

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Gruber Systems, Inc.

Opposer

v.

Honeywell International Inc.

Applicant

Mark: SOLURE

Opposition No. _____

Serial No.: 78/232,975

Filed: April 2, 2003

Box TTAB
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

NOTICE OF OPPOSITION

Gruber Systems, Inc., a California corporation, having a principal place of business at 25636 Avenue Stanford, Valencia, California 91355 ("Opposer"), believes it will be damaged by registration of the above-identified application and hereby opposes the same.

As grounds for its Opposition, Opposer alleges:

1. On September 11, 2001, Opposer obtained Registration No. 2,489,020 on the mark SOLURE for sinks and sinks with integrally molded tops, bathtubs, shower enclosures, tub enclosures and lavatories, in Class 11, for preformed integrated vanity top and bowl unit, nonstructural building material namely counter tops and vanity tops and furniture parts, namely counter tops, vanities and bowls lavatory countertops, and kitchen countertops, in Class 20, claiming first use anywhere in October 1999 and first use in commerce in January 2000. A copy is enclosed.

2. Applicant filed its application to register SOLURE on December 18, 2003, for synthetic fibers, in Class 22, based on an Intent-to-Use (no actual use claimed). This

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application Serial No. 78/232,975 was approved for publication on September 11, 2003, and published for opposition on November 11, 2003.

3. Thus, Opposer has been using its mark SOLURE on its products since at least October 1999.

4. As a result of the substantial use and promotion of Opposer's mark on its goods continuously in commerce since at least January 2000, Opposer's mark has incurred considerable goodwill.

5. In view of the fact that the marks are exact, and the fact that the same customers for Opposer's are likely to purchase Applicant's goods, such use confusion is likely to cause confusion, or cause mistake or to deceive.

6. Opposer sells a wide variety of products to those in the building and construction industry, including small merchants, individuals, large companies, etc. It sells adhesives to its customers used in the solid surface industry. Among its products are silicones, protective film, waxes, clays, tape, buffing pads, buffing bricks, buffing tubes, cotton wipes, etc. It is conceivable that these products may be sold to the same type of purchasers as Applicant's synthetic fibers.

7. Further, Opposer has used its Solure mark on a wide variety of its products and expansion of the use of Solure to its remaining products, such as those listed in paragraph 6, is highly likely.

8. Opposer is entitled to expand the use of its Solure mark and is presently considering such expansion into retail stores offering bathroom products, plumbing fixtures, specialty towels, wallpapers, throw rugs, bathroom rugs, small carpets, and related products. Certain of these products maybe be made of synthetic fibers.

9. The customers for Opposer's goods at present and in the future may be commercial establishments and non-residential consumers. Use of Opposer's Solure marks on its goods, and use of Applicant's Solure mark on synthetic fibers, will cause confusion in the minds of the public as to the source of the goods.

10. Applicant's counsel orally advised Opposer's counsel that Applicant's goods are yarns sold by Applicant to commercial carpet manufacturers who would make carpets using the yarn material bearing the name "Solure". Such carpets would then be sold to non-residential customers. However, as indicated in paragraph, Opposer is likely to expand its current use of its Solure mark into related bathroom and kitchen products, including, inter alia, rugs and carpets made of synthetic fibers offered to non-residential customers. This is a likely area of expansion of Opposer's use. A non-residential customer of Opposer purchasing a Solure bathroom rug or carpet from Opposer would be confused by the sale of rugs or carpets using the name Solure by Applicant or its carpet manufacturers.

11. Opposer's mark is a famous mark in the cast polymer production industry due to Opposer use and extensive advertising over the years and Applicant's use of Opposer's mark would dilute Opposer's rights in its mark.

For these reasons, Opposer would be damaged by the registration of Applicant's Solure Application No. 78/232,975.

WHEREFORE, Opposer respectfully requests that registration of application Serial No. 78/232,975 be refused.

Opposer hereby request that the Petition fee required by 37 C.F.R. 2.6(a) be charged to Deposit Account No. 50-2638.

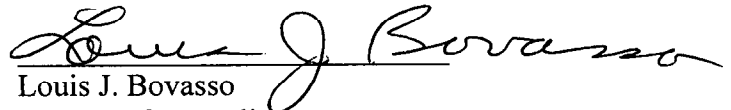
TRADEMARK

Attorney Client No. 70001-015200

The Commissioner is hereby authorized to charge any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 50-2638.

Respectfully submitted,

Dated: Jan 28, 2004


Louis J. Bovasso
Attorney for Applicant

Greenberg Traurig, LLP
2450 Colorado Avenue, Suite 400
Santa Monica, California 90404
Telephone: 310-586-7700
Facsimile: 310-586-7800

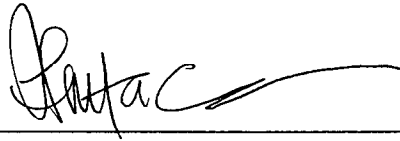
Enclosure: Trademark Registration No. 2,489,020

CERTIFICATE OF MAILING

A copy of the foregoing paper was mailed by first class mail to:

David A. Cohen
HONEYWELL INTERNATIONAL, INC.
101 Columbia Road
Morristown, NJ 07962

On this 28th day of January, 2004

A handwritten signature in black ink, appearing to read "Anita Chou", written over a horizontal line.

Anita Chou

GREENBERG
ATTORNEYS AT LAW
TRAURIG

TTAB

TRADEMARK
Attorney Client No. 70001-015200

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Applicant Filed: April 2, 2003

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02-02-2004

U.S. Patent & TMOfr/TM Mail Rcpt Dt. #22

CERTIFICATE OF MAILING VIA FIRST CLASS MAIL

Date of Deposit: January 28, 2004

I hereby certify that the accompanying:

1. Notice of Opposition (in triplicate)
2. Certificate of Mailing to Applicant
3. Return Prepaid Postcard

are being deposited with the United States Postal Service First Class Mail, postage prepaid, addressed to the Commissioner for Trademarks, Box TTAB, 2900 Crystal Drive, Arlington, VA 22202-3513." service under 37 CFR 1.8(b) on the date indicated above.

Date:

1/28/04

By:



Anita Chou

Greenberg Traurig, LLP
2450 Colorado Avenue, Suite 400
Santa Monica, California 90404
Telephone: 310-586-7700
Facsimile: 310-586-7800