

ESTTA Tracking number: **ESTTA344298**

Filing date: **04/27/2010**

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	Norwood Promotional Products, LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	One Bic Way Suite 1 Shelton, CT 06484 UNITED STATES		

Attorney information	Amy L. Wright Taft Stettinius & Hollister, LLP One Indiana Square Suite 3500 Indianapolis, IN 46204 UNITED STATES efstrademarks@taftlaw.com, awright@taftlaw.com Phone:317-713-3500		
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Applicant Information

Application No	77878121	Publication date	04/20/2010
Opposition Filing Date	04/27/2010	Opposition Period Ends	05/20/2010
Applicant	Mark Berumen Suite 412 1450 South Havana Street Aurora, CO 80012 UNITED STATES		

Goods/Services Affected by Opposition

Class 017. All goods and services in the class are opposed, namely: Insulating sleeves for fluid pipe and valve systems
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3240989	Application Date	02/03/2004
Registration Date	05/15/2007	Foreign Priority Date	NONE
Word Mark	KOOZIE		

Design Mark	KOOZIE
Description of Mark	NONE
Goods/Services	Class 021. First use: First Use: 1979/04/00 First Use In Commerce: 1979/04/00 Insulated containers for beverage cans

U.S. Application No.	77403798	Application Date	02/22/2008
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	RCC KOOZIE
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Design Mark	RCC KOOZIE
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Description of Mark	NONE
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Goods/Services	<p>Class 009. First use: First Use: 2010/01/01 First Use In Commerce: 2010/01/01 CD cases</p> <p>Class 016. First use: First Use: 2010/01/01 First Use In Commerce: 2010/01/01 document portfolios, note pad holders</p> <p>Class 018. First use: First Use: 2010/01/01 First Use In Commerce: 2010/01/01 Luggage, tote bags, travel bags, garment bags for travel, sports bags, back packs</p> <p>Class 020. First use: First Use: 2010/01/01 First Use In Commerce: 2010/01/01 sleeping bags, sleeping mats, chairs, cushions</p> <p>Class 021. First use: First Use: 2010/01/01 First Use In Commerce: 2010/01/01 portable beverage coolers, coolers for wine, picnic baskets, coffee cups, tea cups and mugs, cups and drinking glasses, insulated beverage containers for domestic use, sports bottles sold empty</p> <p>Class 024. First use: First Use: 2010/01/01 First Use In Commerce: 2010/01/01 bed blankets</p> <p>Class 025. First use: First Use: 2010/01/01 First Use In Commerce: 2010/01/01 hats, caps, headbands, visors</p> <p>Class 040. First use: First Use: 2010/01/01 First Use In Commerce: 2010/01/01</p>
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	Custom imprinting for others of company name, trade name, logo or other copy on specialty advertising, namely, business and promotional products, namely, apparel, household goods, beverage wear, camping goods, travel items, music items and business items
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Attachments	76573657#TMSN.gif (1 page)(bytes) 77403798#TMSN.jpeg (1 page)(bytes) SPRINKLER-COZY-NOTICE-OPPOSITION.pdf (9 pages)(275344 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Amy L. Wright/
Name	Amy L. Wright
Date	04/27/2010

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

<p>Norwood Promotional Products, LLC</p> <p style="text-align: center;">Registrant</p> <p style="text-align: center;">Vs</p> <p>Mark Berumen</p> <p style="text-align: center;">Applicant</p>	<p>Opposition No. _____</p> <p>Mark: SPRINKLER COZY</p> <p>Serial No. 77878121</p> <p>Published: 2010-04-20</p>
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NOTICE OF OPPOSITION

Norwood Promotional Products, LLC (“Registrant”), believes it will be damaged by registration of the SPRINKLER COZY trademark, as shown in Application Serial No. 77878121 and hereby opposes same. As grounds for this opposition, Registrant respectfully alleges as follows:

1. Registrant is a Delaware limited liability company with a business address of One Bic Way, Suite 1, Shelton, Connecticut 06484.
2. Upon information and belief, Mark Berumen (“Applicant”) is an individual residing at 1450 South Havana Street, Suite 412, Aurora, Colorado 80012.

