ESTTA Tracking number:

ESTTA894759

Filing date:

05/07/2018

# 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    | Best Chairs Incorporated                             |             |         |
|---------|--|-------------|---------|
| Entity  | Corporation  | Citizenship | Indiana |
| Address | 1 Best Drive<br>Ferdinand, IN 47532<br>UNITED STATES |             |         |

| Correspondence | Brad R. Maurer                                      |
|----------------|---|
| information    | Attorney  |
|                | Bingham Greenebaum Doll LLP                         |
|                | 2700 Market Tower                                   |
|                | 10 West Market Street                               |
|                | Indianapolis, IN 47532                              |
|                | UNITED STATES                                       |
|                | Email: ptodocket@bgdlegal.com, bmaurer@bgdlegal.com |
|                | Phone: 317.968.5423                                 |

## **Applicant Information**

| Application No         | 87688513   | Publication date                     | 04/10/2018 |
|------------------------|--|--------------------------------------|------------|
| Opposition Filing Date | 05/07/2018   | Opposition Peri-<br>od Ends          | 05/10/2018 |
| Applicant              | Shenzhen Yitianjin Trading<br>6th Flr. 1st Build. Yangg<br>Guimiao Rd., Nanhai Rd.<br>Nanshan Dist.,Shenzhen, 5<br>CHINA | juanghuayi Build<br>, Nanshan Str.,Â |            |

# Goods/Services Affected by Opposition

Class 020. First Use: 2013/10/10 First Use In Commerce: 2013/10/10

All goods and services in the class are opposed, namely: Beds; Chairs; Collapsible platform seats and stools; Desks; Display stands; Dressing tables; Filing cabinets; Furniture; Furniture shelves; Library shelves; Magazine racks; Moving-aisle filing and storage shelving; Office furniture; Shelves for storage; Sideboards

# Grounds for Opposition

| Priority and likelihood of confusion | Trademark Act Section 2(d) |
|--------------------------------------|----------------------------|
| Thomas and intermided of confident   | Hademan Not Section 2(a)   |

# Marks Cited by Opposer as Basis for Opposition

| U.S. Registration No. | 1421085    | Application Date         | 04/26/1985 |
|-----------------------|------------|--------------------------|------------|
| Registration Date     | 12/16/1986 | Foreign Priority<br>Date | NONE       |

| Word Mark              | BEST CHAIRS INC.   |
|------------------------|--|
| Design Mark            | BEST CHAIRS INC.   |
| Description of<br>Mark | NONE   |
| Goods/Services         | Class 020. First use: First Use: 1962/10/00 First Use In Commerce: 1962/10/00 CHAIRS |

| U.S. Registration No.  | 2871238   | Application Date         | 08/19/2003 |
|------------------------|---|--------------------------|------------|
| Registration Date      | 08/10/2004  | Foreign Priority<br>Date | NONE       |
| Word Mark              | BEST HOME FURNISHINGS   |                          |            |
| Design Mark            | BEST HOME FURNISHINGS   |                          |            |
| Description of<br>Mark | NONE  |                          |            |
| Goods/Services         | Class 020. First use: First Use: 2003/11/03 First Use In Commerce: 2003/11/03 Furniture |                          |            |

| U.S. Registration No.  | 3839150                                   | Application Date         | 09/02/2009                 |
|------------------------|---|--------------------------|----------------------------|
| Registration Date      | 08/24/2010                                | Foreign Priority<br>Date | NONE                       |
| Word Mark              | THE POWER OF BEST                         |                          |                            |
| Design Mark            | THE POWER OF BEST                         |                          |                            |
| Description of<br>Mark | NONE                                      |                          |                            |
| Goods/Services         | Class 020. First use: First Use Furniture | e: 2009/10/01 First Us   | se In Commerce: 2009/10/01 |

| U.S. Registration No.  | 3531915   | Application Date         | 07/18/2007   |
|------------------------|---|--------------------------|--|
| Registration Date      | 11/11/2008  | Foreign Priority<br>Date | NONE   |
| Word Mark              | BEST-MAX  |                          |  |
| Design Mark            | BEST  | Г-М                      | AX   |
| Description of<br>Mark | NONE  |                          |  |
| Goods/Services         | Class 020. First use: First Use [ Chair cushions; Cushions; C |                          | lse In Commerce: 2007/09/01<br>m furniture; Recliners; Seats |

