

ESTTA Tracking number: **ESTTA599768**

Filing date: **04/22/2014**

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 | Aquion, Inc. | | |
| Entity | Corporation | Citizenship | Delaware |
| Address | 2080 E. Lunt Avenue Elk Grove Village, IL 60007 UNITED STATES | | |

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| Attorney information | Marta S. Levine Quarles & Brady LLP 411 East Wisconsin Avenue Milwaukee, WI 53202 UNITED STATES marta.levine@quarles.com, david.cross@quarles.com Phone:414 277 5000 |
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Applicant Information

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|------------------------|---|------------------------|------------|
| Application No | 79121347 | Publication date | 03/25/2014 |
| Opposition Filing Date | 04/22/2014 | Opposition Period Ends | 04/24/2014 |
| Applicant | Ozone Industries Ireland Limited Block 2, Newtown Business Park IRELAND | | |

Goods/Services Affected by Opposition

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| <p>Class 011. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Apparatus for lighting, namely, lighting installations, heating installations, steam generating installations, refrigerating machines; apparatus for the exchange of substances and heat for use in the production of steam, for use in cooking; water treatment apparatus for water purification, namely, water purification machines; water purification tanks; water purification units; water purification sedimentation and filtration apparatus for thickening and filtration of water, waste water and industrial water; water purifiers; water purifiers for household purposes; water purifying apparatus; water treatment equipment, namely, ultraviolet water sanitization units and ozone water sanitization units; water treatment equipment, namely, water filtration units; water filters and water filtering apparatus; water filtering units for domestic, commercial or industrial use; water filtration and purifications units; water filtration apparatus for the ionization of water; water ionizers for household purposes; water purification and filtration apparatus; water purification installations; rainwater treatment and purification apparatus, namely, ozone and ultraviolet sanitizers used to treat rainwater, rainwater purification and filtration units; rainwater supply apparatus, namely, ultraviolet and ozone sanitization units which treat and harvest water so that it produces clean, safe, clear, fresh potable drinking water, water filters and water filtering apparatus for domestic, commercial or industrial use</p> |
| <p>Class 032. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Beers; mineral and aerated waters; drinking water; non-alcoholic fruit beverages and fruit juices; syrups for making beverages and flavored miner-</p> |

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| al waters; bottled water |
| Class 037. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Building construction; building repair; installation services in the field of water treatment equipment; maintenance services of water treatment apparatus for water purification; maintenance services of rainwater purification apparatus |

Grounds for Opposition

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

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 715436 | Application Date | 08/04/1960 |
| Registration Date | 05/16/1961 | Foreign Priority Date | NONE |
| Word Mark | RAINSOFT | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 011. First use: First Use: 1953/08/06 First Use In Commerce: 1955/12/05 Water Softeners and Water Filters | | |

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 1632154 | Application Date | 01/16/1990 |
| Registration Date | 01/22/1991 | Foreign Priority Date | NONE |
| Word Mark | RAINSOFT | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 007. First use: First Use: 1965/00/00 First Use In Commerce: 1965/00/00 CHEMICAL FEED PUMPS Class 011. First use: First Use: 1953/08/06 First Use In Commerce: 1953/08/06 WATER FILTERS, NAMELY, IRON FILTERS, SEDIMENT FILTERS, REVERSE OSMOSIS FILTERS; WATER TREATMENT EQUIPMENT, NAMELY, ACID-NEUTRALIZING UNITS, WATER PURIFIERS, FAUCETS WHICH METER THE FLOW OF WATER; [OZONE GENERATORS] | | |

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 1950973 | Application Date | 01/18/1995 |
| Registration Date | 01/23/1996 | Foreign Priority Date | NONE |
| Word Mark | RAINSOFT | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 006. First use: First Use: 1994/01/00 First Use In Commerce: 1994/01/00 water-retaining metal tank used in association with water treatment equipment Class 011. First use: First Use: 1994/08/00 First Use In Commerce: 1994/08/00 electrical ultraviolet light for use with or as water purification units | | |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 2033664 | Application Date | 12/19/1995 |
| Registration Date | 01/28/1997 | Foreign Priority Date | NONE |
| Word Mark | RAINSOFT | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 003. First use: First Use: 1983/03/09 First Use In Commerce: 1983/03/09 soaps and detergents, namely, skin bar soap, liquid hand soap, hair shampoo, automatic dishwasher detergent, liquid dish soap, and laundry detergent | | |

