

ESTTA Tracking number: **ESTTA263261**

Filing date: **01/28/2009**

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	Cooper Wiring Devices, Inc.
Granted to Date of previous extension	01/28/2009
Address	600 Travist St.Suite 5800 Houston, TX 77002 UNITED STATES

Attorney information	Jill A. McWhirter King & Spalding LLP 1100 Louisiana Suite 4000 Houston, TX 77002 UNITED STATES jmcwhirter@kslaw.com, cstone@kslaw.com, cduval@kslaw.com, kcarmony@kslaw.com Phone:713-751-3200
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Applicant Information

Application No	77278929	Publication date	09/30/2008
Opposition Filing Date	01/28/2009	Opposition Period Ends	01/28/2009
Applicant	Vantage Controls, Inc. 1061 South 800 East Orem, UT 84097 UNITED STATES		

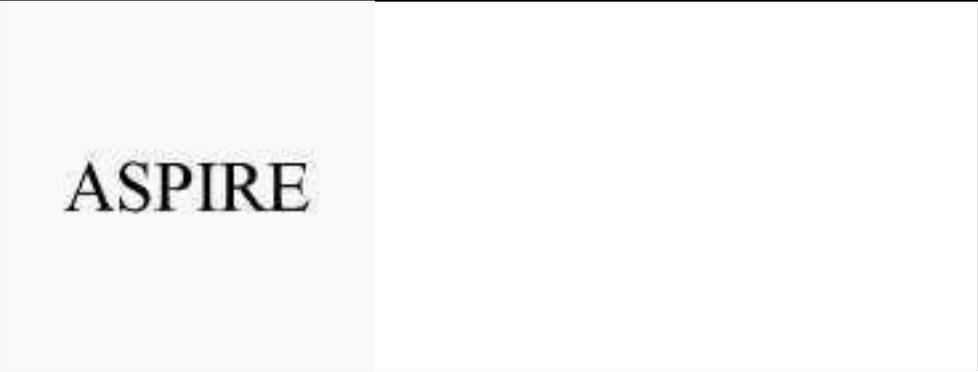
Goods/Services Affected by Opposition

<p>Class 009. All goods and services in the class are opposed, namely: Electrical and electronic devices in the field of building automation systems, namely, building automation controllers, keypads, remote controls, RS-232 stations, thermostat stations, relay stations, input stations, output stations, dimmer stations, LCD control stations, relay modules, dimming modules, remote infra-red receivers, wireless transceivers, and modems for operating building automation systems, building access and security systems, environmental control systems, water systems, audio/video systems, and building amenities; and computer programs for use in monitoring and controlling building automation systems; and parts and fittings for all the aforesaid goods</p>
<p>Class 011. All goods and services in the class are opposed, namely: Lighting fixtures</p>

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.	78363313	Application Date	02/05/2004
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ASPIRE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: Electrical products and wiring devices, namely, electrical switches, receptacles, electric light and fan dimmers, electric light and fan slide dimmers, ground fault circuit interrupters, coaxial connectors and wallplates for electrical outlets and switches, all for installation in homes or buildings; telecommunication connectors, namely, modular jacks, coaxial cables, telephone jacks, category 5 cables, and cable television plug connectors, all for installation in homes or buildings</p> <p>Class 011. First use: Electrical products, namely, lighting fixtures and related lighting products, namely, ceiling receptacles in the nature of a fixture for bulbs and turn knobs for turning on lighting fixtures</p>		

Attachments	78363313#TMSN.jpeg (1 page)(bytes) Notice of Opposition Against ENSPIRE Ser. No. 77278929.pdf (6 pages) (61935 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	/Craig Stone/
Name	Craig E. Stone
Date	01/28/2009

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

COOPER WIRING DEVICES, INC.	§	OPPOSITION NUMBER
	§	
	§	
Opposer,	§	<hr/>
	§	
v.	§	
	§	
VANTAGE CONTROLS, INC.	§	In the matter of Application
	§	Serial No. 77/278,929
Applicant.	§	For the mark: ENSPIRE
	§	Published: September 30, 2008

NOTICE OF OPPOSITION

Cooper Wiring Devices, Inc. (“Opposer”), a New York corporation located and doing business at 600 Travis, Suite 5800, Houston, Texas 77002, believes it is and will continue to be damaged by registration of the alleged mark ENSPIRE (“Applicant’s Alleged Mark”) for “Electrical and electronic devices in the field of building automation systems, namely, building automation controllers, keypads, remote controls, RS-232 stations, thermostat stations, relay stations, input stations, output stations, dimmer stations, LCD control stations, relay modules, dimming modules, remote infra-red receivers, wireless transceivers, and modems for operating building automation systems, building access and security systems, environmental control systems, water systems, audio/video systems, and building amenities; and computer programs for use in monitoring and controlling building automation systems; and parts and fittings for all the aforesaid goods,” in International Class 9 and “Lighting fixtures,” in International Class 11 (collectively, “Applicant’s Goods”), which has been assigned Application Serial No.

77/278,929 (the “Application”), filed September 13, 2007 and published for opposition in the Official Gazette on September 30, 2008. By and through its attorneys, Opposer hereby opposes registration of the Application.

