

ESTTA Tracking number: **ESTTA535576**

Filing date: **05/01/2013**

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	CareFusion 2200, Inc.
Granted to Date of previous extension	05/01/2013
Address	3750 Torrey View Court San Diego, CA 92130 UNITED STATES

Attorney information	Joseph R. Dreitler Dreitler True, LLC 137 E. State St. Columbus, OH 43215 UNITED STATES jdreitler@ustrademarklawyer.com, mtrue@ustrademarklawyer.com, ttrofino@ustrademarklawyer.com Phone:614-545-6354
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Applicant Information

Application No	85669918	Publication date	01/01/2013
Opposition Filing Date	05/01/2013	Opposition Period Ends	05/01/2013
Applicant	AIRLIFE CHILE S.A. Av. Ricardo Lyon no. 967 Providencia, CHILE		

Goods/Services Affected by Opposition

<p>Class 037. All goods and services in the class are opposed, namely: Installation of ionization apparatus for the treatment of air, namely, air purifying apparatus for industrial and commercial use, of appliances and machines for air purification, namely, air purification units for industrial and commercial use, of electric air heaters, of devices as apparatus for air cooling, of air sterilizers, of filters for air conditioning (AC), of air conditioning installations, of air filtering installations, and of hot air space heating apparatus; Maintenance and/or repair of ionization apparatus for the treatment of air, namely, air purifying apparatus for industrial and commercial use, of appliances and machines for air purification, namely, air purification units for industrial and commercial use, of electric air heaters, of devices as apparatus for air cooling, of air sterilizers, of filters for air conditioning (AC), of air conditioning installations, of air filtering installations, and of hot air space heating apparatus</p>
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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. Registration No.	3150546	Application Date	01/11/2005
Registration Date	10/03/2006	Foreign Priority Date	NONE
Word Mark	AIRLIFE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 1986/01/01 First Use In Commerce: 1986/01/01 Respiratory therapy products, namely, nebulizers, oxygen masks, oxygen tubing, connectors, nasal cannulas, oxygen catheters, tracheostomy masks, aerosol masks, drainage bags, spirometers and parts and accessories therefore Class 011. First use: First Use: 1986/01/01 First Use In Commerce: 1986/01/01 Humidifiers		

Attachments	CF2200 v AirLife Chile SA - Notice of Opposition - Final.pdf (12 pages)(275675 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	/Joseph R. Dreitler/
Name	Joseph R. Dreitler
Date	05/01/2013

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

IN THE MATTER OF Trademark Application Serial Nos. 85669918

DATE OF PUBLICATION: January 1, 2013

CareFusion 2200, Inc.,

Opposer,

Opposition No.: _____

v.

AIRLIFE CHILE S.A.

Applicant.

NOTICE OF OPPOSITION

CareFusion 2200, Inc., (hereinafter referred to as “CareFusion”), a Delaware corporation having a principal place of business at 3750 Torrey View Court, San Diego, California 92130, believes that they will be damaged by registration of the below identified trademark application:

- 1) Airlife – Ser. No. 85669918 for Installation of ionization apparatus for the treatment of air, namely, air purifying apparatus for industrial and commercial use, of appliances and machines for air purification, namely, air purification units for industrial and commercial use, of electric air heaters, of devices as apparatus for air cooling, of air sterilizers, of filters for air conditioning (AC), of air conditioning installations, of air filtering installations, and of hot air space heating apparatus; Maintenance and/or repair of ionization apparatus for the treatment of air, namely, air purifying apparatus for industrial and commercial use, of appliances and machines for air purification, namely, air purification units for industrial and commercial use, of

electric air heaters, of devices as apparatus for air cooling, of air sterilizers, of filters for air conditioning (AC), of air conditioning installations, of air filtering installations, and of hot air space heating apparatus, filed July 6, 2012 and published on January 1, 2013;

(hereinafter collectively referred to as “Application”), in the name of Airlife Chile S.A. (hereinafter referred to as “Applicant”), and hereby opposes registration of the same under the provisions of *Section 13 of the Trademark Act of July 5, 1946, 15 U.S.C. § 1063*.

