

ESTTA Tracking number: **ESTTA674787**

Filing date: **05/28/2015**

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	InterDesign, Inc.		
Entity	Corporation	Citizenship	Ohio
Address	30725 Solon Industrial Parkway Solon, OH 44139 UNITED STATES		
Attorney information	D. Peter Hochberg D. Peter Hochberg Co., L.P.A. 1940 East 6th street Cleveland, OH 44114 UNITED STATES dphdocket@dpeterhochberg.com Phone:216-771-3800		

Applicant Information

Application No	86262516	Publication date	04/28/2015
Opposition Filing Date	05/28/2015	Opposition Period Ends	05/28/2015
Applicant	E & E Co., Ltd. 45875 Northport Loop E Fremont, CA 94538 UNITED STATES		

Goods/Services Affected by Opposition

Class 016. First Use: 2011/09/06 First Use In Commerce: 2011/10/01 All goods and services in the class are opposed, namely: art pictures and art prints
Class 020. First Use: 2011/09/06 First Use In Commerce: 2011/10/01 All goods and services in the class are opposed, namely: accent pillows, utility pillows; furniture, namely, bedroom, living room, office, and outdoor furniture; mirrors; picture frames
Class 021. First Use: 2011/09/06 First Use In Commerce: 2011/10/01 All goods and services in the class are opposed, namely: bath accessories, namely, soap dishes, lotion containers sold empty for domestic use, toothbrush holders, ceramic tissue box covers, waste baskets
Class 024. First Use: 2011/09/06 First Use In Commerce: 2011/10/01 All goods and services in the class are opposed, namely: bedding, namely, comforters, quilts, coverlets, bedspreads, duvet covers, shams, bed blankets, throws, mattress pads, pillow covers; sheet sets; window accessories, namely, fabric draperies, fabric valances, fabric sheers, and swags; bath accessories, namely, shower curtains, and bath towels

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Other	Breach of settlement agreement of a prior opposition involving an identical trademark.

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3667542	Application Date	05/05/2008
Registration Date	08/11/2009	Foreign Priority Date	NONE
Word Mark	ID IDESIGN		
Design Mark			
Description of Mark	The mark consists of The letter "i" within the letter "D" and the word "iDESIGN" below the drawing.		
Goods/Services	<p>Class 006. First use: First Use: 2005/02/25 First Use In Commerce: 2005/02/25 Metal baskets; metal tissue boxes in the nature of metal boutique and tissue boxes for holding and dispensing tissue paper</p> <p>Class 020. First use: First Use: 2006/12/21 First Use In Commerce: 2006/12/21 Shelves; metal 2-tier shelves; metal 3-tier shelves</p> <p>Class 021. First use: First Use: 2004/01/09 First Use In Commerce: 2004/01/09 plastic tissue box covers with metal trim; ceramic tumbling drinking glasses; ceramic bowl brushes; ceramic soap pumps with metal trim; ceramic tumblers with metal trim; ceramic bowl brushes with metal trim; wastebaskets</p>		

U.S. Registration No.	3711540	Application Date	03/16/2009
Registration Date	11/17/2009	Foreign Priority Date	NONE
Word Mark	IDESIGN		

Design Mark	<h1>IDESIGN</h1>
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Description of Mark	NONE
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Goods/Services	<p>Class 006. First use: First Use: 2004/02/04 First Use In Commerce: 2004/02/04 Metal goods, namely, metal clothing hooks, adhesive-mounted metal hooks, metal hooks, metal bathroom baskets of common metals; metal or primarily metal over the door hooks; single hooks of chrome; double hooks of chrome; metal self-adhesive hooks</p> <p>Class 020. First use: First Use: 2004/02/04 First Use In Commerce: 2004/02/04 Metal corner shelves, namely, metal ledge trays, non-metal housewares, namely, non-metal suction-mounted hooks, vanity mirrors, fog free mirrors, ceramic finial hooks, single hooks of ceramic, doublehooks of ceramic, non-metal self-adhesive hooks; metal storage racks for clothing, hats, aprons, coats, jackets, scarves, brooms, mops, dustpans, umbrellas, bags; metal over the door racks</p> <p>Class 021. First use: First Use: 2004/02/04 First Use In Commerce: 2004/02/04 Household accessories, namely, squeegees, shower caddies, metal razor holders, metal toothbrush holders, metal toilet tissue roll stands, metal toilet brushes, metal soap dishes, metal wastebaskets, metal towel rings, metal towel bars, metal cups not of precious metal, housewares, namely, waste paper baskets, beverage ware, containers for foods or beverages for household purposes; drinking glasses, namely, tumblers; drinking vessels, garbage cans; bath accessories, namely, soap holders, sponge holders, toothbrush centers, razor holders, shower caddies, toilet tissue holders; towel bars, soap dishes, toothbrush stands, toothbrush holders, canister sets, cans, namely, wastepaper baskets; toilet tissue roll reserve holders, towel holders, namely, towel rails, rings and bars; tissue stands, ceramic finial towel rings, ceramic finial towel bars, bath accessories, namely, sink pumps for dispensing soap, dispensers for liquid soap</p>
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U.S. Registration No.	3711538	Application Date	03/16/2009
Registration Date	11/17/2009	Foreign Priority Date	NONE
Word Mark	ID IDESIGN		

Design Mark	
Description of Mark	The mark consists of a lowercase letter 'i' within capital letter "D" and the wording "iDesign" underneath.
Goods/Services	<p>Class 006. First use: First Use: 2004/02/06 First Use In Commerce: 2004/02/06 Metal goods, namely, metal clothing hooks, adhesive-mounted metal hooks, metal hooks; metal over the door hooks</p> <p>Class 020. First use: First Use: 2004/02/06 First Use In Commerce: 2004/02/06 Ceramic finial hooks; non-metal suctionhooks; vanity mirrors; fog free mirrors; metal over the door storage racks</p> <p>Class 021. First use: First Use: 2004/02/06 First Use In Commerce: 2004/02/06 Soap dishes; toothbrush stands; toothbrush holders; canister sets; wastepaper baskets; toilet tissue roll reserve holders; towel holders, namely, towel rails, rings and bars; tissue stands; toilet brushes; sink pumps, namely, soap dispensers; dispensers for liquid soap; containers for foods or beverages for household purposes; garbage cans; bath accessories, namely, soap holders, toothbrush holders, razor holders, metal razor holders, shower caddies, toilet tissue holders; squeegees; towel bars; metal toilet tissue roll reserve holders; metal toilet tissue roll stands; metal toilet brushes; metal toilet tissue holders; metal soap dishes; metal wastebaskets; metal towel holders, namely, towel rails, rings and bars; metal towel rings; metal towel bars; metal cups not of precious metal; finial towel rings; ceramic finial towel bars</p>

