



03-21-2003

U.S. Patent & TMOtc/TM Mail Rpt. Dt. #40

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

In the Matter of Application Serial No. 78/125,669  
Published on November 19, 2002

Sealy Technology, L.L.C., )  
 )  
 Opposer, )  
 )  
 v. )  
 )  
 Dynasty Consolidated Industries, Inc., )  
 )  
 Applicant. )

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

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TRADEMARK TRIAL AND APPEAL BOARD

**NOTICE OF OPPOSITION**

Sealy Technology, L.L.C. ("Opposer"), a limited liability company organized and existing under the laws of the State of North Carolina, located and doing business at One Office Parkway, Trinity, North Carolina, 27370, believes that it will be damaged by the registration of the mark shown in the above-identified application and hereby opposes the same.

As grounds of opposition, Opposer alleges that:

1. On May 2, 2002, Applicant, Dynasty Consolidated Industries, Inc. ("Applicant"), filed a United States Trademark Application to register the mark GRAND JEWEL ("Applicant's Mark") and the application was assigned Serial No. 78/125,669 by the United States Patent and Trademark Office (the "Application").

2. Applicant's Application was published for opposition in the November 19, 2002 Official Gazette in respect of the following goods:

Sleep products, namely, mattresses, spring mattresses, box springs, mattress foundations in International Class 020.

The services identified in the Application as set forth above are hereinafter referred to as “Applicant’s Goods.”

3. Opposer is the owner of U.S. Reg. No. 1,422,873 for CROWN JEWEL (the “CROWN JEWEL Mark”) for mattresses and boxsprings (“Opposer’s Goods”).

4. Since at least as early as 1986, Opposer and its predecessors-in-interest have used the CROWN JEWEL Mark in commerce in connection with mattresses and boxsprings. The aforesaid registration is valid and subsisting on the Principal Register and is incontestable under 15 U.S.C. §1065.

5. Opposer is the owner of U.S. Reg. No. 2,625,354 for SEALY POSTUREPEDIC CROWN JEWEL (the “SEALY POSTUREPEDIC CROWN JEWEL Mark”) for pillows, comforters, feather beds and mattress pads (also “Opposer’s Goods”).

6. Since at least as early as 1998, Opposer and its predecessors-in-interest have used the SEALY POSTUREPEDIC CROWN JEWEL Mark in commerce in connection with pillows, comforters, feather beds and mattress pads. The aforesaid registration is valid and subsisting on the Principal Register.

7. The CROWN JEWEL Mark and the SEALY POSTUREPEDIC CROWN JEWEL Mark (“Opposer’s Marks”) distinguish Opposer’s Goods from the products of others.

8. Applicant’s Mark is confusingly similar to Opposer’s Marks and is likely to cause confusion or to cause mistake or to deceive the public.

9. Opposer will be damaged and irreparably injured if registration is granted to Applicant for Applicant's Mark.

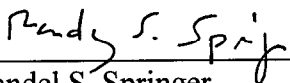
10. For the reasons set forth above, registration of Applicant's Mark should be denied.

A duplicate copy of this Notice is enclosed. The Commissioner is hereby authorized to charge the required fee of \$300 to Deposit Account No. 50-0517. The Commissioner is also hereby authorized to charge any deficiency in the payment of the required fee or credit any overpayment to Deposit Account No. 50-0517.

WHEREFORE, Opposer respectfully prays that the registration sought by Applicant be refused and that this opposition be sustained in favor of Opposer.

This the 19<sup>th</sup> day of March, 2003.

WOMBLE CARLYLE SANDRIDGE & RICE  
*A Professional Limited Liability Company*

  
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**Certificate of Mailing**

I hereby certify that the foregoing Notice of Opposition is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to the Commissioner for Trademarks, United States Patent and Trademark Office, Box TTAB, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on the 19<sup>th</sup> day of March, 2003.

Lauri A. Ricci