

ESTTA Tracking number: **ESTTA83801**

Filing date: **06/05/2006**

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

Notice of Opposition

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

Opposer Information

Name	Royal Doulton (UK) Limited
Granted to Date of previous extension	07/05/2006
Address	Barlaston Stoke-on-Trent Staffordshire, ST 12 9ES, UNITED KINGDOM

Attorney information	Una L. Lauricia Pearne & Gordon LLP 1801 East 9th Street Suite 1200 Cleveland, OH 44114 UNITED STATES rsharpe@pearnegordon.com,ulauricia@pearnegordon.com,tmdocket@pearnegordon.com Phone:216-579-1700
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Applicant Information

Application No	76625676	Publication date	03/07/2006
Opposition Filing Date	06/05/2006	Opposition Period Ends	07/05/2006
Applicant	Toto U.S.A., Inc. 1155 Southern Road Morrow, GA 30260 UNITED STATES		

Goods/Services Affected by Opposition

Class 011. First Use: 2002/05/15 First Use In Commerce: 2002/05/15
All goods and services in the class are opposed, namely: Plumbing fixtures, namely, toilets, bidets, bathtubs, showers, sinks, faucets

Attachments	ROYL-O1057-Notice of Opposition-ULL.pdf (3 pages)(70403 bytes)
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Signature	/Una L. Lauricia/
Name	Una L. Lauricia
Date	06/05/2006

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

In the Matter of Application Serial No. 76/625,676
Published in the Official Gazette: March 7, 2006

ROYAL DOULTON (UK) LIMITED

Opposer,

v.

TOTO U.S.A., INC.

Applicant.

Mark: DALTON

Opposition No.: _____

NOTICE OF OPPOSITION

Royal Doulton (UK) Limited (Opposer), a corporation organized under the laws of the United Kingdom, having a principal place of business at Barlaston, Stoke-on-Trent, Staffordshire, ST12 9ES, England, will be damaged by registration of the mark shown in Application Serial No. 76/625,676 and hereby opposes the same. The grounds for opposition are as follows:

1. Applicant seeks to register the mark DALTON for plumbing fixtures, namely, toilets, bidets, bathtubs, showers, sinks, and faucets in International Class 011 as evidenced by publication of said mark in the March 7, 2006 issue of the Official Gazette.

2. Opposer is the owner of U.S. Trademark Registration No. 3,098,908 for the mark DOULTON for water filters, filters for water, household and industrial installations for drinking water filtration, apparatus for the purification of water, ceramic elements for the conditioning of drinking water, apparatus for sterilizing water, candles, and cartridges for water filters; parts and fittings for all of the aforesaid goods, in International Class 011. That registration is valid, subsisting, unrevoked, and uncanceled.

3. Opposer, for many years and since long prior to any date of first use upon which Applicant can rely, has adopted and continuously used the term DOULTON as a trademark for *inter alia*, household and industrial installations for drinking water filtration and parts and fittings therefor.

4. Opposer's mark is widely known and recognized and identifies to the public that Opposer is the origin of the goods with which the mark is associated.

5. Opposer has built up valuable goodwill in its mark and has expended considerable sums in advertising and publicizing said mark in association with Opposer's goods.

6. The goods for which Applicant seeks to register the mark DALTON are substantially similar to the goods with which Opposer's mark DOULTON has been used as Applicant's goods include faucets and Opposer's goods include household and industrial installations for drinking water filtration and parts and fittings therefor, which can include and/or be used on or in connection with faucets.

7. Applicant's mark is substantially similar in sound, appearance, and impression to Opposer's registered trademark.

8. In view of the fact that Applicant's mark and Opposer's registered trademark are substantially similar and are used for and/or in faucets, it is likely that distributors and purchasers of such goods will be confused into believing that Applicant's goods originate or are associated with Opposer.

9. Applicant's use of DALTON will cause confusion or mistake as to the origin of Applicant's goods and result in injury or threatened injury to Opposer and Opposer's long established rights in its mark DOULTON.

10. Opposer has a right to maintain and continue the goodwill, reputation, and recognition which Opposer's mark DOULTON has acquired without the confusion, deception, or misunderstanding that Applicant's registration of DALTON will cause in the minds of purchasers as to the source of goods with which Opposer's mark is associated.

WHEREFORE, Opposer prays that the U.S. Patent and Trademark Office refuse registration of the mark shown in Application Serial No. 76/625,676 for the goods specified therein and sustain this opposition in favor of Opposer.

This Notice of Opposition is being submitted electronically and the fees required by 37 CFR 2.6(a)(17) in the amount of \$300.00 is submitted by way of Deposit Account No. 16-0820.

Respectfully submitted,

/Una L. Lauricia/

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Attorneys for Opposer

Date: June 5, 2006

CERTIFICATE OF MAILING

I hereby certify that the Notice of Opposition and required fee are being submitted electronically through the ESTTA website established by the U.S. Trademark Trial and Appeal Board.

Una L. Lauricia

Typed or printed name of person signing certificate

/Una L. Lauricia/

Signature

June 5, 2006

Date