Attachments	<p>77465922#TMSN.png(bytes) 77692102#TMSN.png(bytes) 77691840#TMSN.png(bytes) IN35_NOO_Exhibits.pdf(766379 bytes) IN35_NoticeofOpposition.pdf(540529 bytes)</p>
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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	/D. Peter Hochberg/
Name	D. Peter Hochberg
Date	05/28/2015

Int. Cls.: 6, 20, and 21

Prior U.S. Cls.: 2, 12, 13, 14, 22, 23, 25, 29, 30, 32, 33,
40, and 50

United States Patent and Trademark Office

Reg. No. 3,667,542

Registered Aug. 11, 2009

**TRADEMARK
PRINCIPAL REGISTER**



INTERDESIGN, INC. (OHIO CORPORATION)
30725 SOLON INDUSTRIAL PARKWAY
SOLON, OH 44139

FOR: METAL BASKETS; METAL TISSUE BOXES
IN THE NATURE OF METAL BOUTIQUE AND
TISSUE BOXES FOR HOLDING AND DISPENSING
TISSUE PAPER, IN CLASS 6 (U.S. CLS. 2, 12, 13, 14, 23,
25 AND 50).

FIRST USE 2-25-2005; IN COMMERCE 2-25-2005.

FOR: SHELVES; METAL 2-TIER SHELVES; ME-
TAL 3-TIER SHELVES, IN CLASS 20 (U.S. CLS. 2, 13,
22, 25, 32 AND 50).

FIRST USE 12-21-2006; IN COMMERCE 12-21-2006.

FOR: PLASTIC TISSUE BOX COVERS WITH
METAL TRIM; CERAMIC TUMBLING DRINKING

GLASSES; CERAMIC BOWL BRUSHES; CERAMIC
SOAP PUMPS WITH METAL TRIM; CERAMIC
TUMBLERS WITH METAL TRIM; CERAMIC BOWL
BRUSHES WITH METAL TRIM; WASTEBASKETS,
IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

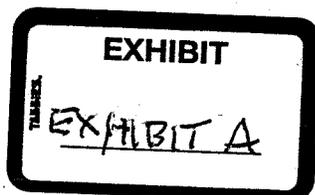
FIRST USE 1-9-2004; IN COMMERCE 1-9-2004.

OWNER OF U.S. REG. NOS. 2,858,689 AND
3,325,152.

THE MARK CONSISTS OF THE LETTER "I"
WITHIN THE LETTER "D" AND THE WORD "IDE-
SIGN" BELOW THE DRAWING.

SN 77-465,922, FILED 5-5-2008.

HENRY S. ZAK, EXAMINING ATTORNEY





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Word Mark ID IDESIGN

Goods and Services IC 006. US 002 012 013 014 023 025 050. G & S: Metal baskets; metal tissue boxes in the nature of metal boutique and tissue boxes for holding and dispensing tissue paper. FIRST USE: 20050225. FIRST USE IN COMMERCE: 20050225

IC 020. US 002 013 022 025 032 050. G & S: Shelves; metal 2-tier shelves; metal 3-tier shelves. FIRST USE: 20061221. FIRST USE IN COMMERCE: 20061221

IC 021. US 002 013 023 029 030 033 040 050. G & S: plastic tissue box covers with metal trim; ceramic tumbling drinking glasses; ceramic bowl brushes; ceramic soap pumps with metal trim; ceramic tumblers with metal trim; ceramic bowl brushes with metal trim; wastebaskets. FIRST USE: 20040109. FIRST USE IN COMMERCE: 20040109

Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Trademark Search Facility Classification Code LETS-1 I A single letter, multiples of a single letter or in combination with a design
LETS-2 ID Two letters or combinations of multiples of two letters
SHAPES-CIRCLE Circle figures or designs including semi-circles and incomplete circles

Serial Number 77465922

Filing Date May 5, 2008

Current Basis 1A

Original Filing Basis 1B

Published for Opposition January 27, 2009

Registration Number 3667542

Registration Date August 11, 2009

Owner (REGISTRANT) InterDesign, Inc. CORPORATION OHIO 30725 Solon Industrial Parkway Solon OHIO 44139

Attorney of Record D. Peter Hochberg

Prior Registrations 2858689;3325152

Description of Mark Color is not claimed as a feature of the mark. The mark consists of The letter "i" within the letter "D" and the word "iDESIGN" below the drawing.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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For Serial Number: 77465922

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United States of America

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IDESIGN

Reg. No. 3,711,540 INTERDESIGN, INC. (OHIO CORPORATION)
Registered Nov. 17, 2009 30725 SOLON INDUSTRIAL PARKWAY
SOLON, OH 44139

Int. Cls.: 6, 20 and 21 FOR: METAL GOODS, NAMELY, METAL CLOTHING HOOKS, ADHESIVE-MOUNTED METAL HOOKS, METAL HOOKS, METAL BATHROOM BASKETS OF COMMON METALS; METAL OR PRIMARILY METAL OVER THE DOOR HOOKS; SINGLE HOOKS OF CHROME; TRADEMARK DOUBLE HOOKS OF CHROME; METAL SELF-ADHESIVE HOOKS, IN CLASS 6 (U.S. CLS. 2, 12, 13, 14, 23, 25 AND 50).
PRINCIPAL REGISTER

FIRST USE 2-4-2004; IN COMMERCE 2-4-2004.

