

ESTTA Tracking number: **ESTTA790047**

Filing date: **12/19/2016**

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	S&G Hampton Sun, LLC
Granted to Date of previous extension	12/18/2016
Address	241 West 30th Street, 4th Floor New York, NY 10001 UNITED STATES

Attorney information	Keith E. Sharkin POWLEY & GIBSON PC 304 HUDSON STREET SUITE 202 NEW YORK, NY 10013 UNITED STATES dajones@powleygibson.com, trademarks@powleygibson.com Phone:212-226-5054
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Applicant Information

Application No	86858285	Publication date	06/21/2016
Opposition Filing Date	12/19/2016	Opposition Period Ends	12/18/2016
Applicant	HAMPTON PARK HOUSE Ltd 98 GLOUCESTER ROAD HAMPTON, TW122UJ UNITED KINGDOM		

Goods/Services Affected by Opposition


Class 003. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Beauty soap; Beauty gels; Beauty masks; Beauty milks; Beauty serums; Beauty creams; Beauty lotions; Body and beauty care cosmetics; facial mask pack for cosmetic purposes; Facial beauty masks; non-medicated skin care preparations; Spa and bathroom products, namely, non-medicated toiletries; grooming products, namely, hair lotion, shaving cream; travel size non-medicated toiletries; Essential oils for aromatherapy use; Reed diffusers comprised of scented essential oils for aromatherapy use and also including reeds and a diffuser container
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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.	3851704	Application Date	01/30/2004
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Registration Date	09/21/2010	Foreign Priority Date	NONE
Word Mark	HAMPTON SUN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2005/05/01 First Use In Commerce: 2005/05/01 Tanning and sunscreen preparations; sunblock; sun care lotion; sun cream; sun tan gel; sun tan lotion; suntan oil; cosmetics and skin care products, namely, cream for face, after sun moisture, aftersun body cooling spray, sunless tanninggel, after sun cream for face and body, face and body moisturizers, skin lotion, and after sun lotion; [hair and] body care products, namely, body cream, and body lotion; cosmetic preparations for body care; facial cream; facial lotion; [bathing products, namely, bath soaps, bath gels,] fragrances for personal use [and room fragrances]		

U.S. Application No.	86386811	Application Date	09/05/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HAMPTON SUN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 0 First Use In Commerce: 0 Cosmetics and personal care products, namely, shampoo and hair conditioners; bath salts; cosmetic body scrubs for the face, feet and hands; body exfoliating scrubs; aromatherapy body oils; non-medicated skin care preparations; room		

	<p>fragrances; home fragrance oils and air fragrancing preparations; passive scent diffusers, namely, air diffusers comprised of a wick and sold with oil in a container used to emit scent by diffusion into the air; cosmetic kits comprised of cosmetics and cosmetic cases sold with cosmetics</p> <p>Class 004. First use: First Use: 0 First Use In Commerce: 0</p> <p>Candles; scented candles; scented wax for use in candle warmers; paraffin wax</p> <p>Class 044. First use: First Use: 0 First Use In Commerce: 0</p> <p>Health spa services, namely, cosmetic body care services, cosmetic skin care services, aromatherapy, manicure and pedicure services, massage services; aesthetician services; beauty consultation services; body waxing services</p>
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Attachments	<p>78360413#TMSN.png(bytes)</p> <p>86386811#TMSN.png(bytes)</p> <p>12.19.16 - Notice of Opposition.pdf(91486 bytes)</p> <p>Exhibit A.pdf(315478 bytes)</p> <p>Exhibit B.pdf(308404 bytes)</p>
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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	/KES/
Name	Keith E. Sharkin
Date	12/19/2016

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

In the matter of Application Serial No. 86/858,285
For the Mark: HAMPTONSPA
Published in the Official Gazette on June 21, 2016

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S&G HAMPTON SUN, LLC, :
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 Opposer, :
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 v. :
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 HAMPTON PARK HOUSE LTD., :
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 Applicant. :
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Opposition No. _____

NOTICE OF OPPOSITION

S & G Hampton Sun, LLC (hereinafter “Opposer”) believes that it will be damaged by registration of the trademark HAMPTONSPA, as shown in Application Serial No. 86/858,285, filed on December 28, 2015 by Hampton Park House Ltd., (“Applicant”), for “beauty soap; beauty gels; beauty masks; beauty milks; beauty serums; beauty creams; beauty lotions; body and beauty care cosmetics; facial mask pack for cosmetic purposes; facial beauty masks; non-medicated skin care preparations; spa and bathroom products, namely, non-medicated toiletries; grooming products, namely, hair lotion, shaving cream; travel size non-medicated toiletries; essential oils for aromatherapy use; reed diffusers comprised of scented essential oils for aromatherapy use and also including reeds and a diffuser container” in International Class 3.

