

ESTTA Tracking number: **ESTTA711628**

Filing date: **12/01/2015**

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	DRL Enterprises, Inc.
Granted to Date of previous extension	12/02/2015
Address	2301 Ravine Way Glenview, IL 60025 UNITED STATES

Attorney information	Antony J. McShane Neal, Gerber & Eisenberg, LLP 2 North LaSalle Street, Suite 1700 Chicago, IL 60602 UNITED STATES amcshane@ngelaw.com, jcohen@ngelaw.com, temanelson@ngelaw.com, lpalumbo@ngelaw.com, ECFDocket@ngelaw.com Phone:312.269.8000
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Applicant Information

Application No	86604124	Publication date	08/04/2015
Opposition Filing Date	12/01/2015	Opposition Period Ends	12/02/2015
Applicant	ATMOS NATION LLC 4800 SW 51st St Tamarac, FL 33319 UNITED STATES		

Goods/Services Affected by Opposition

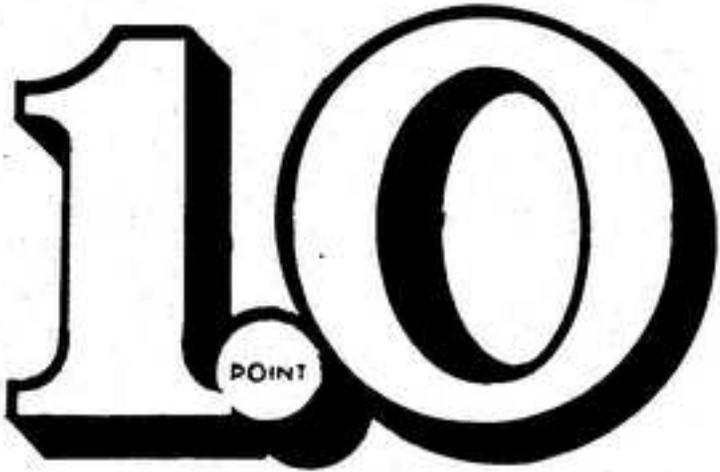
Class 034. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Oral vaporizers for smokers; Oral vaporizers for smoking purposes
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Grounds for Opposition

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.	1481006	Application Date	04/07/1986
Registration Date	03/15/1988	Foreign Priority Date	NONE
Word Mark	1.0 POINT		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 034. First use: First Use: 1985/12/30 First Use In Commerce: 1985/12/30 CIGARETTE PAPERS		

U.S. Registration No.	1328866	Application Date	04/08/1982
Registration Date	04/02/1985	Foreign Priority Date	NONE
Word Mark	1.25 POINT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 034. First use: First Use: 1977/05/20 First Use In Commerce: 1977/05/20 Cigarette Papers		

U.S. Registration No.	1331207	Application Date	04/08/1982
Registration Date	04/16/1985	Foreign Priority Date	NONE
Word Mark	1.5 POINT		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 034. First use: First Use: 1976/04/09 First Use In Commerce: 1976/04/09 Cigarette Papers

Attachments	73592167#TMSN.png(bytes) 73358902#TMSN.png(bytes) 73358876#TMSN.png(bytes) Notice of Opposition - I50.pdf(12267 bytes) EXHIBIT A - I50 opposition.pdf(67005 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	/Antony McShane/
Name	Antony J. McShane
Date	12/01/2015

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

In the Matter of Application Serial No.
86/604,124 for I50

Published in the Official Gazette
on August 4, 2015

DRL ENTERPRISES, INC.,

Opposer,

v.

ATMOS NATION LLC,

Applicant.

NOTICE OF OPPOSITION

This Notice of Opposition is submitted in the matter of Application Serial No. 86/604,124 for registration by Atmos Nation LLC of the trademark I50 based on its intent to use the mark in connection with “oral vaporizers for smokers; oral vaporizers for smoking purposes” in International Class 34. DRL Enterprises, Inc., (“DRL”) a Delaware Corporation, having a place of business at 2301 Ravine Way, Glenview, Illinois, 60025, believes that it would be damaged by the registration and therefore opposes the same.

The grounds for Opposition herein are as follows:

1. For many years, and long prior to the acts of Applicant herein alleged, DRL and its predecessors have been engaged, *inter alia*, in the distribution and sale of cigarette rolling papers. Such goods are distributed to consumers across the United States through tobacco shops, drugstores, tobacco outlets, convenience and other retail stores.

2. DRL has devoted substantial resources, time and effort in developing, marketing and distributing its cigarette papers under its family of marks comprising 1.0, 1.25, and 1.5 (the “One Marks”).

3. As a result of its consistent efforts to promote and protect its marks, DRL has developed considerable consumer recognition and goodwill in the One Marks, which are now among DRL’s most valuable assets. To protect its rights in the marks, DRL has obtained federal registrations for the marks “1.0,” “1.25” and “1.5” for use in connection with cigarette papers in International Class 34 and which are incontestable pursuant to 15 U.S.C. § 1065. (Printouts from the U.S. Patent and Trademark Office website showing the current status and title of Registration Nos. 1,481,006, 1,328,866 and 1,331,207 are attached hereto collectively as Exhibit A).

