

ESTTA Tracking number: **ESTTA679682**

Filing date: **06/23/2015**

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	Westlake Chemical Corporation
Granted to Date of previous extension	07/22/2015
Address	2801 Post Oak Blvd.Suite 600 Houston, TX 77056 UNITED STATES

Attorney information	George R. Schultz Schultz & Associates, P.C. 5400 LBJ Freeway Suite 1200 Dallas, TX 75240 UNITED STATES rschultz@grspc.com, nmarsh@grspc.com, docket@grspc.com, kneedham@grspc.com Phone:214-210-5940
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**Applicant Information**

Application No	86414422	Publication date	03/24/2015
Opposition Filing Date	06/23/2015	Opposition Period Ends	07/22/2015
Applicant	Westlake Plastics Company 490 West Lenni Road Lenni, PA 19052 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Wholesale and online wholesale store services featuring compression molded, extruded, injection molded, 3D printed and machined polymers to others
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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.	86575095	Application Date	03/24/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ENHANCING YOUR LIFE EVERY DAY		

Design Mark	<p style="text-align: center;">ENHANCING YOUR LIFE EVERY DAY</p>
Description of Mark	NONE
Goods/Services	Class 001. First use: First Use: 0 First Use In Commerce: 0 Chemicals for industrial, commercial and consumer use, namely, unprocessed artificial resins, polymers, unprocessed plastics, monomers, and chemical feed-stocks

U.S. Application No.	86575100	Application Date	03/24/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ENHANCING YOUR LIFE EVERY DAY		
Design Mark	<p style="text-align: center;">ENHANCING YOUR LIFE EVERY DAY</p>		
Description of Mark	NONE		
Goods/Services	Class 017. First use: First Use: 0 First Use In Commerce: 0 Plastic in molded and extruded form for general industrial use, adhesives and sealants		

U.S. Application No.	86575104	Application Date	03/24/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ENHANCING YOUR LIFE EVERY DAY		

Design Mark	<p>ENHANCING YOUR LIFE EVERY DAY</p>		
Description of Mark	NONE		
Goods/Services	Class 019. First use: First Use: 0 First Use In Commerce: 0 Plastic fencing products; plastic decking products; plastic panels; plastic docks, piers, platforms; plastic pipe products; plastic construction products		

U.S. Application No.	86575106	Application Date	03/24/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ENHANCING YOUR LIFE EVERY DAY		
Design Mark	<p>ENHANCING YOUR LIFE EVERY DAY</p>		
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 0 First Use In Commerce: 0 Consultant services, namely, engineering for others in the field of plastic products		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	WESTLAKE POLYMERS LLC		
Goods/Services	chemicals for industrial, commercial and consumer use, namely, unprocessed artificial resins, polymers, unprocessed plastics, monomers, and chemical feedstocks; plastic in molded and extruded form for general industrial use, adhesives and sealants; plastic fencing products; plastic decking products; plastic panels; plastic docks, piers, platforms; plastic pipe products; plastic construction products and consultant services, namely engineering for others in the field of plastic products		

Attachments	86575095#TMSN.png( bytes ) 86575100#TMSN.png( bytes ) 86575104#TMSN.png( bytes ) 86575106#TMSN.png( bytes ) Notice of Opposition .0297 062315.pdf(260211 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	/george r. schultz/
Name	George R. Schultz
Date	06/23/2015

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

**In the matter of Trademark  
Application Serial No.: 86/414,422**

**For the mark: LIFE IN POLYMERS**

**Published in the Official Gazette on: March 24, 2015**

**WESTLAKE CHEMICAL CORPORATION**

**Opposer,**

**v.**

**OPPOSITION NO. \_\_\_\_\_**

**WESTLAKE PLASTICS COMPANY**

**Applicant.**

**NOTICE OF OPPOSITION**

Westlake Chemical Corporation (“Opposer”) believes that it has been and will be damaged by registration of the mark shown in Application No. 86/414,422 (the “422 Application”), and therefore files this Notice of Opposition pursuant to 15 U.S.C. § 1063, and would respectfully show the Board the following:

**I. Parties**

1. Opposer is a Delaware corporation having a principal place of business at 2801 Post Oak Boulevard, Suite 600, Houston, Texas 77056.
2. Westlake Plastics Company (“Applicant”) is a Pennsylvania corporation having an address of 490 West Lenni Road, Lenni, Pennsylvania 19052. The correspondent of record for Applicant is Joseph C. Guagliardo of Pepper Hamilton LLP, Eighteenth and Arch Streets, 3000 Two Logan Square, Philadelphia, Pennsylvania 19103.

