

ESTTA Tracking number: **ESTTA428922**

Filing date: **09/06/2011**

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	D2I Products, LLC
Granted to Date of previous extension	09/07/2011
Address	2403 Highland Meadows Drive Colleyville, TX 76034 UNITED STATES

Attorney information	Elisabeth A. Evert Hitchcock Evert LLP P O Box 131709 Dallas, TX 75313-1709 UNITED STATES eevert@hitchcockevert.com, sroberts@hitchcockevert.com, docket@hitchcockevert.com
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### Applicant Information

Application No	85061223	Publication date	05/10/2011
Opposition Filing Date	09/06/2011	Opposition Period Ends	09/07/2011
Applicant	CELLECT TECHNOLOGIES, LLC PO BOX 243 WEST HYANNISPORT, MA 02672 UNITED STATES		

### Goods/Services Affected by Opposition

Class 017. All goods and services in the class are opposed, namely: Flexible foamed plastic consisting of polyolefins and polymeric blends engineered to meet critical high performance requirements such as softness, flexibility, and drapeability for various industrial, automotive, and medical applications
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### Grounds for Opposition

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

U.S. Registration No.	3507737	Application Date	01/29/2008
Registration Date	09/30/2008	Foreign Priority Date	NONE
Word Mark	GREEN STUFF		

Design Mark	<b>GREEN STUFF</b>
Description of Mark	NONE
Goods/Services	Class 001. First use: First Use: 1994/07/22 First Use In Commerce: 1994/07/22 Absorbent powder made from granular phenolic foam for use in the efficient cleanup of liquids

Attachments	77383430#TMSN.jpeg ( 1 page )( bytes ) 110906 final Opposition.pdf ( 3 pages )(11825 bytes ) Certificate of registration - Exhibit a.pdf ( 2 pages )(29257 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	/Elisabeth A. Evert/
Name	Elisabeth A. Evert
Date	09/06/2011

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

**In the Matter of Application Serial No. 85/061,223 THE GREEN STUFF**

<b>D2L PRODUCTS, LLC,</b>	§	
	§	
<b>Opposer,</b>	§	
	§	
<b>v.</b>	§	<b>Opposition No. _____</b>
	§	
<b>CELLECT PLASTICS LLC,</b>	§	
	§	
<b>Applicant.</b>	§	

TO THE HONORABLE TRADEMARK TRIAL AND APPEAL BOARD:

**NOTICE OF OPPOSITION**

1. D2L PRODUCTS, LLC (“D2L”) is the owner of the trademark GREEN STUFF used in the U.S. for Absorbent powder made from granular phenolic foam for use in the efficient cleanup of liquids since at least as early as 1994.

2. D2L owns Reg. No. 3,507,737 for GREEN STUFF (word mark). A true and correct copy of the registration certificate for Reg. No. 3,507,737 is attached hereto as Exhibit A.

3. The registration identified in Paragraph 2 constitutes prima facie evidence of the validity of the registered mark, and of the registration of the mark, and of D2L’s exclusive right to use the registered marks in commerce in connection with the goods and services of the registration. Moreover, it serves as constructive notice of D2L’s ownership of the mark GREEN STUFF.

4. D2L’s rights in the mark GREEN STUFF were established long before the priority date of Applicant’s mark THE GREEN STUFF. The mark applied for, THE GREEN STUFF, merely adds a common definite article—“the”—before the otherwise identical GREEN STUFF mark that D2L and its predecessor have used in the United States since at least as early as 1994 and which is the subject of the registration listed in Paragraph 2. As such, use by Applicant of THE

GREEN STUFF for the goods identified in application S.N. 85/061,223, would be likely to cause confusion, or to cause mistake or to deceive. 15 U.S.C. § 1052(d).

5. For the reasons set out above, D2L is being damaged because application S.N. 85/061,223, if granted, would create statutory rights in violation of D2L's established rights.

WHEREFORE, D2L prays that judgment be entered refusing application S.N. 85/061,223 and for such other and further relief that the Board finds just and proper.

Dated: September 6, 2011

Respectfully submitted,

/s/  
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ATTORNEYS FOR OPPOSER  
D2L PRODUCTS, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6th day of September, 2011, a true and correct copy of the foregoing document was served via U.S. First Class Mail, postage prepaid on:

Andrew Roppel  
Holland & Hart LLP  
Attn: Trademark Docketing  
PO Box 8749  
Denver, CO 80201-8749

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/s/  
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EXHIBIT A

**Int. Cl.: 1**

**Prior U.S. Cls.: 1, 5, 6, 10, 26 and 46**

**United States Patent and Trademark Office**

**Reg. No. 3,507,737**

**Registered Sep. 30, 2008**

**TRADEMARK  
PRINCIPAL REGISTER**

**GREEN STUFF**

D2L PRODUCTS, LLC (TEXAS LIMITED LIABILITY COMPANY)

2403 HIGHLAND MEADOWS DRIVE

COLLEYVILLE, TX 76034

FOR: ABSORBENT POWDER MADE FROM GRANULAR PHENOLIC FOAM FOR USE IN THE EFFICIENT CLEANUP OF LIQUIDS, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 7-22-1994; IN COMMERCE 7-22-1994.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GREEN", APART FROM THE MARK AS SHOWN.

SER. NO. 77-383,430, FILED 1-29-2008.

JEAN IM, EXAMINING ATTORNEY