4. On April 21, 2015, well after DRL began its use of, and developed its rights in, its One Marks and after DRL’s One Marks were registered in the U.S. Patent and Trademark Office, Applicant filed an application to register the mark I50 in connection with oral vaporizers for smokers and oral vaporizers for smoking purposes.

5. The I50 mark, which Applicant seeks to register, is confusingly similar to DRL’s One Marks. As a result of the similarity of the parties’ marks, the similarity of the goods associated with the marks, and the strength of DRL’s One Marks, Applicant’s use and registration of the I50 mark is likely to cause confusion or mistake, or to deceive purchasers, in that purchasers would be likely to believe Applicant’s goods are DRL’s goods, or are in some way legitimately connected with, sponsored by, or approved by DRL in violation of 15 U.S.C. § 1052(d). Accordingly, on these bases, DRL opposes registration of Applicant’s mark.

WHEREFORE, DRL requests that the registration sought by Applicant be refused and that this Notice of Opposition be sustained.

Respectfully submitted,

Date: December 1, 2015

By: /Antony J. McShane/
One of the Attorneys for DRL Enterprises, Inc.

Antony J. McShane
Jessica Rissman Cohen
Neal, Gerber & Eisenberg LLP
Two North LaSalle Street
Chicago, Illinois 60602-3801
(312) 269-8000

CERTIFICATE OF SERVICE

I, Jessica Rissman Cohen, an attorney, state that, pursuant to 37 CFR §§ 2.101, 2.111, and 2.119, I caused a true and correct copy of the foregoing Notice of Opposition to be served upon:

Divya Khullar
Usapatents.com
Khullar PA
4786 W. Commercial Blvd
Tamarac, Florida 33319-2878

via U.S. Mail, first class, postage-prepaid, on December 1, 2015.

/Jessica Rissman Cohen /
Jessica Rissman Cohen

22128453.1

EXHIBIT A



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Word Mark	1.0 POINT
Goods and Services	IC 034. US 008. G & S: CIGARETTE PAPERS. FIRST USE: 19851230. FIRST USE IN COMMERCE: 19851230
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	73592167
Filing Date	April 7, 1986
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	April 14, 1987
Registration Number	1481006
Registration Date	March 15, 1988
Owner	(REGISTRANT) REPUBLIC TOBACCO INC. CORPORATION ILLINOIS 5100 NORTH RAVENSWOOD CHICAGO ILLINOIS 60640 (LAST LISTED OWNER) DRL ENTERPRISES, INC. CORPORATION ASSIGNEE OF DELAWARE 5100 NORTH RAVENSWOOD CHICAGO ILLINOIS 60640
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Antony J. McShane
Prior Registrations	1328866;1331207
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "1.0" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK

Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20080305.
Renewal 1ST RENEWAL 20080305
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Word Mark 1.25 POINT

Goods and Services IC 034. US 008. G & S: Cigarette Papers. FIRST USE: 19770520. FIRST USE IN COMMERCE: 19770520

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

Serial Number 73358902

Filing Date April 8, 1982

Current Basis 1A

Original Filing Basis 1A

Published for Opposition August 28, 1984

Registration Number **1328866**

Registration Date April 2, 1985

Owner (REGISTRANT) Republic Tobacco, Inc. CORPORATION ILLINOIS 5100 N. Ravenswood Chicago ILLINOIS 60640

(LAST LISTED OWNER) DRL ENTERPRISES, INC. CORPORATION DELAWARE 2301 RAVINE WAY GLENVIEW ILLINOIS 60025

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record ANTONY J. MCSHANE

Type of Mark TRADEMARK

Register PRINCIPAL-2(F)

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20140410.

Renewal 2ND RENEWAL 20140410

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Word Mark 1.5 POINT

Goods and Services IC 034. US 008. G & S: Cigarette Papers. FIRST USE: 19760409. FIRST USE IN COMMERCE: 19760409

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

Serial Number 73358876

Filing Date April 8, 1982

Current Basis 1A

Original Filing Basis 1A

Published for Opposition August 28, 1984

Registration Number **1331207**

Registration Date April 16, 1985

Owner (REGISTRANT) REPUBLIC TOBACCO INC. CORPORATION ILLINOIS 5100 NORTH RAVENSWOOD CHICAGO ILLINOIS 60640

(LAST LISTED OWNER) DRL ENTERPRISES, INC. CORPORATION DELAWARE 2301 RAVINE WAY GLENVIEW ILLINOIS 60025

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record ANTONY J. MCSHANE

Type of Mark TRADEMARK

Register PRINCIPAL-2(F)

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20140515.

Renewal 2ND RENEWAL 20140515

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