

1. Upon information and belief, One Source Industries, LLC, a Limited Liability Company of California with offices at 15215 Alton Parkway, Suite 100, Irvine, CALIFORNIA 92618 (hereinafter "Applicant"), filed an application to register "NATURESTONE" (hereinafter Applicant's mark), Application S.N. 77/309,088 for "Packaging materials made from minerals, namely, limestone" in International Class 19; and, "Merchandise packaging for others; packaging products to the order and specification of others" in International Class 35, on October 19, 2007 (hereinafter "the '088 Application").

2. Upon information and belief, the '088 Application is in Standard Character or Typewritten form wherein no claim is made to any stylized format for the word phrase "NATURESTONE" of the '088 Application.

3. Upon information and belief, the application was filed based on use of the mark and the claimed first use date for both classes was February 28, 2007.

4. Upon information and belief, Applicant did not use "NATURESTONE" for the goods and/or services recited in the '088 Application prior to October 19, 2007.

5. Upon information and belief, Applicant did not use "NATURESTONE" for the goods and/or services recited in the '088 Application prior to February 28, 2007.

6. Upon information and belief, Applicant did not use "NATURESTONE" for the goods and/or services recited in the '088 Application prior to January 1, 2006.

7. Upon information and belief, Applicant did not use "NATURESTONE" for the goods and/or services recited in the '088 Application prior to January 1, 2005.

8. Upon information and belief, Applicant did not use "NATURESTONE" for the goods and/or services recited in the '088 Application prior to January 1, 2004.

9. Upon information and belief, Applicant did not use "NATURESTONE" for the goods and/or services recited in the '088 Application prior to January 1, 2000.

10. Upon information and belief, Applicant's goods sold under the NATURESTONE mark can be used for any packaging material and/or product which are made from minerals, namely, limestone.

11. Upon information and belief, Applicant's services can be provided for packaging in any industry and/or field.
12. Upon information and belief, Applicant's goods and/or services are not restricted to any industry and/or field.
13. Upon information and belief, Applicant's mark is printed directly on the packaging of products.
14. Upon information and belief, Applicant's mark is printed directly on the packaging of products sold by others.
15. Upon information and belief, Applicant's mark can be or is used in such a way that Applicant's mark would be viewed by the consumer of the goods sold by others.
16. Upon information and belief, Applicant's mark can be or is used in such a way that Applicant's mark would be viewed by the consumer of the goods sold by others and these goods can be in any industry.
17. The goods and services listed in the '088 Application include packaging goods used in the flooring industry and packaging services promoted to the flooring industry.
18. The goods and services listed in the '088 Application do not exclude packaging sold in the flooring industry and/or merchandising services directed to the flooring industry.
19. Upon information and belief, Applicant's goods and/or services sold under the NATURESTONE mark are viewed outside of the packaging industry.
20. Upon information and belief, Applicant's mark is viewed outside of the packaging industry.
21. Upon information and belief, Applicant intentionally promotes its NATURESTONE mark to consumers outside of the packaging industry.
22. The goods and services listed in the '088 Application include no limitation to the particular type of industry in which the packaging goods and/or services are promoted by Applicant.
23. Upon information and belief, Applicant uses the word phrase NATURE STONE for the goods and/or services recited in the '088 Application.

24. Opposer uses its NATURE STONE mark to sell flooring products and flooring services.

25. Opposer has used its NATURE STONE marks to identify its flooring goods and services long prior to the filing date of the '088 Application or the date of first use claimed in the '088 Application.

26. Opposer has made a substantial investment in advertising and promoting the goods sold under Opposer's NATURE STONE Marks.

27. Opposer's extensive and continuous use of NATURE STONE has generated substantial revenue and valuable goodwill and reputation.

28. Opposer's extensive and continuous use of NATURE STONE has made this mark well known in the flooring field wherein new trademarks including NATURE STONE and/or NATURESTONE would be viewed as an extension of Opposer's NATURE STONE marks.

