

ESTTA Tracking number: **ESTTA711615**

Filing date: **12/01/2015**

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	Mohawk Carpet Distribution Inc.		
Entity	Corporation	Citizenship	Delaware
Address	160 South Industrial Blvd. Calhoun, GA 30701 UNITED STATES		

Attorney information	Michael D. Hobbs, Jr. Troutman Sanders LLP 600 Peachtree St. NE, Suite 5200 Atlanta, GA 30308 UNITED STATES trade- marks@troutmansanders.com,michael.hobbs@troutmansanders.com,john.bowler@troutmansanders.com,sofia.jeong@troutmansanders.com Phone:(404)885-3330
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Applicant Information

Application No	86486352	Publication date	11/24/2015
Opposition Filing Date	12/01/2015	Opposition Period Ends	12/24/2015
Applicant	Beaulieu Group, LLC 1502 Coronet Drive Dalton, GA 30720 UNITED STATES		

Goods/Services Affected by Opposition

Class 027. First Use: 2012/01/27 First Use In Commerce: 2012/01/27
All goods and services in the class are opposed, namely: Carpeting

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
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Attachments	Notice.pdf(82589 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 Overnight Courier on this date.

Signature	/Austin Padgett/
Name	Austin Padgett
Date	12/01/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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MOHAWK CARPET DISTRIBUTION,)	
INC.,)	
a Delaware Corporation,)	
)	
Opposer.)	Mark: EVERCLEAN
)	Serial No.: 86/486,352
v.)	Opposition No. _____
)	
BEAULIEU GROUP LLC,)	
a Georgia Limited Liability Company,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer Mohawk Carpet Distribution Inc. ("Opposer"), a Delaware corporation, with a place of business located at 160 South Industrial Blvd., Calhoun GA 30701, believes that it will be damaged by the registration of Application Serial No. 86/486,352 ("Application") for the mark EVERCLEAN ("Applicant's Mark") filed by Beaulieu Group LLC ("Applicant") on December 19, 2014. Opposer hereby opposes the Mark in connection with "carpeting" in Int'l Class 27. As grounds for opposition, the Opposer alleges as follows:

1. Upon information and belief, Applicant is a Georgia limited liability company with a principal place of business located at 1502 Coronet Drive, Dalton, Georgia 30720.
2. Applicant's Mark was filed with the PTO on a use-based application (Section 1(a)) of the Lanham Act, 15 U.S.C. §1051(a), alleging a first use date of January 27, 2012.
3. Applicant's Mark was published in the U.S. Patent and Trademark Office's ("PTO") *Official Gazette* on November 24, 2015.

4. The Application should be refused registration on the Principal Register under §2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1) because it is merely descriptive of the underlying product, namely “carpeting.”

5. Marks that are merely descriptive of the goods may not be registered on the Principal Register absent a showing of acquired distinctiveness under 15 U.S.C. §1052(f).

6. Applicant has not and cannot show acquired distinctiveness of the Applicant’s Mark because the first use date of Applicant’s Mark is only January 27, 2012.

7. Applicant is improperly asserting protectable trademark rights in a merely descriptive mark.

8. Opposer will be damaged by the registration of Applicant’s Mark because Applicant has filed a lawsuit against the Opposer in the Northern District of Georgia, Rome Division (Civil Action No. 4:15-cv-00184-HLM) averring trademark infringement and other claims, based in part on the Applicant’s improper claims of trademark rights in the Applicant’s Mark.

9. The Applicant has standing to bring the instant action.

10. This Notice of Opposition is timely filed.

WHEREFORE, Opposer has paid the requisite fees to the United States Patent and Trademark Office contemporaneous with the filing of this opposition action. If such fees are deficient or any other fees are required, the USPTO is authorized to charge counsel’s deposit account no. 20-1507 for the required amount.

WHEREFORE, the Opposer believes that Applicant is improperly seeking trademark rights in a merely descriptive mark and prays that:

- (a) this Notice of Opposition be sustained in favor of Opposer and said Application be refused, and that no registration be issued thereon to Applicant; and
- (b) the Board grant to Opposer such other relief as the Board deems just and proper.

Dated: December 1, 2015.

Respectfully submitted,

TROUTMAN SANDERS LLP

/Michael D. Hobbs, Jr./

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and complete a copy of the foregoing was served on the Attorney of Record by transmitting said copy by first class mail on December 1, 2015:

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/Sofia Jeong/