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 4208977 | Application Date | 10/11/2011 |
| Registration Date | 09/18/2012 | Foreign Priority Date | NONE |
| Word Mark | RAINSOFT | | |
| Design Mark | | | |
| Description of Mark | The mark consists of the stylized word "RainSoft" with a teardrop shaped figure in the middle of the "S". | | |
| Goods/Services | <p>Class 003. First use: First Use: 2004/09/01 First Use In Commerce: 2004/09/01 Soaps and detergents, namely skin bar soap, liquid hand soap, hair shampoo, automatic dishwasher detergent, liquid dishsoap and laundry detergent</p> <p>Class 006. First use: First Use: 2000/08/01 First Use In Commerce: 2000/08/01 Water-retaining metal tank used in association with water treatment equipment</p> <p>Class 007. First use: First Use: 2000/08/01 First Use In Commerce: 2000/08/01 Chemical feed pumps</p> <p>Class 011. First use: First Use: 2000/08/01 First Use In Commerce: 2000/08/01 Water treatment equipment, namely, water softeners and water filters; water filters, namely, iron filters, sediment filters, reverse osmosis filters, taste and odor filters; water treatment equipment, namely, acid neutralizing units, water purifiers, and faucets which meter the flow of water; electrical ultraviolet light for use with or as water purification units; water softening conditioning units, primarily for domestic use; water conditioning systems composed primarily of water filtration units and water conditioning units for domestic, commercial, and industrial use</p> | | |

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| Attachments | Notice of Opposition RAINSAFE.PDF(191422 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 | /MartaLevine/ |
| Name | Marta S. Levine |
| Date | 04/22/2014 |

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

In the Matter of Application Serial No. 79/121347
Mark: RAINSAFE and Design
Published in the *Official Gazette* on March 25, 2014

AQUION, INC.,

Opposer,

v.

Opposition No. _____

OZONE INDUSTRIES IRELAND LIMITED,

Applicant.

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer Aquion, Inc. ("Aquion") believes that it would be damaged by registration of the mark shown in Application Serial No. 79/121347 (the "Opposed Application"), and hereby opposes same.

As grounds of opposition, Aquion alleges that:

1. Opposer Aquion, Inc. is a Delaware corporation with its principal place of business at 2080 E. Lunt Avenue, Elk Grove Village, Illinois 60007. Aquion is the owner of trademark RAINSOFT, which is used in connection with the sale, installation, and repair of water treatment equipment and related products.

2. The Opposed Application is a trademark application filed by Ozone Industries Ireland Limited ("Applicant") on September 11, 2012 under Section 66(a) of the Trademark Act

Opposer: Aquion, Inc.
Applicant: Ozone Industries Ireland Limited
Application Serial No.: 79/121347

of 1946, as amended (15 U.S.C. §1141f) (based on International Registration No. 1138205), for registration of the mark RAINSAFE and Design, for the goods and services listed below:

Apparatus for lighting, namely, lighting installations, heating installations, steam generating installations, refrigerating machines; apparatus for the exchange of substances and heat for use in the production of steam, for use in cooking; water treatment apparatus for water purification, namely, water purification machines; water purification tanks; water purification units; water purification sedimentation and filtration apparatus for thickening and filtration of water, waste water and industrial water; water purifiers; water purifiers for household purposes; water purifying apparatus; water treatment equipment, namely, ultraviolet water sanitization units and ozone water sanitization units; water treatment equipment, namely, water filtration units; water filters and water filtering apparatus; water filtering units for domestic, commercial or industrial use; water filtration and purifications units; water filtration apparatus for the ionization of water; water ionizers for household purposes; water purification and filtration apparatus; water purification installations; rainwater treatment and purification apparatus, namely, ozone and ultraviolet sanitizers used to treat rainwater, rainwater purification and filtration units; rainwater supply apparatus, namely, ultraviolet and ozone sanitization units which treat and harvest water so that it produces clean, safe, clear, fresh potable drinking water, water filters and water filtering apparatus for domestic, commercial or industrial use (in Int. Class 11);

Beers; mineral and aerated waters; drinking water; non-alcoholic fruit beverages and fruit juices; syrups for making beverages and flavored mineral waters; bottled water (in Int. Class 32); and

Building construction; building repair; installation services in the field of water treatment equipment; maintenance services of water treatment apparatus for water purification; maintenance services of rainwater purification apparatus (in Int. Class 37).