| U.S. Registration No.  | 4608870                       | Application Date                                     | 01/21/2014                  |
|------------------------|-------------------------------|--|-----------------------------|
| Registration Date      | 09/23/2014                    | Foreign Priority<br>Date                             | NONE                        |
| Word Mark              | THE POWER OF BEST             |  |                             |
| Design Mark            | BE                            | Ner Of   |                             |
| Description of<br>Mark |                               | vith the stylized wordin<br>"BEST" in capitalletters |                             |
| Goods/Services         | Class 020. First use: First U | Jse: 2009/10/01 First U                              | Jse In Commerce: 2009/10/01 |

|                             | Furniture; residential furniture   |                          |                               |
|-----------------------------|--|--------------------------|-------------------------------|
| U.S. Registration No.       | 4887538  | Application Date         | 01/22/2014                    |
| Registration Date           | 01/19/2016   | Foreign Priority Date    | NONE                          |
| Word Mark                   | BEST   |                          |                               |
| Design Mark  Description of | The mark consists of an image  | e of a bluediamond v     | vith a gold outline and black |
| Description of Mark         | The mark consists of an image of a bluediamond with a gold outline and black shading, which has a gold horizontal lineextending from the rightward point of the diamond with black shading on the underside of the horizontal line, with the word "Best" in blue font and black shading positioned on top of the gold horizontal line. |                          |                               |
| Goods/Services              | Class 020. First use: First Use Furniture; residential furniture   |                          | se In Commerce: 2003/11/03    |
| U.S. Registration No.       | 4762089  | Application Date         | 01/22/2014                    |
| Registration Date           | 06/23/2015   | Foreign Priority<br>Date | NONE                          |
| Word Mark                   | BEST HOSPITALITY   |                          |                               |
| Design Mark                 | BEST HOSPITALITY   |                          |                               |
| Description of<br>Mark      | NONE   |                          |                               |
| Goods/Services              | Class 020. First use: First Use: 2013/11/09 First Use In Commerce: 2013/11/09 Furniture; hospitality and institutional furniture, not made for medical purposes  |                          |                               |
| U.S. Registration<br>No.    | 4930320  | Application Date         | 01/09/2015                    |
| Registration Date           | 04/05/2016   | Foreign Priority         | NONE                          |

|                        | Date   |
|------------------------|--|
| Word Mark              | BEST HOME FURNISHINGS  |
| Design Mark            | Best-<br>Home Furnishings  |
| Description of<br>Mark | The mark consists of an image of a bluediamond with a gold outline and black shading, which has a gold horizontal lineextending from the rightward point of the diamond with black shading on the underside of the horizontal line, with the word "Best" in blue font and black shading positioned on top of the gold horizontal line, and the words "Home Furnishings" in blue stylized font positioned under the word "Best" and the gold horizontal line. |
| Goods/Services         | Class 020. First use: First Use: 2003/11/03 First Use In Commerce: 2003/11/03 Furniture  |

| Attachments | 73534333#TMSN.png( bytes )              |
|-------------|---|
|             | 76538283#TMSN.png(bytes)                |
|             | 77818610#TMSN.png( bytes )              |
|             | 77232709#TMSN.png( bytes )              |
|             | 86171087#TMSN.png( bytes )              |
|             | 86172267#TMSN.png( bytes )              |
|             | 86171991#TMSN.png( bytes )              |
|             | 86499741#TMSN.png( bytes )              |
|             | beststyle19262440_1.pdf(1702858 bytes ) |

| Signature | /Brad R. Maurer/ |
|-----------|------------------|
| Name      | Brad R. Maurer   |
| Date      | 05/07/2018       |

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

| Best Chairs Incorporated,             |                               |
|---------------------------------------|-------------------------------|
| Opposer,                              | Opposition No                 |
| v.                                    | Application Ser. No. 87688513 |
| Shenzhen Yitianjin Trading Co., Ltd., | Mark: BESTYLE                 |
| Applicant.                            | Date Filed: November 17, 2017 |

#### NOTICE OF OPPOSITION

Best Chairs Incorporated ("Opposer" or "BCI") believes that it will be damaged by registration of the mark BESTYLE shown in Application Serial No. 87688513 ("513 Application") published in the *Official Gazette* on April 10, 2018 and filed under Section 1(a) of the Trademark Act by Shenzhen Yitianjin Trading Co., Ltd. ("Applicant" or "SYTCO"), and hereby opposes registration.