As grounds therefor, it is alleged that:

1. CareFusion and its affiliates and related companies and predecessors in business, (all hereinafter collectively referred to as “Opposer”), has been using the term Airlife in the U.S. since January 1986 in connection with the promotion, sale, and use of respiratory therapy products, namely, nebulizers, oxygen masks, oxygen tubing, connectors, nasal cannulas, oxygen catheters, tracheostomy masks, aerosol masks, drainage bags, spirometers and parts and accessories therefore in Class 10 and humidifiers in Class 11.

2. Opposer is the owner of the trademark Airlife, the United States Trademark Registration thereof, and the goodwill symbolized by the trademark and the registration thereof, as follows:

a) Airlife - Registration No. 3150546, registered October 3, 2006, for Class 10 respiratory therapy products, namely, nebulizers, oxygen masks, oxygen tubing, connectors, nasal cannulas, oxygen catheters, tracheostomy masks, aerosol masks, drainage bags, spirometers and parts and accessories therefore; and Class 11 humidifiers.

A copy of the above registration number with TESS and Assignment print-outs, showing record

title in Opposer, are attached as Exhibit A.

3. The certificate of registration identified in paragraph 2 is valid and subsisting; the certificate of registration is *prima facie* evidence of the validity of the registration, the Opposer's ownership of the mark, and the Opposer's exclusive right to use the mark in commerce in connection with the goods specified in the certificate of registration under the provisions of 15 U.S.C. § 1057(b), and constructive notice of the Opposer's claim of ownership under 15 U.S.C. § 1072. Registration No. 3150546 is incontestable, which provides conclusive evidence of its validity, Opposer's ownership of the mark and Opposer's exclusive right to use the mark in commerce under 15 U.S.C. § 1115(b).

4. Opposer and Applicant are competitors in the marketplace for the sale of apparatus used to clean air and improve breathing and related products.

5. Opposer's Airlife mark and Applicant's application for Airlife ("Applicant's Airlife Mark") are identical in sound, meaning and appearance.

6. The Airlife trademark has been extensively marketed and publicized and has become famous throughout the United States in connection with the goods covered by the registration.

7. Upon information and belief, there are no restrictions in the goods description of Applicant's Application, so that it must be presumed that Applicant's Airlife Mark goods are offered to and used by the same customers who would also be in the market for and use Opposer's Airlife products.

8. Upon information and belief, Applicant's Airlife Mark goods are or would be advertised, marketed, promoted and provided through the same channels of trade, are or would be advertised in the same types of publications as Opposer's Airlife trademark, and are or would be sold to the same classes of the purchasing public for use by or on the same consumers as Opposer's Airlife products.

9. The designation Airlife which the Opposer seeks to register is identical to Opposer's Airlife trademark, in sound and appearance, and users and potential customers will believe that Applicant's Airlife goods are connected with, affiliated with or endorsed by the owner of the Airlife trademark, or that the Applicant's Airlife goods are new lines of goods of Opposer.

10. Opposer has spent, and continues to spend, large sums of money in the advertisement, marketing, promotion and sale of its goods identified and distinguished by its Airlife trademark, and by reason of such advertising, promotion, marketing and the high quality of its products and services carrying the Airlife trademark, Opposer now enjoys a valuable goodwill and an enviable reputation with respect to its Airlife trademark and products.

11. The trademark Airlife has attained widespread public recognition and has acquired great value in its identification as a trademark and of the source of goods in or by Opposer and its distributors, and the said Airlife trademark distinguishes Opposer and its goods from the goods of others.

12. The use and registration of the Airlife trademark by the Applicant will cause the purchasing public and those who use or are familiar with Opposer's goods to assume, erroneously, and to be confused, misled and/or deceived, that the Applicant's Airlife mark and

goods are made by or originate with, are licensed by, endorsed or sponsored by, or are in some other way associated or connected with Opposer, all to Opposer's great injury and irreparable damage.

13. For the reasons set forth in paragraphs 1 through 12, Opposer believes, and in so believing asserts, that the goodwill in its distinctive Airlife trademark will be damaged under *Section 2(d)* and that the Applicant's application for the mark Airlife should be denied.

