

ESTTA Tracking number: **ESTTA438084**

Filing date: **10/27/2011**

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	The Sofa Doctor, Inc. dba Dr. Sofa		
Entity	Corporation	Citizenship	New York
Address	220 E. 134th Street Bronx, NY 10451 UNITED STATES		

Attorney information	E. David Smith Smith & Associates P.O. Box 5242 Passaic Park, NJ 07055 UNITED STATES usptomail@edslaw.net Phone:212-661-7010		
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Applicant Information

Application No	85173818	Publication date	09/27/2011
Opposition Filing Date	10/27/2011	Opposition Period Ends	10/27/2011
Applicant	New York Couch Doctor Inc. 81 Durham Road New Hyde Park, NY 11040 UNITED STATES		

Goods/Services Affected by Opposition

Class 037. First Use: 2005/01/15 First Use In Commerce: 2005/01/15
All goods and services in the class are opposed, namely: Installation of furniture

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3067868	Application Date	02/16/2005
Registration Date	03/14/2006	Foreign Priority Date	NONE
Word Mark	DR. SOFA		

Design Mark	Dr. Sofa
Description of Mark	NONE
Goods/Services	Class 040. First use: First Use: 2003/10/01 First Use In Commerce: 2004/06/01 ASSEMBLY AND DISASSEMBLY OF FURNITURE FOR OTHERS

Attachments	78568383#TMSN.jpeg (1 page)(bytes) Notice of Opposition NEW YORK COUCH DOCTOR.pdf (3 pages)(50035 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	/Jessamyn Brownell/
Name	Jessamyn Brownell
Date	10/27/2011

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

In re Application of :

Mark: NEW YORK COUCH DOCTOR

Serial No. : 85173818

Filed: November 10, 2010

Published: September 27, 2011

The Sofa Doctor, Inc. dba Dr. Sofa[®],

Opposer

v.

Opposition No. _____

New York Couch Doctor, Inc.

Applicant

NOTICE OF OPPOSITION

The Sofa Doctor, Inc. dba Dr. Sofa[®], a New York corporation with business address at 220 E. 134th Street, Bronx, New York 10451 (“Opposer”) believes that it will be damaged by registration of Application No. 85173818 for the mark NEW YORK COUCH DOCTOR and hereby opposes registration of same.

As grounds for opposition, it is alleged that:

1. Opposer, The Sofa Doctor, Inc. dba Dr. Sofa[®], has been and is now engaged in the business of providing installation and assembly and disassembly services of furniture.
2. Opposer has continuously provided furniture assembly and installation services under the DR. SOFA mark since at least as early as June 1, 2004.

3. Mr. Shlomi Eini is the owner of The Sofa Doctor, Inc. dba Dr. Sofa®. Mr. Eini is the owner of U.S. Trademark Registration No. 3067868 for DR. SOFA for *assembly and disassembly of furniture for others*, in Class 40.
4. Since the adoption and first use of its DR. SOFA mark, Opposer has made substantial and continuous use of its DR. SOFA mark in connection with furniture assembly and installation services.
5. Opposer has owned the domain name www.couchdoctor.com since September 24, 2003, which connects to Opposer's website, www.drsofa.com.
6. Opposer has extensively used, advertised, promoted and offered Opposer's services bearing Opposer's mark to the public through various channels of trade in commerce, with the result that Opposer's customers and the public in general have come to know and recognize Opposer's mark and associate it with Opposer.
7. Applicant is the owner of Application Serial No. 85173818 seeking to register the mark NEW YORK COUCH DOCTOR for *installation of furniture*, in Class 37.
8. Applicant's application for the NEW YORK COUCH DOCTOR mark was filed on November 10, 2010 claiming a date of first use of January 15, 2005, which is well after Opposer's first use of the mark DR. SOFA.
9. Applicant's mark is substantially similar to Opposer's mark in sound, meaning, connotation and commercial impression.
10. Applicant's services are identical to, or otherwise commercially related to Opposer's services.
11. Applicant and Opposer are both located in New York and advertise to New York and the surrounding areas, therefore, they are sold in close proximity and purchased and consumed by the same class of purchasers.
12. The registration and/or use of Applicant's mark is likely to lead to dilution of Opposer's mark.
13. Opposer will be damaged by the registration sought by Applicant because such registration would support and assist Applicant in the confusing misleading and deceptive use of Applicant's mark and would give the Applicant color of exclusive statutory rights to such designation in violation of Opposer's superior rights.

14. Opposer avers that its customers, and the public in general, are likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant's services to be marketed under Applicant's mark as set forth in the application and misled into believing that such services are provided by, emanate from, or are in some way directly or indirectly associated with Opposer, to the damage and detriment of Opposer and its reputation.

In view of the substantial similarity between the marks and the commercial relationship between the services, registration of Applicant's mark is likely to cause confusion, mistake or deception to purchasers as to the source of Applicant's goods, and therefore it is requested that registration to Applicant be refused under Section 2(d) of the Trademark Act.

WHEREFORE, Opposer requests the opposition be sustained and that registration of Application Serial No. 85173818 be denied.

Respectfully submitted,

/David Smith/

E. David Smith
Attorney for Opposer

SMITH & ASSOCIATES
P.O. Box 5242
Passaic Park, New Jersey 07055
(212) 661-7010