

ESTTA Tracking number: **ESTTA636588**

Filing date: **11/03/2014**

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	Kenneth Cole Productions (LIC), LLC
Granted to Date of previous extension	11/02/2014
Address	603 W. 50th Street New York, NY 10019 UNITED STATES

Attorney information	Mary A. Donovan Donovan & Yee LLP 161 Avenue of the Americas, Suite 1201 New York, NY 10013 UNITED STATES trademarks@yeellp.com, sbutler@yeellp.com Phone:212-226-7700
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Applicant Information

Application No	86210911	Publication date	05/06/2014
Opposition Filing Date	11/03/2014	Opposition Period Ends	11/02/2014
Applicant	Speakman Company Twin Spans Business Park New Castle, DE 19720 UNITED STATES		

Goods/Services Affected by Opposition

Class 011. First Use: 2014/01/17 First Use In Commerce: 2014/01/17
All goods and services in the class are opposed, namely: Shower heads

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.	4317403	Application Date	07/10/2009
Registration Date	04/09/2013	Foreign Priority Date	NONE
Word Mark	KENNETH COLE REACTION		

Design Mark	KENNETH COLE REACTION		
Description of Mark	NONE		
Goods/Services	Class 024. First use: First Use: 2012/09/30 First Use In Commerce: 2012/09/30 Bed linens, namely, sheets, pillow cases, shams, dust ruffles, duvet covers, blankets, comforters, quilts, throws; bathlinens, namely, bath towels, hand towels, beach towels, wash cloths, body sheets, shower curtains		

U.S. Registration No.	3220802	Application Date	10/27/2005
Registration Date	03/20/2007	Foreign Priority Date	NONE

Word Mark	KENNETH COLE REACTION		
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Design Mark	KENNETH COLE REACTION		
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Description of Mark	NONE		
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Goods/Services	Class 021. First use: First Use: 2006/03/01 First Use In Commerce: 2006/03/01 Dinnerware, namely, plates, beverage glassware, barware, [wine glasses, cups,] saucers, mugs, bowls, [serving platters, pitchers, cake servers, salt and pepper shakers, sugar bowls and creamers; storage canisters not made of metal; coasters not of paper and not being table linen; cocktail shakers; coffee pots not of precious metal; tea pots not made of metal; decanters; ice buckets, ice tongs not made of metal;] soap dishes; [vases]		
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U.S. Application No.	86118932	Application Date	11/14/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	REACTION		
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Design Mark	REACTION
Description of Mark	NONE
Goods/Services	Class 027. First use: First Use: 2012/10/31 First Use In Commerce: 2012/10/31 Rugs, non-slip bath mats, bath rugs, bath mats

U.S. Application No.	86119504	Application Date	11/14/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	REACTION
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Design Mark	REACTION
Description of Mark	NONE
Goods/Services	Class 021. First use: First Use: 2013/02/28 First Use In Commerce: 2013/02/28 Waste baskets; bath accessories, namely, soap dishes, toothbrush holders, ceramic tissue box covers, lotion pumps; valet box; shoe shine kit comprising shoe polishing cloths and polish; stacking trays for domestic purposes; snap trays; valet trays

U.S. Application No.	86118893	Application Date	11/14/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	REACTION
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Design Mark	REACTION
Description of Mark	NONE
Goods/Services	Class 020. First use: First Use: 2013/02/28 First Use In Commerce: 2013/02/28 Pillows, accent pillows, decorative throw pillows, shower curtain hooks

U.S. Application No.	86119442	Application Date	11/14/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	REACTION
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Design Mark	REACTION
Description of Mark	NONE
Goods/Services	Class 024. First use: First Use: 2013/02/28 First Use In Commerce: 2013/02/28 Window treatments in the nature of fabric window panels