FOR: METAL CORNER SHELVES, NAMELY, METAL LEDGE TRAYS, NON-METAL HOUSEWARES, NAMELY, NON-METAL SUCTION-MOUNTED HOOKS, VANITY MIRRORS, FOG FREE MIRRORS, CERAMIC FINIAL HOOKS, SINGLE HOOKS OF CERAMIC, DOUBLE HOOKS OF CERAMIC, NON-METAL SELF-ADHESIVE HOOKS; METAL STORAGE RACKS FOR CLOTHING, HATS, APRONS, COATS, JACKETS, SCARVES, BROOMS, MOPS, DUSTPANS, UMBRELLAS, BAGS; METAL OVER THE DOOR RACKS, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 2-4-2004; IN COMMERCE 2-4-2004.

FOR: HOUSEHOLD ACCESSORIES, NAMELY, SQUEEGEES, SHOWER CADDIES, METAL RAZOR HOLDERS, METAL TOOTHBRUSH HOLDERS, METAL TOILET TISSUE ROLL STANDS, METAL TOILET BRUSHES, METAL SOAP DISHES, METAL WASTEBASKETS, METAL TOWEL RINGS, METAL TOWEL BARS, METAL CUPS NOT OF PRECIOUS METAL, HOUSEWARES, NAMELY, WASTE PAPER BASKETS, BEVERAGeware, CONTAINERS FOR FOODS OR BEVERAGES FOR HOUSEHOLD PURPOSES; DRINKING GLASSES, NAMELY, TUMBLERS; DRINKING VESSELS, GARBAGE CANS; BATH ACCESSORIES, NAMELY, SOAP HOLDERS, SPONGE HOLDERS, TOOTHBRUSH CENTERS, RAZOR HOLDERS, SHOWER CADDIES, TOILET TISSUE HOLDERS; TOWEL BARS, SOAP DISHES, TOOTHBRUSH STANDS, TOOTHBRUSH HOLDERS, CANISTER SETS, CANS, NAMELY, WASTEPAPER BASKETS; TOILET TISSUE ROLL RESERVE HOLDERS, TOWEL HOLDERS, NAMELY, TOWEL RAILS, RINGS AND BARS; TISSUE STANDS, CERAMIC FINIAL TOWEL RINGS, CERAMIC FINIAL TOWEL BARS, BATH ACCESSORIES, NAMELY, SINK PUMPS FOR DISPENSING SOAP, DISPENSERS FOR LIQUID SOAP, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 2-4-2004; IN COMMERCE 2-4-2004.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.



David J. Kyffes

Director of the United States Patent and Trademark Office



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Word Mark
Goods and Services

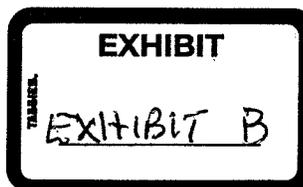
IDESIGN

IC 006. US 002 012 013 014 023 025 050. G & S: Metal goods, namely, metal clothing hooks, adhesive-mounted metal hooks, metal hooks, metal bathroom baskets of common metals; metal or primarily metal over the door hooks; single hooks of chrome; double hooks of chrome; metal self-adhesive hooks. FIRST USE: 20040204. FIRST USE IN COMMERCE: 20040204

IC 020. US 002 013 022 025 032 050. G & S: Metal corner shelves, namely, metal ledge trays, non-metal housewares, namely, non-metal suction-mounted hooks, vanity mirrors, fog free mirrors, ceramic finial hooks, single hooks of ceramic, double hooks of ceramic, non-metal self-adhesive hooks; metal storage racks for clothing, hats, aprons, coats, jackets, scarves, brooms, mops, dustpans, umbrellas, bags; metal over the door racks. FIRST USE: 20040204. FIRST USE IN COMMERCE: 20040204

IC 021. US 002 013 023 029 030 033 040 050. G & S: Household accessories, namely, squeegees, shower caddies, metal razor holders, metal toothbrush holders, metal toilet tissue roll stands, metal toilet brushes, metal soap dishes, metal wastebaskets, metal towel rings, metal towel bars, metal cups not of precious metal, housewares, namely, waste paper baskets, beverage ware, containers for foods or beverages for household purposes; drinking glasses, namely, tumblers; drinking vessels, garbage cans; bath accessories, namely, soap holders, sponge holders, toothbrush centers, razor holders, shower caddies, toilet tissue holders; towel bars, soap dishes, toothbrush stands, toothbrush holders, canister sets, cans, namely, wastepaper baskets; toilet tissue roll reserve holders, towel holders, namely, towel rails, rings and bars; tissue stands, ceramic finial towel rings, ceramic finial towel bars, bath accessories, namely, sink pumps for dispensing soap, dispensers for liquid soap. FIRST USE: 20040204. FIRST USE IN COMMERCE: 20040204

Standard Characters Claimed



Mark Drawing Code (4) STANDARD CHARACTER MARK

Trademark Search Facility Classification Code LETS-1 | A single letter, multiples of a single letter or in combination with a design

Serial Number 77692102

Filing Date March 16, 2009

Current Basis 1A

Original Filing Basis 1A

Published for Opposition September 1, 2009

Registration Number 3711540

Registration Date November 17, 2009

Owner (REGISTRANT) InterDesign, Inc. CORPORATION OHIO 30725 Solon Industrial Parkway Solon OHIO 44139

Attorney of Record D. Peter Hochberg

Prior Registrations 2858689;3325152

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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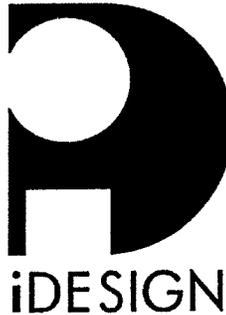
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United States Patent and Trademark Office



Reg. No. 3,711,538 INTERDESIGN, INC. (OHIO CORPORATION)
Registered Nov. 17, 2009 30725 SOLON INDUSTRIAL PARKWAY
SOLON, OH 44139

Int. Cls.: 6, 20 and 21 FOR: METAL GOODS, NAMELY, METAL CLOTHING HOOKS, ADHESIVE-MOUNTED METAL HOOKS, METAL HOOKS; METAL OVER THE DOOR HOOKS, IN CLASS 6 (U.S. CLS. 2, 12, 13, 14, 23, 25 AND 50).

