

ESTTA Tracking number: **ESTTA674932**

Filing date: **05/29/2015**

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	Veka AG
Granted to Date of previous extension	05/30/2015
Address	Dieselstr. 8 Sendenhorst, D-48324 GERMANY

Attorney information	Frederick L. Tolhurst Cohen & Grigsby, P.C. 625 Liberty Avenue Pittsburgh, PA 15222-3152 UNITED STATES iptrademark@cohenlaw.com, ftolhurst@cohenlaw.com, khoover@cohenlaw.com Phone:412-297-4900
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Applicant Information

Application No	86431994	Publication date	03/31/2015
Opposition Filing Date	05/29/2015	Opposition Period Ends	05/30/2015
Applicant	Weka Plastics Recycling Consulting LLC 1149 Capital Club Circle Atlanta, GA 30319 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2013/04/29 First Use In Commerce: 2013/06/16 All goods and services in the class are opposed, namely: Consulting services in the field of providing businesses with consumer information about and advice on selection of industrial recycling processing and handling equipment

Applicant Information

Application No	86431985	Publication date	04/07/2015
Opposition Filing Date	05/29/2015	Opposition Period Ends	
Applicant	Weka Plastics Recycling Consulting LLC 1149 Capital Club Circle Atlanta, GA 30319 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2013/04/29 First Use In Commerce: 2013/06/16

All goods and services in the class are opposed, namely: Consulting services in the field of providing businesses with consumer information about and advice on selection of industrial recycling processing and handling equipment

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.	3080091	Application Date	10/16/2002
Registration Date	04/11/2006	Foreign Priority Date	NONE
Word Mark	VEKA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 017. First use: First Use: 1981/01/00 First Use In Commerce: 1981/01/00 Plastic mixtures, namely, compounds for the manufacture of semi-finished products and products of plastic material; semi-finished plastic products in the form of profiles, seals, profiles of elastic material and sheets for use in the construction and finishing of windows, doors, rolling shutters, flap shutters, roofs, covers, partition walls and wall covers</p> <p>Class 019. First use: First Use: 2000/12/07 First Use In Commerce: 2000/12/07 CONSTRUCTION ELEMENTS MADE OF PLASTICS FOR INDOOR OR OUTDOOR USE IN BUILDING CONSTRUCTION; NAMELY, MOLDINGS, WINDOWS, DOORS, SHUTTERS, ROOFS, PARTITIONS AND WAINSCOTTING, FENCES RAILS AND DECKS</p>		

U.S. Registration No.	4140175	Application Date	03/29/2011
Registration Date	05/08/2012	Foreign Priority Date	NONE

Word Mark	VEKAESSENTIALS 3
Design Mark	
Description of Mark	The mark consists of the word "VEKAessentials", whereas "VEKA" is in capitalized letters and "essentials" in lower caseletters. The word "essentials" include- sa stylized letter a in the shape of a hexagon with a three at the top. The word"essentials" also has a white line across the middle.
Goods/Services	Class 035. First use: First Use: 2011/09/23 First Use In Commerce: 2011/09/23 Business service for windows and door fabricators, fence and railing fabricators, and deck dealers and distributors, namely, assistance and advisory services with regard to business planning, business analysis, marketing and customer analysis as well as the creation of marketingtools designed to increase their knowledge of customer needs arid of competitors' products and services, pri- cing, advertising strategy and sales strategy

U.S. Registration No.	2661123	Application Date	09/23/1999
Registration Date	12/17/2002	Foreign Priority Date	NONE
Word Mark	VEKA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 017. First use: First Use: 0 First Use In Commerce: 0 PLASTIC MIXTURES, NAMELY COMPOUNDS FOR THE MANUFACTURE OF SEMI-FINISHED PRODUCTS AND PRODUCTS OF PLASTIC MATERIAL; SEMI-FINISHED PLASTIC PRODUCTS IN THE FORM OF PROFILES, SEALS, PROFILES OF ELASTIC MATERIAL, PLATES AND FOILS, FOR USE IN THE CONSTRUCTION AND FINISHING OF WINDOWS,DOORS, ROLLING SHUT- TERS, FLAP SHUTTERS,ROOFS, COVERS, PARTITION WALLS AND WALLCOVERS		

U.S. Registration No.	1772978	Application Date	05/28/1991
Registration Date	05/25/1993	Foreign Priority Date	12/15/1990
Word Mark	VEKA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 017. First use: First Use: 0 First Use In Commerce: 0 [plastics in the form of sheets, blocks and rods, all for use in all kinds of manu- factures; namely, non-metal and non-mechanical seals; plastic laminated sheets and panels for use in the manufactureof counter tops; plastic sheeting for use as		

	<p>dropcloths; acrylic or PVC sheeting for use in fabricating indoor and outdoor signs and displays, exhibition stands, wall coverings, decorations for theaters and broadcasting studios, and for forming covers or enclosures for machinery- and machine parts]</p> <p>Class 019. First use: First Use: 0 First Use In Commerce: 0 construction elements made of plastics for indoor or outdoor use in building construction; namely, [moldings,]windows, doors, [shutters, roofs, partitions, and wainscotting]</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0 franchising services; namely, providingtechnical assistance to others in the installation in buildings of windows, doors, [shutters, roofs, covers, partitions and wainscotting]</p>
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U.S. Registration No.	1201116	Application Date	01/22/1981
Registration Date	07/13/1982	Foreign Priority Date	NONE
Word Mark	VEKA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 019. First use: First Use: 0 First Use In Commerce: 0 Windows and Roll Shutters, All Made of Plastics		

