

ESTTA Tracking number: **ESTTA605466**

Filing date: **05/21/2014**

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	Elevation Bed Limited Liability Company		
Entity	Limited Liability Company	Citizenship	Delaware
Address	4 Denny Road Wilmington, DE 19809 UNITED STATES		

Attorney information	William H. Eilberg 316 California Ave. No. 785 Reno, NV 89509 UNITED STATES whe@eilberg.com Phone:215-885-4600		
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### Applicant Information

Application No	86188914	Publication date	05/20/2014
Opposition Filing Date	05/21/2014	Opposition Period Ends	06/19/2014
Applicant	King Koil Licensing Company, Inc. 7501 South Quincy Street, Suite 130 Willowbrook, IL 60527 UNITED STATES		

### Goods/Services Affected by Opposition

Class 020. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Beds; Box springs; Mattresses
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### 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.	1184796	Application Date	09/14/1979
Registration Date	01/05/1982	Foreign Priority Date	NONE
Word Mark	CONTOUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 020. First use: First Use: 1978/09/00 First Use In Commerce: 1978/09/00 Beds		

U.S. Registration No.	2173279	Application Date	03/21/1995
Registration Date	07/14/1998	Foreign Priority Date	NONE
Word Mark	CONTOUR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 020. First use: First Use: 1997/11/20 First Use In Commerce: 1997/11/20 [ chairs and ] beds		

Attachments	74649644#TMSN.gif( bytes ) Notice of Opposition.pdf(52665 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	/William H. Eilberg/
Name	William H. Eilberg
Date	05/21/2014

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

Elevation Bed LLC,	:	
Opposer	:	Serial No. 86/188,914
v.	:	
King Koil Licensing Company, Inc.,	:	Published: May 20, 2014
Applicant	:	

**NOTICE OF OPPOSITION**

Elevation Bed LLC, a limited liability company of Delaware, having an address at 4 Denny Road, Wilmington, Delaware 19809, hereby opposes the application of King Koil Licensing Company, Inc., Serial No. 86/188,914, filed February 10, 2014, for registration of CONTOUR SELECT AIR SLEEP SYSTEMS BY KING KOIL, for "beds; box springs; mattresses", published on page TM 735 in the Official Gazette of May 20, 2014.

Opposer states the following grounds in support of its opposition:

1. Opposer is the owner of U.S. Trademark Reg. No. 1,184,796, for CONTOUR, and U.S. Trademark Reg. No. 2,173,279, for CONTOUR and Design, both of the above registrations pertaining to beds.
2. Opposer and its predecessors have used the above marks, for many years, and, in particular, first used the name CONTOUR many years before the filing date of the above

application. Opposer has developed, and currently possesses, substantial good will in these marks.

3. CONTOUR is the dominant portion of the marks in the above-cited registrations.

4. CONTOUR is the dominant portion of the mark sought to be registered by Applicant.

5. Applicant's goods, which include beds and mattresses, are closely related to, and substantially overlap with, the goods in the above-mentioned registrations of Opposer.

6. Consumers seeing Applicant's goods, bearing the mark CONTOUR SELECT AIR SLEEP SYSTEMS BY KING KOIL, are likely to be confused into believing that Applicant's products originated with Opposer.

7. Opposer will be damaged by the registration of Applicant's mark, because such registration will cause confusion for the reason given above, and may interfere with Opposer's ability to conduct and/or expand its business under the above-identified registered marks.

WHEREFORE, Opposer prays that registration of Applicant's proposed mark be refused.

Respectfully submitted,



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William H. Eilberg, Esq.  
316 California Ave. #785  
Reno, NV 89509  
215-885-4600

Attorney for Opposer

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document entitled NOTICE OF OPPOSITION was served upon the attorney for Applicant, Michael A. Carrillo, Esq., Barnes & Thornburg LLP, P.O. Box 2786, Chicago, IL 60690-2786, by mailing a copy to said attorney, first class postage prepaid, on May 21, 2014.

*William H. Eilberg*

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**William H. Eilberg**