

ESTTA Tracking number: **ESTTA551657**

Filing date: **07/31/2013**

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	S & G Hampton Sun, LLC
Granted to Date of previous extension	07/31/2013
Address	123 West 18th Street, 8th Floor New York, NY 10011 UNITED STATES

Attorney information	Stephen Ankrom Powley & Gibson, P.C. 304 Hudson Street, 2nd Floor New York, NY 10013 UNITED STATES smankrom@powleygibson.com Phone:212-226-5054
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Applicant Information

Application No	85563175	Publication date	04/02/2013
Opposition Filing Date	07/31/2013	Opposition Period Ends	07/31/2013
Applicant	Alan J. Piven Management Group, LLC Apt. 15B 341 W. 24th Street New York, NY 10011 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: fragrances made of organic ingredients

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.	3851704	Application Date	01/30/2004
Registration Date	09/21/2010	Foreign Priority Date	NONE
Word Mark	HAMPTON SUN		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 003. First use: First Use: 2005/05/01 First Use In Commerce: 2005/05/01 Tanning and sunscreen preparations; sun block; sun care lotion; sun cream; sun tan gel; sun tan lotion; suntan oil; cosmetics and skin care products, namely, cream for face, after sun moisture, after sun body cooling spray, sunless tanning gel, after sun cream for face and body, face and body moisturizers, skin lotion, and after sun lotion; hair and body care products, namely, body cream, and body lotion; cosmetic preparations for body care; facial cream; facial lotion; bathing products, namely, bath soaps, bath gels, fragrances for personal use; and room fragrances
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U.S. Application No.	85084860	Application Date	07/14/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HAMPTON SUN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: cosmetics and personal care products, namely, shampoo and hair conditioners; bath salts, bath scrubs; body exfoliating scrubs; aromatherapy body oils; cosmetic kits comprised of cosmetics and cosmetic cases Class 004. First use: candles Class 044. First use: health spa services, namely, cosmetic body care services, cosmetic skin care services, aromatherapy, manicure and pedicure services, massage services; health spa services for the health and wellness of the body and spirit; providing nutrition counseling and health information		

Attachments	Notice of Opposition v3.pdf(209803 bytes) EXHIBIT A.pdf(161412 bytes) EXHIBIT B.pdf(136980 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	/Stephen M. Ankrom/
Name	Stephen Ankrom
Date	07/31/2013

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

In the matter of Application Serial No. 85/563175
For the Mark: HAMPTON ORGANICS
Published in the Official Gazette on April 2, 2013

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S&G Hampton Sun, LLC :
Opposer, :
-against- :
Alan J. Piven Management Group, LLC :
Applicant. :
-----X

Opposition No. _____

NOTICE OF OPPOSITION

S & G Hampton Sun, LLC (hereinafter “Opposer”) believes that it will be damaged by registration of the trademark HAMPTON ORGANICS, as shown in Application Serial No. 85/563175, filed March 7, 2012 and published for opposition on April 2, 2013, owned by Alan J. Piven Management Group, LLC (“Applicant”), for “fragrances made of organic ingredients” in International Class 3.

By and through its attorneys Powley & Gibson, P.C., Opposer obtained Extensions of Time to Oppose in due course, the last of which expires on July 31, 2013, and hereby opposes registration of the trademark HAMPTON ORGANICS on the following grounds:

1. Opposer is a limited liability company organized and existing under the laws of New York with a principal place of business at 123 West 18th Street, 8th Floor, New York, New York 10011.

2. Upon information and belief, Applicant is a limited liability company organized and existing under the laws of New York with a principal place of business at 341 W. 24th Street, Apt. 15B, New York, New York 10011.

