

ESTTA Tracking number: **ESTTA650984**

Filing date: **01/20/2015**

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	Halo Innovations, Inc.
Granted to Date of previous extension	01/21/2015
Address	111 Cheshire Lane, Suite 700 Minnetonka, MN 55305-2325 UNITED STATES

Attorney information	Sarah G. Voeller HAMRE SCHUMANN MUELLER & LARSON, P.C. P.O. Box 2902 Minneapolis, MN 55402-1683 UNITED STATES trademark@hsml.com, svoeller@hsml.com, tmccanna@hsml.com Phone:612.455.3800
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Applicant Information

Application No	86261702	Publication date	09/23/2014
Opposition Filing Date	01/20/2015	Opposition Period Ends	01/21/2015
Applicant	RGF Environmental Group, Inc. 1101 West 13th Street Riviera Beach, FL 33404 UNITED STATES		

Goods/Services Affected by Opposition


Class 011. First Use: 2014/02/07 First Use In Commerce: 2014/03/03
All goods and services in the class are opposed, namely: Air purification units


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.	2809073	Application Date	07/23/2001
Registration Date	01/27/2004	Foreign Priority Date	NONE
Word Mark	HALO		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 011. First use: First Use: 1999/10/00 First Use In Commerce: 1999/10/00 air filters for domestic use</p> <p>Class 020. First use: First Use: 1999/10/00 First Use In Commerce: 1999/10/00 [Mattresses; mattress inner springs andperforated sleep surfaces for mat- tresses; mattress assemblies comprising mattress base, mattress inner spring, perforated sleep surface, pad and bumper; ventilated sleep systems comprising mattress, mattress base, inner spring, perforated sleep surface, mattress pad and mattressfan, and replacement parts therefore]</p> <p>Class 024. First use: First Use: 1999/10/00 First Use In Commerce: 1999/10/00 bed linens, mattress pads, mattress covers and bumpers</p>

U.S. Registration No.	3589765	Application Date	10/01/2007
Registration Date	03/17/2009	Foreign Priority Date	NONE
Word Mark	HALO		
Design Mark			
Description of Mark	The mark consists of the word "HALO" with a curved line appearing above the word.		
Goods/Services	<p>Class 011. First use: First Use: 2004/05/02 First Use In Commerce: 2004/05/02 Personal air filtration equipment, namely, [air purifiers for individual users,] re- placements parts thereof, air filters for domestic use</p> <p>Class 020. First use: First Use: 2004/05/02 First Use In Commerce: 2004/05/02 [Mattresses; mattress inner springs and perforated sleep surfaces, namely, mattress toppers, for mattresses; mattress assemblies comprising mattress base, mattress inner spring, perforated sleep surface, pad and bumper; ventil- ated sleep systems comprising mattress, mattress base, inner spring, perforated sleep surface, mattress pad and mattress fan, and replacement parts therefor]</p>		

	Class 024. First use: First Use: 2004/05/02 First Use In Commerce: 2004/05/02 Bed linens, mattress pads, mattress covers Class 025. First use: First Use: 2004/01/29 First Use In Commerce: 2004/01/29 Infant sleepwear not relating to baseball or softball or a baseball or softballteam
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Attachments	76289261#TMSN.png(bytes) 77292956#TMSN.png(bytes) NOTICE OF OPPOSITION.pdf(5402470 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	/Sarah G. Voeller/
Name	Sarah G. Voeller
Date	01/20/2015

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

Halo Innovations, Inc.)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
)	Mark:
)	
RGF Environmental Group, Inc.)	
)	
Applicant)	Serial No.: 86-261702

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Halo Innovations, Inc., Minnesota corporation having a principal place of business at 111 Cheshire Lane, Suite 700, Minnetonka, MN 55305, (hereinafter "Opposer"), believes it would be damaged and injured by registration of the mark REME HALO for "Air purification units" in International Class 11, as shown in Application Serial No. 86-261702 and filed on April 24, 2014, by RGF Environmental Group Inc., a Florida corporation, having a principal place of business of 1101 West 13th Street, Riviera Beach, Florida 33404 (hereinafter "Applicant"), published for opposition on September 23, 2014.