Related Proceedings	91215460
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Attachments	77778404#TMSN.png(bytes) 78741611#TMSN.png(bytes) 86118932#TMSN.png(bytes) 86119504#TMSN.png(bytes) 86118893#TMSN.png(bytes) 86119442#TMSN.png(bytes) Notice of Opposition - SPEAKMAN & Design.pdf(99401 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	/MAD/
Name	Mary A. Donovan
Date	11/03/2014

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

In re: Application No. 86210911
Mark: REACTION & Design
Filed: March 4, 2014
Published: May 6, 2014

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: **KENNETH COLE PRODUCTIONS (LIC),** :
: **LLC,** :
: :
: **Opposer,** : **OPPOSITION NO.**
: :
: **v.** :
: :
: **SPEAKMAN COMPANY,** :
: :
: **Applicant.** :
: :
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NOTICE OF OPPOSITION

Kenneth Cole Productions (LIC), LLC (“KCP”), a limited liability company organized and existing under the laws of Delaware, having an address at 603 West 50th Street, New York, New York 10019, believes that it will be damaged by registration of the mark REACTION & Design, Serial No. 86210911, applied for by Speakman Company (“Applicant”) for “shower heads” in Class 11. Applicant’s REACTION & Design application was filed on March 4, 2014, and published in the Official Gazette on May 6, 2014. KCP, by its undersigned attorneys, hereby opposes the same.

As grounds for the opposition, KCP alleges the following:

1. KCP, directly and/or indirectly, through its parent company, Kenneth Cole Productions, Inc. is in the business of designing, manufacturing, distributing, marketing and selling a variety of goods, including but not limited to, footwear, clothing, fragrances, luggage,

eyewear, flatware and tableware, dinnerware, bath accessories, pillows and window treatments (the “KCP Goods”).

2. In connection with the KCP Goods, KCP owns a family of REACTION trademarks, including the marks REACTION, KENNETH COLE REACTION and REACTION KENNETH COLE (the “KCP REACTION Trademarks”). KCP owns hundreds of registrations for the KCP REACTION Trademarks worldwide.

3. In 2012, sales of goods bearing the KCP REACTION Trademarks totaled over \$850 million.

4. Among the KCP REACTION Trademarks, KCP owns U.S. Registration No. 4317403 for KENNETH COLE REACTION for “bed linens, namely, sheets, pillow cases, shams, dust ruffles, duvet covers, blankets, comforters, quilts, throws; bath linens, namely, bath towels, hand towels, beach towels, wash cloths, body sheets, shower curtains,” and Registration No. 3220802 for KENNETH COLE REACTION for “dinnerware, namely, plates, beverage glassware, barware, [wine glasses, cups,] saucers, mugs, bowls, [serving platters, pitchers, cake servers, salt and pepper shakers, sugar bowls and creamers; storage canisters not made of metal; coasters not of paper and not being table linen; cocktail shakers; coffee pots not of precious metal; tea pots not made of metal; decanters; ice buckets, ice tongs not made of metal;] soap dishes; [vases] (jointly, the “KCP REACTION Registrations”).

5. The KCP REACTION Registrations are valid and subsisting.

6. Since as early as September 30, 2012, KCP has used its KENNETH COLE REACTION Mark on bed linens, namely, sheets, pillow cases, shams, dust ruffles, duvet covers, blankets, comforters, quilts, throws, bath linens, namely, bath towels, hand towels, beach towels, wash cloths, body sheets, and shower curtains.

7. Since as early as March 1, 2006, KCP has used its KENNETH COLE REACTION Mark on dinnerware, namely, plates, beverage glassware, barware, wine glasses, cups, saucers, mugs, bowls, serving platters, pitchers, cake servers, salt and pepper shakers, sugar bowls and creamers, storage canisters not made of metal; coasters not of paper and not being table linen, cocktail shakers, coffee pots not of precious metal, tea pots not made of metal, decanters, ice buckets, ice tongs not made of metal, soap dishes, and vases.

