

ESTTA Tracking number: **ESTTA713414**

Filing date: **12/08/2015**

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	Conair Corporation
Granted to Date of previous extension	12/09/2015
Address	1 Cummings Point Road Stamford, CT 06902 UNITED STATES

Correspondence information	Julianne Bochinski Intellectual Property Counsel Conair Corporation 1 Cummings Point Road Stamford, CT 06902 UNITED STATES julianne_bochinski@conair.com Phone:203-351-9000
----------------------------	---

Applicant Information

Application No	86572285	Publication date	08/11/2015
Opposition Filing Date	12/08/2015	Opposition Period Ends	12/09/2015
Applicant	Bowen, Robyn 165 Hiatt Ct Fayetteville, GA 30214 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Ad serving, namely, placing advertisements on websites for others using specialized computer software; Advertisement and publicity services by television, radio, mail; Advertisement and publicity services by promoting hair products; Advertisement for others on the Internet; Advertisement hoarding rental; Advertising agencies; Advertising agencies, namely, promoting the goods and services of others; Advertising agencies, namely, promoting hair products through the distribution of printed and audio promotional materials and by rendering sales promotion advice; Advertising agency specializing in the design and execution of word of mouth, viral, buzz and experiential marketing programs; Advertising and advertisement services; Advertising and commercial information services, via the internet; Advertising and directory services, namely, promoting the services of others by providing a web page featuring links to the websites of others; Advertising and marketing; Advertising and marketing consultancy; Advertising and marketing services provided by means of indirect methods of marketing communications, namely, social media, search engine marketing, inquiry marketing, internet marketing, mobile marketing, blogging and other forms of passive, sharable or viral communications channels; Advertising and marketing services, namely, promoting the goods and services of others; Advertising and promoting the goods and services of a visual artist; Advertising and promotion services and related consulting; Advertising and</p>

promotional services; Advertising and publicity services; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Advertising copywriting; Advertising flyer distribution for others; Advertising in periodicals, brochures and newspapers; Advertising in the popular and professional press; Advertising of the published texts of others; Advertising on the Internet for others; Advertising particularly services for the promotion of goods

Grounds for Opposition

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

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4649356	Application Date	07/11/2014
Registration Date	12/02/2014	Foreign Priority Date	NONE
Word Mark	PERFECT CURL		
Design Mark			
Description of Mark	The mark consists of "Perfect Curl" and a swirl design.		
Goods/Services	Class 008. First use: First Use: 2014/06/26 First Use In Commerce: 2014/06/26 Electric hand-held hair styling irons		

Attachments	86335117#TMSN.png(bytes) Notice of Opposition - FOLLOW THE SWIRL TO THE PERFECT CURL.pdf(299230 bytes)
-------------	--

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	/Julianne Bochinski/
Name	Julianne Bochinski
Date	12/08/2015

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

**In the matter of trademark application Serial No. 86572285
For the mark: FOLLOW THE SWIRL FOR THE PERFECT CURL
Published in the Official Gazette on August 11, 2015**

Conair Corporation)
)
Opposer)
)
v.)
)
Robyn Bowen)
Applicant)

NOTICE OF OPPOSITION

Conair Corporation, a corporation organized under the laws of the State of Delaware, having a place of business at 1 Cummings Point Road, Stamford, CT 06902 (hereinafter “Opposer”) believes that it will be damaged by the registration of the mark FOLLOW THE SWIRL FOR THE PERFECT CURL as shown in Application Serial No. 86572285 filed on March 22, 2015 for “Ad serving, namely, placing advertisements on websites for others using specialized computer software; Advertisement and publicity services by television, radio, mail; Advertisement and publicity services by promoting hair products; Advertisement for others on the Internet; Advertisement hoarding rental; Advertising agencies; Advertising agencies, namely, promoting the goods and services of others; Advertising agencies, namely,

promoting hair products through the distribution of printed and audio promotional materials and by rendering sales promotion advice; Advertising agency specializing in the design and execution of word of mouth, viral, buzz and experiential marketing programs; Advertising and advertisement services; Advertising and commercial information services, via the internet; Advertising and directory services, namely, promoting the services of others by providing a web page featuring links to the websites of others; Advertising and marketing; Advertising and marketing consultancy; Advertising and marketing services provided by means of indirect methods of marketing communications, namely, social media, search engine marketing, inquiry marketing, internet marketing, mobile marketing, blogging and other forms of passive, sharable or viral communications channels; Advertising and marketing services, namely, promoting the goods and services of others; Advertising and promoting the goods and services of a visual artist; Advertising and promotion services and related consulting; Advertising and promotional services; Advertising and publicity services; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Advertising copywriting; Advertising flyer distribution for others; Advertising in periodicals, brochures and newspapers. Advertising in the popular and professional press; Advertising of the published texts of others; Advertising on the Internet for others; Advertising particularly services for the promotion of goods,” in International Class 35, (hereinafter “Applicant’s Services”), and hereby opposes same.

The specific grounds for opposition are as follows:

1. Conair Corporation is a Delaware corporation with a place of business at One Cummings Point Road, Stamford, CT 06902.
2. Opposer is and for many years has been one of the leading manufacturers and marketers in the world of hair styling appliances, tools and accessories including, hair dryers, curling irons, flat irons, hot rollers, hair brushes, combs, hair clips, barrettes, pins, and the like selling hair products in over 120 countries.
3. Opposer is the owner of United States Trademark Registration No. 4,649,356 for the mark, PERFECT CURL (Design Mark) featuring a swirl design (“PERFECT CURL Mark) for “Electric hand-held hair styling irons,” in International Class 8 (attached herewith as Exhibit A), namely:



4. The registration identified in paragraph 3 constitutes *prima facie* evidence of the validity of the mark and of the Opposer’s ownership of and exclusive right to use the mark in commerce, and provides constructive notice of the claim of ownership thereof.

