

ESTTA Tracking number: **ESTTA727387**

Filing date: **02/16/2016**

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	Bosque Disposal Systems, LLC
Granted to Date of previous extension	02/14/2016
Address	420 Throckmorton Suite 640 Fort Worth, TX 76102 UNITED STATES
Attorney information	Brooke Erdos Singer Davis & Gilbert LLP 1740 Broadway New York, NY 10019 UNITED STATES bsinger@dglaw.com, kblum@dglaw.com, jharris@dglaw.com, tsuhay@dglaw.com Phone:212-468-4800

Applicant Information

Application No	86076597	Publication date	08/18/2015
Opposition Filing Date	02/16/2016	Opposition Period Ends	02/14/2016
International Registration No.	NONE	International Registration Date	NONE
Applicant	TheMark Corporation c/o Intertrust Corporate Services, Ltd. Grand Cayman, KY1-9005 CAYMAN ISLANDS		

Goods/Services Affected by Opposition

<p>Class 011. First Use: 2013/02/00 First Use In Commerce: 2013/02/00 All goods and services in the class are opposed, namely: Water treatment equipment, namely, onsite water recycling and wastewater treatment systems for treatment of wastewater resulting from hydraulic fracturing and for the treatment of produced water for the creation of water suitable for reuse in hydraulic fracturing operations</p>
<p>Class 040. First Use: 2013/02/00 First Use In Commerce: 2013/02/00 All goods and services in the class are opposed, namely: waste water treatment services; treatment of waste water resulting from hydraulic fracturing; water recycling services, namely, recycling produced and flowbackwater from drilling and hydraulic fracturing operations for subsequent reuse</p>

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. Application No.	86604814	Application Date	04/21/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BOSQUE SYSTEMS, LLC		
Design Mark			
Description of Mark	<p>The mark consists of a fanciful representation of three drops of water in lightblue and blue arranged in a round clockwise pattern with white spaces between each drop and the wording BOSQUE in dark blue next to the drawing and the word- ingSYSTEMS, LLC underneath in blue.</p>		
Goods/Services	<p>Class 035. First use: First Use: 2011/00/00 First Use In Commerce: 2011/00/00 Management of waste water collection systems for others; business manage- ment ofwater processing systems and facilitiesfor others</p> <p>Class 037. First use: First Use: 2011/00/00 First Use In Commerce: 2011/00/00 Construction of facilities; consulting services for the construction of water treat- ment plants; construction dewatering, namely, salt water disposal, removal of surface waters and groundwater to facilitate the construction of structures and pipelines</p> <p>Class 040. First use: First Use: 2011/00/00 First Use In Commerce: 2011/00/00 Consulting in the field of water treatment; environmental remediation ser- vices,namely, treatment of water; treatment of waste water; sustainable on-site waterrecycling and wastewater treatment services; water treatment services; water treatment and purification</p>		

U.S. Application No.	86604859	Application Date	04/21/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	DIONIX WATER TREATMENT SOLUTIONS		
Design Mark			

Description of Mark	The mark consists of the letters DI in green followed by a design of a water drop in light blue, dark blue and white followed by the letters NIX in green atop of a design of three drops of water arranged in a circle in blue and the wording Water Treatment Solutions.
Goods/Services	Class 040. First use: First Use: 2012/00/00 First Use In Commerce: 2012/00/00 Consulting in the field of water treatment; environmental remediation services, namely, treatment of water; treatment of waste water; sustainable on-site water recycling and wastewater treatment services; water treatment services; water treatment and purification

Attachments	86604814#TMSN.png(bytes) 86604859#TMSN.png(bytes) NOTICE OF OPPOSITION FOR SERIAL NO. 86076597 Default-Name.pdf(539578 bytes) Exhibit A - Both Bosque Marks.pdf(231833 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	/Brooke Erdos Singer/
Name	Brooke Erdos Singer
Date	02/16/2016

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

In the Matter of Ser. No. 86076597

Bosque Disposal System, LLC,

Opposer,

-v-

TheMark Corporation,

Applicant.

Opposition No.

