34N.
- (2) If an appeal is made, the Registrar must tell the International Bureau of the decision on the appeal.

17A.34Q Registrar may give direction

- (1) The Registrar may give a direction in relation to an opposition to which this Division applies:
 - (a) if requested by a party in writing; or
 - (b) on the Registrar's own initiative.
- (2) If the Registrar proposes to give a direction, the Registrar must give the parties an opportunity to make representations about the direction.
- (3) A direction must not be inconsistent with the Act or these Regulations.
- (4) The Registrar must notify the parties of the direction as soon as practicable.

17A.35 Registrar must notify parties of dismissal or discontinuance of opposition

If an opposition is dismissed under regulation 17A.34B or discontinued, the Registrar must notify the parties of the dismissal or discontinuance.

AUSTRALIA

Sections 52, 96
Regulations 17A.29, 17A.48

Trade Marks Act 1995

Notice of Intention to Oppose

Opponent

The Procter & Gamble Company

Opponent: ~~Procter & Gamble France SAS~~

Address: ~~163-165 Quai Aulagnier 92665 Asnieres-sur-Seine cedex France~~

One Procter & Gamble Plaza Cincinnati 45202 Ohio United States of America

Address for service and correspondence in Australia of the Opponent is:

PHILLIPS ORMONDE FITZPATRICK

333 Collins Street Melbourne Victoria 3000 Australia

Telephone: (03) 9614 1944 Facsimile: (03) 9614 1867

Email: attorney@pof.com.au

Trade Mark

Number : 1757917

International Registration : 1291862

Applicant : ABC Deterjan Sanayi Ve Ticaret Anonim Sirketi

Fee Paid : \$250.00

Type of Opposition Proceeding

We hereby file a Notice of Intention to Oppose in relation to an application for:

- Protection of the above International Registration Designating Australia

Reference: 1757917

Dated: 11 August 2017



PHILLIPS ORMONDE FITZPATRICK

Attorneys for:

Procter & Gamble France SAS

AJB

HEREWITH FEES: \$250.00



phillips ormonde fitzpatrick
intellectual property

21 September 2017

Telephone Contact : Anita Brown
Speed Dial 527

The Registrar of Trade Marks
IP Australia
PO Box 200
WODEN ACT 2606

Dear Madam

Australian Trade Mark Application 1757917

Mark ABC (Logo)

Classes 3, 5

- and -

Opposition thereto by Procter & Gamble France SAS

Our Ref 1757917

We refer to the email dated 14 September 2017.

The Notice of Intention to Oppose was filed in the name of Procter & Gamble France SAS at a French address. It should have been filed in the name of The Procter & Gamble Company with a United States' address.

The correct Opponent is and was always intended to be The Procter & Gamble Company with a United States address as it appears in the Statement of Grounds and Particulars.

A clerical error occurred which resulted in the incorrect entry of the company Procter & Gamble France SAS as the Opponent on the Notice of Intention to Oppose. The opposition was at all times intended to proceed in the name of The Procter & Gamble Company who is the prior owner of a similar mark upon which the s.44 ground of opposition is based.

In the circumstances, we request the Notice of Intention Oppose be amended under regulation 5.11(1).

Respectfully
PHILLIPS ORMONDE FITZPATRICK

AJB

Patent and Trade Marks Attorneys

AUSTRALIA

Sections 52, 96
Regulations 5.7, 9.9, 17A.29, 17A.48

Trade Marks Act 1995

Statement of Grounds and Particulars

Opponent

Opponent: The Procter & Gamble Company

Address: One Procter & Gamble Plaza
Cincinnati 45202 Ohio
UNITED STATES OF AMERICA

Address for Service :

PHILLIPS ORMONDE FITZPATRICK
333 Collins Street Melbourne Victoria 3000 Australia
Telephone: (03) 9614 1944 Facsimile: (03) 9614 1867
Email: attorney@pof.com.au

Reference: 1757917

Trade Mark

Number : 1757917

International Registration Number : 1291862

Applicant : ABC Deterjan Sanayi Ve Ticaret Anonim Sirketi

Opposition to:

Protection of the above IRDA

Grounds and Particulars (Opposition to Registration/Protection)

Section 42(b): Use of the Opposed Trade Mark would be contrary to law.