As grounds for opposition, Opposer alleges as follows:

- 1. Opposer is a corporation organized and existing under the laws of the State of Indiana with its principal place of business at 1 Best Drive, Ferdinand, Indiana.
- 2. Opposer is a nationally recognized and respected furniture company that has been in operation since 1962 using "Best Chairs" in its corporate name, trade name and trademarks.
- 3. Opposer has used "Best Chairs Incorporated," "Best Chairs Inc.," and "Best Chairs" as company names, trade names and as common law trademarks in association with furniture for more than fifty years.

4. Opposer owns a family of trademarks and trade names that incorporate the element "BEST" that are used in association with furniture, including without limitation **BEST** 

5. Opposer owns the following valid and subsisting United States trademark registrations which incorporate the element "BEST":

| Mark                  | Class/Goods   | Reg. No./Key Dates             |
|-----------------------|---|--------------------------------|
| BEST                  | IC 020 - Chairs   | Reg. No. 1,421,085             |
| CHAIRS INC.           |   | First Use: October 1962        |
|                       |   | Filing Date: April 26, 1985    |
|                       |   | Reg. Date: December 16, 1986   |
| BEST HOME FURNISHINGS | IC 020 - Furniture  | Reg. No.: 2,871,238            |
|                       |   | Filing Date: August 19, 2003   |
|                       |   | First Use: November 3, 2003    |
|                       |   | Reg. Date: August 10, 2004     |
| THE POWER OF BEST     | IC 020 - Furniture  | Reg. No.: 3,839,150            |
|                       |   | Filing Date: September 2, 2009 |
|                       |   | First Use: October 1, 2009     |
|                       |   | Reg. Date: August 24, 2010     |
| BEST-MAX              | IC 020: Chair cushions; cushions; cushions; cushions; living room furniture; recliners; seats | Reg. No.: 3,531,915            |
|                       |   | Filing Date: July 18, 2007     |
|                       |   | First Use: September 1, 2007   |
|                       |   | Reg. Date: November 11, 2008   |

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| BEST OF                  | IC 020 – Furniture; residential furniture  | Reg. No: 4,608,870  First Use: October 1, 2009  Filing Date: January 21, 2014  Reg. Date: September 23, 2014     |
|--------------------------|--|--|
| → Best                   | IC 020 – Furniture; residential furniture  | Reg. No.: 4,887,538  First Use: November 3, 2003  Filing Date: January 22, 2014  Reg. Date: January 19, 2016     |
| BEST HOSPITALITY         | IC 020 – Furniture; hospitality<br>and institutional furniture, not<br>made for medical purposes | Registration No: 4,762,089  First Use: November 9, 2013  Filing Date: January 22, 2014  Reg. Date: June 23, 2015 |
| Best<br>Home Farnishings | IC 020 – Furniture   | Registration No.: 4,930,320  First Use: November 2, 2003  Filing Date: January 9, 2015  Reg. Date: April 5, 2016 |

True and accurate status copies from the USPTO's Trademark Status and Document Retrieval of the above-referenced U.S. trademark registrations are attached to this Opposition as <u>Exhibit 1</u>.

- 6. Opposer uses its BEST Marks in connection with chairs and furniture goods, affixed to tags, labels, and packaging for its chairs and furniture goods, and to advertise and sell its goods throughout the United States.
- 7. Opposer has expended substantial sums of money in advertising and promoting its chairs and furniture goods under the BEST Marks, such that the public recognizes Opposer as the source of chairs and furniture goods offered under the BEST Marks.

