

ESTTA Tracking number: **ESTTA714172**

Filing date: **12/11/2015**

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	Delta Faucet Company		
Entity	Corporation	Citizenship	Indiana
Address	55 East 111th Street Indianapolis, IN 46280 UNITED STATES		

Attorney information	Mary Frances Love Aspire IP 444 E. Pikes Peak Ave. Suite 105 Colorado Springs, CO 80903 UNITED STATES maryfran@aspireip.com Phone:2022477929		
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### Applicant Information

Application No	86720985	Publication date	11/24/2015
Opposition Filing Date	12/11/2015	Opposition Period Ends	12/24/2015
Applicant	AS IP Holdco, LLC 1 Centennial Avenue Piscataway, NJ 08855 UNITED STATES		

### Goods/Services Affected by Opposition

Class 011. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: plumbing fixtures, namely, lavatories, toilet bowls, toilet tanks, bathtubs, shower stalls, urinals, bidets, hand wash basins in the nature of sinks, vanity basins in the nature of sinks, and kitchensinks; plumbing fittings, namely, faucets, bathtub spouts and shower heads
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### Grounds for Opposition

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

U.S. Application No.	86361010	Application Date	08/08/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	LINDEN		

Design Mark	<h1>LINDEN</h1>
Description of Mark	NONE
Goods/Services	Class 011. First use: First Use: 2009/11/00 First Use In Commerce: 2009/11/00 PLUMBING PRODUCTS, NAMELY FAUCETS AND SHOWERHEADS

Related Proceedings	Cancellation No. 92/061,540
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Attachments	86361010#TMSN.png( bytes ) 2015-12-11 Notice of Opposition Final Signed.pdf(235790 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	/MARY F LOVE/
Name	Mary Frances Love
Date	12/11/2015

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

DELTA FAUCET COMPANY,	)	
	)	
Opposer ,	)	
	)	
v.	)	Opposition No. _____
	)	Serial No. 86/720985
AS IP HOLDCO, LLC,	)	Mark: DXV LYNDON
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

Opposer Delta Faucet Company (“Opposer” or “Delta”), an Indiana corporation, with its principal place of business at 55 East 111<sup>th</sup> Street, Indianapolis, Indiana 46280, believes it will be damaged by registration of the mark shown in Application Serial No. 86/720985, and opposes the same.

The grounds for the opposition are follows:

1. Since long prior to the filing date of the application opposed herein, Opposer has continually used and promoted its trademark LINDEN in interstate commerce in connection with the manufacture, distribution, advertising, and sale of plumbing products and bathroom accessories.
2. Opposer owns U.S. Trademark Application Serial No. 86/361010 for its trademark LINDEN for “plumbing products, namely faucets and showerheads” in International Class 11. The application claims the date of first use as November 2009 and the date of first use in interstate commerce as November 2009. Attached hereto as Exhibit A is a copy of the TESS page from the US Patent and Trademark

Office online database showing the current details of this application.

3. On November 24, 2014, the Examining Attorney assigned to Opposer's

LINDEN trademark application issued a refusal to register based on Section 2(d)

and citing Applicant's U.S. Registration No. 4,625,940 for the mark LYNDON for

"plumbing fixtures, namely, lavatories, toilet bowls, toilet tanks, bathtubs, shower stalls, urinals, bidets, hand wash basins in the nature of sinks, vanity basins in the of sinks, and kitchen sinks; plumbing fittings, namely, faucets, bathtub spouts and shower heads" in International Class 11.

4. U.S. Registration No. 4,625,940 is currently the subject of Cancellation No.

92/061,540 before the U.S. Trademark Trial and Appeal Board. Opposer will

request consolidation of these matters by separate Motion at the appropriate time.

5. On August 11, 2015, despite having written confirmation that Opposer would

not coexist with the mark DXV LYNDON, Applicant filed U.S. Application Serial

No. 86/720985, an intent-to-use application to register the trademark DXV

LYNDON for

"plumbing fixtures, namely, lavatories, toilet bowls, toilet tanks, bathtubs, shower stalls, urinals, bidets, hand wash basins in the nature of sinks, vanity basins in the of sinks, and kitchen sinks; plumbing fittings, namely, faucets, bathtub spouts and shower heads" in International Class 11.

6. Upon information and belief, neither Applicant nor any predecessor or related

company of Applicant has any basis for claiming rights in the United States for the

trademark DXV LYNDON before August 11, 2015, the filing date of the

application opposed herein.

7. Applicant's intended use of and application to register DXV LYNDON is

without Opposer's consent.

8. Applicant's intended use of DXV LYNDON for the applied for goods is likely

to cause confusion, mistake or deception with Opposer and its trademark LINDEN, and is likely to cause purchasers and others erroneously to believe that Applicant's goods are Opposer's goods or that Applicant or its goods are in some way legitimately connected with, or sponsored or approved by Opposer.

9. Accordingly, Applicant's registration of the trademark DXV LYNDON would be damaging to Opposer.

WHEREFORE, Opposer prays that its opposition be sustained and registration of Application Serial No. 86/720985 be refused.

Opposer herein submits the requisite filing fee of \$300. Please address all correspondence to Mary F. Love, Aspire IP, 444 E. Pikes Peak Avenue, Suite 105, Colorado Springs, CO 80903 or via e-mail at maryfran@aspireip.com.

