

ESTTA Tracking number: **ESTTA777209**

Filing date: **10/17/2016**

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	S&G Hampton Sun, LLC
Granted to Date of previous extension	10/29/2016
Address	241 West 30th Street, 4th Floor New York, NY 10001 UNITED STATES

Attorney information	Keith E. Sharkin Powley & Gibson, P.C. 304 Hudson Street, Suite 202 New York, NY 10013 UNITED STATES dajones@powleygibson.com, trademarks@powleygibson.com Phone:212-226-5054
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**Applicant Information**

Application No	86974321	Publication date	08/30/2016
Opposition Filing Date	10/17/2016	Opposition Period Ends	10/29/2016
Applicant	Hearst Agron, Ashley 3220 N Street NW # 298 Washington, DC 20007 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 003. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Cosmetics; Hair care preparations; Nailpolish; Non-medicated skin care preparations
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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.	3851704	Application Date	01/30/2004
Registration Date	09/21/2010	Foreign Priority Date	NONE
Word Mark	HAMPTON SUN		

Design Mark	<h1>HAMPTON SUN</h1>
Description of Mark	NONE
Goods/Services	<p>Class 003. First use: First Use: 2005/05/01 First Use In Commerce: 2005/05/01  Tanning and sunscreen preparations; sunblock; sun care lotion; sun cream; sun tan gel; sun tan lotion; suntan oil; cosmetics and skin care products, namely, cream for face, after sun moisture, aftersun body cooling spray, sunless tanninggel, after sun cream for face and body, face and body moisturizers, skin lotion, and after sun lotion; [ hair and ] body care products, namely, body cream, and body lotion; cosmetic preparations for body care; facial cream; facial lotion; [ bathing products, namely, bath soaps, bath gels, ] fragrances for personal use [ and room fragrances ]</p>

U.S. Application No.	86386811	Application Date	09/05/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HAMPTON SUN		
Design Mark	<h1>HAMPTON SUN</h1>		
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 0 First Use In Commerce: 0  Cosmetics and personal care products, namely, shampoo and hair conditioners; bath salts; cosmetic body scrubs for the face, feet and hands; body exfoliating scrubs; aromatherapy body oils; non-medicated skin care preparations; room fragrances; home fragrance oils and air fragrancing preparations; passive scent diffusers, namely, air diffusers comprised of awick and sold with oil in a container used to emit scent by diffusion into the air; cosmetic kits comprised of cosmetics and cosmetic cases sold with cosmetics</p>		

	<p>Class 004. First use: First Use: 0 First Use In Commerce: 0 Candles; scented candles; scented wax for use in candle warmers; paraffin wax</p> <p>Class 044. First use: First Use: 0 First Use In Commerce: 0 Health spa services, namely, cosmetic body care services, cosmetic skin care services, aromatherapy, manicure and pedicure services, massage services; aesthetician services; beauty consultation services; body waxing services</p>
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Attachments	<p>78360413#TMSN.png( bytes ) 86386811#TMSN.png( bytes ) Opposition with Exhibits.pdf(1138436 bytes )</p>
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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	/KES/
Name	Keith E. Sharkin
Date	10/17/2016

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

In the matter of Application Serial No. 86/974,321  
For the Mark: HAMPTONS SUMMER  
Published in the Official Gazette on August 30, 2016

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: S&G Hampton Sun, LLC, :  
: :  
: Opposer, :  
: :  
: v. :  
: :  
: Ashley Hearst Agron, :  
: :  
: Applicant. :  
: :  
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Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

S & G Hampton Sun, LLC (hereinafter “Opposer”) believes that it will be damaged by registration of the trademark HAMPTONS SUMMER, as shown in Application Serial No. 86/974,321, filed on April 13, 2016 by Ashley Hearst Agron, (“Applicant”), for “Cosmetics; Hair care preparations; Nail polish; Non-medicated skin care preparations” in International Class 3. The application was published for opposition on August 30, 2016.

By and through its attorneys Powley & Gibson, P.C., Opposer obtained an Extension of Time to Oppose in due course, which expires on October 29, 2016. Opposer hereby opposes registration of the trademark HAMPTONS SUMMER on the following grounds:

1. Opposer is a limited liability company organized and existing under the laws of New York with a principal place of business at 241 West 30th Street, 4th Floor, New York, New York 10001.

2. Upon information and belief, Applicant is an individual with an address at 3220 N. Street NW #298, Washington, D.C. 20007.