TRADEMARK
PRINCIPAL REGISTER FIRST USE 2-6-2004; IN COMMERCE 2-6-2004.

FOR: CERAMIC FINIAL HOOKS; NON-METAL SUCTION HOOKS; VANITY MIRRORS; FOG FREE MIRRORS; METAL OVER THE DOOR STORAGE RACKS, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 2-6-2004; IN COMMERCE 2-6-2004.

FOR: SOAP DISHES; TOOTHBRUSH STANDS; TOOTHBRUSH HOLDERS; CANISTER SETS; WASTEPAPER BASKETS; TOILET TISSUE ROLL RESERVE HOLDERS; TOWEL HOLDERS, NAMELY, TOWEL RAILS, RINGS AND BARS; TISSUE STANDS; TOILET BRUSHES; SINK PUMPS, NAMELY, SOAP DISPENSERS; DISPENSERS FOR LIQUID SOAP; CONTAINERS FOR FOODS OR BEVERAGES FOR HOUSEHOLD PURPOSES; GARBAGE CANS; BATH ACCESSORIES, NAMELY, SOAP HOLDERS, TOOTHBRUSH HOLDERS, RAZOR HOLDERS, METAL RAZOR HOLDERS, SHOWER CADDIES, TOILET TISSUE HOLDERS; SQUEEGEES; TOWEL BARS; METAL TOILET TISSUE ROLL RESERVE HOLDERS; METAL TOILET TISSUE ROLL STANDS; METAL TOILET BRUSHES; METAL TOILET TISSUE HOLDERS; METAL SOAP DISHES; METAL WASTEBASKETS; METAL TOWEL HOLDERS, NAMELY, TOWEL RAILS, RINGS AND BARS; METAL TOWEL RINGS; METAL TOWEL BARS; METAL CUPS NOT OF PRECIOUS METAL; FINIAL TOWEL RINGS; CERAMIC FINIAL TOWEL BARS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 2-6-2004; IN COMMERCE 2-6-2004.

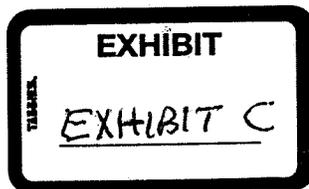
OWNER OF U.S. REG. NOS. 2,858,689 AND 3,325,152.

THE MARK CONSISTS OF A LOWERCASE LETTER 'I' WITHIN CAPITAL LETTER 'D' AND THE WORDING "IDESIGN" UNDERNEATH.



David J. Kyffers

Director of the United States Patent and Trademark Office





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Word Mark	ID IDESIGN
Goods and Services	<p>IC 006. US 002 012 013 014 023 025 050. G & S: Metal goods, namely, metal clothing hooks, adhesive-mounted metal hooks, metal hooks; metal over the door hooks. FIRST USE: 20040206. FIRST USE IN COMMERCE: 20040206</p> <p>IC 020. US 002 013 022 025 032 050. G & S: Ceramic finial hooks; non-metal suction hooks; vanity mirrors; fog free mirrors; metal over the door storage racks. FIRST USE: 20040206. FIRST USE IN COMMERCE: 20040206</p> <p>IC 021. US 002 013 023 029 030 033 040 050. G & S: Soap dishes; toothbrush stands; toothbrush holders; canister sets; wastepaper baskets; toilet tissue roll reserve holders; towel holders, namely, towel rails, rings and bars; tissue stands; toilet brushes; sink pumps, namely, soap dispensers; dispensers for liquid soap; containers for foods or beverages for household purposes; garbage cans; bath accessories, namely, soap holders, toothbrush holders, razor holders, metal razor holders, shower caddies, toilet tissue holders; squeegees; towel bars; metal toilet tissue roll reserve holders; metal toilet tissue roll stands; metal toilet brushes; metal toilet tissue holders; metal soap dishes; metal wastebaskets; metal towel holders, namely, towel rails, rings and bars; metal towel rings; metal towel bars; metal cups not of precious metal; finial towel rings; ceramic finial towel bars. FIRST USE: 20040206. FIRST USE IN COMMERCE: 20040206</p>
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	<p>26.01.02 - Circles, plain single line; Plain single line circles</p> <p>26.11.02 - Plain single line rectangles; Rectangles (single line)</p> <p>27.03.01 - Geometric figures forming letters, numerals or punctuation</p>
Trademark Search Facility Classification Code	<p>LETS-2 ID Two letters or combinations of multiples of two letters</p> <p>SHAPES-CIRCLE Circle figures or designs including semi-circles and incomplete circles</p> <p>SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons</p>

SHAPES-MISC Miscellaneous shaped designs

Serial Number 77691840
Filing Date March 16, 2009
Current Basis 1A
Original Filing Basis 1A
Published for Opposition September 1, 2009
Registration Number 3711538
Registration Date November 17, 2009
Owner (REGISTRANT) InterDesign, Inc. CORPORATION OHIO 30725 Solon Industrial Parkway Solon OHIO 44139
Attorney of Record D. Peter Hochberg
Prior Registrations 2858689;3325152
Description of Mark Color is not claimed as a feature of the mark. The mark consists of a lowercase letter i within capital letter "D" and the wording "iDesign" underneath.
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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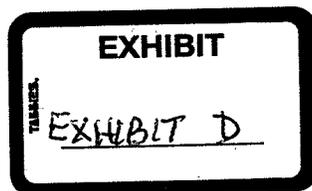
TRADEMARK COEXISTENCE AGREEMENT

This Agreement ("Agreement"), effective as of the 2nd day of January, 2013, by and between InterDesign, Inc., a corporation organized and existing under the laws of Ohio, located and having its principal place of business at 30725 Solon Industrial Parkway, Solon, Ohio 44139 (hereinafter "InterDesign"), and E&E Co., Ltd., a company organized and existing under the laws of California, having a principal place of business at 45875 Northport Loop E, Fremont, California 94538, dba JLA Home (hereinafter "JLA") (collectively referred to as "Parties").

