

ESTTA Tracking number: **ESTTA448518**

Filing date: **12/28/2011**

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	Norwood Promotional Products, LLC		
Entity	Corporation	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 efsttaps@taftlaw.com Phone:317-713-3500		
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### Applicant Information

Application No	85360724	Publication date	12/27/2011
Opposition Filing Date	12/28/2011	Opposition Period Ends	01/26/2012
Applicant	Hair Dryer Koozie LLC 115 Forset Cove Ln Greer, SC 29651 UNITED STATES		

### Goods/Services Affected by Opposition

Class 035. First Use: 2011/06/00 First Use In Commerce: 2011/06/00  
All goods and services in the class are opposed, namely: On-line retail store services featuring hair accessories and cosmetic hair products

### 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.	3240989	Application Date	02/03/2004
Registration Date	05/15/2007	Foreign Priority Date	NONE
Word Mark	KOOZIE		

Design Mark	<b>KOOZIE</b>
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

Attachments	76573657#TMSN.gif ( 1 page )( bytes ) Notice of Opposition.pdf ( 13 pages )(1445356 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	12/28/2011

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

<p><b>Norwood Promotional Products, LLC</b></p> <p style="text-align:center"><b>Plaintiff</b></p> <p style="text-align:center"><b>Vs</b></p> <p><b>Hair Dryer Koozie LLC</b></p> <p style="text-align:center"><b>Defendant</b></p>	<p><b>Opposition No. _____</b></p> <p><b>Mark: HAIR DRYER KOOZIE</b></p> <p><b>Services:</b> <i>on-line retail store services featuring hair accessories and cosmetic hair products</i></p> <p><b>Serial No. 85360724</b></p> <p><b>Published: December 7, 2011</b></p>
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**NOTICE OF OPPOSITION**

Norwood Promotional Products, LLC (“Plaintiff”), believes it will be damaged by registration of the above referenced HAIR DRYER KOOZIE trademark, as shown in Application Serial No. 85360724 and hereby opposes same. As grounds for this opposition, Plaintiff respectfully alleges as follows:

1. Plaintiff is a Delaware limited liability company with a business address of One Bic Way, Suite 1, Shelton, Connecticut 06484.
  
2. Upon information and belief, Hair Dryer Koozie LLC (“Defendant”) is a South Carolina limited liability company with an address of 115 Forset Cove Lane, Greer South Carolina 29651.

### THE KOOZIE TRADEMARK

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

6. Plaintiff is also the owner of U.S. Reg. No. 3793699 for the mark RCC KOOZIE, which is used and registered in connection with a wide variety of goods, including “*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. Plaintiff’s KOOZIE brand 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. Plaintiff 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 Plaintiff's best selling products.

11. Plaintiff owns and operates the website [www.norwood.com](http://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](http://www.norwood.com) website.

13. The [www.norwood.com](http://www.norwood.com) website receives approximately 31,000 hits per day.

14. The KOOZIE trademark is an incredibly well known, immediately recognizable 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 Plaintiff, and is an entirely unique, fanciful and arbitrary trademark.

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

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

18. There is no question that consumers think of Plaintiff 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 other goods.

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

#### **THE HAIR DRYER KOOZIE APPLICATION**

20. According to Patent and Trademark Office records, Defendant filed a federal trademark application, assigned Application Serial No. 85360724, for its HAIR DRYER KOOZIE mark on June 30, 2011 (hereinafter, the HAIR DRYER KOOZIE Application) in connection with “*on-line retail store services featuring hair accessories and cosmetic hair products*” in International Class 35. See attached Exhibit C.

21. This HAIR DRYER KOOZIE Application was filed more than THIRTY (30) years after Norwood began using its 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.*”

22. It is true that Applicant’s trademark application Serial No. 85360724 only covers “*on-line retail store services featuring a wide variety of consumer goods of others,*” and the evidence of use currently of record appears to support such services. However, when

looking at Applicant's website homepage, it is clear that Applicant is actually using this mark in connection with insulating/sleeve covers for hairdryers (*see Exhibit D*).