U.S. Registration No.	2587120	Application Date	09/08/1999
Registration Date	07/02/2002	Foreign Priority Date	NONE
Word Mark	VEKAPLAN		

Design Mark	VEKAPLAN		
Description of Mark	NONE		
Goods/Services	Class 017. First use: First Use: 0 First Use In Commerce: 0 SOLID OR FOAMED CORE PLASTIC SHEETS OR PLATES FOR USE IN MANUFACTURING IN THE CONSTRUCTION, AUTOMOTIVE, FURNITURE AND ADVERTISING FIELDS		

U.S. Registration No.	3151910	Application Date	10/22/2004
Registration Date	10/03/2006	Foreign Priority Date	NONE

Word Mark	VEKARAIL
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Design Mark	VEKARAIL		
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Description of Mark	NONE		
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Goods/Services	Class 019. First use: First Use: 2005/11/30 First Use In Commerce: 2006/04/30 Rails made of plastic or plastic reinforced with aluminum, namely, rail sections and posts to enclose surfaces of patios, balconies or decks and connection parts and fittings therefor		
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U.S. Registration No.	2875359	Application Date	07/11/2002
Registration Date	08/17/2004	Foreign Priority	NONE

		Date	
Word Mark	VEKADECK		
Design Mark	VEKADECK		
Description of Mark	NONE		
Goods/Services	Class 019. First use: First Use: 2003/05/23 First Use In Commerce: 2003/05/23 Reinforced cellular poly-vinyl chloridedeck board		

U.S. Registration No.	3375345	Application Date	05/16/2007
Registration Date	01/29/2008	Foreign Priority Date	NONE
Word Mark	VEKARANCH		
Design Mark	VEKARANCH		
Description of Mark	NONE		
Goods/Services	Class 019. First use: First Use: 2004/01/06 First Use In Commerce: 2004/01/06 Plastic fences, namely, fence sections,fence posts and rails and connection parts and fittings therefor		

Attachments	76460272#TMSN.png(bytes) 85279707#TMSN.png(bytes) 75808587#TMSN.png(bytes) 73293927#TMSN.png(bytes) 75794530#TMSN.png(bytes) 78504190#TMSN.png(bytes) 76429132#TMSN.png(bytes) 77182753#TMSN.png(bytes) CONSOLIDATED NOTICE OF OPPOSITION VEKA AG.pdf(23335 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	/frederick l. tolhurst/
Name	Frederick L. Tolhurst
Date	05/29/2015

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

In re Trademark Applications Serial Nos. 86/431994 and 86/431985

For the Marks “WEKA” and “WEKA PLASTICS and DESIGN” respectively

Both owned by: Weka Plastics Recycling Consulting LLC

Both filed: October 22, 2014

Serial No. 86/431994 for WEKA published in the Official Gazette on March 31, 2015

Serial No. 86/431985 for WEKA PLASTICS and DESIGN published in the Official Gazette on April 7, 2015

Atty. Ref.: TM15-057 OPP

VEKA Aktiengesellschaft)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
Weka Plastics Recycling Consulting LLC)	
)	
Applicant.)	

CONSOLIDATED NOTICE OF OPPOSITION

VEKA Aktiengesellschaft (“VEKA AG”) of Germany, having a business address at Dieselstrasse 8, D-48324 Sendenhorst, Germany (hereinafter "Opposer"), believes that it will be damaged by registration of the mark for WEKA shown in Application Serial No. 86/431994 filed October 22, 2014 and by registration of the mark for WEKA PLASTICS and DESIGN shown in Application Serial No. 86/431985 filed October 22, 2014, as applied to the goods listed in Class 035, namely *consulting services in the field of providing businesses with consumer information*

about and advice on selection of industrial recycling processing and handling equipment and hereby opposes the same.

The grounds for opposition are as follows:

1. Upon information and belief, Applicant is a limited liability company organized under the laws of the State of Georgia, having a principal place of business at 1149 Capital Club Circle, Atlanta, Georgia 30319.

2. Upon information and belief, Applicant offers *consulting services in the field of providing businesses with consumer information about and advice on selection of industrial recycling processing and handling equipment* under the WEKA and WEKA PLASTICS and DESIGN marks.

3. On October 22, 2014, Applicant filed Applications Serial Nos. 86/431994 and 86/431985 (together “the WEKA Applications”) to register, on the Principal Register, the marks WEKA and WEKA PLASTICS and DESIGN, respectively (“Applicants Marks”), which include the following services: *consulting services in the field of providing businesses with consumer information about and advice on selection of industrial recycling processing and handling equipment* in International Class 035 (“Applicant’s Services”).

