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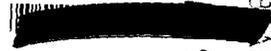
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Opposer's Ref: CEM 02/07172

03/12/28

TRIA

In the Matter of Application Serial No. 76/428,939
Mark: PORTOBELLO



TRIAL AND
BOARD

03-12-2003 9:30

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #30

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PORTOBELLO S/A :
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 Opposer, :
 :
 - against - :
 :
 MANSFIELD PLUMBING PRODUCTS, LLC, :
 :
 Applicant. :
 :
-----X

Opposition No. _____

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NOTICE OF OPPOSITION

Opposer, Portobello S/A, a Brazilian corporation located and doing business at Shop 116 Barra de Tijuca Avenida das Americas, No. 3959, Rio de Janeiro, Brazil, believes that it would be damaged by registration of the mark PORTOBELLO which is the subject of Application Serial No. 76/428,939, published in the Official Gazette on February 11, 2003, and therefore opposes the same.

As grounds for its opposition, Opposer, by its attorneys Fross Zelnick Lehrman & Zissu, P.C., alleges as follows:

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"Express Mail" mailing label No. EL 718090915 US Date of Deposit March 11, 2003
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.
Susan Upton Douglass
(Printed name of person mailing paper or fee)
(Signature)

1. Opposer has continuously used the trademark PORTOBELLO in commerce since at least as early as 1986 in connection with ceramic tile.

2. Opposer is the owner of U.S. Registration No. 1,406,743, for the mark PORTOBELLO and Design for ceramic tiles; this registration has become incontestable pursuant to Section 15 of the Trademark Act.

3. Opposer's ceramic tiles are used in both the commercial and residential settings, in bathrooms, kitchens, hallways, and for general flooring.

4. Applicant has filed an application based on intent to use to register the mark PORTOBELLO for bathroom fixtures, namely, toilets, sinks, commodes, lavatories, bathtubs and whirlpools. This application was assigned Serial No. 76/428,939, with a filing date of July 10, 2002.

5. Upon information and belief, no use was made by Applicant of the PORTOBELLO trademark prior to its July 10, 2002 filing date. Accordingly, Opposer has priority with respect to its use of the mark PORTOBELLO.

6. The goods identified in Applicant's application for PORTOBELLO, Serial No. 76/428,939 are closely related to Opposer's ceramic tile. Bathroom fixtures and ceramic tile are sold through the same channels of trade to the same customers, and would be encountered side-by-side in retail or wholesale outlets.

7. Applicant's mark PORTOBELLO is essentially identical in sound, appearance and meaning to Opposer's previously registered mark PORTOBELLO.

8. The mark PORTOBELLO as set forth in Application Serial No. 76/428,939 is essentially identical to Opposer's previously used and registered mark PORTOBELLO for highly similar goods as to be likely to cause confusion, or to cause mistake, or to deceive the

public. The public is likely to believe that Applicant's goods are approved, endorsed, or sponsored by Opposer, or that Opposer is the source of Applicant's goods, or that the goods of Applicant are in some other way associated with Opposer, all to Opposer's grave injury and harm. This constitutes a violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

WHEREFORE, it is respectfully requested that this Opposition be sustained and that the registration sought by Application Serial No. 76/428,939 be denied.

The Opposition fee in the amount of \$300.00 for one class is filed herewith. If for any reason this amount is insufficient, it is requested that Opposer's attorneys' Deposit Account No. 23-0825 be charged with any deficiency. This paper is filed in duplicate.

Dated: New York, New York
March 11, 2003

Respectfully submitted,

FROSS ZELNICK LEHRMAN
& ZISSU, P.C.

By: 
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