Respectfully submitted,

DELTA FAUCET COMPANY

By:   
Mary Frances Love  
Aspire IP, LLC  
3509 Connecticut Avenue, PMB 130,  
Washington, D.C. 20008  
Attorney for Opposer and Member of the  
DC Bar.

Dated: December 11, 2015

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Notice of Opposition was mailed by First Class mail, postage prepaid on December 11, 2015 upon attorney of record for Applicant:

Jason Alexander, Esq.  
AS America Inc.  
1 Centennial Avenue  
Piscataway, New Jersey 08854-3921

Date: December 11, 2015

Name: Sherri Weisbeck-Raslich

Signed: 

# EXHIBIT A

**Generated on:**

This page was generated by TSDR on 2015-12-10 13:41:09 EST

**Mark:** LINDEN

LINDEN

**US Serial Number:** 86361010

**Application Filing Date:**

Aug. 08, 2014

**Register:**

Principal

**Mark Type:**

Trademark

**Status:**

An Office action suspending further action on the application has been sent (issued) to the applicant. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

**Status Date:**

May 22, 2015

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## Mark Information

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**Mark Literal Elements:**

LINDEN

**Standard Character Claim:**

Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:**

4 - STANDARD CHARACTER MARK

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## Goods and Services

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**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [ ] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "\*" identify additional (new) wording in the goods/services.

**For:**

PLUMBING PRODUCTS, NAMELY FAUCETS AND SHOWERHEADS

**International Class(es):** 011 - Primary Class

**U.S Class(es):**

013, 021, 023, 031, 034

**Class Status:**

ACTIVE

**Basis:**

1(a)

**First Use:** Nov. 2009

**Use in Commerce:**

Nov. 2009

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## Basis Information (Case Level)

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<b>Filed Use:</b> Yes	<b>Currently Use:</b> Yes	<b>Amended Use:</b> No
<b>Filed ITU:</b> No	<b>Currently ITU:</b> No	<b>Amended ITU:</b> No
<b>Filed 44D:</b> No	<b>Currently 44D:</b> No	<b>Amended 44D:</b> No
<b>Filed 44E:</b> No	<b>Currently 44E:</b> No	<b>Amended 44E:</b> No
<b>Filed 66A:</b> No	<b>Currently 66A:</b> No	
<b>Filed No Basis:</b> No	<b>Currently No Basis:</b> No	

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## Current Owner(s) Information

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**Owner Name:**

DELTA FAUCET COMPANY

**Owner Address:**

55 EAST 111TH STREET  
INDIANAPOLIS, INDIANA UNITED STATES 46280

**Legal Entity Type:** CORPORATION

**State or Country Where  
Organized:**

INDIANA

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## Attorney/Correspondence Information

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**Attorney of Record**

**Attorney Name:** Edgar A. Zarins

**Docket Number:**

115-4792-T

**Correspondent**

**Correspondent  
Name/Address:**

EDGAR A. ZARINS  
Masco Corporation  
21001 Van Born Rd  
Taylor, MICHIGAN UNITED STATES 48180-1300

**Phone:** 313-792-6485

**Fax:**

313-792-6797

**Domestic Representative - Not Found**

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## Prosecution History

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Date	Description	Proceeding Number
May 22, 2015	LETTER OF SUSPENSION MAILED	
May 22, 2015	SUSPENSION LETTER WRITTEN	73706
May 21, 2015	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
May 21, 2015	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
May 21, 2015	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Mar. 04, 2015	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Nov. 24, 2014	NON-FINAL ACTION MAILED	
Nov. 24, 2014	NON-FINAL ACTION WRITTEN	73706
Nov. 19, 2014	ASSIGNED TO EXAMINER	73706
Aug. 18, 2014	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Aug. 12, 2014	NEW APPLICATION ENTERED IN TRAM	

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## TM Staff and Location Information

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**TM Staff Information**

**TM Attorney:** KON, ELISSA GARBER

**Law Office Assigned:**

LAW OFFICE 106

**File Location**

**Current Location:** TMEG LAW OFFICE 106 - EXAMINING  
ATTORNEY ASSIGNED

**Date in Location:**

May 22, 2015

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## Assignment Abstract Of Title Information

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**Summary**

**Total Assignments:** 1

**Applicant:**

Masco Corporation of Indiana

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### Assignment 1 of 1

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**Conveyance:**

ASSIGNS THE ENTIRE INTEREST

**Reel/Frame:** 5467/0825

**Pages:**

29

**Date Recorded:** Feb. 24, 2015

**Supporting Documents:**

[assignment-tm-5467-0825.pdf](#)

**Assignor**

**Name:** MASCO CORPORATION OF INDIANA

**Execution Date:**

Feb. 19, 2015

**Legal Entity Type:** CORPORATION

**State or Country Where  
Organized:**

INDIANA

**Assignee**

**Name:**

DELTA FAUCET COMPANY

**Legal Entity Type:** CORPORATION

**State or Country Where  
Organized:**

INDIANA

**Address:**

55 EAST 111TH STREET  
INDIANAPOLIS, INDIANA 46280

**Correspondent**

**Correspondent Name:**

EDGAR A. ZARINS

**Correspondent Address:**

MASCO CORPORATION  
LEGAL DEPARTMENT  
21001 VAN BORN ROAD  
TAYLOR, MICHIGAN 48180

**Domestic Representative - Not Found**