3. Aquion is the owner of the trademark RAINSOFT, which is used in connection with the sale, installation, and repair of water treatment equipment and related products. Aquion owns numerous registrations for its RAINSOFT mark, including the following:

| Trademark | Registration No. | Issue Date | Goods |
|------------------|-------------------------|-------------------|--|
| RAINSOFT | 715436 | May 16, 1961 | Water softeners and water filters (Class 11) |

Opposer: Aquion, Inc.
 Applicant: Ozone Industries Ireland Limited
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| Trademark | Registration No. | Issue Date | Goods |
|---|------------------|---------------|---|
| RAINSOFT | 1632154 | Jan. 22, 1991 | Water filters, namely, iron filters, sediment filters, reverse osmosis filters; water treatment equipment, namely, acid neutralizing units, water purifiers, faucets which meter the flow of water (Class 11) |
| RAINSOFT | 1950973 | Jan. 23, 1996 | Water-retaining metal tank used in association with water treatment equipment (Class 6) Electrical ultraviolet light for use with or as water purification units (Class 11) |
| RAINSOFT | 2033664 | Jan. 28, 1997 | Soaps and detergents, namely, skin bar soap, liquid hand soap, hair shampoo, automatic dishwasher detergent, liquid dish soap, and laundry detergent (Class 3) |
| RAINSOFT Design  | 4208977 | Sep. 18, 2012 | Soaps and detergents, namely skin bar soap, liquid hand soap, hair shampoo, automatic dishwasher detergent, liquid dish soap and laundry detergent (Class 3) Water-retaining metal tank used in association with water treatment equipment (Class 6) Water treatment equipment, namely, water softeners and water filters; water filters, namely, iron filters, sediment filters, reverse osmosis filters, taste and odor filters; water treatment equipment, namely, acid neutralizing units, water purifiers, and faucets which meter the flow of water; electrical ultraviolet light for use with or as water purification units; water softening conditioning units, primarily for domestic use; water conditioning systems composed primarily of water filtration units and water conditioning units for domestic, commercial, and industrial use (Class 11) |

4. Since long prior to the date on which Applicant filed the above Opposed Application and, upon information and belief, since long prior to any use by Applicant of its mark

Opposer: Aquion, Inc.
Applicant: Ozone Industries Ireland Limited
Application Serial No.: 79/121347

in the United States, Aquion has used and continues to use its RAINSOFT mark in interstate commerce in connection with the promotion and marketing of its well-known water treatment equipment and related products.

5. Aquion's RAINSOFT mark has been extensively used and advertised in interstate commerce to identify Aquion and its products, and Aquion has developed and owns valuable property rights and goodwill in said mark.

6. Applicant's proposed mark RAINSAFE and Design so resembles Aquion's RAINSOFT mark as to be likely, when used in connection with the Applicant's goods and services, to cause confusion and to cause mistake and to deceive. Specifically, and without limitation, members of the public seeing Applicant's mark are likely to believe or assume that the same identifies goods and services that are provided by or otherwise associated with or sponsored by Aquion.

7. By reason of the foregoing, registration of Applicant's mark will result in irreparable injury to Aquion and to its rights in its mark.

WHEREFORE, Aquion prays that this opposition be sustained and that registration of Applicant's mark be refused.

Opposer: Aquion, Inc.
Applicant: Ozone Industries Ireland Limited
Application Serial No.: 79/121347

Dated: April 22, 2014

Respectfully submitted,

AQUION, INC.

By: *Marta Levine*
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Certificate of Service and Transmittal:

I hereby certify that this correspondence is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below, with a copy sent by first class mail, postage prepaid, to: Keith A. Weltsch, Esq., Scully, Scott, Murphy & Presser, P.C., 400 Garden City Plaza, Suite 300, Garden City, New York 11530.

Date: April 22, 2014

Marta Levine
Marta S. Levine