Particulars

- (i) The Opponent has used a trade mark that comprises a six-point interlocking star device ("the Ariel device") in relation to laundry products for many years in over 80 countries worldwide, with first use of the Ariel device being on 1967 in Germany and 1968 in France. Since that time the Ariel device has been used by the Opponent extensively through Switzerland, all the European Union, Latin America, India, China, Japan, and other countries around the World. Set out below are some launch dates:

| | |
|------|--|
| 1967 | Introduction into West Germany. |
| 1968 | Introduction into France, Switzerland, and Peru. |
| 1969 | Introduction into Mexico, the United Kingdom, and Spain. |
| 1982 | Introduction into the Arabian Peninsula. |
| 1987 | Introduction into Egypt. |
| 1989 | Introduction into Japan. |
| 1991 | Introduction into Poland, India, and the Czech and Slovak Republics. |
| 1992 | Introduction into Russia and Columbia. |
| 1993 | Introduction into China. |
| 1995 | Introduction into Baltic States. |

The Ariel device has been used in conjunction with the trade mark ARIEL across various different product labels in these countries in relation to laundry products.

- (ii) The Ariel device trade mark has been widely promoted by the Opponent since it was first adopted including on the website <https://www.ariel.co.uk/en-gb> from a time well prior to the filing of the Opposed Trade Mark application.
- (iii) The reputation of the Opponent's Ariel device trade mark has extended into Australia through the many Australians who visit countries such as the United Kingdom and the United States and who have become aware of the Opponent's laundry products whilst in those countries and then returned to Australia.
- (iv) The Opponent's reputation in the Ariel device trade mark has extended into Australia such that persons seeing the Opposed Trade Mark used in relation to the Applicant's Goods would expect an association or connection with the Opponent when no such connection exists.
- (v) As such, use of the Opposed Trade Mark is likely to mislead and deceive consumers that the Applicant's Goods are those of the Opponent or some person associated with the Opponent contrary to s.18(1) of the *Australian Consumer Law*. Further, use of the Opposed Trade Mark by the Applicant will result in the Applicant's Goods being passed off as goods of the Opponent or some person associated with the Opponent, constituting a passing off at common law.

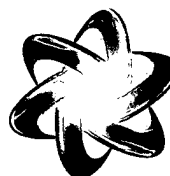
Section 44 / Regulation 4.15A: The Opposed Trade Mark is substantially identical with or deceptively similar to one or more other trade marks in respect of the same goods or services or closely related goods or services (Prior Trade Marks) where the Prior Trade Marks have earlier priority dates than the Opposed Trade Mark and are the subject of registrations.

Particulars

Number
1690803
in the name of The
Procter & Gamble
Company

Class
3

Mark



1357977

3

ABC

1468173

5



Further Particulars:

There has been no honest concurrent use of the Opposed Trade Mark with the Prior Trade Marks and no other circumstances exist such that the Registrar should be satisfied that it is proper to accept the Opposed Trade Mark subject to any conditions or limitations that the Registrar thinks fit to impose. The opposed trade mark was accepted without submissions to the Registrar that would allow for acceptance under s.44(3) or regulation 4.15A(3).

The provisions of subsection 44(4) of the Act should not be applied in favour of registering the Opposed Trade Mark in relation to any or all of the Goods and/or Services. The opposed trade mark was accepted without submissions to the Registrar that would allow for acceptance under s.44(4) or regulation 4.15A(5).

Section 62A: The application for the Opposed Trade Mark was made in bad faith.

Particulars

- (i) The Applicant is well acquainted with the products of the Opponent and the parties are engaged in trade mark oppositions in other countries (Turkey, Armenia, Belarus, Switzerland, China, Cyprus, Czech Republic, Denmark, Estonia, Egypt, Spain, Finland, France, United Kingdom, Greece, Croatia, Hungary, Ireland, Iceland, Italy, Kenya, Kyrgyzstan, Lithuania, Latvia, Morocco, Republic of Moldova, Montenegro, Norway, Poland, Portugal, Sweden, Slovenia, Slovakia, Tunisia, Israel).
- (ii) The Ariel device of the Opponent has been used by the Opponent since 1967 in Germany and well prior to the filing date of the Opposed Trade Mark Application. The Opponent has used the Ariel device in a range of different designs for many years.
- (iii) It is inconceivable that the Applicant was not aware of the Opponent's use and sizeable reputation in the Ariel device when it chose to file the Opposed Trade Mark application.
- (iv) Filing of the Opposed Trade Mark application in these circumstances constitutes bad faith.