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- 8. By virtue of these efforts, the longstanding use of the BEST Marks, and the quality of Opposer's chairs and furniture goods, the BEST Marks have acquired valuable goodwill in the marketplace.
- 9. Based on these and other efforts, the public has come to know the BEST Marks, and recognizes that chairs and other furniture goods offered under the BEST Marks originate with Opposer.
- 10. The BEST Marks are all assets of substantial value to Opposer as a symbol of Opposer, its high quality chairs and furniture goods, and the valuable goodwill associated therewith.
- 11. Opposer has prior use of its BEST Marks in the United States in connection with chairs and furniture goods, which therefore qualifies Opposer as the senior rights holder in and to the BEST Marks.
- 12. Notwithstanding Opposer's senior rights to the BEST Marks, Applicant filed the '513 Application with the USPTO to register the mark BESTYLE for "Beds; Chairs; Collapsible platform seats and stools; Desks; Display stands; Dressing tables; Filing cabinets; Furniture; Furniture shelves; Library shelves; Magazine racks; Moving-aisle filing and storage shelving; Office furniture; Shelves for storage; Sideboards" in International Class 20. A copy of the USPTO's online summary for the '513 Application is attached as Exhibit 2. Applicant has alleged a date of first use in the United States of October 10, 2013.
- 13. Opposer's first use of the BEST Marks is earlier than Applicant's first use of the BESTYLE mark and the filing date of the '513 Application.
- 14. Applicant's BESTYLE mark includes the exact same literal element BEST as in Opposer's BEST Marks.

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15. Applicant's applied-for goods are the same as or closely related to the goods for

which Opposer uses the BEST Marks in United States commerce.

16. Registration of Applicant's mark will damage the goodwill and consumer

recognition that Opposer has built up in its BEST Marks.

17. For the above reasons, Opposer will be damaged by the registration of the

BESTYLE mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's

mark, and requests that registration be denied.

Opposer authorizes the Commissioner for Trademarks to charge the fee for filing this

Notice of Opposition, or any additional fees that may be due, to Deposit Account No. 500976.

Respectfully submitted,

Best Chairs Incorporated

Dated: May 7, 2018

By its attorneys:

/s/ /Brad R. Maurer/

Brad R. Maurer Bingham Greenebaum Doll LLP

101 South Fifth Street3500 National City Tower

Louisville, KY 40202

P: (502) 587-3707

F: (502) 540-2268 bmaurer@bgdlegal.com

ptodocket@bgdlegal.com

Attorneys for Opposer

19262440.1 -5-

## **CERTIFICATE OF FILING**

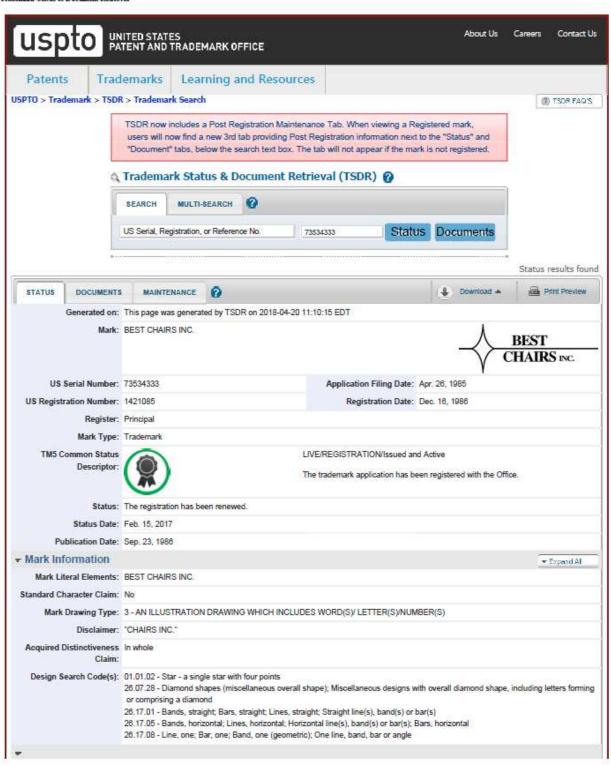
I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was submitted electronically to the Trademark Trial and Appeal Board at the United States Patent and Trademark Office via ESTTA on this 7<sup>th</sup> day of May, 2018.

