

ESTTA Tracking number: **ESTTA207016**

Filing date: **04/24/2008**

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	Liberty Diversified Industries, Inc.
Granted to Date of previous extension	04/30/2008
Address	5600 North Highway 169 Minneapolis, MN 55428 UNITED STATES

Attorney information	Kyle T. Peterson Patterson, Thunte, Skaar & Christensen, P.A. 80 South 8th Street, Suite 4800 Minneapolis, MN 55402 UNITED STATES trademark@ptslaw.com Phone:612-252-1554
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Applicant Information

Application No	77257429	Publication date	01/01/2008
Opposition Filing Date	04/24/2008	Opposition Period Ends	04/30/2008
Applicant	Corporate Express US Inc. One Environmental Way Broomfield, CO 80021 UNITED STATES		

Goods/Services Affected by Opposition

Class 020. All goods and services in the class are opposed, namely: Chairs

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. Application No.	77404902	Application Date	02/25/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	POISE		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 020. First use: First Use: 2005/03/01 First Use In Commerce: 2005/03/01 Chairs
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Attachments	77404902#TMSN.jpeg (1 page)(bytes) Poise NOA.pdf (5 pages)(170575 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Kyle T. Peterson/
Name	Kyle T. Peterson
Date	04/24/2008

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

Liberty Diversified Industries, Inc.,)	
)	
Opposer,)	
)	Opposition No. _____
v.)	Serial No.: 77/257,429
)	Mark: POISE
Corporate Express US Inc.)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer, Liberty Diversified Industries, Inc., believes that it will be damaged by grant of registration of "POISE" for "chairs" in International Class 20 as shown in Application Serial No. 77/257,429, filed on April 18, 2007 by Corporate Express US Inc. ("Applicant"), and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is a corporation organized and existing under the laws of Minnesota having an address at 5600 North Highway 169, Minneapolis, MN 55428.
2. Since at least as early as 2005, and for years prior to August 16, 2007, the filing date of Application Serial No. 77/257,429, Opposer has been using the mark POISE in connection with chairs.
3. Opposer is the owner of Application Serial No. 77/404,902 for the mark POISE filed on February 25, 2008 for "chairs" in International Class 20.

4. For several years, and prior to the filing date and the priority date claimed in Application Serial No. 77/257,429, Opposer has made significant efforts and expended significant sums of money to develop and promote its POISE mark.

5. As a result of such considerable promotion and development, and Opposer's use of its POISE mark, Opposer's POISE mark as acquired and currently possesses a favorable reputation reflected in a substantial amount of goodwill which is owned by Opposer.

6. Upon information and belief, Applicant Corporate Express US Inc. is a Colorado corporation having its principal place of business at One Environmental Way, Broomfield, Colorado.

7. Applicant filed Application 77/257,429 based on an intent to use the mark in commerce. Upon information and belief, no use has been alleged in the Application.

8. Applicant's Mark and Opposer's Mark are identical and the goods for which Applicant seeks to register POISE are substantially related to the goods sold in connection with Opposer's POISE mark.

9. The U.S. Trademark Office has suspended Opposer's Application 77/404,902 pending the disposition of Applicant's Application 77/257,429 because it may be cited against Opposer's Application, "in a refusal to register under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d).

10. In view of the foregoing, Opposer believes that Applicant's use and registration of POISE is likely to cause in the minds of the purchasing public the erroneous and false impression and inference that Opposer is in some manner responsible for, has sponsored, approved or

endorsed Applicant's goods or that Applicant is in some way associated or connected with Opposer.

11. The Application should be refused registration since Opposer's Mark was in use by Opposer prior to the dates of filing the Application.

12. The refusal should be (*inter alia*) pursuant to Section 2 of the Trademark Act of 1946 as amended (15 U.S.C. §1052).

14. If a registration is issued to Applicant, such registration could be deemed to evidence a prima facie exclusive right to the mark POISE. Applicant is not entitled to use of the mark POSIE because of Opposer's prior lawful use of the mark POISE.

14. Registration of Applicant's Mark will further damage Opposer by causing the trade and/or the purchasing public to believe that Applicant has a right superior to that of Opposer and that Applicant's quality represents the quality of Opposer's goods; this will place a cloud on Opposer's title to its POISE mark.

WHEREFORE, Opposer asks that its opposition to this application be sustained and that the registration of the term POISE set forth therein be refused. Please direct all correspondence to the attention of:

Kyle T. Peterson
Patterson, Thuente, Skaar & Christensen, P.A.
80 South 8th Street, Suite 4800
Minneapolis, MN 55402-2100
Phone: (612) 349-5740
Fax: (612) 349-9266

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Mark: POISE
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Opposer hereby appoints; Eric H. Chadwick, Aaron W. Davis, Thomas G. Dickson, Irene Eckert, Matthew T. Macari, James H. Patterson, Brad D. Pedersen and Ryan E. Strom as its attorneys with the full power to represent the Opposer in connection with this proceeding.

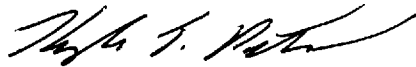
Please charge any excess fees to Deposit Account No. 16-0631 of Opposer's counsel noted above.

Respectfully submitted,

LIBERTY DIVERSIFIED INDUSTRIES, INC.

By its attorneys,

Dated: April 24, 2008



Kyle T. Peterson
PATTERSON, THUENTE, SKAAR
& CHRISTENSEN, P.A.
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80 South Eighth Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 349-5740
Facsimile: (612) 349-9266

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Mark: POISE
U.S. Applic. No.: 77/257,429

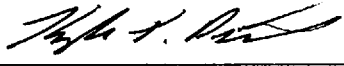
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served, via first-class mail, postage prepaid, on Sabrina C. Stavish, this 24th day of April, 2008.

Sabrina C. Stavish
Sheridan Ross, P.C.
1560 Broadway Ste 1200
Denver, CO 80202-5145

Date: April 24th, 2008



Kyle T. Peterson