

produced, advertised, offered for sale, and sold by Opposer and to identify and designate same, and to distinguish those goods from those of others.

3. Since Opposer's initial use of Opposer's EURO FOAM mark, Opposer has used, and advertised, produced and offered its goods under and in connection with said mark to the public, through various channels of trade, and in commerce, with the result that Opposer's customers and the public in general have come to know and recognize said mark of Opposer and associate same with Opposer and/or the goods produced, advertised, marketed, distributed, and sold directly or indirectly by Opposer. Opposer thus has built up goodwill in connection with the sale of its products under Opposer's EURO FOAM mark.

4. On February 1, 2001, Applicant filed an application to register the mark EUROFOAM. Said application was accorded Serial No. 76/202,496, and was published for opposition in the Official Gazette of October 9, 2001, at page 394, identifying the goods as "bedding, namely mattresses" in International Class 20.

5. Applicant's EUROFOAM mark sought to be registered by Applicant is identical to and/or a colorable imitation of, and so resembles, Opposer's prior and aforesaid mark as to be likely, when used in connection with the goods of Applicant, to cause confusion or mistake or to deceive.

6. The goods set forth in the application opposed herein are identical in type and/or related to the goods in connection with which Opposer uses its mark, and on information and belief, the goods set forth in the opposed application are and/or will be sold through the same and/or similar channels of trade, and/or to the same general class of purchasers, in and to which Opposer's products are marketed and/or sold.

7. The registration and/or use of the EUROFOAM mark, as set forth in the opposed application, is likely to cause confusion, mistake, and/or to deceive as to origin, sponsorship, and/or association of Applicant's goods to be sold under the opposed mark sought to be registered by Applicant vis-a-vis Opposer and/or Opposer's mark, and/or to mislead purchasers of Applicant's and/or Opposer's goods, and/or the public in general, into believing that Applicant's goods are sold by, emanate from, and/or in some way, directly or indirectly, are associated with Opposer, and/or Opposer's mark, or products, or vice versa, to the damage and detriment of Opposer.

8. By virtue of the foregoing, Opposer believes it will be damaged by the registration by Applicant of the EUROFOAM mark, as set forth in the application therefor, Serial No. 76/202,496.

9. If Applicant is granted the registration opposed herein, and Applicant obtains such rights as conferred under the Principal Register of the Trademark Act of 1946, Applicant will obtain unlawful gain and advantage to which it is not entitled under the Trademark Act of 1946, to the detriment and harm of Opposer.

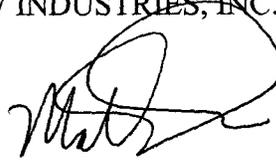
WHEREFORE, this Opposer, AW Industries, Inc. believes and alleges that it will be damaged by registration of the EUROFOAM mark of application Serial No. 76/202,496, as aforesaid, and prays that:

- A. judgment in the present opposition be entered in favor of Opposer;
- B. the present opposition be sustained; and

C. registration of application Serial No. 76/202,496 be rejected and refused.

Respectfully submitted,

AW INDUSTRIES, INC.



Date: February 6, 2002

By:

Marsha G. Gentner
Matthew J. Cuccias
JACOBSON HOLMAN, PLLC
400 Seventh Street, N.W.
Washington, D.C. 20004
(202) 638-6666

LAW OFFICES OF
JACOBSON HOLMAN
PROFESSIONAL LIMITED LIABILITY COMPANY
400 SEVENTH STREET, N. W.
WASHINGTON, D. C. 20004
(202) 638-6666

JACOBSON HOLMAN STERN
OF COUNSEL
MARVIN R. STERN
NATHANIEL A. HUMPHRIES

TELEFAX:
(202) 393-5350
(202) 393-5351
(202) 393-5352

E-MAIL: IP@JHIP.COM
INTERNET: WWW.JHIP.COM

*BAR OTHER THAN DC

HARVEY B. JACOBSON, JR.
JOHN CLARKE HOLMAN
SIMOR L. MOSKOWITZ
ALLEN S. MELSER
MICHAEL R. SLOBASKY
MARSHA G. GENTNER
JONATHAN L. SCHERER
IRWIN M. AISENBERG
GEORGE W. LEWIS
WILLIAM E. PLAYER
YOON S. HAM
PHILIP L. O'NEILL
LINDA J. SHAPIRO
LEESA N. WEISS
SUZIN C. BAILEY
MATTHEW J. CUCCIA
DANIEL K. DORSEY
SUZANNAH K. SUNDBY



February 6, 2002



02-06-2002

U.S. Patent & TMO/TM Mail Rpt. Dt. #40

Honorable Commissioner of
Patents and Trademarks
2900 Crystal Drive
Arlington, VA 22202

Re: Notice of Opposition
Serial No.: 76/202,496
Applicant: Mattress Development Company of Delaware, L.L.C.
Our Reference: 10472/I-4563

Sir:

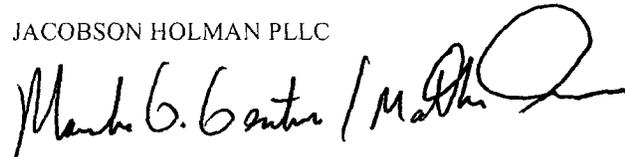
We enclose the following for filing in the Patent and Trademark Office:

X Notice of Opposition (in duplicate)

Also enclosed is our check for the required filing fee in the amount of \$300.00.
Should this check become detached, or the amount be insufficient, please charge our Deposit
Account No. 06-1358.

Respectfully submitted,

JACOBSON HOLMAN PLLC


Marsha G. Gentner

MGG/MJC/ssh

Enclosures