WHEREAS, InterDesign is engaged in the business of, *inter alia*, metal baskets, boxes, shelves, plastic tissue box covers, drinking glasses, brushes, soap pumps, wastebaskets, various household metal goods, various non-metal housewares, household accessories, housewares, bath accessories, electrical goods, kitchen goods, shower curtains, bath/accnt rugs, baskets & containers, and closet hooks & racks (hereinafter "InterDesign Goods");

WHEREAS, InterDesign is the owner of U.S. Trademark Registration No. 3,667,542 in International Classes 6, 20 and 21 for the mark "ID IDESIGN (logo)," registered on August 11, 2009; U.S. Trademark Registration No. 3,711,540 in International Classes 6, 20 and 21 for the mark "IDESIGN," registered on November 17, 2009; U.S. Trademark Registration No. 3,711,538 in International Classes 6, 20 and 21 for the mark "ID IDESIGN (logo)," registered on November 17, 2009; and U.S. Trademark Application No. 77/941,691 in International Classes 9, 11, 14, 20 and 21 for the mark "IDESIGN," filed on February 22, 2010 (hereinafter collectively referred to as "the InterDesign Marks");

WHEREAS, JLA is the owner of U.S. Trademark Application No. 85/415,509 (hereinafter the "'509 Application") for the mark "ID INTELLIGENT DESIGN (logo)" in International Class 20 for the following goods: accent pillows; pillows, and International Class



24 for the following goods: bed skirts; comforters; pillow cases; pillow shams;

WHEREAS, on March 21, 2012, InterDesign filed an extension of time to oppose the '509 Application until April 21, 2012;

WHEREAS, the Parties now wish to resolve and settle this matter, and to avoid a formal opposition proceeding, and the Parties have particularly determined that it would be in their mutual best interest to cooperate with each other in regard to the respective current and future uses of the respective marks, so as to continue to avoid any potential confusion or other conflict, and

WHEREAS, the Parties are familiar with one another and with the marketplace, and during their period of coexistence in the marketplace, the Parties have not become aware of any instances of confusion between themselves and their respective goods, and they wish to continue peacefully co-existing in the marketplace and working together to avoid confusion under the terms of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. The foregoing recitals are incorporated herein and made a part of this Agreement.
2. Each party is confident that no likelihood of confusion will result from the Parties' continued use and registration of the marks comprising of or which include "ID DESIGN (logo)," "IDESIGN," "I-DESIGN COLLECTION" and "I-DESIGN COLLECTION (& design)," respectively, on or in connection with their respective goods as identified and/or amended in this Agreement. Each party agrees not to take any steps to associate its marks and goods as identified in this Agreement with the other party's marks and goods.
3. InterDesign consents to JLA's use and registration of the mark covered in the '509

Application and will not bring any legal action to prevent use and registration of the mark associated with the '509 Application. Specifically, InterDesign will not oppose or attempt to cancel any trademark registration maturing from the foregoing '509 application so long as the terms of this Agreement are met.

4. JLA consents to the use and registration of the marks "IDESIGN" and "ID IDESIGN (logo)" by InterDesign for all of the goods listed in U.S. Trademark Registration Nos. 3,667,542, 3,711,540 and 3,711,538 and U.S. Trademark Application Serial No. 77/941,691, and will not bring any legal action to prevent use and registration of the marks associated with the foregoing registrations and application. Specifically, JLA will not oppose or petition to cancel the foregoing registrations and application.

5. JLA covenants to exclude from the goods with which it uses the mark "ID INTELLIGENT DESIGN (logo)" any of the goods listed in U.S. Trademark Registration Nos. 3,667,542, 3,711,540 and 3,711,538 and U.S. Trademark Application Serial No. 77/941,691.

6. JLA consents to and agrees not to interfere with InterDesign's continued use and further registration of marks comprising, or which include, "IDESIGN" or "ID IDESIGN (logo)" on or in connection with the InterDesign Goods.

7. JLA further agrees not to file any trademark application for the terms "IDESIGN" or "ID DESIGN (logo)" on or in connection with any of InterDesign Goods.

8. Both Parties consent to and agree not to interfere with the other party's continued use and further registration of marks comprising, or which include, "IDESIGN," "ID DESIGN (logo)," "ID INTELLIGENT DESIGN (logo)," respectively, on or in connection with their respective goods as identified in this Agreement. Both Parties agree that they will fully cooperate with each other in executing and delivering any such further documentation and

performing any act which as may be reasonably necessary to permit any use and registration, including without limitation, the execution of additional letter(s) of consent as may be required for registration of various respective "IDESIGN," "ID IDESIGN (logo)" and "ID INTELLIGENT DESIGN (logo)" marks.

9. The Parties agree that the use and registration of their respective marks in accordance with the terms of this Agreement are not likely to cause confusion, mistake or deception in the marketplace. In the unlikely event that any instance of confusion, mistake or deception occurs, the Parties agree to work together in good faith to take all reasonable steps necessary to eliminate such confusion, mistake or deception, and to use their best efforts to avoid any future such instances. In the event that either party learns of any instance of actual confusion or mistake by a consumer or customer as to the source or origin of their respective goods, that party shall promptly notify the other party of such confusion or mistake, and shall take all reasonable steps to correct such misunderstanding, and to promptly notify the other party of such steps.

10. The Agreement shall be binding upon and inure to the benefit of the Parties hereto, their respective successors, assigns, agents and licensees, and any corporation and entity which owns or controls, or which is owned or controlled by either party, or with which either party has common ownership or control.

11. This instrument embodies the entire Agreement of the Parties hereto with respect to the subject matter hereof. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations or agreements, either verbal or written, between the Parties hereto, with respect to the subject matter hereof.