Opposer alleges, solely for the purpose of this proceeding, as grounds for Opposition, the following:

1. Opposer is now and has for many years been engaged in the manufacture, distribution and sale of products that reduce allergens and purify the air in the United States and

internationally. In particular, Opposer's HALO products are designed to purify the air and reduce allergens during sleep.

2. Opposer has continuously used the mark HALO in commerce since at least as early as October, 1999.

3. Over the past 15 plus years, Opposer has grown its business. Opposer offers a number of different products, each of which is sold under the HALO mark.

4. Opposer has invested considerable money, time and effort into the development of the HALO mark. The HALO mark is an asset of incalculable value for Opposer as an immediately recognizable and well-known indicator of source of Opposer's high quality products, or at least a single source for those products.

5. In addition to its common law rights, Opposer is the owner of U.S. Trademark Registration No. 2,809,073, filed on July 23, 2001 for the mark HALO for, *inter alia*, "air filters for domestic use" in International Class 11. Said registration is valid and in full force and effect.

6. Opposer is the owner of U.S. Trademark Registration No. 3,589,765 filed October 1, 2007 for the mark HALO and Design for, *inter alia*, "Personal air filtration equipment, namely, replacement parts thereof, air filters for domestic use" in International Class 11. Said registration is valid and in full force and effect.

7. Copies of the federal registration certificates for the above-referenced marks are attached as Exhibit 1. These federal registrations are prima facie evidence of the validity of Opposer's marks as well as Opposer's exclusive right to use these marks in connection with the identified goods. 15 U.S.C. §1057(b). The -registrations in paragraphs 5 and 6 are incontestable under 15 U.S.C. §1065.

8. Opposer's Registrations listed in paragraphs 5 and 6 are based on use, and along with Opposer's common law use, are hereinafter referred to as the HALO Trademarks.

Opposer's rights in the HALO Trademarks predate Applicant's rights in the REME HALO trademark.

9. Opposer's HALO Trademarks are inherently distinctive.

10. Long after Opposer's first use of the HALO Trademarks, and after the Trademark Office issued federal registrations for the HALO Trademarks, Applicant filed an application to register REME HALO for use along with "Air purification units" in the United in States in International Class 11 based upon use.

11. Upon information and belief, Applicant has not used the REME HALO trademark anywhere in the United States, or in commerce, prior to the Applicant's use of the HALO Trademarks.

12. Applicant adopted its REME HALO mark and applied to register the mark with actual and/or constructive prior notice of Opposer's HALO Trademarks.

13. Applicant adopted the REME HALO mark and applied to register the mark without the approval, authorization or acquiescence of Opposer.

14. The word REME is an acronym for Reflective Electro Magnetic Energy and is descriptive of a feature or function of Applicant's product. Applicant teaches consumers to recognize REME as an acronym. Attached as Exhibit 2 is promotional material from the Applicant teaching the consumer the meaning of REME.

15. Applicant's REME HALO mark is confusingly similar in sight, sound, and commercial impression to the HALO Trademarks. The registration of the REME HALO mark in

association with the identified goods is likely to cause confusion as to the source or origin of Applicant's goods, and is likely to mislead consumers, all to Opposer's damage.

16. REME HALO, as used in connection with the Applicant's identified goods is likely to cause confusion in the minds of the public, and is likely to deceive purchasers. Applicant's identified goods may be offered to the same class of consumers as those that receive Opposer's goods, and are closely related to or directly competitive with those offered by Opposer.

17. Applicant's REME HALO mark "so resembles a mark . . . previously used in the United States by another and not abandoned, as to be likely, when applied to the goods of the Applicant, to cause confusion, or to cause mistake, or to deceive." 15 U.S.C. §1052(d).