3. Opposer is the owner of U.S. Trademark Registration No. 3,851,704, filed January 30, 2004 and issued on September 21, 2010, for the mark HAMPTON SUN (“Opposer’s Mark”) in connection with “tanning and sunscreen preparations; sun block; sun care lotion; sun cream; sun tan gel; sun tan lotion; suntan oil; cosmetics and skin care products, namely cream for face, after sun moisture, after sun body cooling spray, sunless tanning gel, after sun cream for face and body, face and body moisturizers, skin lotion, and after sun lotion; hair and body care products, namely body cream and body lotion; cosmetic preparations for body care; facial cream; facial lotion; bathing products, namely bath soaps, bath gels, fragrances for personal use; and room fragrances” in International Class 3 (“Opposer’s Goods”).

4. Opposer is also the owner of the prior-filed pending application serial number 85/084860, filed July 14, 2010 and published for opposition on July 12, 2011 for the mark HAMPTON SUN (“Opposer’s Application”) in connection with “cosmetics and personal care products, namely, shampoo and hair conditioners; bath salts, bath scrubs; body exfoliating scrubs; aromatherapy body oils; cosmetic kits comprised of cosmetics and cosmetic cases” in International Class 3, “candles” in International Class 4, and “health spa services, namely, cosmetic body care services, cosmetic skin care services, aromatherapy, manicure and pedicure services, massage services; health spa services for the health and wellness of the body and spirit; providing nutrition counseling and health information” in International Class 44.

5. A copy of records from the Trademark Application and Registration Retrieval (“TARR”) system of the United States Patent and Trademark Office (“USPTO”) showing

registration of Opposer's Mark is attached hereto as Exhibit A. A copy of records from the TARR system of the USPTO showing records of Opposer's Application is attached hereto as Exhibit B.

6. Opposer's Mark is valid and subsisting and is evidence of Opposer's ownership of and exclusive right to use Opposer's Mark in commerce in connection with Opposer's Goods.

7. Opposer has used Opposer's Mark in connection with the sale of Opposer's Goods at least as early as May 1, 2005, has used Opposer's Mark in connection with the sale of Opposer's Goods in interstate commerce since at least as early as May 1, 2005, and such use has been continuous and is ongoing.

8. Opposer has expended substantial effort and expense in promoting Opposer's Mark. As a result, Opposer has developed extensive goodwill with respect to Opposer's Mark, and consumers have come to know, rely upon, and recognize the source of Opposer's Goods as originating from a single source, that is, Opposer.

9. On March 7, 2012, Applicant filed Application Serial No. 85/563175, in the USPTO under Section 1(b) of the United States Trademark Act, seeking to register HAMPTON ORGANICS ("Applicant's Mark") on the Principal Register for "fragrances" in International Class 3. On February 6, 2013, the goods were subsequently amended by Applicant to "fragrances made of organic ingredients" in International Class 3 ("Applicant's Goods").

10. Opposer's rights in Opposer's Mark predate and are superior to any rights by Applicant has in its intent-to-use application for Applicant's Mark.

11. Applicant's Mark so resembles Opposer's Mark in appearance, sound, and commercial impression that, when applied to Applicant's Goods, would be likely to cause confusion, or to cause mistake, or to deceive consumers. Consumers would be likely to assume

that Applicant's Goods are associated with, endorsed, or sponsored by Opposer. As such, Applicant's Mark is not entitled to registration pursuant to the United States Trademark Act, 15 U.S.C. § 1052(d).

12. Applicant's Mark is highly similar to Opposer's Mark in that they both contain the term "Hampton" and they create confusingly similar commercial impressions.

13. The descriptive term "Organics" in Applicant's Mark does not distinguish the two marks nor minimize the likelihood of confusion.

14. Applicant's Goods are identical, similar and/or closely related to Opposer's Goods.

15. Respondent's Goods travel (or will travel) in the same channels of trade and are directed at the same consumers as Opposer's Goods.

16. Opposer will be damaged by registration of Applicant's Mark because such registration will give Applicant prima facie ownership of and the exclusive right to use Applicant's Mark which is confusingly similar to Opposer's Mark, in derogation of Opposer's superior rights in Opposer's Mark.

17. This Opposition is timely filed and accompanied by the appropriate filing fee.

WHEREFORE, Opposer respectfully requests that the registration sought by Applicant be refused, that the Notice of Opposition be sustained, and that the Trademark Trial and Appeal Board grant such other relief as it deems just and proper.