4. The WEKA Applications were filed on the basis of actual use in United States commerce.

5. Applicant’s Marks were published for opposition in the Official Gazette on March 31, 2015 for WEKA and on April 7, 2015 for WEKA PLASTICS and DESIGN.

6. Opposer timely filed requests for a 30-day extension of the time to oppose the WEKA Applications until May 30, 2015 which requests were granted.

7. Opposer is engaged in the business of making, selling and providing:

- a. construction elements made of plastics for indoor or outdoor use in building construction, namely moldings, windows, doors, shutters, roofs, partitions wainscoting, fences, rails and decks, and in providing technical assistance to others in the installation in buildings of such construction elements;
- b. business services for window and door fabricators, fence and railing fabricators and deck dealers and distributors including assistance and advisory services with regard to business planning, business analysis, marketing and customer analysis as well as the creation of marketing tools designed to increase their knowledge of customer needs and or competitors' products and services, pricing, advertising strategy and sales strategy;
- c. compounds for the manufacture of semi-finished products and products of plastic material; semi-finished plastic products in the form of profiles, seals, profiles of plastic material and sheets, plates and foils, for use in the construction and finishing of windows, doors, shutters, roofs, covers, partition walls and wall covers;
- d. solid or foamed core plastic sheets or plates for use in manufacturing in the construction, automotive, furniture and advertising fields; and
- e. reinforced cellular poly-vinyl chloride deck board;

the forgoing goods and services include manufacture, sale, use and service in connection with certain compositions that include and incorporate recycled materials (herein collectively "the VEKA Goods and Services").

8. Opposer sells the Veka Goods and Services under a family of marks, including but not limited to VEKA, VEKA AND DESIGN, VEKARANCH, VEKAPLAN, VEKADECK, VEKARAIL, and VEKAESSENTIALS 3 (herein collectively "the VEKA Marks")

9. Opposer owns numerous registrations for the VEKA Marks including, but not limited to, U.S. Registrations 3,080,091; 4,140,175; 2,661,123; 1,772,978; 1,201,116; 2,587,120; 3,151,910; 2,875,359 and 3,375345 (herein “the VEKA Registrations”).

10. Opposer first used or established priority of use of the VEKA Marks in commerce in connection with its services at least as early as May 28, 1991 and in connection with its goods at least as early as January 22, 1981.

11. On information and belief, Applicant made no use of Applicant’s Marks in U.S. or foreign commerce prior to the relevant priority date or filing date of the VEKA Registrations.

12. Opposer is the owner of the VEKA Marks. Opposer has continuously used the VEKA Marks in commerce as trademarks and service marks on and in connection with the VEKA Goods and Services from a time prior to Applicant’s first use of the marks described in the WEKA Applications.

13. Since before the filing date of the WEKA Applications, Opposer adopted, has continuously used, and is now using in U.S. commerce the VEKA Marks in connection with VEKA Goods and Services.

14. Opposer has engaged in extensive advertising and promotion of the VEKA Marks in connection with the VEKA Goods and Services such that the relevant trade and consumers have come to associate the VEKA Marks with Opposer’s goods and services.

15. By virtue of Opposer's prior adoption and continuous use of the VEKA Marks and Opposer’s promotion and sale of the VEKA Goods and Services in connection with the VEKA Marks, the VEKA Marks have become known as the trademarks and service marks of Opposer and have become known to purchasers and potential purchasers of such goods as an indication of

origin of Opposer, as a consequence of which Opposer has established valuable goodwill and exclusive rights in the VEKA Marks.

16. Opposer has priority of rights to the VEKA Marks in connection with the VEKA Goods and Services.

17. Applicant's Services are similar to the VEKA Goods and Services. Applicant's Marks are so similar to Opposer's VEKA Marks that, when used as a service mark in connection with Applicant's Services, Applicant's Marks are likely to create a likelihood of confusion as to source, affiliation or sponsorship.

18. Applicant is not entitled to register Applicant's Marks for the reason that the use of the VEKA Marks in connection with the VEKA Goods and Services and the use of Applicant's Marks in connection with Applicant's Services is likely to cause confusion, mistake or deception among potential purchasers, leading such potential purchasers to believe that Applicant's Services originate from or are sponsored by, affiliated with or approved by Opposer or are otherwise related to the VEKA Goods and Services, thereby damaging Opposer.

19. Applicant is not entitled to register Applicant's Marks for the reason that Applicant's Marks so resembles Opposer's previously used VEKA Marks as to be likely to cause confusion, to cause mistake or to deceive within the meaning of Section 2(d) of the Federal Trademark Act, thereby damaging Opposer by reason of impairment of his exclusive rights in the VEKA Marks.

20. Opposer also will be damaged by registrations sought by Applicant in that such registrations would be *prima facie* evidence of the validity of the registrations and Applicant's ownership of and exclusive right to use Applicant's Marks in connection with the services described in the WEKA Applications. Such registration would thereby damage Opposer.

WHEREFORE, Opposer prays that the present opposition be sustained and that the WEKA Applications to register Applicant's Marks be refused.

Veka Aktiengesellschaft

By its Attorneys

Date: May 29, 2015

By: /Frederick L. Tolhurst/
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