18. Applicant's REME HALO mark consists of deceptive matter and/or falsely suggests a connection with Opposer. 15 U.S.C. §1052(a).

19. If the Applicant is permitted to use and register its mark, confusion in the trade resulting in damage and injury to Opposer would be caused and would result by reason of the substantial similarity between Applicant's REME HALO mark and Opposer's HALO Trademarks.

20. If Applicant is granted registration of the mark herein opposed, it would thereby obtain at least a prima facie exclusive right to the use of its alleged mark. Such registration would be a source of further damage and injury to Opposer.

21. For the reasons set forth in the foregoing paragraphs, Applicant is not entitled to register its mark, and the application should be denied.

WHEREFORE, Opposer asks that its opposition to Serial No 86-261702 be sustained and that the registration of the REME HALO mark set forth therein be refused. Opposer requests that final judgment be entered in favor of Opposer. Please direct all correspondence to the attention of Sarah G. Voeller:

Hamre, Schumann, Mueller & Larson P.C.
P.O. Box 2902
Minneapolis, MN 55402
612.455.3800

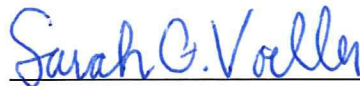
Opposer hereby appoints Curtis B. Hamre, Reg. No. 29,165; Douglas P. Mueller, Reg. No. 30,300; James A. Larson, Reg. No. 40,443; and Sarah G. Voeller Reg. No. 57,000, as attorneys with the full power to represent the Opposer in connection with this opposition.

Please charge Deposit Account No. 50-3478 in the amount of \$300.00 for the required Notice of Opposition fee. Please charge any excess fees or credit any overpayment to the deposit account of Opposer's counsel: Deposit Account No. 50-3478.

Respectfully submitted,

Halo Innovations, Inc.

By its attorneys,



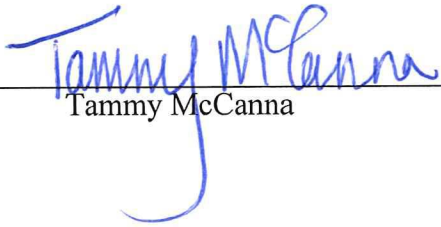
Sarah G. Voeller
Curtis B. Hamre
Hamre, Schumann, Mueller & Larson P.C.
P.O. Box 2902
Minneapolis, MN 55402
612.455.3800

CERTIFICATE OF SERVICE

I hereby certify that this NOTICE OF OPPOSITION is being deposited with the United States Postal Service, first class mail, in an envelope addressed to Applicant:

MARTIN M. ZOLTICK
ROTHWELL, FIGG, ERNST & MANBECK, PC
607 14TH ST NW STE 800
WASHINGTON, DISTRICT OF COLUMBIA 20005-2005
UNITED STATES

on this 20 day of January, 2015.



Tammy McCanna

EXHIBIT 1

United States of America

United States Patent and Trademark Office



Reg. No. 3,589,765

Registered Mar. 17, 2009

Amended Dec. 23, 2014

Int. Cls.: 11, 24 and 25

HALO INNOVATIONS, INC. (MINNESOTA CORPORATION)
111 CHESHIRE LANE, SUITE 700
MINNETONKA, MN 55305

FOR: PERSONAL AIR FILTRATION EQUIPMENT, NAMELY, [AIR PURIFIERS FOR INDIVIDUAL USERS,] REPLACEMENTS PARTS THEREOF, AIR FILTERS FOR DOMESTIC USE, IN CLASS 11 (U.S. CLS. 13, 21, 23, 31 AND 34).

FIRST USE 5-2-2004; IN COMMERCE 5-2-2004.

TRADEMARK

PRINCIPAL REGISTER

FOR: BED LINENS, MATTRESS PADS, MATTRESS COVERS, IN CLASS 24 (U.S. CLS. 42 AND 50).

FIRST USE 5-2-2004; IN COMMERCE 5-2-2004.