Opposer, by and through its attorneys, obtained extensions of time to oppose in due course, the last of which expires on December 18, 2016. Given that December 18, 2016 fell on a Sunday, this opposition is timely under TMEP Sec. 308, as it is being filed on the following day

that is not a Saturday, Sunday or a Federal holiday within the District of Columbia. Opposer hereby opposes registration of the trademark HAMPTONSPA on the following grounds:

1. Opposer is a limited liability company organized and existing under the laws of New York with a principal place of business at 241 West 30th Street, 4th Floor, New York, New York 10001.

2. Upon information and belief, Applicant is a limited liability company located in the United Kingdom, with an address at 98 Gloucester Road, Hampton, United Kingdom TW122UJ.

3. Opposer is the owner of U.S. Trademark Registration No. 3,851,704, filed January 30, 2004 and issued on September 21, 2010, for the mark HAMPTON SUN (“Opposer’s Registration”) in connection with “tanning and sunscreen preparations; sun block; sun care lotion; sun cream; sun tan gel; sun tan lotion; suntan oil; cosmetics and skin care products, namely cream for face, after sun moisture, after sun body cooling spray, sunless tanning gel, after sun cream for face and body, face and body moisturizers, skin lotion, and after sun lotion; hair and body care products, namely body cream and body lotion; cosmetic preparations for body care; facial cream; facial lotion; bathing products, namely bath soaps, bath gels, fragrances for personal use; and room fragrances” in International Class 3. This registration has become incontestable pursuant to 15 U.S.C. § 1065.

4. Opposer is also the owner of the prior-filed pending application serial number 86/386,811, filed September 5, 2014 for the mark HAMPTON SUN (“Opposer’s Application”) in connection with “cosmetics and personal care products, namely, shampoo and hair conditioners; bath salts, bath scrubs; body exfoliating scrubs; aromatherapy body oils; non-medicated skin care preparations; room fragrances; home fragrance oils and air fragrancing

preparations; passive scent diffusers, namely, air diffusers comprised of a wick and oil in a container used to emit scent by diffusion into the air; cosmetic kits comprised of cosmetics and cosmetic cases” in International Class 3, “candles; scented candles; scented wax for use in candle warmers; paraffin wax” in International Class 4, and “health spa services, namely, cosmetic body care services, cosmetic skin care services, aromatherapy, manicure and pedicure services, massage services; aesthetician services; beauty consultation services; body waxing services” in International Class 44. A Notice of Allowance issued for this application on April 12, 2016.

5. A copy of records from the Trademark Application and Registration Retrieval (“TARR”) system of the United States Patent and Trademark Office (“USPTO”) showing records of Opposer’s Registration is attached hereto as Exhibit A. A copy of records from the TARR system of the USPTO showing records of Opposer’s Application is attached hereto as Exhibit B. (Opposer’s Registration and Opposer’s Application are sometimes hereinafter collectively referred to as “Opposer’s Marks”).

6. Opposer’s Registration and Opposer’s Application are valid and subsisting and are evidence of Opposer’s ownership of the Opposer’s Marks, and exclusive right to use Opposer’s Marks in commerce in connection with the goods described in Opposer’s Registration and Opposer’s Application, respectively.

7. Opposer has used the mark HAMPTON SUN in connection with the sale of the goods described in Opposer’s Registration since at least as early as May 1, 2005, has used the mark HAMPTON SUN in connection with the sale of the goods described in Opposer’s Registration in interstate commerce since at least as early as May 1, 2005, and such use has been continuous and is ongoing.

8. Opposer has expended substantial effort and expense in promoting Opposer's Marks. As a result, Opposer has developed extensive goodwill with respect to Opposer's Marks, and consumers have come to know, rely upon, and recognize the source of the goods described in Opposer's Registration as originating from a single source, that is, Opposer.

9. On December 28, 2015, Applicant filed Application Serial No. 86/858,285, in the USPTO under Section 1(b) of the United States Trademark Act, seeking to register HAMPTONSPA ("Applicant's Mark") on the Principal Register for "beauty soap; beauty gels; beauty masks; beauty milks; beauty serums; beauty creams; beauty lotions; body and beauty care cosmetics; facial mask pack for cosmetic purposes; facial beauty masks; non-medicated skin care preparations; spa and bathroom products, namely, non-medicated toiletries; grooming products, namely, hair lotion, shaving cream; travel size non-medicated toiletries; essential oils for aromatherapy use; reed diffusers comprised of scented essential oils for aromatherapy use and also including reeds and a diffuser container" in International Class 3 ("Applicant's Goods).

10. Opposer's rights in Opposer's Marks predate and are superior to any rights Applicant has in its intent-to-use application for Applicant's Mark.

11. Applicant's Mark so resembles Opposer's Marks in appearance, sound, and commercial impression and Applicant's Goods are closely related to the goods listed in Opposer's Registration and Opposer's Application, such that, when applied to Applicant's Goods, would be likely to cause confusion, or to cause mistake, or to deceive consumers, all to the detriment of Opposer. Consumers would mistakenly believe that Applicant's Goods are associated with, endorsed, or sponsored by Opposer, when such is not the case.

12. Applicant's Mark is highly similar to Opposer's Marks and will create a likelihood of confusion with Opposer's Marks.