/s/ /Brad R. Maurer/ Brad R. Maurer

19262440.1 -6-

#### **EXHIBIT 1**

Trademark Status & Document Retrieval



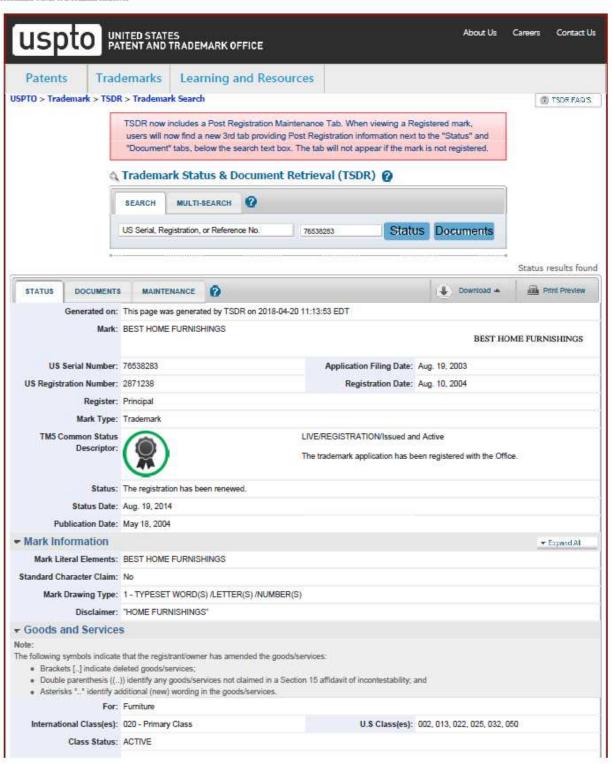
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19262440.1 -7-

#### Goods and Services Note: The following symbols indicate that the registrant/owner has amended the goods/services: · Brackets [..] indicate deleted goods/services; . Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and . Asterisks ".." identify additional (new) wording in the goods/services. For: CHAIRS International Class(es): 020 - Primary Class U.S Class(es): 032 Class Status: ACTIVE Basis: 1(a) First Use: Oct. 1962 Use in Commerce: Oct. 1962 ▲ Basis Information (Case Level) ▲ Current Owner(s) Information ▲ Attorney/Correspondence Information ▲ Prosecution History ▲ Maintenance Filings or Post Registration Information ▲ TM Staff and Location Information ▲ Assignment Abstract Of Title Information - Click to Load ▲ Proceedings - Click to Load Download Adobe Reader If you are the applicant or the applicant's attorney and have questions about this file, please contact the Trademark Assistance Center UNITED STATES PATENT AND TRADEMARK OFFICE BROWSE BY TOPIC ABOUT THIS SITE USPTO BACKGROUND FEDERAL GOVERNMENT Accessibility Federal Activity Inventory Reform Act Regulations.gov Trademarks Privacy Policy StopFakes:gov (FAIR) Learning & Resources Terms of Use USA.gov USPTO Budget and Security About the USPTO Department of Performance Commerce Systems Status Freedom of Information Strategy Targeting Site Map Organized Piracy Information Quality Guidelines Contact Us

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19262440.1 -8-



http://tsdr.uspto.gov/#caseNumber=76538283&caseType=SERIAL\_NO&searchType=statusSearch[4/20/2018 11:14:51 AM]