Dated: 11 September 2017

PHILLIPS ORMONDE FITZPATRICK
Attorneys for: The Procter & Gamble Company

AUSTRALIA

Sections 52, 96
Regulations 17A.29, 17A.48

Trade Marks Act 1995

Notice of Intention to Oppose

Opponent

The Procter & Gamble Company

Opponent: ~~Procter & Gamble France SAS~~

Address: ~~163-165 Quai Aulagnier 92665 Asnières-sur-Seine cedex France~~

One Procter & Gamble Plaza Cincinnati 45202 Ohio United States of America

Address for service and correspondence in Australia of the Opponent is:

PHILLIPS ORMONDE FITZPATRICK

333 Collins Street Melbourne Victoria 3000 Australia

Telephone: (03) 9614 1944 Facsimile: (03) 9614 1867

Email: attorney@pof.com.au

Trade Mark

Number : 1757917

International Registration : 1291862

Applicant : ABC Deterjan Sanayi Ve Ticaret Anonim Sirketi

Fee Paid : \$250.00

Type of Opposition Proceeding

We hereby file a Notice of Intention to Oppose in relation to an application for:

- Protection of the above International Registration Designating Australia

Reference: 1757917

Dated: 11 August 2017



PHILLIPS ORMONDE FITZPATRICK

Attorneys for:

Procter & Gamble France SAS

AJB

HEREWITH FEES: \$250.00



phillips ormonde fitzpatrick
intellectual property

21 September 2017

Telephone Contact : Anita Brown
Speed Dial 527

The Registrar of Trade Marks
IP Australia
PO Box 200
WODEN ACT 2606

Dear Madam

Australian Trade Mark Application 1757917

Mark ABC (Logo)

Classes 3, 5

- and -

Opposition thereto by Procter & Gamble France SAS

Our Ref 1757917

We refer to the email dated 14 September 2017.

The Notice of Intention to Oppose was filed in the name of Procter & Gamble France SAS at a French address. It should have been filed in the name of The Procter & Gamble Company with a United States' address.

The correct Opponent is and was always intended to be The Procter & Gamble Company with a United States address as it appears in the Statement of Grounds and Particulars.

A clerical error occurred which resulted in the incorrect entry of the company Procter & Gamble France SAS as the Opponent on the Notice of Intention to Oppose. The opposition was at all times intended to proceed in the name of The Procter & Gamble Company who is the prior owner of a similar mark upon which the s.44 ground of opposition is based.

In the circumstances, we request the Notice of Intention Oppose be amended under regulation 5.11(1).

Respectfully
PHILLIPS ORMONDE FITZPATRICK

AJB

Patent and Trade Marks Attorneys

AUSTRALIA

Sections 52, 96
Regulations 5.7, 9.9, 17A.29, 17A.48

Trade Marks Act 1995

Statement of Grounds and Particulars

Opponent

Opponent: The Procter & Gamble Company

Address: One Procter & Gamble Plaza
Cincinnati 45202 Ohio
UNITED STATES OF AMERICA

Address for Service :

PHILLIPS ORMONDE FITZPATRICK
333 Collins Street Melbourne Victoria 3000 Australia
Telephone: (03) 9614 1944 Facsimile: (03) 9614 1867
Email: attorney@pof.com.au

Reference: 1757917

Trade Mark

Number : 1757917

International Registration Number : 1291862

Applicant : ABC Deterjan Sanayi Ve Ticaret Anonim Sirketi

Opposition to:

Protection of the above IRDA

Grounds and Particulars (Opposition to Registration/Protection)

Section 42(b): Use of the Opposed Trade Mark would be contrary to law.