8. KCP also owns pending U.S. trademark applications Serial No. 86118932 for REACTION for “rugs, non-slip bath mats, bath rugs, and bath mats” in Class 27, Serial No. 86119504 for REACTION for “waste baskets; bath accessories, namely, soap dishes, toothbrush holders, ceramic tissue box covers, lotion pumps; valet box; shoe shine kit comprising shoe polishing cloths and polish; stacking trays for domestic purposes; snap trays; valet trays” in Class 21, Serial No. 86118893 for REACTION for “pillows, accent pillows, decorative throw pillows, shower curtain hooks” in Class 20, and Serial No. 86119442 for REACTION for “window treatment in the nature of window panels” in Class 24 (collectively, the “KCP REACTION Applications”).

9. Since as early as October 31, 2012, KCP has used its REACTION Mark on rugs, non-slip bath mats, bath rugs, and bath mats.

10. Since as early as February 28, 2013, KCP has used its REACTION Mark on waste baskets, bath accessories, namely, soap dishes, toothbrush holders, ceramic tissue box covers, lotion pumps, valet box, shoe shine kit comprising shoe polishing cloths and polish; stacking trays for domestic purposes, snap trays, valet trays, pillows, accent pillows, decorative throw pillows, shower curtain hooks and window treatments in the nature of window panels.

11. As a result of KCP’s promotion, marketing and sale of goods displaying the KCP

Trademarks nationwide, the KCP Trademarks constitute valuable assets to KCP and are widely recognized by consumers.

12. Upon information and belief, on May 10, 2014, Applicant, a Delaware Corporation with an address at Twin Spans Business Park, 400 Anchor Mill Road, New Castle, Delaware 19720, filed a trademark application for the mark REACTION, Serial No. 85928550, for “shower heads” in Class 11. On March 17, 2014, KCP filed a Notice of Opposition, Opposition No. 91215460, opposing Applicant’s REACTION Mark on the grounds of likelihood of confusion with the KCP REACTION Trademarks.

13. Opposition No. 91215460 is still pending.

14. Upon information and belief, on March 4, 2014, Applicant filed a trademark application for the mark REACTION & Design, Serial No. 86210911 for “shower heads” in Class 11. The date of first use claimed in the application is January 17, 2014

15. There is no issue as to priority. Applicant’s proposed REACTION & Design Mark, whose date of first use is January 17, 2014, is long subsequent to KCP’s dates of first use in the KCP REACTION Applications and KCP REACTION Registrations, ranging from 2006 to 2013.

16. Applicant’s proposed REACTION & Design Mark is confusingly similar to the KCP REACTION Trademarks, because it includes the identical word “REACTION,” and is used on goods that are closely related to the goods covered by the KCP REACTION Registrations and KCP REACTION Applications.

17. Applicant’s proposed REACTION & Design Mark will cause confusion or mistake or deceive persons by creating the erroneous impression that Applicant’s goods originate or come from the same source as KCP’s goods, or are endorsed, sponsored, licensed associated

or otherwise connected to KCP.

18. Such confusion would irreparably harm and damage KCP because KCP has no control over the nature or quality of the goods and services provided or produced by Applicant.

WHEREFORE, KCP respectfully requests that this Opposition be sustained and that registration by Applicant of its proposed REACTION & Design Mark be refused.

Dated: New York, New York

November 3, 2014

Respectfully submitted,

DONOVAN & YEE LLP

/MAD/
Mary A. Donovan, Esq.
Samantha Butler, Esq.
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New York, NY 10013
(212) 226-7700

Attorneys for Opposer

CERTIFICATE OF SERVICE

I, Samantha Butler, an associate of Donovan & Yee LLP, hereby certify that a true and correct copy of the foregoing Notice of Opposition has been served upon attorneys for Applicant on this 3rd day of November, 2014, via e-mail and First Class Mail, postage prepaid to:

Christina Hillson, Esq.
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/sbutler/
Samantha Butler