

ESTTA Tracking number: **ESTTA677342**

Filing date: **06/10/2015**

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	Diversitech Corporation		
Entity	Corporation	Citizenship	Georgia
Address	6650 Sugarloaf Parkway Suite 100 Duluth, GA 30097 UNITED STATES		

Attorney information	Michael D. Hobbs, Jr., Esq. Troutman Sanders LLP 600 Peachtree Street NE Suite 5200 Atlanta, GA 30308 UNITED STATES trademarks@troutmansanders.com Phone:404-885-3330
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**Applicant Information**

Application No	79152407	Publication date	06/09/2015
Opposition Filing Date	06/10/2015	Opposition Period Ends	07/09/2015
International Registration No.	1217008	International Registration Date	06/18/2014
Applicant	Castel Engineering NV Rue de la Royenne 84  BELGIUM		

**Goods/Services Affected by Opposition**

<p>Class 019. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Building materials, namely, plastic pipe supports, pre-cast concrete wall forms, non-metallic covers for ducts, tubes and polymeric duct assemblies, composite panels composed primarily of nonmetal materials, railings, not of metal, non-metal bonding fasteners for mounting and demounting ducts, cables and pipes; rigid pipes, not of metal for building; ducts and other casings for cables, not of metal; fittings not of metal, non-electric for ducts</p>
<p>Class 020. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Non-metallic fasteners for cables; hinges, not of metal for fixing cables or tubes; plastic fittings for the attachment of cables or pipes clips; structural fasteners, not of metal, namely, non-metal threaded fasteners, plastic fasteners for ducts and couplings for organizing and holding fiber optic and similar cable and wiring, Plastic fasteners for holding ducts and pipes in place</p>

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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Dilution	Trademark Act section 43(c)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	86369264	Application Date	08/18/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SPEEDICHANNEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 017. First use: First Use: 2008/01/31 First Use In Commerce: 2008/01/31 Non-metal fully enclosed covers for HVAC system drain lines, condenser lines, and power lines		

Attachments	86369264#TMSN.png( bytes ) SPEEDICHANNEL.pdf(117783 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	/michael hobbs/
Name	Michael D. Hobbs, Jr., Esq.
Date	06/10/2015



4. This Notice of Opposition is timely filed.
5. The Opposer is North America's largest manufacturer of air conditioning condenser pads and a leading supplier of components and related products for the heating, ventilating, air conditioning, and refrigeration (HVACR) industry.
6. In 2007, the Opposer decided to enter the HVACR line set cover market.
7. The Opposer entered into a supplier agreement with the Applicant effective December 1, 2007 for the Applicant to supply it with unbranded line set covers for sale in North America, including the United States (the "Supplier Agreement").
8. In 2008, the Opposer coined the mark SPEEDICHANNEL for its sale of line set covers in the United States.
9. Since 2008, the Opposer has continuously sold line set covers in the United States under the mark SPEEDICHANNEL.
10. The Supplier Agreement does not mention the SPEEDICHANNEL mark.
11. The Supplier Agreement does not give Castel the right to control the quality of products sold under the SPEEDICHANNEL mark.
12. During the term of the Supplier Agreement, the Applicant did not exercise any control of quality of the use of the SPEEDICHANNEL mark.
13. Applicant had never sold line set covers to end customers in the United States prior to the Supplier Agreement under any mark.
14. In Europe, the Applicant sells its line set covers using the AIRCO and ULTIMATE DUCT marks.
15. The Applicant has never used the SPEEDICHANNEL mark anywhere in the world, including without limitation in the United States.

16. The Applicant's name or mark has never appeared in marketing, advertising or sales materials for SPEEDICHANNEL products.

17. The Applicant's name or mark has never appeared on SPEEDICHANNEL products sold in the United States.

18. Pursuant to Section 9 of the Supplier Agreement, Opposer had the sole right to determine defective SPEEDICHANNEL product, thereby controlling quality.

18. Opposer received defective SPEEDICHANNEL product from customers and refunded thousands of dollars for such product.

19. Applicant has received no defective SPEEDICHANNEL brand product from customers.

20. Opposer paid for all SPEEDICHANNEL advertising and promotional materials.

21. Opposer is the owner of all right, title and interest in and to the SPEEDICHANNEL mark.

22. The Applicant filed Application No. 79-152,407 for the SPEEDICHANNEL mark pursuant to Section 66(a) of the Lanham Act. Application No. 79-152,407 does not aver any use of the SPEEDICHANNEL mark in the United States.

23. The Opposer's rights in the SPEEDICHANNEL mark are superior to any rights the Applicant may attempt to claim in the SPEEDICHANNEL mark.

24. Opposer is the owner of Application No. 86369264 for the mark SPEEDICHANNEL for "Non-metal fully enclosed covers for HVAC system drain lines, condenser lines, and power lines."

25. Application No. 86369264 has been suspended pending disposition of Application No. 79-152,407.

26. The use and registration of SPEEDICHANNEL by the Applicant is likely to cause confusion in the minds of the purchasing public and to cause the purchasing public to assume that the products identified by such mark are offered by Opposer or that such products originate with or are in some way connected to Opposer, which they are not, in violation of 15 U.S.C. §§ 1052(d) and 1125(a).

27. Use and registration of SPEEDICHANNEL will be injurious to the Opposer in violation of Section 13(a) of the Lanham Act, 15 U.S.C. § 1063(a).

28. The Opposer has paid the requisite fees to the United States Patent and Trademark Office contemporaneous with the filing of this opposition action. If such fees are deficient or any other fees are required, the USPTO is authorized to charge counsel's deposit account no. 20-1507 for the required amount.

WHEREFORE, the Opposer believes that it will be damaged by the registration of the SPEEDICHANNEL Mark and prays that said Application Serial No. 79-152,407 be refused, and that this Opposition be sustained in favor of Opposer.

This 10th day of June, 2015.

Respectfully submitted,

TROUTMAN SANDERS LLP

s/Michael D. Hobbs Jr./  
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In re Application of:** Castel Engineering NV  
**Serial No.:** 79-152,407  
**Mark:** SPEEDICHANNEL  
**Published:** June 9, 2015

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 CASTEL ENGINEERING NV )  
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                   Applicant. )  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Notice of Opposition was sent by first-class mail, postage prepaid to the Applicant, as follows:

Clifford D. Hyra, Esq.  
Symbus Law Group, LLC  
11710 Plaza America Drive, Suite 2000  
Reston, VIRGINIA 20190

This 10th day of June, 2015.

s/Michael D. Hobbs Jr./  
Michael D. Hobbs, Jr.