23. Applicant's hairdryer insulating/sleeve covers perform the same function as Registrant's goods; only with respect to hairdryers.

24. Registrant's KOOZIE goods insulate and sleeve beverage containers, while Applicant's goods insulate and sleeve hair dryers (*see Exhibit E*).

25. The evidence of use submitted to the USPTO appears to be an attempt to secure a federally registered trademark by hiding the ball from the USPTO with respect to Applicant's primary use of the mark.

26. The fact remains that Applicant's trademark encompasses 100% of the KOOZIE trademark, and its use of HAIR DRYER KOOZIE in connection with identically functioning goods is an attempt to play off of the goodwill established by Norwood over the past three decades.

27. Additionally, Defendant's proposed goods are likely to be targeted to the same consumers as Plaintiff's goods and are likely to circulate through the same channels of trade.

28. It is clear that Defendant's intended use of this HAIR DRYER KOOZIE Application is nothing more than a play designed to trade off of the goodwill established by Norwood over the past three-plus decades.

**REGISTRATION OF THE HAIR DRYER KOOZIE APPLICATION WILL CAUSE HARM TO PLAINTIFF**

29. Plaintiff's rights in the KOOZIE trademark predate Defendant's filing date by three decades.

30. The dominant portion of Applicant's HAIR DRYER KOOZIE Application is KOOZIE, which is identical to Plaintiff's KOOZIE trademark.

31. Defendant's HAIR DRYER KOOZIE Application covers goods that function almost identically to Plaintiff's well-known KOOZIE brand goods.

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

33. Defendant's evidence of use submitted with its application appears to be an attempt to trick the Examining Attorney into believing that its goods/services do not overlap with Plaintiff's goods.

34. As such, the registration of Defendant's HAIR DRYER KOOZIE Application is likely to cause confusion, mistake and/or deception among consumers as to the source of each party's services in violation of 15 U.S.C. §1052(d).

35. Additionally, registration of Defendant's HAIR DRYER KOOZIE Application will cause consumers to infer the existence of an affiliation, connection or association between the parties when none exists.

Accordingly, Plaintiff respectfully requests that this Opposition be sustained and that Defendant's HAIR DRYER KOOZIE Application Serial No. 85360724 be denied registration.

Dated this 28<sup>th</sup> day of December, 2011.

Respectfully submitted,

/Amy Wright/

Amy L. Wright  
Taft, Stettinius & Hollister LLP  
One Indiana Square, Suite 3500  
Indianapolis, IN 46204  
Telephone: (317) 713-3500  
Fax: (317) 713-3699  
Attorney for Plaintiff

#### 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 December 28, 2011:

Hair Dryer Koozie LLC  
115 Forset Cove Lane  
Greer, South Carolina 29651

/Amy Wright/

Amy L. Wright

**EXHIBIT A**

Int. Cl.: 21

Prior U.S. Cls: 2, 13, 23, 29, 30, 33, 40 and 50

**United States Patent and Trademark Office**

**Reg. No. 3,240,989**

Registered May 15, 2007

**TRADEMARK  
PRINCIPAL REGISTER**

**KOOZIE**

NORWOOD OPERATING COMPANY (DELA-  
WARE CORPORATION) DBA NORWOOD  
PROMOTIONAL PRODUCTS  
10 WEST MARKET STREET, SUITE 1400  
LEGAL - TRADEMARKS  
INDIANAPOLIS, IN 46204

FOR: INSULATED CONTAINERS FOR BEVER-  
AGE CANS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33,  
40 AND 50).

FIRST USE --0-1979; IN COMMERCE --0-1979

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

OWNER OF U.S. REG. NO. 1,785,385.

SER. NO. 76-573,657, FILED 2-5-2004.

