

ESTTA Tracking number: **ESTTA223617**

Filing date: **07/11/2008**

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	Champion Window Manufacturing and Supply, LLC
Granted to Date of previous extension	07/19/2008
Address	12121 Champion Way Cincinnati, OH 45241 UNITED STATES
Correspondence information	William S. Wyler Attorney of Record 441 Vine Street 2900 Carew Tower Cincinnati, OH 45202 UNITED STATES wwyler@smrslaw.com Phone:513-579-1414

### Applicant Information

Application No	77360853	Publication date	05/20/2008
Opposition Filing Date	07/11/2008	Opposition Period Ends	07/19/2008
Applicant	Hytec II Collision Centers, Inc. 11195 Dixie Highway Birch Run, MI 48415 UNITED STATES		

### Goods/Services Affected by Opposition

Class 037. All goods and services in the class are opposed, namely: Plate glass installation and repair services
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### Grounds for Opposition

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

U.S. Registration No.	3039140	Application Date	04/05/2004
Registration Date	01/10/2006	Foreign Priority Date	NONE
Word Mark	COMFORT 365		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 019. First use: First Use: 2004/02/23 First Use In Commerce: 2004/02/23 Insulated glass sold as an integral component of non-metal doors, windows and patio enclosures
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U.S. Registration No.	3373431	Application Date	07/21/2005
Registration Date	01/22/2008	Foreign Priority Date	NONE
Word Mark	COMFORT 365 WINDOWS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 019. First use: First Use: 2007/08/01 First Use In Commerce: 2007/08/01 Goods, namely, non-metal pre-made windows, containing insulated glass		

U.S. Registration No.	3373432	Application Date	07/21/2005
Registration Date	01/22/2008	Foreign Priority Date	NONE
Word Mark	COMFORT 365 DOORS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 019. First use: First Use: 2007/08/01 First Use In Commerce: 2007/08/01 Goods, namely, non-metal pre-made doors, containing insulated glass		

Attachments	76585595#TMSN.gif ( 1 page )( bytes ) 76643331#TMSN.gif ( 1 page )( bytes ) 76643332#TMSN.gif ( 1 page )( bytes ) Champion Opposition Hytec II Collision Centers.pdf ( 3 pages )(20060 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	/william s. wyler/
Name	William S. Wyler
Date	07/11/2008

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

In the matter of the Application Serial No. 77360853  
Filed on the 28<sup>th</sup> day of December, 2007  
For the mark 365 GLASS  
Published in the Official Gazette on May 20, 2008

Champion Window Manufacturing  
and Supply LLC  
12121 Champion Way  
Cincinnati, Ohio 45241

Opposer

v.

Hytec II Collision Centers, Inc.  
11195 Dixie Highway  
Birch Run, Michigan 48415

Applicant

Opposition No. \_\_\_\_\_

To The Commissioner for Trademarks  
P.O. Box 1451  
Alexandria VA 22313-1451

NOTICE OF OPPOSITION

To the Commissioner:

1. The Opposer in this matter is Champion Window Manufacturing and Supply, LLC, located at 12121 Champion Way, Cincinnati, Ohio 45241, a Delaware limited liability company.
2. The Applicant is identified as Hytec II Collision Centers, Inc. (“Hytec”), located at 11195 Dixie Highway, Birch Run, Michigan 48415, a Michigan corporation.
3. Opposer is the owner of a federally registered mark for COMFORT 365 (Registration No. 3039140), for which the goods and services are described as, “Insulted glass as an

integral component of non-metal doors, windows and patio enclosures,” in International Class 019.

4. Opposer is the owner of a federally registered mark for COMFORT 365 WINDOWS (Registration No. 3373431), for which the goods and services are described as, “non-metal pre-made windows containing insulated glass,” in International Class 019.
5. Opposer is the owner of a federally registered mark for COMFORT 365 DOORS (Registration No. 3373432), for which the goods and services are described as, “non-metal pre-made doors containing insulated glass,” in International Class 019.
6. Applicant’s application for registration of 365 GLASS (Serial No.77/360-853), describes the goods identified by the mark as, “Plate glass installation and repair services,” in international class 020.
7. The Opposer believes that it will be damaged by the registration of the mark in the above-identified application and hereby opposes same.
8. The Applicant’s mark was published for opposition in the Official Gazette on May 5, 2008.
9. Opposer requested and received an extension of time from the TTAB to file the within opposition until July 19, 2008.
10. The specific grounds for Opposer’s opposition are as follows:
  - a. The Applicant’s mark creates a substantial likelihood of confusion or mistake, in the minds of consumers, as to the source of the goods and services (15 USC 1052(d)).
  - b. The Applicant’s mark creates a false suggestion of a connection with the Opposer (15 USC 1052 (a)).

Wherefore, Opposer asks that Applicant be denied registration of the mark sought to be registered in the application serial no. 77/360-853 and that Applicant pay such costs as may be accrued in the within action.

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William S. Wyler (Ohio reg. No. 0006441)  
Hallie L. Schneider (Ohio reg. No. 0076510)  
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441 Vine Street  
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Attorneys for Plaintiff

#### CERTIFICATE OF SERVICE

The forgoing pleading was duly served upon Applicant Hytec II Collision Centers, Inc., 11195 Dixie Highway, Birch Run, Michigan 48415, by regular U. S. Mail on the \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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William S. Wyler  
Hallie L. Schneider