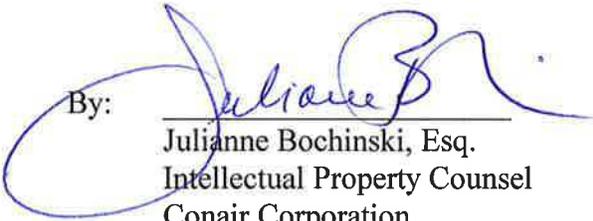
5. Opposer's PERFECT CURL Mark has priority over Applicant's intent-to-use application at issue here.
6. Opposer also has common law rights in its PERFECT CURL Mark in connection with "Electric hand-held hair styling irons," in International Class 8.
7. Opposer's rights in its PERFECT CURL Mark predates and is superior to those asserted by Applicant in the subject intent-to-use application. Opposer's rights in its PERFECT CURL Mark have priority since at least as early as June 26, 2014, prior to the March 22, 2015 filing date of the subject application.
8. On information and belief, Applicant is a United States citizen with a place of business at 165 Hiatt Ct, Fayetteville, GA 30214
9. On March 22, 2015, Applicant filed the intent-to-use application at issue herein, Serial No. 86/572,285, seeking to register the mark FOLLOW THE SWIRL FOR THE PERFECT CURL ("Applicant's Mark") for the following services, "Ad serving, namely, placing advertisements on websites for others using specialized computer software; Advertisement and publicity services by television, radio, mail; Advertisement and publicity services by promoting hair products; Advertisement for others on the Internet; Advertisement hoarding rental; Advertising agencies; Advertising agencies, namely, promoting the goods and services of others;

Advertising agencies, namely, promoting hair products through the distribution of printed and audio promotional materials and by rendering sales promotion advice; Advertising agency specializing in the design and execution of word of mouth, viral, buzz and experiential marketing programs; Advertising and advertisement services; Advertising and commercial information services, via the internet; Advertising and directory services, namely, promoting the services of others by providing a web page featuring links to the websites of others; Advertising and marketing; Advertising and marketing consultancy; Advertising and marketing services provided by means of indirect methods of marketing communications, namely, social media, search engine marketing, inquiry marketing, internet marketing, mobile marketing, blogging and other forms of passive, sharable or viral communications channels; Advertising and marketing services, namely, promoting the goods and services of others; Advertising and promoting the goods and services of a visual artist; Advertising and promotion services and related consulting; Advertising and promotional services; Advertising and publicity services; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Advertising copywriting; Advertising flyer distribution for others; Advertising in periodicals, brochures and newspapers. Advertising in the popular and professional press; Advertising of the published texts of others; Advertising on the Internet for others; Advertising particularly services for the promotion of goods,” in International Class 35.

10. Applicant's Mark so resembles Opposer's PERFECT CURL Mark as to be likely, when applied to Applicant's services, to cause confusion or mistake or to deceive as to source, affiliation, connection, or association with, or approval, endorsement, or sponsorship by, Opposer. As such, Applicant's Mark is not entitled to registration pursuant to 15 U.S.C. § 1052(a) and/or 15 U.S.C. § 1052(d).
11. Applicant's Mark so closely resembles Opposer's PERFECT CURL Mark as to dilute or be likely to cause dilution of the distinctive quality of Opposer's PERFECT CURL Mark. As such, Applicant's Mark is not entitled to registration pursuant to 15 U.S.C. § 1125(c).
12. For the foregoing reasons, Opposer believes it will be damaged by the registration of Applicant's Mark as shown in Application Serial No. 86/572,285.
13. The statutory fee of three hundred dollars (\$300) is enclosed herewith.

WHEREFORE, Opposer prays that this Opposition be sustained and that the registration sought in Application Serial No. 85199308 be denied.

Date: 12-8-15

By: 

Julianne Bochinski, Esq.
Intellectual Property Counsel
Conair Corporation
1 Cummings Point Road
Stamford, CT 06902
(203) 921-2844
Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 8, 2015, she caused a true and correct copy of the foregoing NOTICE OF OPPOSITION to be served upon Registrant by First Class Mail. Postage pre-paid, at the following address:

Robyn Bowen
165 Hiatt Ct
Fayetteville, GA 30214

Dated: December 9, 2015



By Julianne B. Bochinski

EXHIBIT A

United States of America

United States Patent and Trademark Office



PERFECT CURL

Reg. No. 4,649,356

Registered Dec. 2, 2014

Int. Cl.: 8

TRADEMARK

PRINCIPAL REGISTER

CONAIR CORPORATION (DELAWARE CORPORATION)
ONE CUMMINGS POINT ROAD
STAMFORD, CT 06902

FOR: ELECTRIC HAND-HELD HAIR STYLING IRONS, IN CLASS 8 (U.S. CLS. 23, 28 AND 44).

FIRST USE 6-26-2014; IN COMMERCE 6-26-2014.

OWNER OF U.S. REG. NO. 3,607,512.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CURL", APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF "PERFECT CURL" AND A SWIRL DESIGN.

SER. NO. 86-335,117, FILED 7-11-2014.

DEIRDRE ROBERTSON, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office