THE KOOZIE TRADEMARK

3. Registrant is the owner of U.S. Registration Number 3240989 for the word mark KOOZIE, which is registered and used in connection with “*insulated containers for beverage cans*” in International Class 21. See attached Exhibit A.

4. U.S. Reg. No. 3240989 is principally registered.

5. Registrant’s KOOZIE trademark has been used in interstate commerce for over three decades; since at least as early as April, 1979.

6. Registrant is also the owner of Application Serial No. 77403798 for the mark RCC KOOZIE, which is used in connection with “*CD cases*” in Class 9, “*document portfolios, note pad holders*” in Class 16, “*Luggage, tote bags, travel bags, garment bags for travel, sports bags, back packs*” in Class 18, “*sleeping bags, sleeping mats, chairs, cushions*” in Class 20, “*portable beverage coolers, coolers for wine, picnic baskets, coffee cups, tea cups and mugs, cups and drinking glasses, insulated beverage containers for domestic use, sports bottles sold empty*” in Class 21, “*bed blankets*” in Class 24, “*hats, caps, headbands, visors*” in Class 25 and “*Custom imprinting for others of company name, trade name, logo or other copy on specialty advertising, namely, business and promotional products, namely, apparel, household goods, beverage wear, camping goods, travel items, music items and business items*” in Class 40 (See attached Exhibit B).

7. Registrant’s KOOZIE goods are advertised and sold throughout the United States, accessible via the World Wide Web and in hundreds of retail locations throughout the United States.

8. Additionally, KOOZIE brand goods are advertised in catalogs, on sales flyers, at trade shows, in trade magazine advertising, e-mail marketing, PR generated editorials, as well as industry portals and distributor search engines such as ESP Online, Distributor Central, Buttonwood, LogoMall, Sage, etc.

9. Registrant has invested hundreds of thousands of dollars in advertising and promoting KOOZIE brand goods and has amassed a tremendous degree of good will.

10. KOOZIE brand goods are Registrant's best selling products.

11. Registrant owns and operates the website www.norwood.com which is directed to and accessible by consumers located throughout the United States.

12. KOOZIE brand insulated beverage containers are a featured product and available for sale on the www.norwood.com website.

13. The www.norwood.com website receives approximately 30,602 hits per day.

14. The KOOZIE trademark is an incredibly well known, immediately recognizable and famous trademark, by virtue of Norwood's extensive and exceptionally wide spread usage of it over the past three-plus decades.

15. KOOZIE is a coined term, created by Registrant, and is an entirely unique, fanciful and arbitrary trademark.

16. KOOZIE is entitled to the strongest degree of protection available by law.

17. Registrant's market research has shown that the KOOZIE trademark has 100% recognition among promotional products distributors.

18. By virtue of the longstanding and extensive use of the KOOZIE trademark, it has become famous, within the meaning of the statute.

19. There is no question that consumers think of Registrant and its goods, which they have become accustomed to receiving over the past three-plus decades, when they see or hear the term KOOZIE used in any context, but particularly when it is used in connection with goods designed to insulate, sleeve, hold and/or carry items.

20. Consumers have come to associate the KOOZIE trademark exclusively with goods originating from Registrant and Registrant alone.

THE SPRINKLER COZY APPLICATION

21. According to Patent and Trademark Office records, Applicant filed an intent to use federal trademark application, assigned Application Serial No. **77878121**, for the mark SPRINKLER COZY on November 21, 2009 (hereinafter, the SPRINKLER COZY Application) in connection with “***Insulating** sleeves for fluid pipe and valve systems*” in International Class 17. See attached Exhibit C.

22. This application was filed more than THIRTY (30) years after Norwood began using its famous KOOZIE trademark in connection with “***insulated** containers for beverage cans*” and approximately 3 years after Norwood applied to register its RCC KOOZIE trademark in connection with a variety of items including “***insulated** beverage containers for domestic use, etc.”*

23. Applicant's goods are designed to insulate and sleeve, just like Registrant's goods.

24. It is clear that Applicant's intended use of this SPRINKLER COZY trademark is nothing more than a play designed to trade off of the fame and good will established by Norwood over the past three-plus decades.

