

ESTTA Tracking number: **ESTTA817846**

Filing date: **05/01/2017**

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	Arnold & Richter Cine Technik GmbH & Co. Betriebs KG
Granted to Date of previous extension	05/03/2017
Address	Turkenstr. 89 80799 Munchen, GERMANY

Attorney information	William C. Wright Epstein Drangel LLP 60 East 42nd Street, Suite 2520 New York, NY 10165 UNITED STATES mail@ipcounselors.com
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### Applicant Information

Application No	87142121	Publication date	01/03/2017
Opposition Filing Date	05/01/2017	Opposition Period Ends	05/03/2017
Applicant	Skypanels, Inc 3036 Donnegal Bay Drive Las Vegas, NV 89117 UNITED STATES		

### Goods/Services Affected by Opposition

Class 011. First Use: 2006/05/03 First Use In Commerce: 2006/05/03 All goods and services in the class are opposed, namely: Diffusers for fluorescent lighting fixtures and other lighting products which feature a variety of cloud formations, sky scenes, scenes of people, scenes of animals, nature scenes, and other earthly formations; Light diffusers
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### Grounds for Opposition

The mark is merely descriptive	Trademark Act Section 2(e)(1)
Other	Section 18 of the Trademark Act

Related Proceedings	92065030
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Attachments	DOC050117sky.pdf(111215 bytes )
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Signature	/William C. Wright/
Name	William C. Wright

Date	05/01/2017
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ARNOLD & RICHTER CINE TECHNIK	)	
GMBH & CO. BETRIEBS KG,	)	
Opposer,	)	Opp. No.
	)	
v.	)	
	)	
SKYPANELS, INC.,	)	
	)	
Applicant.	)	
	)	

**NOTICE OF OPPOSITION**

In the Matter of Ser. No. 87142121, Arnold & Richter Cine Technik GmbH & Co. Betriebs KG, a limited liability partnership, organized and existing under the laws of Germany, having its principal place of business at Türkenstraße 89, 80799 München, Germany (“Opposer”), believes that it is or will be damaged by the registration of the alleged mark SKYPANELS, Ser. No. 87142121, and hereby opposes the application to register this mark.

As grounds therefor, Opposer, by and through its undersigned attorneys, alleges as follows:

1. Opposer is the world’s largest manufacturer and distributor of motion picture camera, digital intermediate and lighting equipment.
2. Opposer has been on the cutting edge of camera and lighting technology for

almost one hundred (100) years.

3. On June 30, 2015, Opposer filed with the United States Patent and Trademark Office (“USPTO”) a U.S. Extension of Protection for the mark SKYPANEL, Ser. No. 79177608, for goods in Classes 9 and 11 which are intended to be used in connection with motion picture and broadcast equipment (“Opposer’s Application”).

4. The USPTO has refused Opposer’s Application under Section 2(d) of the Trademark Act based on the cited registration of the alleged mark SKYPANELS, Reg. No. 4582063, for “Diffusers for fluorescent lighting fixtures and other lighting products which feature a variety of cloud formations, sky scenes, scenes of people, scenes of animals, nature scenes, and other earthly formations; Light diffusers”, in the name of SkyPanels, Inc., which issued to registration on the Supplemental Register (“Cited Registration”).

5. Opposer has filed a petition to cancel the Cited Registration, Cancellation No. 92065030, and said action is pending before the Trademark Trial and Appeal Board.

6. On August 17, 2016, SkyPanels, Inc. (hereinafter, “Applicant”) filed, on the Principal Register, a second use based application to register the mark SKYPANELS, Ser. No. 87142121, for “Diffusers for fluorescent lighting fixtures and other lighting products which feature a variety of cloud formations, sky scenes, scenes of people, scenes of animals, nature scenes, and other earthly formations; Light diffusers”, claiming acquired distinctiveness under Section 2(f) of the Trademark Act (“’121 Application”).

#### **SECTION 18 CLAIM**

7. Opposer specifically alleges and reincorporates herein by reference each and every allegation set forth above.

8. Upon information and belief, the Applicant is not using in commerce the

alleged mark SKYPANELS on all of the goods covered by the '121 Application.

9. Opposer hereby requests that the Board, pursuant to Section 18 of the Trademark Act, partially restrict the goods set forth in the '121 Application to the following, which upon information and belief, are the actual goods Applicant uses in commerce its alleged mark SKYPANELS, if at all, on:

Light diffusers in the nature of ceiling light panels which are used to diffuse fluorescent indoor light emitted from indoor ceiling mounted lighting fixtures, featuring a variety of cloud formations, sky scenes, scenes of people, scenes of animals, nature scenes, and other earthly formations that are used to transform the way an office, house, school, hotel, hospital, or any indoor setting looks and feels

10. Upon information and belief, such a restriction, which reflects the actual goods for which Applicant uses its alleged mark SKYPANELS on, would avoid a possible finding in the USPTO that there is a likelihood of confusion with the mark SKYPANEL, which is the subject of Opposer's Application, on the one hand, and Applicant's mark SKYPANELS, which is the subject of the '121 Application, on the other.

**APPLICANT'S MARK IS MERELY DESCRIPTIVE**

11. Opposer specifically alleges and reincorporates herein by reference each and every allegation set forth above.

12. The alleged mark SKYPANELS for the goods covered by the '121 Application is merely descriptive.

13. Applicant's burden is to prove acquired distinctiveness by a preponderance of the evidence.

14. Given the level of descriptiveness of the alleged mark SKYPANELS for the goods covered by the '121 Application, Applicant's 2(f) claim is insufficient to establish secondary meaning by a preponderance of the evidence.

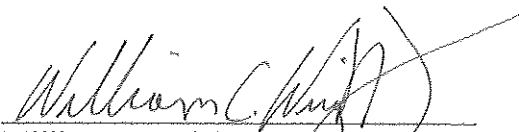
**WHEREFORE**, it is respectfully requested that the Board sustain the Opposition.

Respectfully submitted,

EPSTEIN DRANGEL LLP  
Attorney for Opposer

Dated: May 1, 2017

BY:

  
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