FOR: INFANT SLEEPWEAR NOT RELATING TO BASEBALL OR SOFTBALL OR A BASEBALL OR SOFTBALL TEAM, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 1-29-2004; IN COMMERCE 1-29-2004.

OWNER OF U.S. REG. NOS. 2,265,181 AND 2,809,073.

THE MARK CONSISTS OF THE WORD "HALO" WITH A CURVED LINE APPEARING ABOVE THE WORD.

SER. NO. 77-292,956, FILED 10-1-2007.



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

Int. Cls.: 11, 20, and 24

Prior U.S. Cls.: 2, 13, 21, 22, 23, 25, 31, 32, 34, 42, and 50

Reg. No. 2,809,073

United States Patent and Trademark Office

Registered Jan. 27, 2004

**TRADEMARK
PRINCIPAL REGISTER**

HALO

HALO INNOVATIONS, INC. (MINNESOTA CORPORATION)
15098 23RD AVENUE NORTH
MINNEAPOLIS, MN 554474710

FOR: AIR FILTERS FOR DOMESTIC USE, IN CLASS 11 (U.S. CLS. 13, 21, 23, 31 AND 34).

FIRST USE 10-0-1999; IN COMMERCE 10-0-1999.

FOR: MATTRESSES; MATTRESS INNER SPRINGS AND PERFORATED SLEEP SURFACES FOR MATTRESSES; MATTRESS ASSEMBLIES COMPRISING MATTRESS BASE, MATTRESS INNER SPRING, PERFORATED SLEEP SURFACE, PAD AND BUMPER; VENTILATED SLEEP SYSTEMS COMPRISING MATTRESS, MATTRESS BASE, INNER SPRING, PERFORATED SLEEP SUR-

FACE, MATTRESS PAD AND MATTRESS FAN, AND REPLACEMENT PARTS THEREFORE, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 10-0-1999; IN COMMERCE 10-0-1999.

FOR: BED LINENS, MATTRESS PADS, MATTRESS COVERS AND BUMPERS, IN CLASS 24 (U.S. CLS. 42 AND 50).

FIRST USE 10-0-1999; IN COMMERCE 10-0-1999.

OWNER OF U.S. REG. NO. 2,265,181.

SN 76-289,261, FILED 7-23-2001.

RAUL CORDOVA, EXAMINING ATTORNEY

Surrender of registration for cancellation

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	76289261
REGISTRATION NUMBER	2809073
FORM TEXT	
Please surrender class 20 in full. Contact information is: Sarah G. Voeller Hamre, Schumann, Mueller & Larson, P.C. P.O. Box 2902 Minneapolis MN 55402 trademark@hsml.com	
SIGNATURE SECTION	
SUBMISSION SIGNATURE	/Sarah G. Voeller/
SIGNATORY'S NAME	Sarah G. Voeller
SIGNATORY'S POSITION	Attorney of record, MN bar member
DATE SIGNED	01/13/2015
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
TEAS STAMP	USPTO/S7S-64.132.169.45-2 0150113144304265008-28090 73-20150113143536655482-N /A-N/A-201501131435366554 82

**Surrender of registration for cancellation
To the Commissioner for Trademarks:**

The following is submitted for registration number. **2809073 HALO** :

FORM INFORMATION

Please surrender class 20 in full.

Contact information is:

Sarah G. Voeller

Hamre, Schumann, Mueller & Larson, P.C.

P.O. Box 2902

Minneapolis MN 55402

trademark@hsml.com

SIGNATURE(S)

Submission Signature

Signature: /Sarah G. Voeller/ Date: 01/13/2015

Signatory's Name: Sarah G. Voeller

Signatory's Position: Attorney of record, MN bar member

Signatory's Phone Number: 612.455.3800

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possession; and is currently the trademark owner's attorney or an associate thereof.