12. This Agreement, and the rights, duties and obligations of the Parties hereunder shall apply throughout the world.

13. Any notice or communication permitted or required to be made hereunder shall be made by reputable overnight courier, with delivery fees prepaid, with a copy transmitted at the same time by email. All notices and communications shall be addressed as follows until further notice:

(a) If to JLA:

Ms. Nancy Hattersley
E & E Co., Ltd.
45875 Northport Loop E
Fremont, CA 94538-6414
Telephone: 510-490-9788
Email: nancy.hattersley@jlahome.com

(b) If to InterDesign:

D. Peter Hochberg, Esq.
D. Peter Hochberg Co., L.P.A.
1940 East 6th Street – 6th Floor
Cleveland, OH 44114
Telephone: 216-771-3800
Email: dphochberg@dpeterhochberg.com

14. The parties agree that it is the intention of neither party to violate any public policy, statutory or common law, or governmental regulation; that if any sentence, paragraph, clause or combination or the same is, or becomes, in violation of any applicable law or regulation, or is unenforceable or void for any reason, such sentence, paragraph, clause or combination thereof shall be inoperative, and the balance of this Agreement shall remain binding upon the Parties.

15. This Agreement has been entered into after negotiation and review of its terms and conditions by the Parties with substantially equal bargaining power and under no compulsion to execute and deliver a disadvantageous agreement. This Agreement incorporates provisions,

comments and suggestions proposed by both Parties. No ambiguity or omission in this Agreement shall be construed or resolved against either party on the ground that the Agreement or any of its provisions was drafted or proposed by that party.

16. Each party agrees to execute and deliver all documents, and to perform such acts, as are reasonably requested by the other party, to confirm, memorialize, effectuate and carry out the terms and provisions of this Agreement.

17. This Agreement shall be executed in duplicate originals, each party to retain one (1) original.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement effective as of the date and year above first written, regardless of the actual date of signature of either of the Parties.

InterDesign, Inc.

By: _____

Robert A. Immerman

Printed Name

President

Title

2/20/2013

Date Signed

E&E Co., Ltd., dba JLA Home

By: _____

Edmund Jin

Printed Name

CEO

Title

02/03/2013

Date Signed

the mark “ID Intelligent Design (& design)” shown in the above-identified Application in International Classes 16, 20, 21 and 24, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer, InterDesign, Inc., is now and has for over thirty years been involved in the business of marketing and manufacturing numerous types of household goods.

2. Opposer has become widely known nationally and internationally as a marketer of, *inter alia*, metal baskets, boxes, shelves, plastic tissue box covers, drinking glasses, brushes, soap pumps, soap dishes, toothbrush holders, wastebaskets, various household metal goods, various non-metal housewares, household accessories, housewares, mirrors, towel holders, bath accessories, electrical goods, kitchen goods, shower curtains, fabric shower curtains, knit storage items, bath/accent rugs, baskets and containers, garbage cans, and closet hooks and racks, those items having aesthetic appearance and good quality, and Opposer has acquired a favorable reputation throughout large segments of the retail industry for its above-described goods sold and provided under, and in association with, the marks “IDESIGN” and “ID IDESIGN (logo).” Opposer’s trademark “IDESIGN” has been in use in commerce for some goods at least since February 4, 2004. Opposer’s trademark “ID IDESIGN (logo)” has been in use in commerce for some goods in International Class 6 at least since February 6, 2004 and in other goods in International Class 6 at least since February 25, 2005. Opposer’s trademark “ID Design (logo)” has further been in use in commerce in some goods in International Class 20 at least since February 4, 2004 and in other goods in International Class 20 at least since December 21, 2006. Opposer’s trademark “ID IDESIGN (logo)” has been in use in commerce in some goods in International Class 21 at least since January 9, 2004 and in other goods in International Class 21 since at least February 6, 2004. Conversely, the mark “ID Intelligent Design (& design)” is based on use in commerce since October 1, 2011.

3. Opposer is the owner of U.S. Trademark Registration No. 3,667,542 registered on August 11, 2009 for the mark "ID IDESIGN (logo)" in International Class 6 for the following goods: "metal baskets; metal tissue boxes in the nature of metal boutique and tissue boxes for holding and dispensing tissue paper," in International Class 20 for the following goods: "shelves; metal 2-tier shelves; metal 3-tier shelves," and in International Class 21 for the following goods: "plastic tissue box covers with metal trim; ceramic tumbling drinking glasses; ceramic bowl brushes; ceramic soap pumps with metal trim; ceramic tumblers with metal trim; ceramic bowl brushes with metal trim; wastebaskets." This mark has been in use in commerce for goods in International Class 6 at least since February 25, 2005, in International Class 20 since at least December 21, 2006, and in International Class 21 since at least January 9, 2004. A true and correct copy of the current printout of Opposer's 3,667,542 Registration for "ID IDESIGN (logo)" as made available by the U.S. Patent and Trademark Office's Trademark Electronic Search System (TESS) is attached hereto and marked Exhibit A.

4. Opposer is also the owner of U.S. Trademark Registration No. 3,711,540 registered on November 17, 2009 for the mark "IDESIGN" in International Class 6 for the following goods: "metal goods, namely, metal clothing hooks, adhesive-mounted metal hooks, metal hooks, metal bathroom baskets of common metals; metal or primarily metal over the door hooks; single hooks of chrome; double hooks of chrome; metal self-adhesive hooks," in International Class 20 for the following goods: "metal corner shelves, namely, metal ledge trays, non-metal housewares, namely, non-metal suction-mounted hooks, vanity mirrors, fog free mirrors, ceramic finial hooks, single hooks of ceramic, double hooks of ceramic, non-metal self-adhesive hooks; metal storage racks for clothing, hats, aprons, coats, jackets, scarves, brooms, mops, dustpans, umbrellas, bags; metal over the door racks," and in International Class 21 for the following goods: "household accessories, namely, squeegees, shower caddies, metal razor holders, metal toothbrush holders,

metal toilet tissue roll stands, metal toilet brushes, metal soap dishes, metal wastebaskets, metal towel rings, metal towel bars, metal cups not of precious metal, housewares, namely, waste paper baskets, beverage ware, containers for foods or beverages for household purposes; drinking glasses, namely, tumblers; drinking vessels, garbage cans; bath accessories, namely, soap holders, sponge holders, toothbrush centers, razor holders, shower caddies, toilet tissue holders; towel bars, soap dishes, toothbrush stands, toothbrush holders, canister sets, cans, namely, wastepaper baskets; toilet tissue roll reserve holders, towel holders, namely, towel rails, rings and bars; tissue stands, ceramic finial towel rings, ceramic finial towel bars, bath accessories, namely, sink pumps for dispensing soap, dispensers for liquid soap.” This mark has been in use in commerce for the foregoing goods in International Classes 6, 20 and 21 since at least February 4, 2004. A true and correct copy of the current printout of Opposer’s 3,711,540 Registration for “IDESIGN” as made available by the U.S. Patent and Trademark Office’s Trademark Electronic Search System (TESS) is attached hereto and marked Exhibit B.