REGISTRATION OF THE SPRINKLER COZY APPLICATION WILL CAUSE HARM TO REGISTRANT

25. Registrant's rights in the KOOZIE trademark predate Applicant's filing date by over three decades.

26. The term SPRINKLER COZY phonetically encompasses 100% of Registrant's mark.

27. Applicant's SPRINKLER COZY trademark is used in connection with goods that are nearly identical to and serve the same function as the goods sold by Registrant under its KOOZIE and RCC KOOZIE trademarks; i.e. to insulate and sleeve.

28. Applicant's application appears to be an obvious attempt to extort the goodwill established by Registrant and/or an attempt to trick the consuming public into believing that its goods are the same as or sponsored by Registrant.

29. As such, the registration of Applicant's SPRINKLER COZY trademark will cause harm to Registrant in that consumer confusion will be extremely likely, if not absolutely guaranteed.

Accordingly, Registrant respectfully requests that this Opposition be sustained and that Applicant's SPRINKLER COZY Application Serial No. 77878121 be denied registration.

Dated this 27th day of April, 2010.

Respectfully submitted,

/Amy Wright/

Amy L. Wright
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Indianapolis, IN 46204
Telephone: (317) 713-3500
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Attorney for Registrant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Opposition was served by First-Class Mail, postage prepaid, upon the following, on April 27, 2010:

ROGER A. JACKSON JACKSON ESQUIRE 209 KALAMATH ST UNIT 9 DENVER, CO 80223-1348	Mark Berumen 1450 South Havana Street, Suite 412 Aurora Colorado 80012
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/Amy Wright/

Amy L. Wright

EXHIBIT B

Trademark Electronic Search System (TESS) - Windows Internet Explorer

uspto.gov

Record 1 out of 1

TARR Status ASSIGN Status TDR TTAB Status (Use the "Back" button of the Internet Browser to return to TESS)

RCC KOOZIE

Word Mark RCC KOOZIE
Goods and Services IC 009. US 021 023 026 036 038 G & S. CD cases. FIRST USE 20100101. FIRST USE IN COMMERCE 20100101

IC 016 US 002 006 022 023 029 037 038 050 G & S. document portfolios. note pad holders. FIRST USE 20100101. FIRST USE IN COMMERCE 20100101

IC 018 US 001 002 003 022 041. G & S. Luggage. tote bags. travel bags. garment bags for travel. sports bags. back packs. FIRST USE 20100101. FIRST USE IN COMMERCE 20100101

IC 020 US 002 013 022 025 032 050 G & S. sleeping bags. sleeping mats. chairs. cushions. FIRST USE 20100101. FIRST USE IN COMMERCE 20100101

IC 021 US 002 013 023 029 030 033 040 050 G & S. portable beverage coolers. coolers for wine. picnic baskets. coffee cups. tea cups and mugs. cups and drinking glasses. insulated beverage containers for domestic use. sports bottles sold empty. FIRST USE 20100101. FIRST USE IN COMMERCE 20100101

IC 024 US 042 050 G & S. bed blankets. FIRST USE 20100101. FIRST USE IN COMMERCE 20100101

IC 025 US 022 039 G & S. hats. caps. headbands. visors. FIRST USE 20100101. FIRST USE IN COMMERCE 20100101

IC 040 US 100 103 106 G & S. Custom imprinting for others of company name. trade name. logo or other copy on specially advertising. namely. business and promotional products. namely. apparel. household goods. beveragewear. camping goods. travel items. music items and business items. FIRST USE 20100101. FIRST USE IN COMMERCE 20100101

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77403798

Filing Date February 22, 2008

Current Filing Basis 1B

Original Filing Basis 1B

Published for Opposition December 23, 2008

Owner (APPLICANT) NORWOOD PROMOTIONAL PRODUCTS, LLC LIMITED LIABILITY COMPANY DELAWARE ONE BIC WAY, Suite 1 SHELTON CONNECTICUT 06484

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Cheryl L. Chadwick

Prior Registrations 3240969

Done

