

ESTTA Tracking number: **ESTTA653060**

Filing date: **01/29/2015**

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	Elemental LED, Inc.
Granted to Date of previous extension	02/21/2015
Address	1195 Park Ave., Suite 211 Emeryville, CA 94608 UNITED STATES
Attorney information	Matthew D. Francis Watson Rounds 5371 Kietzke Lane Reno, NV 89511 UNITED STATES mfrancis@watsonrounds.com Phone:(775) 324-4100

Applicant Information

Application No	86328330	Publication date	12/23/2014
Opposition Filing Date	01/29/2015	Opposition Period Ends	02/21/2015
Applicant	Fortune Products, Inc. 2824-A Old Hartford Road Lake Stevens, WA 98258 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)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	86512107	Application Date	01/23/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SPHERE-STAR		

Design Mark	SPHERE-STAR
Description of Mark	NONE
Goods/Services	Class 011. First use: First Use: 2013/04/00 First Use In Commerce: 2013/04/00 LED (light emitting diodes) lighting fixtures for use in display, commercial, industrial, residential, and architectural accent lighting applications; LED and HID light fixtures; LED Flood Light for decorative purposes

Attachments	86512107#TMSN.png(bytes) Notice of Opposition Final Executed.pdf(262385 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	/Matthew D. Francis/
Name	Matthew D. Francis
Date	01/29/2015

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

In the Matter of Application Serial No.: 86/328,330
Mark: STAR SPHERE
Filed on: July 3, 2014
Published in the Official Gazette on December 23, 2014

<p>ELEMENTAL LED, INC., a Nevada corporation,</p> <p style="text-align: center;">Opposer,</p> <p>v.</p> <p>FORTUNE PRODUCTS, INC., a Washington corporation,</p> <p style="text-align: center;">Applicant.</p>	<p>Opposition No.</p> <p><u>NOTICE OF OPPOSITION</u></p>
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Opposer Elemental LED, Inc. (“Opposer”) will be damaged by the registration of the “STAR SPHERE” mark that is the subject of Application Serial Number 86/328,330 (“‘330 App.”) filed by Fortune Products, Inc. (“Applicant”), and states the following grounds under 15 U.S.C. §§ 1052, 1063 and 37 C.F.R. §§ 2.101, 2.104 for its opposition to the registration of the ‘330 App.:

1. Opposer is a Nevada corporation with its principal place of business located at 1195 Park Ave., Suite 211 Emeryville, California 94608.
2. Opposer is engaged in the business of designing, manufacturing, and selling LED (light emitting diodes) and HID (high intensity discharge) lighting fixtures and related goods under various trademarks. One of Opposer’s trademarks is “SPHERE-STAR” (“SPHERE-STAR Mark”).
3. Opposer is the owner of all common law rights to the SPHERE-STAR Mark and the owner of Application Serial No. 86/512,107 (“‘107 App.”) for that Mark. The ‘107 App. protects the SPHERE-STAR Mark in International Class 11 for the following goods: “LED (light emitting diodes) lighting fixtures for use in display, commercial, industrial, residential, and

architectural accent lighting applications; LED and HID light fixtures; LED Flood Light for decorative purposes.” Opposer commenced using the SPHERE-STAR Mark in commerce at least as early as April of 2013.

4. Applicant is a Washington corporation with an address of 2824-A Old Hartford Road Lake Stevens, Washington 98258.

5. Applicant filed the ‘330 App. on July 3, 2014 for the mark “STAR SPHERE” in International Class 11 for the following goods: “Lighting fixtures.” The ‘330 App. was filed as an intent to use application under Section 1(b). The ‘330 App. was published for opposition in the Official Gazette on December 23, 2014. On January 21, 2015, Opposer requested and was granted an extension of time to oppose the ‘330 App. until February 21, 2015.

6. Opposer’s rights in the SPHERE-STAR Mark are superior to Applicant’s purported rights in its STAR SPHERE mark, and prior to the filing of the ‘330 App. by Applicant, the SPHERE-STAR Mark had become recognized and relied upon by consumers as identifying the quality goods of Opposer and distinguishing those goods from the goods of others. The SPHERE-STAR Mark therefore represents the goodwill belonging exclusively to Opposer.

7. Opposer will be damaged by the registration of Applicant’s STAR SPHERE mark shown in the ‘330 App. because the mark so resembles Opposer’s SPHERE-STAR Mark as to be likely to cause consumer confusion, mistake, and/or deception in the minds of the purchasing public. The purchasing public is likely to assume that the goods identified by Applicant’s STAR SPHERE mark are sold or offered for sale by Opposer, or that such goods originate with, or are authorized or approved by, or in some way connected to, Opposer, in violation of 15 U.S.C. § 1052(d), *et seq.* As a result, Applicant’s STAR SPHERE mark is unregistrable under 15 U.S.C. § 1052(d), *et seq.*

8. Opposer will also be damaged by registration of the STAR SPHERE mark shown in the ‘330 App. because registration of the mark would give Applicant prima facie evidence of ownership of, and exclusive right to use in commerce, a mark that is confusingly similar to

Opposer's SPHERE-STAR Mark.

WHEREFORE, Opposer prays for the entry of judgment sustaining this Opposition and refusing registration to Applicant of the STAR SPHERE mark shown in Application Serial Number 86/328,330.

Dated: January 29, 2015

WATSON ROUNDS

By: 
Matthew D. Francis
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Reno, Nevada 89511
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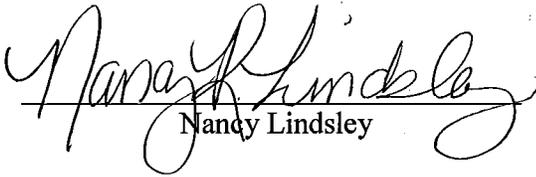
Attorneys for Opposer
Elemental LED, Inc.

CERTIFICATE OF SERVICE

I certify that I am an employee of the Law Offices of Watson Rounds, a Professional Corporation, and on this date the document entitled **Notice of Opposition**, is being served by first class mail to:

Fortune Products, Inc.
Attn: Legal Department
2824-A Old Hartford Road
Lake Stevens, Washington 98258

Dated: January 29, 2015


Nancy Lindsley