Serial Number: 76289261

Internet Transmission Date:

TEAS Stamp: USPTO/S7S-64.132.169.45-2015011314430426

5008-2809073-20150113143536655482-N/A-N/

A-20150113143536655482

EXHIBIT 2



(<http://www.ahrexpo.com/>)



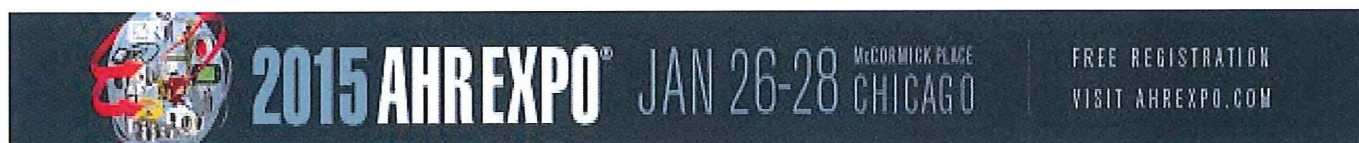
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RGF Introduces the REME Halo and Guardian Air QR+ Units

📅 October, 9th 2014 💬 Comments 👁 Views

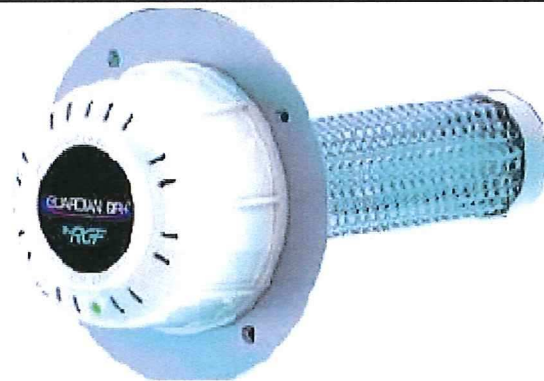
RGF Environmental Group is proud to announce the official launch of their *REME Halo & Guardian Air QR+ Quick Release Units*, the next generation in IAQ.

RGF has redesigned the REME HVAC unit with a quick-release feature, an adjustable shroud on the cell, dual output ion generators and added zinc to the catalyst. The quick-release feature simplifies cell replacement as no tools are required. The adjustable shroud allows the customization of the Advanced Oxidation Plasma output. The dual output ion generators drop more particulate from the air bringing relief to those who suffer from allergies and other respiratory related issues. The catalyst has been improved with Zinc killing 99% of virus on surfaces. The REME Halo reduces odors, particulate, air pollutants, smoke, mold, bacteria, viruses and VOCs (chemical odors). This 24 volt model is available for applications covering 1,000 to 6,500 CFMs.



The Guardian Air QR+ has been redesigned with a quick-release feature to simplify cell replacement as no tools are required. The Guardian Air QR+ utilizes RGF's Patented PHI Technology (Photohydroionization) to eliminate sick building syndrome and other air quality issues. The PHI technology reduces odors, air pollutants, VOCs (chemical odors), mold spores, bacteria and viruses. This 24 volt model is available in 5", 9" and 14" cells for applications up to 18,000 CFMs.

RGF Environmental Group, Inc. has a 29-year history of innovative environmental technologies, design and manufacturing. RGF's engineering team developed both the proprietary, patented Guardian Air PHI-Cell (Photohydroionization) and Guardian Air REME (Reflective Electromagnetic Energy) specifically for the HVAC industry. These unique IAQ induct systems provide low energy advanced oxidation air purification which have been proven and independently tested to be extremely effective in destroying mold, odors, viruses, bacteria, and 99% of an airborne sneeze at three feet, while also being completely safe for occupants. They are also effective against eliminating VOCs, and up to 99% of MRSA, H1N1 and the Norwalk Virus, to name a few. RGF manufactures over 500 products providing the world with the safest air, water and food without the use of chemicals.



For additional information, please contact Lisa Bailey at lbailey@rgf.com (mailto:lbailey@rgf.com), RGF Environmental Group, Inc., 1101 West 13th Street (Port of Palm Beach Enterprise Zone), Riviera Beach, Florida 33404



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