

ESTTA Tracking number: **ESTTA15161**

Filing date: **09/15/2004**

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	World Sleep Products, Inc.
Granted to Date of previous extension	09/15/2004
Address	World Sleep Products, Inc. 12 Esquire Road North Billerica, MA 01862 UNITED STATES

Attorney information	Renee Inomata BURNS & LEVINSON LLP 125 Summer Street Boston, MA 02110 UNITED STATES RInomata@BURNSLEV.com, MThompson@Burnslev.com, APareti@Burnslev.com Phone:617-345-3000
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Applicant Information

Application No	76494263	Publication date	05/18/2004
Opposition Filing Date	09/15/2004	Opposition Period Ends	09/15/2004
Applicant	Dreamwell, Ltd.		

Goods/Services Affected by Opposition

Class 020. First Use: 20030612 First Use In Commerce: 20030612
All goods and services in the class are opposed, namely: Mattresses and boxsprings

Attachments	00870487.pdf (3 pages)
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Signature	/s/ Renee Inomata
Name	Renee Inomata
Date	09/15/2004

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

_____)	
)	
World Sleep Products, Inc.)	<i>In the matter of:</i>
)	
v.)	Application Serial No. 76494263
)	Mark: BEAUTYPEDIC
Dreamwell, Ltd.)	
)	
)	
_____)	

NOTICE OF OPPOSITION

In the matter of an application for registration of the mark BEAUTYPEDIC for mattresses and boxsprings in International Class 20, Application Serial No. 76494263 as filed 03 March 2003 by Dreamwell, Ltd. Of Las Vegas, Nevada (hereinafter Applicant), and published on 18 May 2004, World Sleep Products, Inc. (hereinafter Opposer), a corporation of the state of Massachusetts, having a principal place of business at 12 Esquire Road, North Billerica, Massachusetts, 01862, believes it would be damaged by such registration and hereby opposes same.

The grounds for the opposition are as follows:

1. Prior to the date of filing of this application for the above identified services, Opposer had been issued U.S. Trademark Registration No. 2,841,062 for the mark BODIPEDIC for mattresses and boxsprings.
2. Opposer's products as presented in the registration comprise mattresses and boxsprings as presented in U.S. Trademark Registration No. 2,841,062. These goods of

Opposer are directly related to the mattresses and boxsprings proffered by Applicant under its BEAUTYPEDIC mark.

3. Applicant's BEAUTYPEDIC mark is substantially similar to the Opposer's distinctive BODIPEDIC mark and would be viewed by the consuming public as directly related to the mattresses and boxsprings presented in the BEAUTYPEDIC application in issue.

4. Based upon Opposer's prior constructive use rights in the BODIPEDIC mark for mattresses and boxsprings since on or before 1 November 2002, the use of the substantially similar mark BEAUTYPEDIC by Applicant for mattresses and boxsprings, will be likely to cause confusion, or to deceive consumers of such goods in the mistaken belief that the goods of Applicant emanate from, or are proffered by, or are rendered under the Opposer's approval, sponsorship, or control, all to the great damage of Opposer and the consuming public.

5. WHEREBY, Opposer respectfully prays that the mark sought to be registered by Applicant be refused and the Notice of Opposition sustained.

Please recognize Renee Inomata, Merton Thompson, and the firm of Burns & Levinson LLP, 125 Summer Street, Boston, MA 02110, as attorneys for Opposer.

Please withdraw the amount of \$300.00 in payment of the required filing fee and any other associated required fees from our Deposit Account No. 502383.

WORLD SLEEP PRODUCTS, INC.

By its attorney:

Dated: 15 September 2004

/s/ Merton Thompson
Renee Inomata
Merton Thompson
Burns & Levinson LLP
125 Summer Street
Boston, MA 02110
(617) 345-3000

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