## **II. Standing**

1. Opposer owns longstanding common law rights in the mark “ENHANCING YOUR LIFE EVERY DAY” (“Opposer’s Mark”) for use in association with chemicals for industrial, commercial and consumer use, namely, unprocessed artificial resins, polymers, unprocessed plastics, monomers, and chemical feedstocks; plastic in molded and extruded form for general industrial use, adhesives and sealants; plastic fencing products; plastic decking products; plastic panels; plastic docks, piers, platforms; plastic pipe products; plastic construction products and consultant services, namely engineering for others in the field of plastic products, collectively, “Opposer’s Goods and Services.” The date of first use of Opposer’s Mark is at least as early as March 7, 2007.

2. On March 24, 2015, Opposer filed applications in the United States Trademark Office to register Opposer’s Mark in international classes 1, 17, 19, and 42, having Serial Nos. 86/575,095, 86/575,100, 86/575,104, and 86/575,106, respectively.

3. Opposer has a number of wholly owned subsidiaries, one of which is Westlake Polymers LLC. Opposer provides Opposer’s Goods and Services through Westlake Polymers LLC and other wholly owned subsidiaries. As such, Opposer has common law rights in the trade name “WESTLAKE POLYMERS LLC” (“Opposer’s Trade Name”).

4. Since long before the date of filing of the ’422 Application, Opposer adopted and used Opposer’s Mark and Opposer’s Trade Name in association with Opposer’s Goods and Services. Opposer has continuously sold Opposer’s Goods and Services under Opposer’s Mark and Opposer’s Trade Name since each was adopted.

5. Opposer has expended substantial amounts of money, time, and effort in advertising and promoting Opposer’s Mark and Opposer’s Trade Name. The trade and

purchasing public have come to know and recognize Opposer's Mark and Opposer's Trade Name and the associated goods and services as originating from Opposer. Opposer's Mark and Opposer's Trade Name identify Opposer as a source of Opposer's Goods and Services and distinguish them from the goods of others.

6. Opposer's Mark is inherently distinctive or has acquired secondary meaning.

7. Opposer's Trade Name has been used in a way that is analogous to trademark use and that creates in the minds of the relevant purchasing public an association between Opposer's Trade Name and Opposer's Goods and Services. Consequently, Opposer's Trade Name is inherently distinctive or has acquired secondary meaning.

8. Opposer's Mark and Opposer's Trade Name have been used by Opposer to such an extent that the relevant purchasing public has come to associate Opposer's Mark and Opposer's Trade Name, jointly and separately, as indicators of a source of original origin for Opposer's goods and services.

9. Opposer has become well known in the industry and has acquired an excellent reputation and extensive goodwill for its high quality goods and services sold in connection with Opposer's Mark and Opposer's Trade Name. Opposer's Mark and Opposer's Trade Name are symbolic of Opposer's excellent reputation and extensive goodwill.

10. On information and belief, Applicant has adopted the mark "LIFE IN POLYMERS" for use in association with "wholesale and online wholesale store services featuring compression molded, extruded, injection molded, 3D printed and machined polymers to others" in international class 35. An application to register the mark shown in the '422 Application was filed on October 3, 2014. The '422 Application was filed under Section 1(b) as

an intent-to-use application. The mark of the '422 Application was published on March 24, 2015.

11. On April 21, 2015, Opposer requested a ninety (90) day extension of time, or until July 21, 2015, to oppose registration of the mark shown in the '422 Application. Opposer's request was granted on April 21, 2015.

12. The services listed in the '422 Application are highly related to Opposer's Goods and Services. On information and belief, the services listed in the '422 Application are intended to be provided to similar consumers under similar or identical advertising and move in the same or similar channels of trade as Opposer's Goods and Services.

13. Opposer's Mark and Opposer's Trade Name, separately and together, compared to the mark shown in the '422 Application are substantially similar and create the same commercial impression.

### **III. Grounds**

#### Likelihood of Confusion 15 U.S.C. § 1052(d) *(Opposer's Mark)*

14. Under § 2(d) of the Act, 15 U.S.C. § 1052(d), the mark shown in the '422 Application so resembles Opposer's Mark, previously used in the United States and not abandoned, as to be likely, when used on or in connection with the services described in the '422 Application to cause confusion, to cause mistake or to deceive.

