

ESTTA Tracking number: **ESTTA827136**

Filing date: **06/14/2017**

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	ConSeal International Incorporated		
Entity	Corporation	Citizenship	Florida
Address	90 Kerry Place Suite 2 Norwood, MA 02062 UNITED STATES		

Attorney information	Joshua D. Martin Johnson & Martin, P.A. 500 West Cypress Creek Road Suite 430 Fort Lauderdale, FL 33309 UNITED STATES josh.martin@johnsonmartinlaw.com, litigation@johnsonmartinlaw.com Phone:954-790-6699
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### Applicant Information

Application No	87226954	Publication date	05/16/2017
Opposition Filing Date	06/14/2017	Opposition Period Ends	06/15/2017
Applicant	Bell Laboratories, Inc. 3699 Kinsman Blvd. Madison, WI 53704 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: rodenticides; preparations for destroying vermin
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	5111271	Application Date	03/03/2016
Registration Date	12/27/2016	Foreign Priority Date	NONE
Word Mark	MOUSEX		

Design Mark	<b>MOUSEX</b>
Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 2016/01/21 First Use In Commerce: 2016/01/21 Rodenticides; pesticides

Attachments	86928013#TMSN.png( bytes ) 57997-0145 Notice of Opposition-MOUSE ZERO.pdf(17363 bytes )
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Signature	/Joshua D. Martin/
Name	Joshua D. Martin
Date	06/14/2017

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

In re Trademark Application

Serial No.: 87/226,954

Filed: November 4, 2016

Trademark: MOUSE ZERO

Published in the *Official Gazette*  
On May 16, 2017

ConSeal International Incorporated )  
 )  
Opposer, )  
 )  
v. )  
 )  
Bell Laboratories, Inc. )  
 )  
Applicant. )

Opposition No.: \_\_\_\_\_

**NOTICE OF OPPOSITION**

Opposer, ConSeal International Incorporated (“Opposer”), a Florida corporation, having a principal place of business at 90 Kerry Place, Suite 2, Norwood, MA 02062, believes that it will be damaged by the registration of the mark MOUSE ZERO shown in U.S. Trademark Application Serial No. 87/226,954, by Bell Laboratories, Inc. (“Applicant”), filed on November 4, 2016, and hereby opposes the same.

As grounds for the opposition, Opposer asserts as follows:

1. Opposer is a manufacturer of a wide range of custom and proprietary products, including rodenticide products.
2. Since at least January 2016, Opposer has owned and used the mark “MOUSEX”

(“Opposer’s Mark” or “MOUSEX Mark”) in connection with rodenticide products throughout the United States.

3. Opposer is the owner of U.S. Trademark Registration No. 5,111,271 (the “MOUSEX Registration”) for the MOUSEX Mark covering “Rodenticides; pesticides” in International Class 5, issued on December 27, 2016. Opposer and its licensees have used and are using the MOUSEX Mark in commerce for the goods for which it is registered. The MOUSEX Registration is valid and subsisting, uncancelled, and unrevoked.

4. Opposer and/or its licensees have expended considerable time, effort, and expense in advertising and promoting the MOUSEX Mark and the goods associated with it throughout the United States, with the result that the purchasing public has come to know and recognize rodenticide products of the Opposer via the MOUSEX Mark. Opposer has exceedingly valuable goodwill established in its MOUSEX Mark.

5. On November 4, 2016, Applicant filed U.S. Trademark Application Serial No. 87/226,954 (the “’954 Application”) for the mark MOUSE ZERO (“Applicant’s Mark” or “MOUSE ZERO Mark”) for “rodenticides; preparations for destroying vermin,” in International Class 5.

6. The ‘954 Application was published for opposition in the *Official Gazette* on May 16, 2017.

7. Applicant filed its ‘954 Application under Section 1(b) based on intent to use in commerce. Applicant has not yet filed its Statement of Use for the ‘954 Application.

8. Upon information and belief, Applicant is not actually using the MOUSE ZERO Mark in commerce.

9. There is no issue as to priority. Opposer used and filed for registration for its

MOUSEX Mark in connection with its goods prior to Applicant's November 4, 2016 filing date, or any date on which Applicant can rely.

10. The class of goods covered by Applicant's '954 Application is for the same products, namely rodenticides, as the class of goods covered by Opposer's MOUSEX Registration for the MOUSEX Mark.

11. Applicant's MOUSE ZERO Mark is confusingly similar to Opposer's MOUSEX Mark for goods in International Class 5, and is likely to cause confusion, mistake, or deception among consumers as to the source, origin or sponsorship of such goods and lead the public and prospective purchasers to believe that Applicant's goods are those of Opposer or are endorsed, sponsored or otherwise affiliated or connected with Opposer, or that Opposer's goods and services are associated with Applicant, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), all to the damage and injury of the purchasing public and to the damage and injury of Opposer.

12. If Applicant were granted the registration herein opposed, it would obtain at least a *prima facie* exclusive right to use of the MOUSE ZERO Mark in connection with the designated goods. Such registration would cause injury and damage to Opposer's prior and established rights in its MOUSEX Mark.

13. The grant of a registration to Applicant as sought in the '954 Application should be denied on the grounds of Opposer's prior use and/or registration of Opposer's MOUSEX Mark for goods in International Class 5.

14. Opposer has not given Applicant permission to use or register Applicant's Mark.

WHEREFORE, Opposer respectfully requests that registration of the MOUSE ZERO Mark, Application Serial No. 87/226,954, be refused, that no registration be issued thereon to Applicant, and that this opposition be sustained.

Please recognize as attorney for Opposer in this proceeding Joshua D. Martin (member of the Florida Bar and North Carolina Bar) and the law firm Johnson & Martin, P.A., 500 West Cypress Creek Road, Suite 430, Fort Lauderdale, FL 33309.

This Notice of Opposition is being filed electronically. The filing fee required under 37 C.F.R. § 2.6(a)(17) is being paid concurrently with the filing of this Notice of Opposition.

Dated: June 14, 2017

Respectfully submitted,

By: /Joshua D. Martin/  
Joshua D. Martin  
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*Attorney for Opposer, ConSeal International  
Incorporated*

**CERTIFICATE OF SERVICE**

I hereby certify a true and correct copy of this Notice of Opposition, which was electronically filed, is being sent via email and US Mail to Applicant's Counsel at the address below on this 14th day of June, 2017:

Christopher J. Hussin  
BOARDMAN & CLARK  
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E-Mail: docket\_chussin@boardmanclark.com  
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Date: June 14, 2017

By: /s/ Joshua D. Martin  
Joshua D. Martin, Esq.