3. Opposer is the owner of U.S. Trademark Registration No. 3,851,704, filed January 30, 2004 and issued on September 21, 2010, for the mark HAMPTON SUN (“Opposer’s Registration”) in connection with “tanning and sunscreen preparations; sun block; sun care lotion; sun cream; sun tan gel; sun tan lotion; suntan oil; cosmetics and skin care products, namely cream for face, after sun moisture, after sun body cooling spray, sunless tanning gel, after sun cream for face and body, face and body moisturizers, skin lotion, and after sun lotion; hair and body care products, namely body cream and body lotion; cosmetic preparations for body care; facial cream; facial lotion; bathing products, namely bath soaps, bath gels, fragrances for personal use; and room fragrances” in International Class 3.

4. Opposer is also the owner of the prior-filed pending application Serial Number 86/386,811, filed on September 5, 2014 for the mark HAMPTON SUN (“Opposer’s Application”) in connection with “cosmetics and personal care products, namely, shampoo and hair conditioners; bath salts, bath scrubs; body exfoliating scrubs; aromatherapy body oils; non-medicated skin care preparations; room fragrances; home fragrance oils and air fragrancing preparations; passive scent diffusers, namely, air diffusers comprised of a wick and oil in a container used to emit scent by diffusion into the air; cosmetic kits comprised of cosmetics and cosmetic cases” in International Class 3, “candles; scented candles; scented wax for use in candle warmers; paraffin wax” in International Class 4, and “health spa services, namely, cosmetic body care services, cosmetic skin care services, aromatherapy, manicure and pedicure services, massage services; aesthetician services; beauty consultation services; body waxing services” in

International Class 44. A notice of allowance for Opposer's Application issued on April 12, 2016.

5. A copy of records from the Trademark Application and Registration Retrieval ("TARR") system of the United States Patent and Trademark Office ("USPTO") showing records of Opposer's Registration is attached hereto as Exhibit A. A copy of records from the TARR system of the USPTO showing records of Opposer's Application is attached hereto as Exhibit B. (Opposer's Registration and Opposer's Application are sometimes hereinafter collectively referred to as "Opposer's Marks").

6. Opposer's Registration is valid and subsisting, and on September 6, 2016, Opposer's declaration of incontestability was acknowledged by the USPTO; together, this is evidence of Opposer's ownership of the Opposer's Mark, and exclusive and incontestable right to use Opposer's Mark in commerce in connection with the goods in Opposer's Registration.

7. Opposer has used the mark HAMPTON SUN in connection with the sale of the goods described in Opposer's Registration since at least as early as May 1, 2005, has used the mark HAMPTON SUN in connection with the sale of the goods described in Opposer's Registration in interstate commerce since at least as early as May 1, 2005, and such use has been continuous and is ongoing.

8. Opposer has expended substantial effort and expense in promoting Opposer's Mark. As a result, Opposer has developed extensive goodwill with respect to Opposer's Mark, and consumers have come to know, rely upon, and recognize the source of the goods described in Opposer's Registration as originating from a single source, that is, Opposer.

9. On April 13, 2016, Applicant filed Application Serial No. 86/974,321, in the USPTO under Section 1(b) of the United States Trademark Act, seeking to register HAMPTONS

SUMMER (“Applicant’s Mark”) on the Principal Register for “Cosmetics; Hair care preparations; Nail polish; Non-medicated skin care preparations” in International Class 3 (“Applicant’s Goods”).

10. Opposer’s rights in Opposer’s Marks predate and are superior to any rights Applicant has in its intent-to-use application for Applicant’s Mark.

11. Applicant’s Mark so resembles Opposer’s Marks in appearance, sound, and commercial impression and Applicant’s Goods are closely related to the goods listed in Opposer’s Registration and Opposer’s Application, such that, when applied to Applicant’s Goods, would be likely to cause confusion, or to cause mistake, or to deceive consumers. Consumers would mistakenly believe that Applicant’s Goods are associated with, endorsed, or sponsored by Opposer, when such is not the case. Therefore, Applicant’s Mark should not be entitled to registration pursuant to the United States Trademark Act, 15 U.S.C. § 1052(d).

12. Applicant’s Mark is confusingly similar to Opposer’s Mark and would therefore cause a likelihood of confusion between Applicant’s Mark and Opposer’s Mark.

13. Applicant’s Goods are highly similar and/or closely related to the goods listed in Opposer’s Registration and many of the goods in Opposer’s Application.

