Trademark Trial and Appeal Board Electronic Filing System. http://estta.uspto.gov

ESTTA Tracking number: **ESTTA172129**

Filing date: **10/31/2007**

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	S. C. Johnson & Son, Inc.
Granted to Date of previous extension	11/11/2007
Address	1525 Howe Street Racine, WI 53403 UNITED STATES

Attorney information	Jody H. Drake; Gary D. Krugman Sughrue Mion, PLLC 2100 Pennsylvania Ave., NW Washington, DC 20037-3213 UNITED STATES kdaniels@sughrue.com

Applicant Information

Application No	78862724	Publication date	05/15/2007
Opposition Filing Date	10/31/2007	Opposition Period Ends	11/11/2007
Applicant	DIAL BRANDS, INC. M.S. 2214 15501 North Dial Boulevard Scottsdale, AZ 852601619 UNITED STATES		

Goods/Services Affected by Opposition

Class 011.
All goods and services in the class are opposed, namely: electric dispensers for air fresheners and deodorizers to be plugged into wall outlets; dispensing units for air fresheners; air purifiers.

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	WHOLE ROOM FRAGRANCE		
Goods/Services	air freshener/deodorizer products		

Attachments	78-862724 Opposition.pdf (3 pages)(216832 bytes)

Signature	/Gary D. Krugman/
Name	Jody H. Drake; Gary D. Krugman
Date	10/31/2007

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

Application Serial No. 78/862,724
Mark: WHOLE ROOM FRESHNESS

S. C. Johnson & Son, Inc.,	
Opposer,	
v.	Opposition No. _____
Dial Brands, Inc.,	
Applicant.	

NOTICE OF OPPOSITION

S. C. Johnson & Son, Inc., a Wisconsin corporation with a business address of 1525 Howe Street, Racine, Wisconsin 53403-2236, hereby opposes registration of the mark WHOLE ROOM FRESHNESS, which is the subject of Application Serial No. 78/862,724.

As grounds in support of this opposition, opposer alleges as follows:

1. Opposer, S. C. Johnson & Son, Inc., is a Wisconsin corporation with a business address of 1525 Howe Street, Racine, Wisconsin 53403-2236.

2. Opposer, for many years, has been in the business of manufacturing and selling air freshener and deodorizer products, among other things.

3. On April 17, 2006, applicant filed an application for registration of the term WHOLE ROOM FRESHNESS for goods described as electric dispensers for air fresheners and deodorizers to be plugged into wall outlets; dispensing units for air fresheners; air purifiers. This

application was assigned Serial No. 78/862,724 and was filed based on applicant's bona fide intention to use the mark in commerce in connection with the goods set forth in the application.

4. Opposer believes and asserts that the term WHOLE ROOM FRESHNESS, as applied to the goods identified in applicant's Application Serial No. 78/862,724, is merely descriptive of those goods for purposes of Section 2(e)(1) of the Trademark Act.

5. Opposer, by virtue of its being in the business of manufacturing and selling air fresheners and deodorizer products, including many products encompassed by the goods covered in applicant's application, is in a position to use the term WHOLE ROOM FRESHNESS descriptively in its ordinary descriptive sense in connection with its air freshener and deodorizer products.

6. As a separate and independent ground for opposition, Opposer, since at least 2004, has continuously used the mark WHOLE ROOM FRAGRANCE to identify its air freshener/deodorizer products. This use is earlier than any date of first use upon which Applicant can rely.

7. If the Board determines that the term WHOLE ROOM FRESHNESS is not a merely descriptive designation, then Applicant's mark WHOLE ROOM FRESHNESS so resembles Opposer's previously used mark WHOLE ROOM FRAGRANCE so as to be likely, when applied to Applicant's goods, to cause confusion, mistake or deception for purposes of Section 2(d) of the Trademark Act.

WHEREFORE, the registration of the WHOLE ROOM FRESHNESS mark by applicant will damage opposer in that registration granted to applicant will interfere with opposer's right to use the term in its ordinary descriptive sense. Opposer therefore prays that the opposition be sustained and registration to applicant be refused.

Respectfully submitted,

S. C. JOHNSON & SON, INC.

By: _____

Jody H. Drake
Gary D. Krugman
Attorneys for Opposer
SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213
Telephone: (202) 293-7060

Date: October 31, 2007