Particulars

- (i) The Opponent has used a trade mark that comprises a six-point interlocking star device ("the Ariel device") in relation to laundry products for many years in over 80 countries worldwide, with first use of the Ariel device being on 1967 in Germany and 1968 in France. Since that time the Ariel device has been used by the Opponent extensively through Switzerland, all the European Union, Latin America, India, China, Japan, and other countries around the World. Set out below are some launch dates:

| | |
|------|--|
| 1967 | Introduction into West Germany. |
| 1968 | Introduction into France, Switzerland, and Peru. |
| 1969 | Introduction into Mexico, the United Kingdom, and Spain. |
| 1982 | Introduction into the Arabian Peninsula. |
| 1987 | Introduction into Egypt. |
| 1989 | Introduction into Japan. |
| 1991 | Introduction into Poland, India, and the Czech and Slovak Republics. |
| 1992 | Introduction into Russia and Columbia. |
| 1993 | Introduction into China. |
| 1995 | Introduction into Baltic States. |

The Ariel device has been used in conjunction with the trade mark ARIEL across various different product labels in these countries in relation to laundry products.

- (ii) The Ariel device trade mark has been widely promoted by the Opponent since it was first adopted including on the website <https://www.ariel.co.uk/en-gb> from a time well prior to the filing of the Opposed Trade Mark application.
- (iii) The reputation of the Opponent's Ariel device trade mark has extended into Australia through the many Australians who visit countries such as the United Kingdom and the United States and who have become aware of the Opponent's laundry products whilst in those countries and then returned to Australia.
- (iv) The Opponent's reputation in the Ariel device trade mark has extended into Australia such that persons seeing the Opposed Trade Mark used in relation to the Applicant's Goods would expect an association or connection with the Opponent when no such connection exists.
- (v) As such, use of the Opposed Trade Mark is likely to mislead and deceive consumers that the Applicant's Goods are those of the Opponent or some person associated with the Opponent contrary to s.18(1) of the *Australian Consumer Law*. Further, use of the Opposed Trade Mark by the Applicant will result in the Applicant's Goods being passed off as goods of the Opponent or some person associated with the Opponent, constituting a passing off at common law.

Section 44 / Regulation 4.15A: The Opposed Trade Mark is substantially identical with or deceptively similar to one or more other trade marks in respect of the same goods or services or closely related goods or services (Prior Trade Marks) where the Prior Trade Marks have earlier priority dates than the Opposed Trade Mark and are the subject of registrations.

Particulars

Number
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Further Particulars:

There has been no honest concurrent use of the Opposed Trade Mark with the Prior Trade Marks and no other circumstances exist such that the Registrar should be satisfied that it is proper to accept the Opposed Trade Mark subject to any conditions or limitations that the Registrar thinks fit to impose. The opposed trade mark was accepted without submissions to the Registrar that would allow for acceptance under s.44(3) or regulation 4.15A(3).

The provisions of subsection 44(4) of the Act should not be applied in favour of registering the Opposed Trade Mark in relation to any or all of the Goods and/or Services. The opposed trade mark was accepted without submissions to the Registrar that would allow for acceptance under s.44(4) or regulation 4.15A(5).

Section 62A: The application for the Opposed Trade Mark was made in bad faith.

Particulars

- (i) The Applicant is well acquainted with the products of the Opponent and the parties are engaged in trade mark oppositions in other countries (Turkey, Armenia, Belarus, Switzerland, China, Cyprus, Czech Republic, Denmark, Estonia, Egypt, Spain, Finland, France, United Kingdom, Greece, Croatia, Hungary, Ireland, Iceland, Italy, Kenya, Kyrgyzstan, Lithuania, Latvia, Morocco, Republic of Moldova, Montenegro, Norway, Poland, Portugal, Sweden, Slovenia, Slovakia, Tunisia, Israel).
- (ii) The Ariel device of the Opponent has been used by the Opponent since 1967 in Germany and well prior to the filing date of the Opposed Trade Mark Application. The Opponent has used the Ariel device in a range of different designs for many years.
- (iii) It is inconceivable that the Applicant was not aware of the Opponent's use and sizeable reputation in the Ariel device when it chose to file the Opposed Trade Mark application.
- (iv) Filing of the Opposed Trade Mark application in these circumstances constitutes bad faith.

Dated: 11 September 2017

PHILLIPS ORMONDE FITZPATRICK
Attorneys for: The Procter & Gamble Company