

ESTTA Tracking number: **ESTTA638350**

Filing date: **11/12/2014**

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	Mirage Granito Ceramico S.p.A.
Granted to Date of previous extension	11/12/2014
Address	Via Giardini Nord, 225 Pavullo nel Frignano, I-41026 ITALY

Attorney information	Wesley W. Whitmyer, Jr. St. Onge Steward Johnston & Reens, LLC 986 Bedford Street Stamford, CT 06905-5619 UNITED STATES acorea@ssjr.com, litigation@ssjr.com
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Applicant Information

Application No	86044124	Publication date	07/15/2014
Opposition Filing Date	11/12/2014	Opposition Period Ends	11/12/2014
Applicant	Swift-Train Company, LLC 2500 Agnes Street Corpus Christi, TX 78469 UNITED STATES		

Goods/Services Affected by Opposition

Class 019. First Use: 2012/01/31 First Use In Commerce: 2012/06/27 All goods and services in the class are opposed, namely: Finish sold as an integral component of flooring, namely, vinyl flooring; coating sold as an integral component of flooring, namely, vinyl flooring
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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.	3360020	Application Date	09/18/2006
Registration Date	12/25/2007	Foreign Priority Date	08/10/2006
Word Mark	INFINITY		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 019. First use: First Use: 0 First Use In Commerce: 0 Ceramic tiles; porcelain stoneware tiles; ceramic slabs; porcelain stoneware slabs; tiles not of metal

U.S. Registration No.	3360020	Application Date	09/18/2006
Registration Date	12/25/2007	Foreign Priority Date	08/10/2006
Word Mark	INFINITY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 019. First use: First Use: 0 First Use In Commerce: 0 Ceramic tiles; porcelain stoneware tiles; ceramic slabs; porcelain stoneware slabs; tiles not of metal		

Attachments	79032286#TMSN.png(bytes) Notice of Opposition update.pdf(211034 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	/Andy I. Corea/
Name	Andy I. Corea
Date	11/12/2014

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

Mirage Granito Ceramico S.P.A.	:	
	:	
Opposer,	:	
v.	:	Opposition No.
	:	[not yet assigned]
Swift-Train Company, LLC	:	
	:	
Applicant.	:	

**U.S. Trademark Application Serial No. 86044124
Mark: INFINITY SHIELD**

NOTICE OF OPPOSITION

Mirage Granito Ceramico S.P.A., ("Opposer") believes it will be damaged by the allowance and subsequent registration of the marks and serial no. referenced above, and hereby opposes registration thereof pursuant to Section 13 of the 1946 Trademark Act (15 U.S.C. §1063), alleging as grounds for opposition that:

1. Opposer, Mirage Granito Ceramico S.P.A. ("Opposer") is a joint stock company organized under the laws of Italy with a business address at: Via Giardini Nord, 225 Pavullo nel Frignano I-41026 ITALY.
2. Opposer is the owner of the trademark INFINITY for use on building materials and currently uses the mark in commerce in the United States.
3. Opposer is the owner of following U.S. trademark registration featuring the INFINITY trademark:

Mark	Registration No.	Goods	Priority Filing Date
INFINITY	3,360,020	Ceramic tiles; porcelain stoneware tiles; ceramic slabs; porcelain stoneware slabs; tiles not of metal	August 10, 2006

A copy of the registration the USPTO online TESS database is attached as Exhibit A and made of record in this proceeding pursuant to Trademark Rule 2.122(d).

4. USPTO records indicate that Opposer's registration for INFINITY ("the INFINITY Registration) registered on December 25, 2007.

5. The records of the USPTO indicate that Applicant Swiff-Train Company, LLC ("Applicant") is a limited liability company organized under the laws of Texas with a business address at: 2500 Agnes Street, Corpus Christi, Texas 78469.

6. The records of the USPTO indicate that Applicant is the owner of the following trademark application:

Mark	Application Serial No.	Filing Date	Goods-Services
INFINITY SHIELD	86044124	August 21, 2013	Finish sold as an integral component of flooring, namely, vinyl flooring; coating sold as an integral component of flooring, namely, vinyl flooring

("Opposed Application").

7. The Opposed Application asserts a first use date of January 31, 2012 and a first use in commerce date of June 27, 2012.

8. The INFINITY Registration was filed and issued prior to the filing date of the Opposed Application and prior to the dates of first use and first use in commerce asserted in the Opposed Application.

9. Opposer's rights in the INFINITY trademark and the INFINITY Registration predate any date that Applicant may rely upon in this proceeding.

10. The marks INFINITY and INFINITY SHIELD are similar in sound, appearance, meaning, connotation, and commercial impression.

11. The goods identified in the Opposed Application travel in the same channels of trade, are directed to the same consumers, and sold under the commercial conditions as those identified in the INFINITY Registration and sold by Opposer under the INFINITY trademark.

12. In view of the similarities between Opposer's INFINITY trademark and the INFINITY SHIELD mark in the Opposed Application, compounded by the relatedness of the parties' respective goods, there is a likelihood that Applicant's products are likely to be seen as being sponsored by, affiliated with, or originating from Opposer.

13. The INFINITY SHIELD mark in the Opposed Application so resemble Opposer's INFINITY trademark and INFINITY Registration, as to be likely to cause confusion, or to cause mistake, or to deceive as to the source of the identified goods within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

14. The use and registration of the mark in the Opposed Application will damage Opposer in the selling of its goods and services by causing a likelihood of confusion.

WHEREFORE, Opposer prays that said the Trademark Trial and Appeal Board deny registration to U.S. Trademark Application Serial No. 86044124 (INFINITY SHIELD) and otherwise sustain this opposition.

Respectfully submitted,

MIRAGE GRANITO CERAMICO S.P.A.

November 12, 2014

/s/ Andy I. Corea

Wesley W. Whitmyer, Jr.

Andy I. Corea

ST. ONGE STEWARD JOHNSTON & REENS LLC

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ATTORNEYS FOR OPPOSER

EXHIBIT A



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INFINITY

Word Mark	INFINITY
Goods and Services	IC 019. US 001 012 033 050. G & S: Ceramic tiles; porcelain stoneware tiles; ceramic slabs; porcelain stoneware slabs; tiles not of metal
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	79032286
Filing Date	September 18, 2006
Current Basis	66A
Original Filing Basis	66A
Published for Opposition	October 9, 2007
Registration Number	3360020
International Registration Number	0906933
Registration Date	December 25, 2007
Owner	(REGISTRANT) MIRAGE GRANITO CERAMICO S.P.A. JOINT STOCK COMPANY ITALY Via Giardini Nord, 225 Pavullo nel Frignano I-41026 ITALY
Attorney of Record	Wesley W. Whitmyer, Jr.,
Priority Date	August 10, 2006
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECTION 71
Live/Dead Indicator	LIVE

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CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing **NOTICE OF OPPOSITION** was served by first class mail, postage prepaid on the Correspondent for the Applicant at the address identified in USPTO records:

Matthew W. Stavish
Joseph Berenato
Berenato & White, LLC
6550 Rock Spring Dr Ste 240
Bethesda, Maryland 20817-1173
United States

November 12, 2014
Date

/s/ Joan M. Burnett
Joan M. Burnett