

ESTTA Tracking number: **ESTTA167501**

Filing date: **10/09/2007**

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	AQUATROLS CORPORATION OF AMERICA
Granted to Date of previous extension	10/07/2007
Address	1273 IMPERIAL WAY PAULSBORO, NJ 08066 UNITED STATES
Correspondence information	TERESA C. TUCKER ATTORNEY OF RECORD GROSSMAN, TUCKER, PERREault & PFLEGER, PLLC 55 SOUTH COMMERCIAL STREET Manchester, NH 03101 UNITED STATES jhobbs@gtpp.com Phone:603.668.6560

Applicant Information

Application No	78772267	Publication date	04/10/2007
Opposition Filing Date	10/09/2007	Opposition Period Ends	10/07/2007
International Registration No.	NONE	International Registration Date	NONE
Applicant	2077333 Ontario Inc. 121 Earl Thompson Road Ayre, N0B 1E0 CANADA		

Goods/Services Affected by Opposition

Class 001. All goods and services in the class are opposed, namely: Lawn Fertilizers

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2949183	Application Date	06/09/2003
Registration Date	05/10/2005	Foreign Priority Date	NONE
Word Mark	REVOLUTION		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 001. First use: First Use: 2004/09/01 First Use In Commerce: 2004/09/01 SURFACTANT FOR USE IN SOIL-WATER MANAGEMENT TO PROMOTE UNIFORM MOVEMENT OF WATER IN THE SOIL

Attachments	76524713#TMSN.gif (1 page)(bytes) HLLB001.Opposition10.9.07.pdf (3 pages)(23749 bytes)
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Signature	/TcT/
Name	TERESA C. TUCKER
Date	10/09/2007

Grossman, Tucker, Perreault & Pflieger, PLLC

55 S. Commercial Street

Manchester, NH 03101

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Attorney for Opposer

Teresa C. Tucker

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

Aquatrols Corporation of America, a Delaware Corporation Opposer, vs. 2077333 Ontario Inc., a Canada Corporation Applicant

Opposition No. _____

NOTICE OF OPPOSITION

Application Serial No.

78772267

Mark: REVOLUTION

International Class 01

Opposer, Aquatrols Corporation of America, located and doing business at 1273 Imperial Way, Paulsboro, NJ 08066, believes that it will be damaged by the registration of the mark shown in Serial No. 78772267 and hereby opposes the same.

As grounds for this Opposition, it is alleged that:

OPPOSER'S MARK

1. Opposer is the owner of the mark "REVOLUTION" and variations thereof, as shown in Federal Trademark Registration No. 2949183.

2. The above referenced registrations, each owned by Opposer, constitutes prima facie evidence of Opposer's ownership of the mark "REVOLUTION."

3. Opposer heavily relies on the REVOLUTION mark in its business, including without

limitation, on its products, and in its advertising, and has built up a significant amount of goodwill in its REVOLUTION mark through its many years of continuous use.

4. Opposer has used the REVOLUTION mark shown in Registration No. 2949183 since at least as early as September 1, 2004 in connection with the goods identified in that registration, namely, “surfactant for use in soil-water management to promote uniform movement of water in the soil,” as well as related goods and services.

APPLICANT’S APPLICATION

5. On information and belief, on December 13, 2005 Applicant 2077333 Ontario Inc. filed an application with the United States Patent and Trademark Office for TURF REVOLUTION, assigned Serial No. 78772267 (the “Applicant’s Proposed Mark”), in Class 01, for the following goods: “lawn fertilizers,” which goods are similar and closely related to Opposer’s goods.

6. Applicant’s Proposed Mark comprises Opposer’s mark, “REVOLUTION,” in its entirety.

7. Applicant’s application indicates a filing date for Applicant’s Proposed Mark of December 13, 2005, and a priority date of July 6, 2005, both of which are subsequent to Opposer’s filing date of June 9, 2003 and subsequent to Opposer’s first use of September 1, 2004. Thus, Opposer is the senior user.

LIKELIHOOD OF CONFUSION

8. Opposer alleges that there is a likelihood of confusion between Opposer’s REVOLUTION and Applicant’s Proposed Mark, given the similar use and primary focus on the words “REVOLUTION.” Consumers are likely to be confused or misled into believing that Applicant’s “TURF REVOLUTION” are goods being offered by Opposer.

9. The likelihood of confusion between Opposer’s REVOLUTION mark and Applicant’s Proposed Mark is furthered by the similarity of the parties’ goods.

10. Applicant’s application for Applicant’s Proposed Mark was filed in Class 01 for

lawn fertilizers, which services are similar and closely related to the goods offered by Opposer under its REVOLUTION mark. Both parties' goods are related to turfs or lawns and both parties' goods may be used in the field of turf care and maintenance.

11. Upon information and belief, there is also a similarity between the parties' respective channels of trade, which are the professional and retail/commercial turf sectors, and targeted customers, who are looking for lawn care products and which customers may be in the field of turf maintenance.

12. This likelihood of confusion harms the extensive goodwill and consumer recognition that Opposer has in the REVOLUTION mark.

13. In view of the similarity of Applicant's Proposed Mark and Opposer's REVOLUTION, Applicant's Proposed Mark so resembles Opposer's marks as to be likely to cause confusion, mistake and/or deception.

WHEREFORE, Opposer prays that application Serial No. 78772267 be refused, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

RESPECTFULLY SUBMITTED this 9th day of October, 2007.

REVOLUTION, INC.

By ___/tct/_____

Teresa C. Tucker

Attorney for Opposer

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