29. Opposer is the owner of Registration No. 1,996,449 for the mark NATURE STONE which was filed on September 22, 1994 and which identifies concrete floor resurfacing services, in International Class 37 (hereinafter "the '449 Registration"). The mark shown in the '449 Registration has been used since 1991.

30. Opposer is the owner of Registration No. 2,924,651 for the mark NATURE STONE which was filed on September 17, 2002 and which identifies flooring composition made of a combination of crushed stone and epoxy, in International Class 19 (hereinafter "the '651 Registration"). The mark shown in the '651 Registration has been used since 2002.

31. Opposer is the owner of a family of marks which include the word phrase NATURE STONE that are all used to identify Opposer's flooring goods and services including the marks shown in the '651 Registration and the '449 Registration along with common law rights in marks with the word phrase NATURE STONE.

COUNT I

Opposer incorporates the allegations of paragraphs 1-31 as is stated herein.

32. Opposer has priority trademark rights in Opposer's NATURE STONE Mark to identify its flooring goods and services long prior to the filing date of the '088 Application and claimed first use dates of Applicant's '088 Application.

33. Applicant's '088 Application for the word phrase NATURESTONE consists of or comprises a phrase which so resembles Opposer's NATURE STONE Marks, including the '449 and/or '651 Registrations, as to be likely, when used on or in connection with the goods and/or services sought to be registered by Applicant to cause confusion, or to cause mistake, or to deceive.

34. Applicant's '088 Application for the word phrase NATURESTONE consists of or comprises a phrase which so resemble Opposer's NATURE STONE Marks including the '651 and/or the '449 Registrations and other common law marks, as to be likely, when used on or in connection with the goods and/or services sought to be registered by Applicant to cause confusion, or to cause mistake, or to deceive.

35. The word phrase NATURESTONE as is set forth in the '088 Application, would be improperly viewed as an extension of Opposer's NATURE STONE Marks, and registration of NATURESTONE to Applicant is therefore likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Applicant with Opposer, or as to the origin, sponsorship, or approval of Applicant's goods, services, or commercial activities by Opposer and, therefore, would damage Opposer.

COUNT II

Opposer incorporates the allegations of paragraphs 1-35 as is stated herein.

36. Applicant seeks registration of NATURESTONE on goods and services and use of this word phrase is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Applicant with Opposer or as to the origin, sponsorship or approval of Applicant's goods by Opposer.

37. Opposer has priority trademark rights in Opposer's NATURE STONE Marks to identify its flooring goods and services over any rights Applicant may have in the NATURESTONE mark as is shown in Applicant's '088 Application.

38. Applicant seeks registration of NATURESTONE which consists of or comprises a phrase which so resembles the '651 and/or the '449 Registrations and/or Opposer's common law rights in NATURE STONE and variations thereof previously used in the United States by Opposer as to be likely, when used on or in connection with the goods and/or services recited in the '088 Application, to cause confusion, or to cause mistake, or to deceive.

39. Applicant seeks registration of NATURESTONE which consists of or comprises a phrase which would improperly prevent any natural extensions of Opposer's NATURE STONE Marks that Opposer would be damaged if the '088 Application was allowed to register.

40. Opposer, therefore, believes it will be damaged by the registration of the '088 Application to Applicant.

COUNT III

Opposer incorporates the allegations of paragraphs 1-40 as is stated herein.

41. Upon information and belief, Applicant uses NATURESTONE in a logo format that is similar to the logo format that Opposer has been using for its NATURE STONE mark long prior to the filing date of the '088 Application.

42. Upon information and belief, Applicant uses NATURESTONE in a logo format that includes use of small pebbles that are identical to those used by Opposer in the goods and services of the '651 and the '449 Registrations.

43. Applicant's '088 Application for the word phrase NATURESTONE provides protection for a mark that so resemble one or more of Opposer's NATURE STONE Marks, including the '449 and/or '651 Registrations, as to be likely, when used on or in connection with the goods and/or services sought to be registered by Applicant to cause confusion, or to cause mistake, or to deceive.