NOTICE OF OPPOSITION

Opposer, Bosque Disposal Systems, LLC, (“Opposer”), believes that it will be damaged by registration of the mark shown in Serial No. 86076597, namely, “design” by TheMark Corporation (“Applicant”), and hereby opposes the same on the following grounds:

1. Opposer has been providing water management, disposal, and treatment services to the oil and gas industry since 2007.
2. Since at least as early as 2011, Opposer has used the following logo in connection with management of waste water collection systems for others, business management of water processing systems and facilities for others, construction of facilities, consulting services for the construction of water treatment plants, construction dewatering, namely, salt water disposal, removal of surface waters and groundwater to facilitate the construction of structures and pipelines, consulting in the field of water treatment, environmental remediation

services, namely, treatment of water, treatment of waste water, sustainable on-site water recycling and wastewater treatment services, water treatment services, and water treatment and purification (the “Bosque Logo”):



3. Since at least as early as 2012, Opposer has used the following logo in connection with consulting in the field of water treatment, environmental remediation services, namely, treatment of water, treatment of waste water, sustainable on-site water recycling and wastewater treatment services, water treatment services, and water treatment and purification (the “Dionix Logo”) (the Bosque Logo and Dionix Logo collectively, “Opposer’s Marks”):



4. A prominent feature of both the Bosque Logo and Dionix Logo is a design of three water droplets arranged in a circle (the “Droplet Design”).

5. Through significant use and promotion, and the attendant widespread publicity and notoriety that Opposer’s Marks have received, Opposer has acquired significant goodwill and reputation in Opposer’s Marks and the Droplet Design.

6. Opposer is the owner of the following use-based trademark applications pending before the U.S. Patent and Trademark Office:

Mark	App. No.	First Use Date	Class/ Services
	86604814	00/00/2011	Class 35: Management of waste water collection systems for others; business management of water processing systems and facilities for others

			<p>Class 37: Construction of facilities; consulting services for the construction of water treatment plants; construction dewatering, namely, salt water disposal, removal of surface waters and groundwater to facilitate the construction of structures and pipelines</p> <p>Class 40: Consulting in the field of water treatment; environmental remediation services, namely, treatment of water; treatment of waste water; sustainable on-site water recycling and wastewater treatment services; water treatment services; water treatment and purification.</p>
	86604859	00/00/2012	<p>Class 40: Consulting in the field of water treatment; environmental remediation services, namely, treatment of water; treatment of waste water; sustainable on-site water recycling and wastewater treatment services; water treatment services; water treatment and purification.</p>

TESS printouts of these applications are annexed hereto as Exhibit A.

7. Opposer's said use-based applications are valid and subsisting.

8. Opposer's first use date in connection with the Bosque Mark is 2011, which is prior to Applicant's filing date or any other date upon which Applicant is permitted to rely.

9. Opposer's first use date in connection with the Dionix Mark is 2012, which is prior to Applicant's filing date or any other date upon which Applicant is permitted to rely.

10. On September 27, 2013, Applicant filed a U.S. trademark application,



Serial No. 86076597, for the mark covering “Water treatment equipment, namely, onsite water recycling and wastewater treatment systems for treatment of wastewater resulting from hydraulic fracturing and for the treatment of produced water for the creation of water suitable for reuse in hydraulic fracturing operations” in Class 11 and “waste water treatment services, treatment of waste water resulting from hydraulic fracturing, water recycling services, namely, recycling produced and flowback water from drilling and hydraulic fracturing operations for subsequent reuse” in Class 40 (“Applicant’s Mark”). Applicant alleged to have first used the Applicant’s Mark in connection with both its Class 11 products and Class 40 services in February 2013.

11. Applicant’s Mark comprises a droplet-and-circle design that is closely similar to Opposer’s Droplet Design and therefore is confusingly similar to Opposer’s Mark.

12. Applicant’s Mark has been applied for in connection with goods and services that are identical or closely similar to the goods and services covered under Opposer’s Mark.

13. In view of the foregoing, Applicant’s registration of Applicant’s Mark in connection with Applicant’s applied-for goods and services is likely to cause confusion, mistake, or deception, or create the impression that Applicant is in some way associated or otherwise connected with Opposer.

15. By reason of the aforesaid premises, the granting of a certificate of registration to Applicant would damage Opposer.

WHEREFORE, Opposer prays that said Application Serial No. 86076597 be rejected and that registration of the mark therein shown be denied.

Please debit the amount of \$600.00 and any other relevant fees, from the Deposit Account No. 502293 of Opposer's counsel for docket number 27847-1-0.