The required fee of \$300.00 for Opposition against the subject application is enclosed herewith.

Dated: July 31, 2013

Respectfully submitted,

/s/ Stephen M. Ankrom

Robert L. Powley

James M. Gibson

Stephen M. Ankrom

Powley & Gibson, P.C.

304 Hudson Street, 2nd Floor

New York, New York 10013

Tel. (212) 226-5054

Fax. (212) 226-5085

Attorneys for Opposer

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

In the matter of Application Serial No. 85/563175
For the Mark: HAMPTON ORGANICS
Published in the Official Gazette on April 2, 2013

-----X
S&G Hampton Sun, LLC :
Opposer, :
-against- :
Alan J. Piven Management Group, LLC :
Applicant. :
-----X

CERTIFICATE OF SERVICE UNDER 37 C.F.R §2.119

I hereby certify that on this 31st day of July, 2013, a true and correct copy of the foregoing Notice of Opposition was served on counsel of record for the Applicant by United States Postal Service first class mail, postage prepaid, at Applicant's attorney's correspondence address on record in the United States Patent and Trademark Office:

Howard D. Bader
Ballou Stoll Bader & Nadler, P.C.
729 Seventh Avenue, 17th Floor
New York, New York 10019-6887

/s/ Stephen M. Ankrom
Stephen M. Ankrom

EXHIBIT A



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HAMPTON SUN

Word Mark HAMPTON SUN

Goods and Services IC 003. US 001 004 006 050 051 052. G & S: Tanning and sunscreen preparations; sun block; sun care lotion; sun cream; sun tan gel; sun tan lotion; suntan oil; cosmetics and skin care products, namely, cream for face, after sun moisture, after sun body cooling spray, sunless tanning gel, after sun cream for face and body, face and body moisturizers, skin lotion, and after sun lotion; hair and body care products, namely, body cream, and body lotion; cosmetic preparations for body care; facial cream; facial lotion; bathing products, namely, bath soaps, bath gels, fragrances for personal use; and room fragrances. FIRST USE: 20050501. FIRST USE IN COMMERCE: 20050501

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Trademark Search Facility Classification Code SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons

Serial Number 78360413

Filing Date January 30, 2004

Current Basis 1A

Original Filing Basis 1B

Published for Opposition December 6, 2005

Registration Number 3851704

Registration Date September 21, 2010

Owner (REGISTRANT) Wilfley, Grant S. INDIVIDUAL UNITED STATES 112 McGregor Drive Southhampton NEW YORK 11968

(REGISTRANT) Piazzolla, Salvatore R. INDIVIDUAL UNITED STATES 161 North 7th Street Lindenhurst NEW YORK 11757

(LAST LISTED OWNER) S & G HAMPTON SUN, LLC LIMITED LIABILITY COMPANY NEW YORK 123 WEST 18TH STREET, 8TH FLOOR NEW YORK NEW YORK 10011

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Robert L. Powley

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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EXHIBIT B



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HAMPTON SUN

Word Mark HAMPTON SUN

Goods and Services IC 003. US 001 004 006 050 051 052. G & S: cosmetics and personal care products, namely, shampoo and hair conditioners; bath salts, bath scrubs; body exfoliating scrubs; aromatherapy body oils; cosmetic kits comprised of cosmetics and cosmetic cases

IC 004. US 001 006 015. G & S: candles

IC 044. US 100 101. G & S: health spa services, namely, cosmetic body care services, cosmetic skin care services, aromatherapy, manicure and pedicure services, massage services; health spa services for the health and wellness of the body and spirit; providing nutrition counseling and health information

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85084860

Filing Date July 14, 2010

Current Basis 1B

Original Filing Basis 1B

Published for Opposition July 12, 2011

Owner (APPLICANT) S & G Hampton Sun, LLC LIMITED LIABILITY COMPANY NEW YORK 123 West 18th Street 8th Fl. New York NEW YORK 10011

Attorney of Record Robert L. Powley
Type of Mark TRADEMARK, SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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