

ESTTA Tracking number: **ESTTA650065**

Filing date: **01/14/2015**

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	Kino Flo, Inc.		
Entity	Corporation	Citizenship	California
Address	2840 North Hollywood Way Burbank, CA 91505 UNITED STATES		

Attorney information	Pete Bromaghim Blakely Sokoloff Taylor Zafman, LLP 12400 Wilshire Blvd. 7th Floor Los Angeles, CA 90025 UNITED STATES pete_bromaghim@bstz.com, garbo_tat@bstz.com, tm_filings@bstz.com, eric_hyman@bstz.com Phone:310.207.3800		
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Applicant Information

Application No	86314006	Publication date	12/16/2014
Opposition Filing Date	01/14/2015	Opposition Period Ends	01/15/2015
Applicants	Kohan, David 12945 Hialeah Avenue New Port Richey, FL 34654 UNITED STATES Markham, Peter James 12945 Hialeah Avenue New Port Richey, FL 34654 UNITED STATES		

Goods/Services Affected by Opposition

Class 011. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Lighting fixtures
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Grounds for Opposition

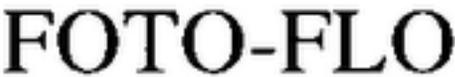
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	Lack of bona fide intent to use

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1658147	Application Date	10/01/1990
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Registration Date	09/24/1991	Foreign Priority Date	NONE
Word Mark	KINO FLO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 1987/10/28 First Use In Commerce: 1988/01/11 lighting systems comprising flourescentlight fixtures, flourescent lamps, ballasts and controls therefor		

U.S. Registration No.	1657302	Application Date	10/01/1990
Registration Date	09/17/1991	Foreign Priority Date	NONE
Word Mark	KINO		
Design Mark			
Description of Mark	The mark consists of a fanciful depiction of the letters "K", "I", "N" and "O".		
Goods/Services	Class 011. First use: First Use: 1987/10/28 First Use In Commerce: 1988/01/11 lighting systems comprising flourescentlight fixtures, flourescent lamps, ballasts and controls therefor		

U.S. Registration No.	2470307	Application Date	04/16/1999
Registration Date	07/17/2001	Foreign Priority Date	NONE
Word Mark	FOTO-FLO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 2000/11/00 First Use In Commerce: 2000/11/00 fluorescent lighting fixtures		

Attachments	49335.M002 Notice of Opposition.pdf(151766 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	/PeteBromaghim/
Name	Pete Bromaghim
Date	01/14/2015

fluorescent light fixtures, fluorescent lamps, ballasts and controls therefor,” on September 24, 1991.

4. Opposer’s KINO FLO trademark is of substantial value to Opposer as a primary identifier of the source of its goods and services. By virtue of its long-standing use of KINO FLO, and its substantial sales of products bearing the same, Opposer’s KINO FLO trademark enjoys considerable fame and is widely recognized among the consuming public with regard to its lighting systems.

5. In addition to KINO FLO, Opposer holds an incontestable registration for FOTO-FLO, U.S. Registration No. 2,470,307, with use dating back to at least as early as 2000, and uses and has used other FLO formative marks such as MINI-FLO in commerce.

6. Opposer also holds an incontestable registration for a stylized KINO design, U.S. Registration No. 1657302, as shown below. That mark has also been used in commerce since at least as early as 1988.



7. Upon information and belief, and based on U.S. Patent and Trademark Office (“PTO”) records, applicants Peter James Markham and David Kohan (hereinafter “Applicants”) are individuals with an address of 12945 Hiialeah Avenue, New Port Richey, Florida 34654.

8. Upon information and belief, on June 18, 2014, Applicants filed an intent-to-use trademark application with the PTO, Serial No. 86/314,006 (the “Application”), for the mark depicted below:



The goods identified on the Application are “lighting fixtures.” The Application was published for opposition by the U.S. Patent and Trademark Office on December 16, 2014.

9. There is no issue as to priority of use. Opposer has used its trademarks in commerce for over 25 years, whereas Applicants have not yet used their proposed GLO FLO mark in commerce.

10. Opposer’s KINO FLO mark was famous for Opposer’s goods prior to the Application filing date and any use of the mark therein.

11. Registration of the Application will damage Opposer in that the use of the GLO FLO mark will result in consumer confusion, mistake, and/or deception as to the source of the parties’ goods, and Applicant will be able to trade on Opposer’s goodwill and reputation. The goods of the parties are identical, and the marks have highly similar commercial impressions, leading consumers to wrongly believe that the Applicants are offering goods related to or otherwise affiliated with Opposer’s goods. Opposer is therefore entitled to preclude registration of the Application based on a likelihood of confusion under Lanham Act § 2(d).

12. Registration of the Application will damage Opposer in that the use of the GLO FLO mark will cause the dilution of the distinctive quality of Opposer’s famous KINO FLO mark. Opposer is therefore entitled to preclude registration of the Application based on a likelihood of dilution under Lanham Act § 43(c).

13. Upon information and belief, Applicant did not have a bona fide intent to use the GLO FLO mark on the identified lighting fixtures at the time the application was filed. See *L.C. Licensing, Inc. v. Berman*, 86 U.S.P.Q. 2d 1883, 1891-92 (T.T.A.B. 2008); *Commodore Elec. Ltd. v. CBM Kabushiki Kaisha*, 26 U.S.P.Q. 2d 1503, 1507 (T.T.A.B. 1993) (lack of *bona fide* intent to use the mark on the identified goods/services). Applicant did not have any intent to manufacture the identified goods bearing the GLO FLO mark at the time of filing, and the Application therefore fails to meet the criteria for bona fide intent-to-use and good faith required by Section 1(b) of the Lanham Act.

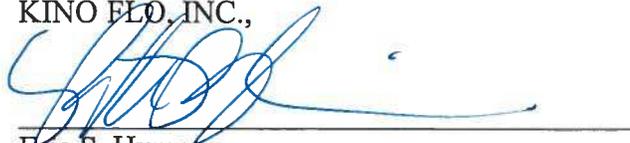
WHEREFORE, Opposer prays that the Opposition to Application Serial No. 86/314,006 be granted.

This Opposition is submitted with an electronic payment in the amount of \$300, the filing fee for one (1) class. The PTO is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 02-2666.

Proof of service of this Notice of Opposition is attached.

Respectfully submitted,

KINO FLO, INC.,



Eric S. Hyman

Peter B. Bromaghim

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

12400 Wilshire Blvd, Seventh Floor

Los Angeles, California 90025

Telephone: (310) 207-3800

Attorneys for Opposer

Dated: January 14, 2015

PROOF OF SERVICE

I, Garbo Tat, hereby declare that I am employed by the law firm of BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, 12400 Wilshire Boulevard, Seventh Floor, Los Angeles, California 90025-1026; that I am over 18 years of age and not a party to the within action; and that I served the following document: NOTICE OF OPPOSITION, this 14th day of January, 2015, by causing a true copy to be deposited in the United States Mail, first class postage prepaid to Applicants as follows:

David Kohn
12945 Hialeh Avenue
New Port Richey, FL 34654

Peter James Markham
12945 Hialeh Avenue
New Port Richey, FL 34654

Date: January 14th, 2015 
Garbo Tat