

ESTTA Tracking number: **ESTTA580665**

Filing date: **01/08/2014**

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	Wing, LLC		
Entity	Limited liability company	Citizenship	Colorado
Address	P.O. Box 427 Clifton, CO 81502 UNITED STATES		

Attorney information	Sheila Fox Morrison Davis Wright Tremaine LLP 1300 SW Fifth Avenue, Suite 2400 Portland, OR 97201 UNITED STATES sheilafoxmorrison@dwt.com, PDXTrademarks@dwt.com, catherinemaxson@dwt.com, kristinecalhoun@dwt.com Phone:(503) 778-5311		
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**Applicant Information**

Application No	85849937	Publication date	12/10/2013
Opposition Filing Date	01/08/2014	Opposition Period Ends	01/09/2014
Applicant	Lift Vapor LLC 1010 Wethersfield Avenue Hartford, CT 06114 CT		

**Goods/Services Affected by Opposition**


Class 030. First Use: 2013/02/07 First Use In Commerce: 2013/02/07 All goods and services in the class are opposed, namely: Chemical flavorings in liquid form used to refill electronic cigarette cartridges
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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. Application No.	85361839	Application Date	07/01/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	LIFT		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 011. First use: First Use: 0 First Use In Commerce: 0 Electric vaporizers

U.S. Application No.	85367677	Application Date	07/11/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	LIFT		
Design Mark			
Description of Mark	The mark consists of the stylized word "LIFT" and a stylized drawing that blends features of three feathers and three leaf blades.		
Goods/Services	Class 011. First use: First Use: 0 First Use In Commerce: 0 Electric vaporizers		

Attachments	85361839#TMSN.jpeg( bytes ) 85367677#TMSN.jpeg( bytes ) Notice of Opposition.pdf(362267 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	/Catherine E. Maxson/
Name	Catherine E. Maxson
Date	01/08/2014



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

WING, LLC, a Colorado limited liability  
company,

Opposer,

v.

LIFT VAPOR LLC, a Connecticut limited  
liability company,

Applicant.

Opposition No.

Application Serial No. 85/849,937

NOTICE OF OPPOSITION

TO THE COMMISSIONER FOR TRADEMARKS  
TRADEMARK TRIAL AND APPEAL BOARD:

Wing, LLC, a Colorado limited liability company with a mailing address of P.O. Box 427, Clifton, Colorado 81502 (hereinafter "Opposer"), believes that it will be damaged by registration of the trademark shown in Application Serial No. 85/849,937, in International Class 30, and hereby opposes the same. A copy of the TESS record associated with the application that is the subject of this opposition proceeding is attached as Exhibit A. As grounds for the opposition, Opposer alleges as follows:

1           1.       On information and belief, Lift Vapor LLC is a Connecticut limited liability  
2 company with an address of 1010 Wethersfield Avenue, Hartford, Connecticut 06114  
3 (hereinafter "Applicant").

4           2.       Opposer is the owner of U.S. Trademark Application Serial No. 85/361,839, for  
5 the mark LIFT, for electric vaporizers, in International Class 11. A copy of this application is  
6 attached as Exhibit B. Opposer's application was filed on July 1, 2011, prior to Applicant's  
7 February 14, 2013 filing date for Application Serial No. 85/849,937, giving Opposer priority  
8 pursuant to 15 U.S.C. § 1057(c).

9           3.       Opposer is the owner of U.S. Trademark Application Serial No. 85/367,677, for  
10 the mark LIFT & Design, for electric vaporizers, in International Class 11. A copy of this  
11 application is attached as Exhibit C. Opposer's application was filed on July 11, 2011, prior to  
12 Applicant's February 14, 2013 filing date for Application Serial No. 85/849,937, giving Opposer  
13 priority pursuant to 15 U.S.C. § 1057(c).

14           4.       Opposer has a bona fide intention to use the LIFT and LIFT & Design marks, as  
15 presented in Opposer's applications referenced in Paragraphs 2 and 3 above, in conjunction with  
16 electric vaporizers.  
17

18           5.       The mark LIFTVAPOR & Design, shown in Application Serial No. 85/849,937,  
19 so resembles Opposer's marks LIFT and LIFT & Design, as to be likely, when used in  
20 association with the goods claimed by Application Serial No. 85/849,937, to cause confusion, or  
21 to cause mistake, or to deceive within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C.  
22 § 1052(d).  
23

24           6.       Opposer will be damaged by the registration sought by Applicant insofar as the  
25 registration will be *prima facie* evidence of the validity of the registration, Applicant's ownership  
26  
27

1 of the mark LIFTVAPOR & Design for the goods claimed by Application Serial No. 85/849,937,  
2 and Applicant's exclusive right to use the mark LIFTVAPOR & Design in association with the  
3 goods claimed by Application Serial No. 85/849,937, when, in fact, Applicant is not entitled to  
4 the full scope of such rights by virtue of Opposer's priority in the marks LIFT and LIFT &  
5 Design, for electric vaporizers, which are or will be sold in the same channels of trade in which  
6 the goods claimed by Application Serial No. 85/849,937 are or may be sold.