14. By reason of the foregoing, Applicant's application of Airlife is likely to cause confusion with the Opposer's trademark for related products, and is thus not registrable under *Section 13 of the Trademark Act of 1946 (15 U.S.C. § 1063)*.

WHEREFORE, Opposer prays that this Opposition be sustained and that Application Serial No. 85/669918 for Applicant's trademark Airlife be refused registration.

The fee of \$300.00 for this Opposition, as provided by *Sections 13 and 31 of the Trademark Act of 1946*, is paid by charging Opposer's attorneys' credit card.

Please recognize Joseph R. Dreitler and Mary R. True, both members of the Bar of the State of Ohio, as its attorneys to prosecute this Notice of Opposition and to transact all business in the Patent and Trademark Office in connection herewith. Please address all communications to: Joseph R. Dreitler, c/o Dreitler True, LLC, 137 E. State St., Columbus, OH 43215, (614) 545-6354.

Dated: May 1, 2013

Respectfully submitted,

/Joseph R. Dreitler/

Joseph R. Dreitler

Mary R. True

DREITLER TRUE, LLC

137 E. State St

Columbus, OH 43215

Telephone: (614) 545-6354

Counsel for Opposer

CAREFUSION 2200, INC.

Attachments – 2

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being filed electronically through on-line TTAB filing systems, ESTTA on May 1, 2013.

/Joseph R. Dreitler/
Joseph R. Dreitler

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served via e-mail upon arturo@perezguerrero.com and via regular U.S. Mail this 1st day of May, 2013 upon the following listed counsel of record, according to the TARR Website:

Address of Record:

Arturo Pérez-Guerrero
Law Offices of Arturo Pérez-Guerrero
P.O. Box 9024163
San Juan, Puerto Rico 00902-4163

Signed: /Joseph R. Dreitler/
Joseph R. Dreitler

Exhibit A

**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Wed May 1 02:29:10 EDT 2013

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IC 011. US 013 021 023 031 034. G & S: Humidifiers. FIRST USE: 19860101. FIRST USE IN COMMERCE: 19860101

Standard Characters Claimed**Mark Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 78545378**Filing Date** January 11, 2005**Current Basis** 1A**Original Filing Basis** 1A**Published for Opposition** July 11, 2006**Registration Number** 3150546**Registration Date** October 3, 2006**Owner** (REGISTRANT) ALLEGIANCE CORPORATION CORPORATION DELAWARE 1430 Waukegan Road, KB-1A McGaw Park ILLINOIS 60085

(LAST LISTED OWNER) CAREFUSION 2200, INC. CORPORATION DELAWARE 3750 TORREY VIEW COURT SAN

DIEGO CALIFORNIA 92130

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Joseph R. Dreitler

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Live/Dead Indicator LIVE

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[Assignments on the Web](#) > [Trademark Query](#)**Trademark Assignment Abstract of Title****Total Assignments: 1****Serial #:** [78545378](#)**Filing Dt:** 01/11/2005**Reg #:** [3150546](#)**Reg. Dt:** 10/03/2006**Registrant:** ALLEGIANCE CORPORATION**Mark:** AIRLIFE**Assignment: 1****Reel/Frame:** [4098/0144](#)**Received:** 11/18/2009**Recorded:** 11/18/2009**Pages:** 8**Conveyance:** ASSIGNS THE ENTIRE INTEREST**Assignor:** [ALLEGIANCE CORPORATION](#)**Exec Dt:** 08/03/2009**Entity Type:** CORPORATION**Citizenship:** NONE**Entity Type:** CORPORATION**Citizenship:** DELAWARE**Assignee:** [CAREFUSION 2200, INC.](#)

3750 TORREY VIEW COURT

SAN DIEGO, CALIFORNIA 92130

Correspondent: CPA GLOBAL

LIBERATION HOUSE

CASTLE STREET

ST. HELIER, JE1 1BL JERSEY

Search Results as of: 05/01/2013 04:26 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.3.2
Web interface last modified: July 10, 2012 v.2.3.2