13. Applicant's Goods are closely related to the goods listed in Opposer's Registration and Opposer's Application.

14. Upon information and belief, Applicant's Goods will travel in the same or similar channels of trade and will be directed at the same or similar consumers as those looking to purchase the goods sold by Opposer using Opposer's Marks.

15. Opposer will be damaged by registration of Applicant's Mark because such registration will give Applicant prima facie ownership of and the exclusive right to use Applicant's Mark which is confusingly similar to Opposer's Marks, in derogation of Opposer's superior rights in Opposer's Marks.

16. This Opposition is timely filed and accompanied by the appropriate filing fee.

WHEREFORE, Opposer respectfully requests that the registration sought by Applicant be refused, and that this Notice of Opposition be sustained.

The required fee of \$300.00 for Opposition against the subject application is enclosed herewith.

Dated: December 19, 2016

Respectfully submitted,

/s/ Keith E. Sharkin
Robert L. Powley
James M. Gibson
Keith E. Sharkin
David A. Jones

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Attorneys for Opposer

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

In the matter of Application Serial No. 86/858,285
For the Mark: HAMPTONSPA
Published in the Official Gazette on June 21, 2016

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S&G HAMPTON SUN, LLC,	:	
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Opposer,	:	Opposition No. _____
	:	
v.	:	
	:	
HAMPTON PARK HOUSE LTD.,	:	
	:	
Applicant.	:	
	:	
-----X		

CERTIFICATE OF SERVICE UNDER 37 C.F.R §2.119

I hereby certify that on this 19th day of December, 2016, a true and correct copy of the foregoing Notice of Opposition was served on Applicant by United States Postal Service first class mail, postage prepaid, at Applicant’s correspondence address on record in the United States Patent and Trademark Office, and via email, with a copy via email to Applicant’s attorney:

Ian Cobley
Hampton Park House Ltd.
Hampton, United Kingdom TW12 2UJ
iancobley@hamptonparkhouse.com

Heather Norton, Esq.
Law Office of Heather Norton
heather@heathernortonlaw.com

/s/ David A. Jones
David A. Jones

EXHIBIT A



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HAMPTON SUN

Word Mark HAMPTON SUN

Goods and Services IC 003. US 001 004 006 050 051 052. G & S: Tanning and sunscreen preparations; sun block; sun care lotion; sun cream; sun tan gel; sun tan lotion; suntan oil; cosmetics and skin care products, namely, cream for face, after sun moisture, after sun body cooling spray, sunless tanning gel, after sun cream for face and body, face and body moisturizers, skin lotion, and after sun lotion; [hair and] body care products, namely, body cream, and body lotion; cosmetic preparations for body care; facial cream; facial lotion; [bathing products, namely, bath soaps, bath gels,] fragrances for personal use [and room fragrances]. FIRST USE: 20050501. FIRST USE IN COMMERCE: 20050501

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Trademark Search Facility

SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons

Classification Code

Serial Number 78360413

Filing Date January 30, 2004

Current Basis 1A

Original Filing Basis 1B

Published for Opposition December 6, 2005

Registration Number 3851704

Registration Date September 21, 2010

Owner (REGISTRANT) Wilfley, Grant S. INDIVIDUAL UNITED STATES 112 McGregor Drive Southhampton NEW YORK 11968
 (REGISTRANT) Piazzolla, Salvatore R. INDIVIDUAL UNITED STATES 161 North 7th Street Lindenhurst NEW YORK 11757
 (LAST LISTED OWNER) S & G **HAMPTON SUN**, LLC LIMITED LIABILITY COMPANY NEW YORK 123 WEST 18TH STREET, 8TH FLOOR NEW YORK NEW YORK 10011

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Robert L. Powley

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Live/Dead Indicator LIVE

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EXHIBIT B



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HAMPTON SUN

Word Mark HAMPTON SUN

Goods and Services IC 003. US 001 004 006 050 051 052. G & S: Cosmetics and personal care products, namely, shampoo and hair conditioners; bath salts; cosmetic body scrubs for the face, feet and hands; body exfoliating scrubs; aromatherapy body oils; non-medicated skin care preparations; room fragrances; home fragrance oils and air fragrancing preparations; passive scent diffusers, namely, air diffusers comprised of a wick and sold with oil in a container used to emit scent by diffusion into the air; cosmetic kits comprised of cosmetics and cosmetic cases sold with cosmetics

IC 004. US 001 006 015. G & S: Candles; scented candles; scented wax for use in candle warmers; paraffin wax

IC 044. US 100 101. G & S: Health spa services, namely, cosmetic body care services, cosmetic skin care services, aromatherapy, manicure and pedicure services, massage services; aesthetician services; beauty consultation services; body waxing services

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 86386811

Filing Date September 5, 2014

Current Basis 1B

Original Filing Basis 1B

Published for Opposition February 16, 2016

Owner (APPLICANT) S&G Hampton Sun, LLC LIMITED LIABILITY COMPANY NEW YORK 4th Floor 241 West 30th Street New York NEW YORK 10001

Attorney of Record Robert L. Powley

Prior Registrations 3851704

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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