7  
8 7. Based upon the foregoing, registration of the mark shown by Application Serial  
9 No. 85/849,937 is likely to cause injury and damage to Opposer.

10 WHEREFORE, Opposer respectfully requests that registration of the mark LIFTVAPOR  
11 & Design, as shown by Application Serial No. 85/849,937, be denied under Section 2(d) of the  
12 Lanham Act, 15 U.S.C. § 1052(d), and that this Opposition be sustained.

13 Please charge the filing fee of US \$300.00 to Deposit Account No. 04-0258 of Opposer's  
14 counsel noted below.

15 Please direct all correspondence to Sheila Fox Morrison of Davis Wright Tremaine LLP  
16 at the following address:  
17

18 Sheila Fox Morrison, Esq.  
19 Davis Wright Tremaine LLP  
20 1300 SW Fifth Avenue, Suite 2400  
21 Portland, Oregon 97201-5610

22 Please direct all telephone calls to Sheila Fox Morrison at (503)778-5311.

23 DATED this 8th day of January, 2014.

24 Davis Wright Tremaine LLP  
25 Attorneys for Wing, LLC

26 By s/Catherine E. Maxson  
27 Catherine E. Maxson  
Sheila Fox Morrison  
Davis Wright Tremaine LLP

1300 SW Fifth Avenue, Suite 2400  
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**CERTIFICATE OF FILING**

I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application Serial No. 85/849,937 for the mark LIFTVAPOR & Design is being filed with the Trademark Trial and Appeal Board using the ESTTA filing system of the U.S. Patent and Trademark Office on the below date.

Date: January 8, 2014 s/Catherine E. Maxson

**CERTIFICATE OF SERVICE**

I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application Serial No. 85/849,937 for the mark LIFTVAPOR & Design is being duly served upon the Applicant and on Applicant's counsel by mailing copies thereof via the U.S. Postal Service in sealed envelopes as first-class mail with postage thereupon fully prepaid and addressed to each of the following addresses:

Lift Vapor LLC  
1010 Wethersfield Avenue  
Hartford, CT 06114

And to:

Jeremy Blackowicz  
Day Pitney LLP  
One International Place Floor 16  
Boston, MA 02110-3179

Date: January 8, 2014 s/Kristine Calhoun



**EXHIBIT A**



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**Word Mark** LIFTVAPOR  
**Goods and Services** IC 030. US 046. G & S: Chemical flavorings in liquid form used to refill electronic cigarette cartridges. FIRST USE: 20130207. FIRST USE IN COMMERCE: 20130207  
**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS  
**Design Search Code** 01.15.08 - Raindrop (a single drop); Single drop (rain, tear, etc.); Teardrop (a single drop)  
**Serial Number** 85849937  
**Filing Date** February 14, 2013  
**Current Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** December 10, 2013  
**Owner** (APPLICANT) Lift Vapor LLC LIMITED LIABILITY COMPANY CONNECTICUT 1010 Wethersfield Avenue Hartford CONNECTICUT 06114  
**Attorney of Record** Jeremy Blackowicz  
**Description of Mark** The color(s) dark gray, light gray, blue and teal is/are claimed as a feature of the mark. The mark consists of the words "LIFTVAPOR" with "LIFT" in dark gray and "VAPOR" in light gray with a tear drop in blue and teal appearing in between the letters "L" and "I".  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**EXHIBIT B**



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**LIFT**

<b>Word Mark</b>	LIFT
<b>Goods and Services</b>	IC 011. US 013 021 023 031 034. G & S: Electric vaporizers
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85361839
<b>Filing Date</b>	July 1, 2011
<b>Current Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	November 29, 2011
<b>Owner</b>	(APPLICANT) wing, llc LIMITED LIABILITY COMPANY COLORADO P.O. Box 427 Clifton COLORADO 81502
<b>Attorney of Record</b>	Sheila Fox Morrison
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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<b>Word Mark</b>	LIFT
<b>Goods and Services</b>	IC 011. US 013 021 023 031 034. G & S: Electric vaporizers
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	03.17.02 - Feathers 05.03.08 - More than one leaf, including scattered leaves, bunches of leaves not attached to branches
<b>Serial Number</b>	<b>85367677</b>
<b>Filing Date</b>	July 11, 2011
<b>Current Basis</b>	1B
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	November 29, 2011
<b>Owner</b>	(APPLICANT) wing, llc LIMITED LIABILITY COMPANY COLORADO P.O. Box 427 Clifton COLORADO 81502
<b>Attorney of Record</b>	Sheila Fox Morrison
<b>Description of Mark</b>	Color is not claimed as a feature of the mark. The mark consists of the stylized word "LIFT" and a stylized drawing that blends features of three feathers and three leaf blades.
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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