KELLY CHOO, EXAMINING ATTORNEY

**EXHIBIT B**

**United States of America**  
United States Patent and Trademark Office

**RCC KOOZIE**

**Reg. No. 3,793,699**

**Registered May 25, 2010**

**Int. Cls.: 9, 16, 18, 20, 21,  
24, 25, and 40**

**TRADEMARK**

**SERVICE MARK**

**PRINCIPAL REGISTER**

NORWOOD PROMOTIONAL PRODUCTS, LLC (DELAWARE LIMITED LIABILITY COMPANY)  
ONE BIC WAY, SUITE 1  
SHELTON, CT 06484

FOR: CD CASES , IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 1-1-2010; IN COMMERCE 1-1-2010.

FOR: DOCUMENT PORTFOLIOS, NOTE PAD HOLDERS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 1-1-2010; IN COMMERCE 1-1-2010.

FOR: LUGGAGE, TOTE BAGS, TRAVEL BAGS, GARMENT BAGS FOR TRAVEL, SPORTS BAGS, BACK PACKS, IN CLASS 18 (U.S. CLS. 1, 2, 3, 22 AND 41).

FIRST USE 1-1-2010; IN COMMERCE 1-1-2010.

FOR: SLEEPING BAGS, SLEEPING MATS, CHAIRS, CUSHIONS , IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 1-1-2010; IN COMMERCE 1-1-2010.

FOR: 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 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 1-1-2010; IN COMMERCE 1-1-2010.

FOR: BED BLANKETS, IN CLASS 24 (U.S. CLS. 42 AND 50).

FIRST USE 1-1-2010; IN COMMERCE 1-1-2010.

FOR: HATS, CAPS, HEADBANDS, VISORS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 1-1-2010; IN COMMERCE 1-1-2010.

FOR: 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, BEVERAGEWEAR,



*David J. Kappas*

Director of the United States Patent and Trademark Office

## EXHIBIT C

Trademark Electronic Search System (TESS) - Windows Internet Explorer

http://tess2.uspto.gov/bin/showfield?f=doc&state=4006:r1r5n4.4.1

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Record 1 out of 1

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

# Hair Dryer Koozie

Word Mark	HAIR DRYER KOOZIE
Goods and Services	IC 035. US 100 101 102. G & S. On-line retail store services featuring a wide variety of consumer goods of others. FIRST USE: 20110600. FIRST USE IN COMMERCE: 20110600
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85360724
Filing Date	June 30, 2011
Current Filing Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) Hair Dryer Koozie LLC LIMITED LIABILITY COMPANY SOUTH CAROLINA 115 Forset Cove Ln Greer SOUTH CAROLINA 29651
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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Trusted sites

# EXHIBIT D

Home Page - Windows Internet Explorer

http://www.hairdryerkoozie.com/home\_Page.html

File Edit View Favorites Tools Help

Google HAIR DRYER KOOZIE Search More >>

Home Page

At this time we have not listed all of our products so if you are cannot find what you are looking for please fill out the contact me form and we will let you know if we have it in our warehouse!  
Thank you!



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at  
[www.hairdryerkoozie.com](http://www.hairdryerkoozie.com)

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Done Internet Thursday

# EXHIBIT E

Windows Internet Explorer browser window showing the website [http://shop.hairdryerkoozie.net/Hair-Dryer-Koozie\\_c11.htm](http://shop.hairdryerkoozie.net/Hair-Dryer-Koozie_c11.htm). The search bar contains "hair dryer koozies".

## Hair Dryer Koozie

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### Hair Dryer Koozie

1 - 6 of 6 items

 <p><b>Hair Dryer Koozie</b></p> <p>\$6.00</p> <p>OPTIONS</p>	 <p><b>Bundle of 6 Koozies</b></p> <p>Your choice of a small or medium koozie for the same shipping as one.</p> <p>\$36.00</p> <p>OPTIONS</p>
 <p><b>Bundle of 6 Koozies (Large)</b></p> <p>A bundle of 6 large Koozies</p> <p>\$48.00</p>	 <p><b>Koozie Covers with Edge</b></p> <p>Koozie Covers for Small, Medium and Large Koozies</p> <p>\$7.00</p>

**Hair Dryer Koozie**

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