The grounds for this Opposition are as follows:

1. Applicant seeks to register Applicant’s Alleged Mark on the Principal Register for Applicant’s Goods. The Application is based on intent to use, and therefore has yet to be claimed.
2. Since at least as early as September 2004, Opposer has continuously used and extensively promoted the trademark ASPIRE throughout the United States in connection with a wide variety of electrical and lighting products.
3. Opposer owns all right, title and interest in and to U.S. Trademark Application No. 78/363,313 for the mark ASPIRE (the “Application”), which was filed on February 5, 2004 in connection with “Electrical products and wiring devices, namely, electrical switches, receptacles, electric light and fan dimmers, electric light and fan slide dimmers, ground fault circuit interrupters, coaxial connectors and wallplates for electrical outlets and switches, all for installation in homes or buildings; telecommunication connectors, namely, modular jacks, coaxial cables, telephone jacks, category 5 cables, and cable television plug connectors, all for installation in homes or buildings,” in International Class 9 and “Electrical products, namely, lighting fixtures and related lighting products,

namely, ceiling receptacles in the nature of a fixture for bulbs and turn knobs for turning on lighting fixtures,” in International Class 11 (collectively, “Opposer’s Goods”).

4. Applicant’s Alleged Mark is phonetically and visually identical and creates the same commercial impression as compared to Opposer’s Mark as shown below:

ASPIRE	ENSPIRE
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5. Opposer’s ASPIRE mark enjoys a high degree of recognition throughout the United States and among consumers generally.

6. As a result of the widespread and extensive use by Opposer of the ASPIRE mark, and the goodwill created by use of the mark in connection with Opposer’s Goods, the ASPIRE mark is of great value to Opposer.

7. Since prior to Applicant’s use and filing of Applicant’s Alleged Mark, products bearing Opposer’s ASPIRE mark have been widely offered for sale, sold through, and have appeared in numerous retail outlets and different channels of trade in the United States.

8. Upon information and belief, no party, other than Opposer, owns or is using any mark, that is the same as, or is substantially similar to Opposer’s ASPIRE mark, in connection with goods similar to those of the Opposer in the United States.

9. Upon information and belief, Applicant is unable to establish priority of use or priority rights to that of Opposer's ASPIRE mark in the United States in connection with Applicant's Alleged Mark.

10. Upon information and belief, Applicant's Goods and Opposer's Goods overlap to a substantial degree and may be offered, at least in part, to the same, substantially the same, or related classes of purchasers in the United States.

11. Upon information and belief, Applicant's Goods and Opposer's Goods may appear in the same, or substantially similar channels of trade in the United States.

12. Upon information and belief, Applicant's Alleged Mark, when used in connection with Applicant's Goods, so resembles the ASPIRE mark as to cause a likelihood of confusion, cause mistake, or deceive with respect to the source of the origin of Applicant's Goods.

13. Upon information and belief, consumers are likely to mistakenly believe that Opposer is connected to, gives sponsorship of, or is otherwise affiliated with the quality and nature of Applicant's Goods.

14. Opposer would be irreparably damaged by the registration of Applicant's Alleged Mark because such registration would constitute prima face evidence of Applicant's exclusive right to use Applicant's Alleged Mark for and in connection with Applicant's

Goods, which would be inconsistent with and detrimental to Opposer's prior, established, and superior rights in the ASPIRE mark.

WHEREFORE, Opposer respectfully prays that the Application of Vantage Controls, Inc., Serial No. 77/278,929, be refused registration for the alleged mark ENSPIRE in International Classes 9 and 11, and that no registration be issued to Applicant, and that this opposition be sustained in favor of Opposer.

The U.S. Patent and Trademark Office and Trademark Trial and Appeal Board is authorized to deduct the filing fees of six hundred dollars (\$600.00) for opposing two classes in this Notice of Opposition, and any other additional fees necessary in connection with the filing of this Opposition from the deposit account of KING & SPALDING LLP, Opposer's undersigned counsel, account number 503786 (PTO Customer ID No. 59081).

Date: January 28, 2009

Respectfully submitted,



Jill A. McWhirter
Craig E. Stone
Attorneys for Opposer
Cooper Wiring Devices, Inc.

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Houston, Texas 77002-5213
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CERTIFICATE OF TRANSMISSION

I hereby certify that the foregoing Notice of Opposition is being transmitted to the United States Patent and Trademark Office through the Electronic System for Trademark Trials and Appeals (“ESTTA”) on the date indicated below:

Dated: January 28, 2009



Craig E. Stone
An Attorney for Opposer

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Opposition on behalf of Cooper Wiring Devices was served upon Counsel for Applicant on the date indicated below by depositing a true and correct copy thereof with the United States Postal Service as Certified Return Receipt, postage prepaid, addressed to:

BASAM E. NABULSI, ESQ.
MCCARTER & ENGLISH, LLP
185 ASYLUM STREET CITYPLACE I
HARTFORD, CT 06103-3495

Dated: January 28, 2009



Craig E. Stone
An Attorney for Opposer