

ESTTA Tracking number: **ESTTA716254**

Filing date: **12/22/2015**

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	Faux Effects International Inc.
Granted to Date of previous extension	12/23/2015
Address	2700 Industrial Ave 2 Fort Pierce, FL 34946 UNITED STATES

Correspondence information	Faux Effects International Inc. 2700 Industrial Ave 2 Fort Pierce, FL 34946 UNITED STATES trademarks@feldmangale.com, akessler@feldmangale.com
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### Applicant Information

Application No	86569847	Publication date	08/25/2015
Opposition Filing Date	12/22/2015	Opposition Period Ends	12/23/2015
Applicant	The Faux Real Paint Company, LLC 136 Eugene Street Greensboro, NC 27249 UNITED STATES		

### Goods/Services Affected by Opposition

Class 035. First Use: 2014/12/31 First Use In Commerce: 2014/12/31 All goods and services in the class are opposed, namely: On-line wholesale store services featuring mineral paint supplies
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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.	2330478	Application Date	07/15/1996
Registration Date	03/21/2000	Foreign Priority Date	NONE
Word Mark	FAUX EFFECTS		

Design Mark	<b>FAUX EFFECTS</b>
Description of Mark	NONE
Goods/Services	Class 001. First use: First Use: 1990/10/01 First Use In Commerce: 1991/06/26 liquid chemical compositions used in the production of faux finishes on solid substrates

U.S. Registration No.	2963738	Application Date	01/08/2004
Registration Date	06/28/2005	Foreign Priority Date	NONE

Word Mark	FAUX EFFECTS
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 002. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 interior and exterior glazes, finishes and paints

U.S. Registration No.	3113367	Application Date	11/25/2002
Registration Date	07/11/2006	Foreign Priority Date	NONE

Word Mark	FAUX EFFECTS
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Design Mark	<b>FAUX EFFECTS</b>
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1990/10/01 First Use In Commerce: 1991/06/26 Educational services, namely, conducting courses and workshops in the field of decoration and applying decorative finishes

Attachments	75134347#TMSN.png( bytes ) 76569584#TMSN.png( bytes ) 76469939#TMSN.png( bytes ) Notice of Opposition FauxEffects faux real mineral paint.pdf(37706 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 Facsimile or email (by agreement only) on this date.

Signature	/Ashley G. Kessler/
Name	Faux Effects International Inc.
Date	12/22/2015

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

Faux Effects International, Inc.,

Opposer,

v.

The Faux Real Paint Company, L.L.C.,

Applicant.

Opposition No.:

Mark: Faux Real Mineral Paint, Serial No.:  
86569847

**NOTICE OF OPPOSITION**


Faux Effects International, Inc., (“Faux Effects” or “Opposer”), a Florida corporation located at 2700 Industrial Avenue 2, Fort Pierce, FL 34946 will be damaged by registration on the Principal Register of the mark FAUX REAL MINERAL PAINT, shown in Application Serial No. 86/569,847 filed by The Faux Real Paint Company, L.L.C., (“Faux Real Paint Company” or “Applicant”), published in the Official Gazette on August 25, 2015 hereby opposes registration of same. As grounds for the opposition, Opposer alleges as follows:

**Faux Effects International, Inc.**

1. Faux Effects owns U.S. Trademark Registration Nos. 2330478, 2963738, 3113367 and others.
2. The ‘478 Registration for the mark FAUX EFFECTS is in connection with “Liquid chemical compositions used in the production of faux finishes on solid substrates” in

international class 001. The '478 Registration sets forth a date of first use of at least as early as October 1, 1990.



3. The '738 Registration for the mark  (FAUX EFFECTS) is in connection with "Interior and exterior glazes, finishes and paints" in international class 002. The '738 Registration sets forth a date of first use of at least as early as 1992.

4. The '367 Registration for the mark FAUX EFFECTS is in connection with "Educational services, namely, conducting courses and workshops in the field of decoration and applying decorative finishes" in international class 041. The '367 Registration sets forth a date of first use of at least as early as October 1, 1990.

5. Faux Effects also owns certain common law rights to the mark FAUX EFFECTS.

6. Faux Effects owns all right, title and interest in and to the FAUX EFFECTS mark, as well as all goodwill associated therewith.

7. The FAUX EFFECTS mark is inherently distinctive. In addition, by virtue of continuous and extensive use, the FAUX EFFECTS mark has acquired substantial goodwill.

### **Applicant**

8. On March 19, 2015, Applicant filed U.S. Trademark App. Ser. No. 86/569,847 for the mark FAUX REAL MINERAL PAINT for use in connection with "On-line wholesale store services featuring mineral paint supplies" in International Class 035. The '847 Application sets forth a date of first use of December 31, 2014.

9. The FAUX EFFECTS mark and the FAUX REAL MINERAL PAINT Application are confusingly similar. The Applicants structure and use of their mark with the word “FAUX” being the operative word in conjunction with paint(s) is likely to cause consumer confusion about the source, affiliation or sponsorship of the FAUX REAL MINERAL PAINT mark.

10. Further, the FAUX REAL MINERAL PAINT Application recites services that are closely related to and are overlapping with the goods and services provided by Opposer under the FAUX EFFECTS mark.

11. Further still, the goods and services are likely to be provided in similar, same or overlapping markets and channels of trade.

12. The appearance and sound between the FAUX EFFECTS mark and the FAUX REAL MINERAL PAINT Application creates a likelihood of confusion among the consuming public. The Applicant’s use of FAUX REAL MINERAL PAINT on identical and closely related goods and services creates an even higher likelihood of confusion among the consuming public.

13. Thus, Section 2(d) of the Trademark Act bars registration of the Applicant’s Mark.

14. Faux Effects will be damaged by the registration of Applicant’s mark for FAUX REAL MINERAL PAINT.

WHEREFORE, Faux Effects International, Inc., respectfully requests that the Trademark Trial and Appeal Board grant this Opposition and deny The Faux Real Paint Company L.L.C.’s, application to register the Application Serial No. 86/569,847.



**CERTIFICATE OF ELECTRONIC FILING**  
**AND CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** is being submitted electronically via the Electronic Filing System for Trademark Trial and Appeals on this 22<sup>nd</sup> day of December, 2015.

I further hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** has been served on Applicant by mailing said copy on this 22<sup>nd</sup> day of December, 2015 by electronic mail to:

HOWARD A. MacCORD, Jr.  
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On behalf of:  
Faux Effects International, Inc.  
2700 International Avenue 2  
FORT PIERCE, FLORIDA 34946  
UNITED STATES

/agk/

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Ashley G. Kessler  
Attorney for Opposer