

ESTTA Tracking number: **ESTTA414215**

Filing date: **06/13/2011**

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 | Flame & Wax, Inc. | | |
| Entity | Corporation | Citizenship | California |
| Address | 20761 Canada Road Lake Forest, CA 92630 UNITED STATES | | |

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|----------------------|--|--|--|
| Attorney information | Amanda J. Mooney Burkhalter Kessler Goodman & George LLP 2020 Main Street Suite 600 Irvine, CA 92614 UNITED STATES uspto@bkgglaw.com Phone:949.975.7500 | | |
|----------------------|--|--|--|

Applicant Information

| | | | |
|------------------------|---|------------------------|------------|
| Application No | 85137006 | Publication date | 05/17/2011 |
| Opposition Filing Date | 06/13/2011 | Opposition Period Ends | 06/16/2011 |
| Applicant | Laguna Candles 3038 Mountain View Drive Laguna Beach, CA 92651 UNITED STATES | | |

Goods/Services Affected by Opposition

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| Class 004. First Use: 2003/10/17 First Use In Commerce: 2003/10/17 All goods and services in the class are opposed, namely: Candles and fragrant candles |
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Grounds for Opposition

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| The mark is merely descriptive | Trademark Act section 2(e)(1) |
| The mark is primarily geographically descriptive | Trademark Act section 2(e)(2) |
| Genericness | Trademark Act section 23 |

| | |
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| Attachments | Notice of Opposition.pdf (4 pages)(140681 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 | /Amanda Mooney/ |
| Name | Amanda J. Mooney |
| Date | 06/13/2011 |

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

FLAME & WAX, INC.

Opposer

v.

LAGUNA CANDLES

Applicant.

Application Serial No. 85/137,006

Published on May 17, 2011

NOTICE OF OPPOSITION

In the matter of the application of Laguna Candles (“Applicant”) for registration of the mark LAGUNA CANDLES in International Class 04 for “candles and fragrant candles,” Application Serial No. 85/137,006, published for opposition on May 17, 2011, Flame & Wax, Inc. (“Opposer”), believing that it will be damaged by registration of the trademark, hereby opposes such application.

As grounds for opposition, Opposer alleges as follows:

1. Opposer is a well known manufacturer of luxury candles and other home fragrance products under the mark VOLUSPA.
2. Applicant’s alleged LAGUNA CANDLES mark consists of matter which, when applied to Applicant’s goods, is merely descriptive, primarily geographically descriptive, or generic in violation of 15 U.S.C. §1052(e).

3. The primary significance of Applicant's mark is "Laguna", which is a term commonly used to refer to the generally known geographic location, Laguna Beach, California.

4. The term "candle" is a generic term used to identify the goods sold by Applicant.

5. Applicant's application to register LAGUNA CANDLES disclaims the term "candles."

6. When viewed as a whole, the mark is simply a sum of its generic parts, "Laguna" and "candles." "Laguna candles" are simply candles made or sold in Laguna Beach, CA and do not identify and distinguish a single source.

7. Applicant, Laguna Candles, is located in Laguna Beach, California and their goods are sold in their retail establishment in Laguna Beach, California.

8. Purchasers would be likely to believe that Applicant's goods originate in the geographic place identified in the mark.

9. If Applicant is permitted to register and use the alleged mark LAGUNA CANDLES, Opposer would be damaged because a registration gives Applicant the *prima facie* exclusive right to use its alleged mark, which could impair Opposer's rights to use these terms.

In view of the foregoing allegations, Applicant is not entitled to registration of its alleged mark because it not entitled to the exclusive use of the terms LAGUNA CANDLES.

WHEREFORE, Opposer prays that Application Serial No. 85/137,006 be rejected, that no registration be issued thereon to Applicant, and that this opposition be

sustained in favor of Opposer.


Opposer hereby appoints Burkhalter Kessler Goodman & George LLP to act as its attorneys with full power to prosecute this opposition, to transact all relevant business in the Patent and Trademark Office, and to receive all communications with respect to this opposition.

DATED this 13th day of June 2011.

Respectfully submitted,

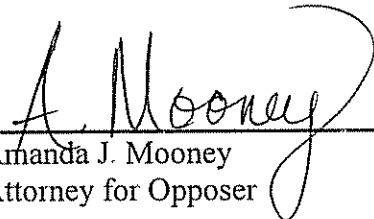
BURKHALTER KESSLER GOODMAN & GEORGE LLP

By: _____


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CERTIFICATE OF ELECTRONIC FILING

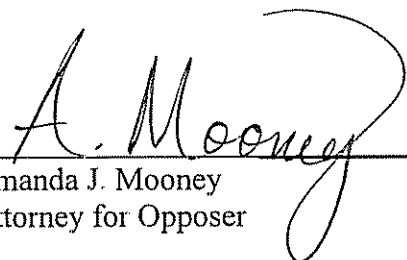
I hereby certify that the attached NOTICE OF OPPOSITION was filed electronically with the Trademark Trial and Appeal Board on June 13, 2011.

By: 
Amanda J. Mooney
Attorney for Opposer

CERTIFICATE OF SERVICE

I certify that a true and complete copy of the attached NOTICE OF OPPOSITION has been served on Applicant by mailing said copy on June 13, 2011, via First Class Mail, postage prepaid to the Applicant's correspondence address listed in the TARR system on this date, as follows:

Kevin Matthew Welch
The Law Office of Kevin M. Welch
P.O. Box 494
Hermosa Beach, CA 90254

By: 
Amanda J. Mooney
Attorney for Opposer