ESTTA Tracking number: **ESTTA151645**

Filing date: **07/18/2007**

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	Dial Brands Holding, Inc.
Granted to Date of previous extension	07/18/2007
Address	15501 North Dial Boulevard Scottsdale, AZ 85260 UNITED STATES

Attorney information	Theodore H. Davis Jr., Sheila R. Garber Kilpatrick Stockton LLP 1100 Peachtree Street Suite 2800 Atlanta, GA 30309 UNITED STATES tdavis@kilpatrickstockton.com, sgarber@kilpatrickstockton.com, tmadmin@kilpatrickstockton.com, lkemp@kilpatrickstockton.com Phone:404-815-6500

Applicant Information

Application No	76651843	Publication date	03/20/2007
Opposition Filing Date	07/18/2007	Opposition Period Ends	07/18/2007
Applicant	J&J TECHNOLOGY, LLC One American Center 3100 West End Avenue Suite 450 Nashville, TN 37203 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. All goods and sevices in the class are opposed, namely: Cleaning products, namely, exterior wood cleaner for decks, fences, lawn furniture, and buildings, interior wood and floor cleaner, aluminum and vinyl siding cleaner, concrete and asphalt cleaner, mold and mildew cleaner, multi purpose cleaner for household, commercial and industrial use, all purpose degreasing preparations not for use in manufacturing processes for use in the household, commercial and industrial fields, house wash, super metal polish, cleaning products for vehicles, namely, waterless car wash preparations, cleaning preparations for use on marine vehicles, carpet cleaners, floor cleaners, spot and spray cleaners for clothing and fabrics
Class 005. All goods and sevices in the class are opposed, namely: Preparations to destroy mold and mildew; house wash, namely, preparations to destroy mildew and algae; environmentally friendly insecticides for domestic and/or agricultural use

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1380041	Application Date	07/16/1985
Registration Date	01/28/1986	Foreign Priority Date	NONE
Word Mark	RENUZIT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1970/00/00 First Use In Commerce: 1970/00/00 AIR FRESHENERS		

Attachments	Notice of Opp 76751843.pdf (4 pages)(145865 bytes)

Signature	/Sheila R. Garber/
Name	Sheila R. Garber
Date	07/18/2007

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

DIAL BRANDS INC., Opposer,	)	
	)	Opposition No._____
v.	)	Serial No.: 76/651,843
J&J TECHNOLOGY, LLC, Applicant.	)	

NOTICE OF OPPOSITION

Opposer, Dial Brands Inc. ("Opposer" or "Dial"), an Arizona corporation with a principal place of business located at 15501 North Dial Boulevard, Scottsdale, Arizona 85260, will be damaged by registration of the mark RENUIT RESCUE shown in application Serial No. 76/651,843 and states the following grounds under 15 U.S.C. § 1063 and 37 C.F.R. §§ 2.101 and 2.104 for its opposition to that application:

1. Dial is the owner the mark RENUZIT, which it continuously has used in connection with air fresheners since at least as early as 1970.

2. Dial owns an incontestable federal registration for the mark RENUZIT (Reg. No. 1,380,041).

3. By virtue of continuous and extensive sales and advertising of the RENUZIT mark in connection with air fresheners, Dial's RENUZIT mark is widely and favorably known to the public throughout the United States.

4. Dial's RENUZIT mark is symbolic of the substantial goodwill and consumer recognition established by Dial as a result of the extensive sales and promotion of the RENUZIT

products sold throughout the United States for many years. Dial has expended large amounts of money, time, and effort in advertising and promoting its goods under the RENUZIT mark. Because of Dial's extensive use and advertising of the RENUZIT mark and resulting favorable public recognition of it, Dial's RENUZIT mark uniquely identifies Dial and its products to the public and Dial has established extensive common law rights in the RENUZIT mark.

5. There has been no unauthorized third-party use of Dial's RENUZIT mark or any closely similar marks.

6. As a result of Dial's longstanding, extensive, and exclusive use of the RENUZIT mark in connection with air fresheners, the RENUZIT mark has become famous and readily associated with Dial by the relevant public.

7. Applicant J&J Technology, LLC ("Applicant") filed an intent-to-use application, Serial No. 76/651,843, on December 8, 2005 to register the trademark RENUIT RESCUE ("Applicant's Mark"). Applicant's Mark is intended to be used with:

> cleaning products, namely, exterior wood cleaner for decks, fences, lawn furniture, and buildings, interior wood and floor cleaner, aluminum and vinyl siding cleaner, concrete and asphalt cleaner, mold and mildew cleaner, multi purpose cleaner for household, commercial and industrial use, all purpose degreasing preparations not for use in manufacturing processes for use in the household, commercial and industrial fields, house wash, super metal polish, cleaning products for vehicles, namely, waterless car wash preparations, cleaning preparations for use on marine vehicles, carpet cleaners, floor cleaners, spot and spray cleaners for clothing and fabrics

in International Class 3 and "preparations to destroy mold and mildew; house wash, namely, preparations to destroy mildew and algae; environmentally friendly insecticides for domestic and/or agricultural use" in International Class 5.

8. Dial continuously has used its RENUZIT mark since long prior to the filing date of Applicant's intent-to-use application.

9. Applicant's Mark is closely similar in appearance to Dial's RENUZIT mark. The salient element of Applicant's Mark – RENUIT – is almost identical in appearance and pronunciation to Dial's RENUZIT mark.

10. Applicant's Mark is intended to be used with closely similar goods that fall within the same category of goods as the goods Dial offers under its RENUZIT mark.

11. Dial will be damaged by the registration of Applicant's Mark because the mark so resembles Dial's previously used RENUZIT mark as to be likely to cause consumer confusion, mistake and deception. Consumers familiar with Dial's RENUZIT mark would be likely to believe erroneously that Applicant's goods are products of Dial or are endorsed, sponsored, or licensed by Dial. Thus, registration of Applicant's Mark would be inconsistent with Dial's rights in its RENUZIT mark.

12. Dial will further be damaged by registration of Applicant's Mark because the mark is likely to dilute the distinctiveness of Dial's famous and well-known RENUZIT mark by eroding consumers' exclusive identification of the RENUZIT mark with Dial, tarnishing or degrading the positive associations and connotations of the RENUZIT mark, or otherwise lessening the capacity of the RENUZIT mark to identify and distinguish the goods of Dial.

13. Payment of the $600 filing fee accompanies this notice of opposition. The Director is authorized to debit Kilpatrick Stockton LLP's Deposit Account No. 11-0860 for any deficiency in the required fee.

For the forgoing reasons, Dial requests that application Serial No. 76/651,843 be refused registration.

Dated: July 18, 2007

Respectfully Submitted:

Sheila R. Garber

Theodore H. Davis Jr.
Sheila R. Garber

KILPATRICK STOCKTON LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4530
(404) 815-6500
Attorneys for Opposer
Dial Brands Inc.