

ESTTA Tracking number: **ESTTA3271**

Filing date: **11/17/2003**

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

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Name	Royal Doulton (UK) Limited
Granted to Date of previous extension	11/17/2003
Address	Royal Doulton (UK) Limited Sir Henry Doulton House, Forge Lane, Etruria, Stoke-on-Trent Staffordshire, ST1 5NN UNITED KINGDOM

Attorney information	J. Scott Evans Adams Evans P.A. 301 South Tryon Street 2180 Two Wachovia Center Charlotte, NC 28282 UNITED STATES jse@adamspat.com Phone:704.375.9249
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Applicant Information

Application No	76349932	Publication date	08/19/2003
Opposition Filing Date	11/17/2003	Opposition Period Ends	11/17/2003
Applicant	Wilton Industries, Inc.		
Address	2240 West 75th Street Woodridge, IL 60517 UNITED STATES		

Goods/Services Affected by Opposition

Class 021. First Use: First Use In Commerce:

All goods and services in the class are opposed, namely: BAKEWARE AND COOKWARE, NAMELY, FRYING PANS, SAUTE PANS, SAUCE PANS AND STOCK POTS

Attachments NoticeOppsigned.pdf (4 pages)

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

In Re United States Trademark Application Serial No. 76/349,932 for the mark FUSION published in the *Official Gazette* on August 19, 2003.

Royal Doulton (UK) Limited)	
)	
Opposer,)	Opposition No. _____
)	
v.)	
)	
WILTON INDUSTRIES, INC.)	
)	
Applicant.)	
)	

Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

NOTICE OF OPPOSITION

Royal Doulton (UK) Limited, a corporation formed under the laws of the United Kingdom and having an address at Sir Henry Doulton House, Forge Lane, Etruria, Stoke-on-Trent, UNITED KINGDOM ST1 5NN (“Opposer”), believes it will be damaged by the registration of the mark shown in the above-identified application owned by Wilton Industries, Inc. (“Applicant”), and hereby opposes the same.

The grounds for the Opposition are as follows:

1. Opposer is currently engaged in the sale in the United States of a broad range of tableware, including, but not necessarily limited to, vegetable dishes, sauce boats, soup tureens, dishes, bowls, etc., under the mark FUSION.

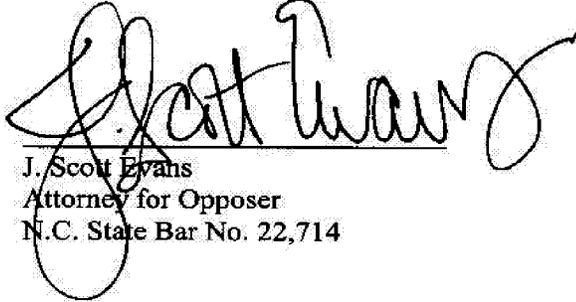
2. Opposer has adopted and is currently using its FUSION mark in the United States in connection with the sale of tableware.
3. By virtue of its use of the FUSION mark in commerce in connection with the sale of tableware, Opposer has developed valuable goodwill in the mark.
4. Opposer has expended time, effort and capital developing the valuable goodwill associated with its FUSION mark.
5. Opposer is the owner of the unregistered FUSION trademark which it uses in conjunction with the sale of tableware.
6. Opposer is also the owner of United States Trademark Application Serial No. 78/171187 which covers, *inter alia*, the sale of tableware in International Class 021.
7. On December 7, 2001, Applicant filed an intent-to-use application, United States Trademark Application Serial No. 76/349,932, for the mark FUSION in International Class 021.
8. The goods listed in Applicant's intent-to-use application include bakeware and cookware.
9. Applicant's FUSION trademark is phonetically and visually identical to Opposer's FUSION trademark.
10. The Examining Attorney assigned to review Opposer's application to register its FUSION mark has cited U.S. Trademark Application Serial No. 76/349,932, which is owned by Applicant and is the subject of this opposition action, as a potential barrier to registration of Opposer's mark.

11. Upon information and belief, Opposer has priority of use of the FUSION mark in connection with the relevant goods being offered.
12. Upon information and belief, the goods Applicant proposes to offer under its FUSION mark will travel through the same channels of trade to the same types of consumers as the goods Opposer currently offers under its FUSION mark.
13. Upon information and belief, if Applicant is permitted to register its proposed FUSION mark, consumers in the marketplace who encounter the mark will likely be confused, mistaken or deceived as to the source of the goods being offered.
14. Upon information and belief, consumers would, on seeing the FUSION mark on cookware and bakeware, mistakenly believe Applicant's goods emanate from Opposer or that there is a connection between Applicant and Opposer.
15. Upon information and belief, Opposer has priority of use of the FUSION mark in connection with the relevant goods being offered.
16. Upon information and belief, registration of Applicant's proposed FUSION mark would create a likelihood of confusion in the marketplace.
17. Accordingly, Applicant's proposed mark is not entitled to registration under Section 2(d) of the Lanham Act (15. U.S.C. §1052(d)).

WHEREFORE, Opposer respectfully prays that the Board refuse registration of Applicant's proposed FUSION mark and sustain this Opposition.

Respectfully submitted,

ADAMS EVANS P.A.



J. Scott Evans
Attorney for Opposer
N.C. State Bar No. 22,714

Of Counsel:
J. Scott Evans
(N.C. State Bar No. 22,714)
Matthew J. Ladenheim
(N.C. State Bar No. 29,309)
ADAMS EVANS P.A.
301 S. Tryon Street
2180 Two Wachovia Center
Charlotte, NC 28282
Phone: (704) 375-9249
Fax: (704) 375-0729

I hereby certify that this correspondence is being filed via as an electronic submission to: Commissioner for Trademarks, on November 17, 2003 via the Internet through the ESTTA system found at <http://estta.uspto.gov/ret/p.jsp>. Date of Signature: November 17, 2003.

Signature:



Lynda R. Williams