Dated: February 16, 2016

Respectfully submitted,

DAVIS & GILBERT LLP

By

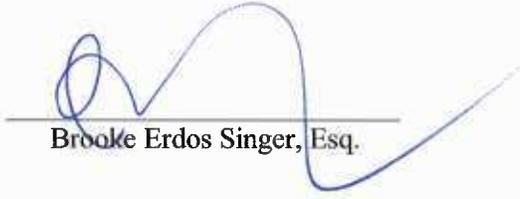


Brooke Erdos Singer
1740 Broadway
New York, New York 10019
(212) 468-4800
Attorneys for Opposer

CERTIFICATE OF SERVICE

On February 16, 2016, a true and correct copy of the foregoing NOTICE OF OPPOSITION was served by first-class mail, postage prepaid on counsel for Applicant:

Carol M. Willhelm, Esq.
Gray Reed & McGraw, P.C.
1300 Post Oak Blvd.,
Suite 2000
Houston, TX 77056



Brooke Erdos Singer, Esq.

EXHIBIT A



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TSDR | ASSIGN Status | TTAB Status (Use the "Back" button of the Internet Browser to return to TESS)



Word Mark BOSQUE SYSTEMS, LLC
Goods and Services IC 035. US 100 101 102. G & S: Management of waste water collection systems for others; business management of water processing systems and facilities for others. FIRST USE: 20110000. FIRST USE IN COMMERCE: 20110000

IC 037. US 100 103 106. G & S: Construction of facilities; consulting services for the construction of water treatment plants; construction dewatering, namely, salt water disposal, removal of surface waters and groundwater to facilitate the construction of structures and pipelines. FIRST USE: 20110000. FIRST USE IN COMMERCE: 20110000

IC 040. US 100 103 106. G & S: Consulting in the field of water treatment; environmental remediation services, namely, treatment of water; treatment of waste water; sustainable on-site water recycling and wastewater treatment services; water treatment services; water treatment and purification. FIRST USE: 20110000. FIRST USE IN COMMERCE: 20110000

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 01.15.18 - More than one drop including teardrops or raindrops; multiple drops (rain, tear, etc.); Raindrops (more than a single drop); Teardrops (more than a single drop)
 26.01.11 - Circles comprised of animals; Circles comprised of geometric figures; Circles comprised of humans; Circles comprised of letters or numerals; Circles comprised of plants; Circles comprised of punctuation; Letters, numerals, punctuation, geometric figures, objects, humans, plants or animals comprising a circle

Serial Number 86604814

Filing Date April 21, 2015

Current Basis 1A

1A

Original Filing Basis

Owner (APPLICANT) BOSQUE SYSTEMS, LLC CORPORATION TEXAS Suite 640 420 Throckmorton Fort Worth TEXAS 76102

Attorney of Record Brooke Erdos Singer

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SYSTEMS LLC" APART FROM THE MARK AS SHOWN

Description of Mark The color(s) blue and white is/are claimed as a feature of the mark. The mark consists of a fanciful representation of three drops of water in light blue and blue arranged in a round clockwise pattern with white spaces between each drop and the wording BOSQUE in dark blue next to the drawing and the wording SYSTEMS, LLC underneath in blue.

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Word Mark DIONIX WATER TREATMENT SOLUTIONS

Goods and Services IC 040. US 100 103 106. G & S: Consulting in the field of water treatment; environmental remediation services, namely, treatment of water; treatment of waste water; sustainable on-site water recycling and wastewater treatment services; water treatment services; water treatment and purification. FIRST USE: 20120000. FIRST USE IN COMMERCE: 20120000

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27.03.05 - Objects forming letters or numerals

Serial Number 86604859

Filing Date April 21, 2015

Current Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) BOSQUE SYSTEMS, LLC CORPORATION TEXAS Suite 640 420 Throckmorton Fort Worth TEXAS 76102

Attorney of Record Brooke Erdos Singer

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "WATER TREATMENT SOLUTIONS" APART FROM THE MARK AS SHOWN

Description of Mark The color(s) green, blue and white is/are claimed as a feature of the mark. The mark consists of the letters DI in green followed by a design of a water drop in light blue, dark blue and white followed by the letters NIX in green atop of a design of three drops of water arranged in a circle in blue and the wording Water Treatment Solutions.

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