5. Opposer is also the owner of U.S. Trademark Registration No. 3,711,538 registered on November 17, 2009 for the mark “ID IDESIGN (logo)” in International Class 6 for the following goods: “metal goods, namely, metal clothing hooks, adhesive-mounted metal hooks, metal hooks; metal over the door hooks,” in International Class 20 for the following goods: “ceramic finial hooks; non-metal suction hooks; vanity mirrors; fog free mirrors; metal over the door storage racks,” and in International Class 21 for the following goods: “soap dishes; toothbrush stands; toothbrush holders; canister sets; wastepaper baskets; toilet tissue roll reserve holders; towel holders, namely, towel rails, rings and bars; tissue stands; toilet brushes; sink pumps, namely, soap dispensers; dispensers for liquid soap; containers for foods or beverages for household purposes; garbage cans; bath accessories; namely, soap holders, toothbrush holders, razor holders, metal razor holders, shower caddies, toilet tissue holders, squeegees; towel bars;

metal toilet tissue roll reserve holders; metal toilet tissue roll stands; metal toilet brushes; metal toilet tissue holders; metal soap dishes; metal wastebaskets; metal towel holders, namely, towel rails, rings and bars; metal towel rings; metal towel bars; metal cups not of precious metal; finial towel rings; ceramic finial towel bars.” This mark has been in use in commerce for the foregoing goods in International Classes 6, 20 and 21 since at least February 6, 2004. A true and correct copy of the current printout of Opposer’s 3,711,538 Registration for “ID IDESIGN (logo)” as made available by the U.S. Patent and Trademark Office’s Trademark Electronic Search System (TESS) is attached hereto and marked Exhibit C.

6. Notwithstanding Opposer’s prior rights in and to said marks, Applicant, on April 25, 2014, filed an application for registration of the trademark “ID Intelligent Design (& design)” in International Class 16 for “art pictures and prints,” in International Class 20 for “accent pillows, utility pillows; furniture, namely, bedroom, living room, office, and outdoor furniture; mirrors, picture frames,” in International Class 21 for “bedding, namely, comforters, quilts, coverlets, bedspreads, duvet covers, shams, bed blankets, throws, mattress pads, pillow covers; sheet sets; window accessories, namely, fabric draperies, fabric valances, fabric sheers, and swags; bath accessories, namely, shower curtains, and bath towels,” and in International Class 24 for “fabrics.” Said Application was given Serial No. 86/262,516 and the mark was published for Opposition in the *Official Gazette* on April 28, 2015 at page TM 816, and is an Application based on alleged use in commerce since October 1, 2011 and alleged use since September 6, 2011.

7. The goods for which Applicant seeks to register its “ID Intelligent Design (& design)” term are closely related to the goods sold in connection with the goods of Opposer under its “IDESIGN” and “ID IDESIGN (logo)” marks. Consumers could believe that the art pictures and art prints; bath accessories, namely, soap dishes, lotion containers sold empty for domestic use, toothbrush holders, ceramic tissue box covers, waste baskets; and bedding, namely,

comforters, quilts, coverlets, bedspreads, duvet covers, shams, bed blankets, throws, mattress pads, pillow covers; sheet sets; window accessories, namely, fabric draperies, fabric valances, fabric sheers, and swags; bath accessories, namely, shower curtains, and bath towels; and accent pillows, utility pillows; furniture, namely, bedroom, living room, office, and outdoor furniture; mirrors; and picture frames under the mark ID Intelligent Design (& design)” and provided by the Applicant are related to the goods marketed by Opposer, who designs and sells various types of household goods including, but not limited to, metal baskets, metal tissue boxes, boxes, shelves, plastic tissue box covers, drinking glasses, brushes, soap pumps, soap dishes, toothbrush holders, wastebaskets, various household metal goods, various non-metal housewares, household accessories, housewares, mirrors, towel holders, bath accessories, soap dishes, containers, garbage cans, electrical goods, kitchen goods, shower curtains, fabric shower curtains, bath/accent rugs, baskets and containers, and closet hooks and racks. Furthermore, it is likely that the goods produced and marketed by the Applicant using the “ID Intelligent Design (& design)” will be sold at the same stores that sell Opposer’s goods and in the same department of such stores, i.e. home goods, giving consumers the mistaken information that Applicant and Opposer are either the same entity or cooperating entities.

8. Since long prior to September 6, 2011, Opposer has become extensively associated with the design, manufacturing and sales of, *inter alia*, metal baskets, metal tissue boxes, boxes, shelves, plastic tissue box covers, drinking glasses, brushes, soap pumps, soap dishes, toothbrush holders, wastebaskets, various household metal goods, various non-metal housewares, household accessories, housewares, mirrors, towel holders, bath accessories, soap dishes, containers, garbage cans, electrical goods, kitchen goods, shower curtains, fabric shower curtains, bath/accent rugs, baskets and containers, and closet hooks and racks by virtue of its contemporarily designed products. Opposer’s customers include purchasers of household products and are likely to include

the same people or entities before whom Applicant is using or is intending to use the “ID Intelligent Design (& design)” trademark. Applicant’s customers or prospective customers are very possibly customers of Opposer, who it is likely would unwittingly believe that Opposer was directly or indirectly involved with the goods provided by Applicant. Users of Opposer’s products are likely to believe, to be confused or deceived into thinking that Applicant’s goods originate with, or in some way are associated with, connected with, sponsored, endorsed or authorized by Opposer. By reason of the substantially similar identity, appearance and sound of Applicant’s alleged mark “ID Intelligent Design (& design)” and Opposer’s marks “IDESIGN” and “ID IDESIGN (logo)” and the likely overlapping of the class of customers and channels of trade, Applicant’s alleged mark, when applied to its goods is likely to cause confusion or mistake, or to deceive, all to the injury or threatened injury of Opposer.