15. The mark shown in the '422 Application is confusingly similar to Opposer's Mark. The similarity in sight, sound, and appearance between Opposer's Mark and the mark shown in the '422 Application creates a similar or identical commercial impression.



16. The description of services in the '422 Application overlaps with Opposer's Goods and Services at least as to the wholesale sales and distribution of plastic polymer products.

Likelihood of Confusion 15 U.S.C. § 1052(d)  
*(Opposer's Trade Name)*

17. Under § 2(d) of the Act, 15 U.S.C. § 1052(d), the mark shown in the '422 Application so resembles Opposer's Trade Name, previously used in the United States and not abandoned, as to be likely, when used on or in connection with the services described in the '422 Application, to cause confusion, to cause mistake or to deceive.

18. The mark shown in the '422 Application is confusingly similar to Opposer's Trade Name. The similarity in sight, sound, and appearance between Opposer's Trade Name and the mark shown in the '422 Application creates a similar or identical commercial impression.

19. The description of services in the '422 Application overlaps with Opposer's Goods and Services at least as to the wholesale sales and distribution of plastic polymer products.

Likelihood of Confusion 15 U.S.C. § 1052(d)  
*(Opposer's Mark conjoined with Opposer's Trade Name)*

20. Under § 2(d) of the Act, 15 U.S.C. § 1052(d), the mark shown in the '422 Application so resembles the combination of Opposer's Mark and Opposer's Trade Name, previously used in the United States and not abandoned, as to be likely, when used on or in connection with the services described in the '422 Application, to cause confusion, to cause mistake or to deceive.

21. The mark shown in the '422 Application is confusingly similar to Opposer's Mark in combination with Opposer's Trade Name. The similarity in sight, sound, and appearance between Opposer's Mark in combination with Opposer's Trade Name and the mark shown in the '422 Application creates a similar or identical commercial impression.

22. The description of services in the '422 Application overlaps with Opposer's Goods and Services at least as to the wholesale sales and distribution of plastic polymer products.

#### **IV. Damage**

23. Opposer has superior rights in Opposer's Mark and Opposer's Trade Name, separately and in combination, as compared to the rights of Applicant, if any, because Opposer has used Opposer's Mark and Opposer's Trade Name, separately and in combination, in commerce continuously and prior to the filing of the '422 Application by Applicant. Consequently, confusion, mistake or deception in the trade and in the minds of the consuming public between Opposer and Applicant at least as to the origin of the services described in the '422 Application is likely to occur and be exacerbated with resulting damage to Opposer if the mark shown in the '422 Application is allowed to be registered.

#### **V. Fees**

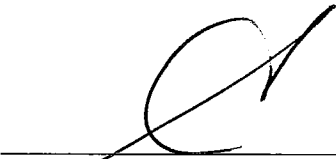
24. Pursuant to 37 C.F.R. 26(a)(6), the required fee of Three Hundred Dollars (\$300.00) has been electronically paid in conjunction with the electronic filing of this Notice.

25. The Board is authorized to charge additional required amounts or issue any credits for overpayments to Deposit Account No. 50-2225.

**WHEREFORE**, Opposer prays that registration of the mark as shown in Application No. 86/414,422 be denied.

Dated: June 23, 2015.

Respectfully submitted,



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George R. Schultz  
Texas Bar No. 17837500  
Nicole R. Marsh  
Texas Bar No. 24044653

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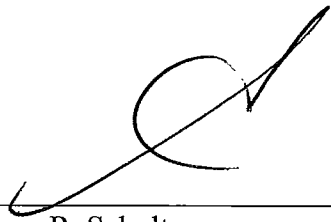
ATTORNEYS FOR OPPOSER  
WESTLAKE CHEMICAL  
CORPORATION

**CERTIFICATE OF SERVICE**

A true and correct copy of the foregoing Notice of Opposition was served upon the persons listed below in the manner indicated on June 23, 2015:

Mr. Joseph C. Guagliardo  
Pepper Hamilton LLP  
Eighteenth and Arch Streets  
3000 Two Logan Square  
Philadelphia, Pennsylvania 19103

*Via First Class Mail, Postage Prepaid*



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George R. Schultz