14. Upon information and belief, Applicant’s Goods will travel in the same channels of trade and will be directed at the same consumers as those looking to purchase the goods listed in Opposer’s Registration and Opposer’s Application once use by Applicant begins.

15. Opposer will be damaged by registration of Applicant’s Mark because such registration will give Applicant prima facie ownership of and the exclusive right to use Applicant’s Mark which is confusingly similar to Opposer’s Marks, in derogation of Opposer’s superior rights in Opposer’s Marks.

16. This Opposition is timely filed and accompanied by the appropriate filing fee.

**WHEREFORE**, Opposer respectfully requests that the registration sought by Applicant be refused, that this Notice of Opposition be sustained, and that the Trademark Trial and Appeal Board grant Opposer such other relief as it deems just and proper.

The required fee of \$300.00 for Opposition against the subject application is enclosed herewith.

Dated: October 17, 2016

Respectfully submitted,

/s/ Keith E. Sharkin  
Robert L. Powley  
James M. Gibson  
Keith E. Sharkin  
David A. Jones

Powley & Gibson, P.C.  
304 Hudson Street, 2<sup>nd</sup> Floor  
New York, New York 10013  
Tel. (212) 226-5054  
Fax. (212) 226-5085  
Attorneys for Opposer

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

In the matter of Application Serial No. 86/974,321  
For the Mark: HAMPTONS SUMMER  
Published in the Official Gazette on August 30, 2016

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: S&G Hampton Sun, LLC :  
: :  
: Opposer, :  
: :  
: -against- :  
: :  
: Ashley Hearst Agron, an individual :  
: :  
: Applicant. :  
: :  
-----X

Opposition No. \_\_\_\_\_

**CERTIFICATE OF SERVICE UNDER 37 C.F.R §2.119**

I hereby certify that on this 17th day of October, 2016, a true and correct copy of the foregoing Notice of Opposition was served on Applicant by United States Postal Service first class mail, postage prepaid, at Applicant's correspondence address on record in the United States Patent and Trademark Office, and via email:

Ashley Hearst Agron  
3220 N. Street NW #298  
Washington, D.C. 20007

uspto@legal-sherpa.com

/s/ David A. Jones  
David A. Jones

# EXHIBIT A



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# HAMPTON SUN

<b>Word Mark</b>	<b>HAMPTON SUN</b>
<b>Goods and Services</b>	IC 003. US 001 004 006 050 051 052. G & S: Tanning and sunscreen preparations; sun block; sun care lotion; sun cream; sun tan gel; sun tan lotion; suntan oil; cosmetics and skin care products, namely, cream for face, after sun moisture, after sun body cooling spray, sunless tanning gel, after sun cream for face and body, face and body moisturizers, skin lotion, and after sun lotion; [ hair and ] body care products, namely, body cream, and body lotion; cosmetic preparations for body care; facial cream; facial lotion; [ bathing products, namely, bath soaps, bath gels, ] fragrances for personal use [ and room fragrances ]. FIRST USE: 20050501. FIRST USE IN COMMERCE: 20050501
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Trademark Search Facility Classification Code</b>	SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons
<b>Serial Number</b>	78360413
<b>Filing Date</b>	January 30, 2004
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B

**Published for Opposition** December 6, 2005

**Registration Number** 3851704

**Registration Date** September 21, 2010

**Owner** (REGISTRANT) Wilfley, Grant S. INDIVIDUAL UNITED STATES 112 McGregor Drive Southhampton NEW YORK 11968

(REGISTRANT) Piazzolla, Salvatore R. INDIVIDUAL UNITED STATES 161 North 7th Street Lindenhurst NEW YORK 11757

(LAST LISTED OWNER) S & G HAMPTON SUN, LLC LIMITED LIABILITY COMPANY NEW YORK 123 WEST 18TH STREET, 8TH FLOOR NEW YORK NEW YORK 10011

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** Robert L. Powley

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR).

**Live/Dead Indicator** LIVE

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# EXHIBIT B



**Published for Opposition** February 16, 2016  
**Owner** (APPLICANT) S&G Hampton Sun, LLC LIMITED LIABILITY COMPANY NEW YORK 4th Floor 241 West 30th Street New York NEW YORK 10001  
**Attorney of Record** Robert L. Powley  
**Prior Registrations** 3851704  
**Type of Mark** TRADEMARK. SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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