44. The '088 Application is broad enough to cover these uses by Applicant such that Applicant seeks registration of NATURESTONE which consists of or comprises a phrase which so resembles the '651 and/or the '449 Registrations and Opposer's common law rights in NATURE STONE and variations thereof previously used in the United States by Opposer as to be likely, when used on or in connection with the goods and/or services recited in the '088 Application, to cause confusion, or to cause mistake, or to deceive.

45. Applicant seeks registration of NATURESTONE which consists of or comprises a phrase which would improperly prevent any natural extensions of Opposer's NATURE STONE logo marks currently being used by Opposer such that Opposer would be damaged if the '088 Application was allowed to register.

46. Applicant seeks registration of NATURESTONE on goods and services such that use of NATURESTONE and/or NATURE STONE is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Applicant with Opposer or as to the origin, sponsorship or approval of Applicant's goods by Opposer and, therefore, damages Opposer.

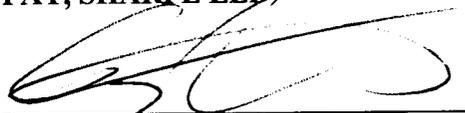
PRAYER FOR RELIEF

WHEREFORE, Opposer prays that application S.N. 77/309,088 be denied, that Applicant be enjoined from obtaining registration of S.N. 77/309,088, that no registration be issued to Applicant and that this opposition be sustained.

A check for the filing fee of \$600.00 is presented herewith. It is respectfully requested that additional fees be charged to Deposit Account No. 06-0308. Opposer further requests that all correspondence in this matter be addressed to the undersigned.

Respectfully Submitted,

FAY, SHARPE LLP



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Attorneys for Opposer

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

In the Matter of:
Trademark Application Serial No. **77/309,088**
Filed: October 19, 2007
For the Mark: **NATURESTONE**
Published in the *Official Gazette* on May 12, 2009
Opposer's Reference No. ACNS 7 00002

O.C.R. Products, Inc.)	
)	
Opposer)	
v.)	Opposition No. _____
)	
One Source Industries, LLC)	
)	
Applicant)	
)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was served on:

Steven J. Nataupsky
KNOBBE MARTENS OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614-3641
Tel: 949-760-0404
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Email: snataupsky@kmob.com

by first class mail, postage prepaid, on 11/6/09.



Gregory S. Vickers

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

In the Matter of:
Trademark Application Serial No. **77/309,088**
Filed: July 24, 2008
For the Mark: **NATURESTONE**
Published in the *Official Gazette* on March 10, 2009
Opposer's Reference No. ACNS 7 00002

O.C.R. Products, Inc.)	
)	
Opposer)	
v.)	Opposition No. _____
)	
One Source Industries, LLC)	
)	
Applicant)	
)	

**REVOCATION OF POWER OF ATTORNEY, APPOINTMENT OF
NEW ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS**

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451
Attention: TTAB

Dear Commissioner:

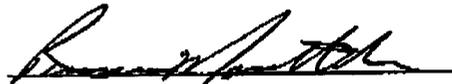
Opposer, O.C.R. Products, Inc., an Ohio corporation with offices at 15 North Park, Bedford, OHIO 44146, hereby revokes all previous Powers of Attorney given and hereby appoints Gregory S. Vickers of the firm of Fay Sharpe LLP, The Halle Building, 5th Floor, 1228 Euclid Avenue, Cleveland, OH 44115, who may be reached at (216) 363-9000, member of the bar of the State of Ohio, as its attorney, with full power of substitution and revocation, to handle this opposition and to transact all business before the Trademark Trial and Appeal Board in connection therewith, and to receive any notice from the Trademark Trial and Appeal Board.

CHANGE OF CORRESPONDENCE ADDRESS

Please direct all telephone calls, correspondence and other communications regarding this opposition to:

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O.C.R. PRODUCTS, INC.


Russell Masetta