9. Opposer had filed an Opposition against Applicant for Applicant’s prior U.S. Trademark Application Serial No. 85/415,509 for the same mark as in the present U.S. Application Serial No. 86/262,516 against which the present Notice of Opposition is being filed. That prior opposition was filed on June 12, 2012 with respect to certain goods in International Classes 20 and 24. That Opposition was given Opposition No. 91205553, which Opposition was concluded by the execution of a “Trademark Co-Existence Agreement.” A true and correct copy of the “Trademark Co-Existence Agreement” is attached hereto as Exhibit D. That Trademark Co-Existence Agreement included the following paragraphs (the Applicant in the prior Opposition was identified in the Trademark Co-Existence Agreement by the term “JLA”):

5. JLA covenants to exclude from the goods with which it uses the mark “ID INTELLIGENT DESIGN (logo)” any of the goods listed in U.S. Trademark Registration Nos. 3,667,542, 3,711,540 and 3,711,538 and U.S. Trademark Application Serial No. 77/941,691.

7. JLA further agrees not to file any trademark application for the terms “IDESIGN” or “ID DESIGN (logo)” on or in connection with any of the InterDesign Goods (defined in the Trademark Co-Existence Agreement as “*inter alia*, metal baskets, boxes, shelves, plastic tissue box covers, drinking glasses, brushes, soap pumps, wastebaskets, various household metal goods, various non-metal housewares, household accessories, housewares, bath accessories, electrical goods, kitchen goods, shower curtains, bath/accent rugs, baskets & containers, and closet hooks & racks (hereinafter “InterDesign Goods”).”

10. Notwithstanding the foregoing covenants, Applicant fraudulently used the trademark “ID Intelligent Design” on goods which it has covenanted not to use the foregoing trademark, allegedly since September 6, 2011 and further breached the Trademark Co-Existence Agreement by filing and prosecuting the above-identified trademark application.

11. On information and belief, Applicant did not have the alleged bona fide use of the mark in Serial No. 85/415,509 in connection with the goods listed in classes 16, 20, 21 and 24 at the time it filed its Application on April 24, 2014.

12. Applicant filed a declaration in support of Application Serial No. 85/415,509 and averred that at the time the Application was filed, Applicant had a bona fide use of the mark in connection with the goods listed.

13. Applicant knew at the time it filed the Application which is now Serial No. 85/415,509 and filed a signed declaration in support of that Application that it did not have bona fide use of the mark on the goods listed in that Application.

14. By filing the false declaration in support of its use in commerce basis, and knowing the statements were false with the intent that the USPTO rely on the false statements to issue a

filing date for the Application and approve the Application for publication, Applicant committed fraud on the USPTO which fraud has resulted in damage to Opposer.

15. Applicant Application Serial No. 85/415,509 is *void ab initio* for the reason that Applicant, as of the application filing date, did not have a bona fide use of the mark in commerce in connection with the goods recited in the Application in Classes 16, 20, 21 and 24.

16. Opposer has developed an exceedingly valuable amount of goodwill with respect to its marks “IDESIGN” and “ID IDESIGN (logo)”. By virtue of its efforts, and the expenditure of considerable sums of promotional activities and by virtue of the excellence of its products, Opposer has gained for its “IDESIGN” and “ID IDESIGN (logo)” marks a most valuable reputation.

17. If Applicant is permitted to register “ID Intelligent Design (& design)” as specified in the Application herein opposed, confusion in the trade resulting in damage and injury to Opposer would be caused and would result by reason of the perception of a relationship between goods provided under the mark and name “ID Intelligent Design (& design)” of Applicant and Opposer’s goods bearing the “IDESIGN” and “ID IDESIGN (logo)” marks and names. In this respect, consumers may have the impression that goods of Opposer bearing the “IDESIGN” and “ID IDESIGN (logo)” marks and name, and the goods provided under the “ID Intelligent Design (& design)” mark are all being marketed, endorsed, approved or sponsored by Opposer. Persons familiar with the marks and names “IDESIGN” and “ID IDESIGN (logo)” of Opposer would likely perceive Applicant’s goods as goods marketed, endorsed, approved or sponsored by Opposer. Any such confusion in the trade inevitably would result in dilution of the goodwill created by Opposer. Furthermore, any defect, objection or fault found with Applicant’s goods marketed under the “ID Intelligent Design (& design)” mark would unnecessarily reflect upon and seriously injure the reputation which Opposer has established with respect to its goods associated with “IDESIGN”

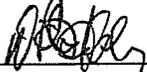
and "ID IDESIGN (logo)" marks and names.

18. If Applicant is permitted to register "ID Intelligent Design (& design)" as specified in the Application herein deposed, Opposer's rights pursuant to the Trademark Co-Existence Agreement (Exhibit 2) will be lost due to the covenants made and breached by the Applicant due to the fraud by the Applicant on the Opposer.

19. Based upon the foregoing, the registration of the mark depicted in Application Serial No. 86/262,516 filed April 25, 2014 on the Principal Register of the United States Patent and Trademark Office would cause injury and damage to Opposer.

WHEREFORE, Opposer requests that registration of Applicant's mark "ID Intelligent Design (& design)," Application Serial No. 86/262,516, in International Classes 16, 20, 21 and 24, be denied and this opposition be sustained.

Respectfully submitted,



D. Peter Hochberg, Esq.
D. Peter Hochberg Co., L.P.A.
1940 East 6th Street
6th Floor
Cleveland, OH 44114
216-771-3800

Certificate of Service

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on the Applicant by emailing and via First Class Mail, postage prepaid, said copy on May 28, 2015, to:

Nancy Hattersley
E & E Co., Ltd.
45875 Northport Loop E
Freemont, California 94538-6414
nancy.hattersley@jlahome.com

Date: May 28, 2015

By: 

D. Peter Hochberg