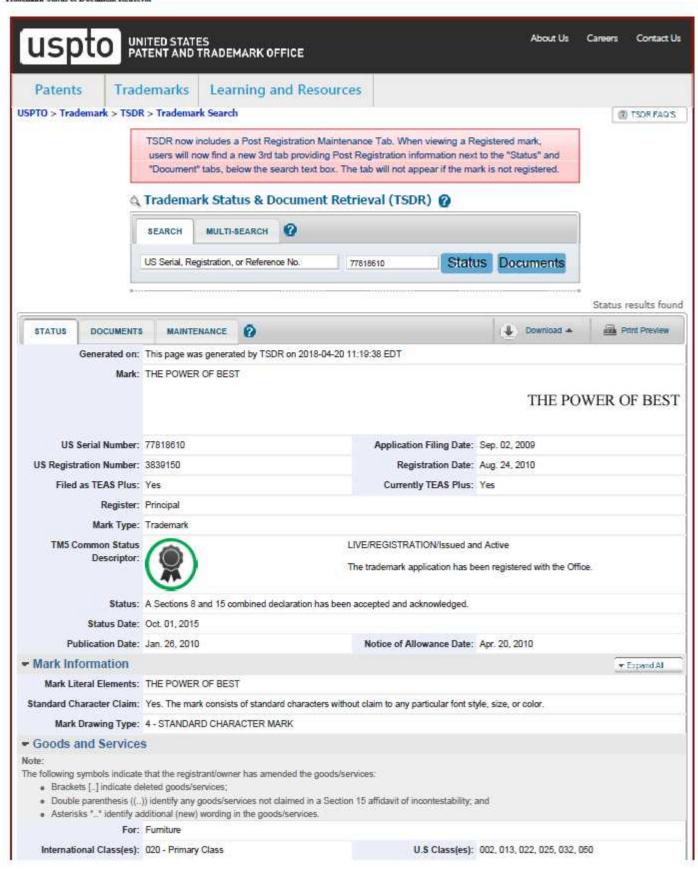
19262440.1 -9-

Basis: 1(a) First Use: Nov. 03, 2003 Use in Commerce: Nov. 03, 2003 ▲ Basis Information (Case Level) ▲ Current Owner(s) Information ▲ Attorney/Correspondence Information ▲ Prosecution History ▲ Maintenance Filings or Post Registration Information ▲ TM Staff and Location Information ▲ Assignment Abstract Of Title Information - Click to Load ▲ Proceedings - Click to Load Download Adobe Reader If you are the applicant or the applicant's attorney and have questions about this file, please contact the Trademark Assistance Center UNITED STATES
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Guidelines

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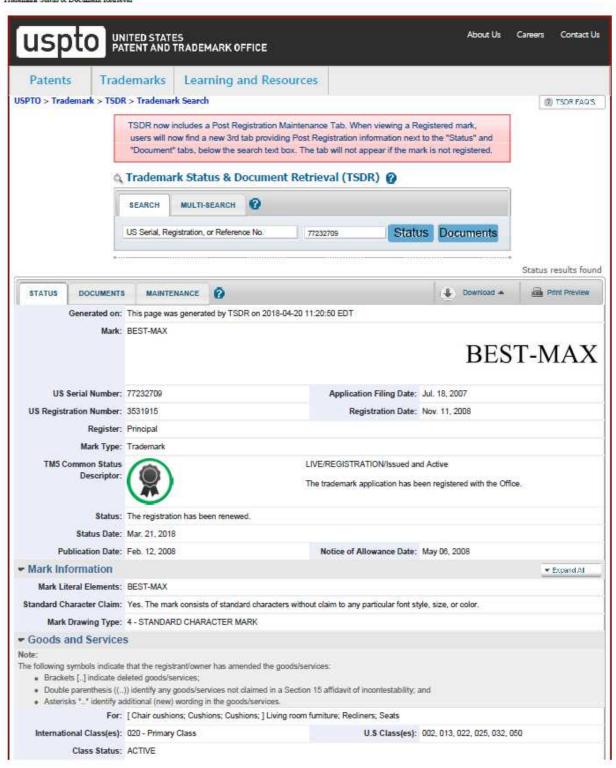
19262440.1 -10-



Class Status: ACTIVE Basis: 1(a) First Use: Oct. 01, 2009 Use in Commerce: Oct. 01, 2009 ▲ Basis Information (Case Level) ▲ Current Owner(s) Information ▲ Attorney/Correspondence Information ♣ Prosecution History ▲ Maintenance Filings or Post Registration Information ▲ TM Staff and Location Information ▲ Assignment Abstract Of Title Information - Click to Load ▲ Proceedings - Click to Load Download Adobe Reader If you are the applicant or the applicant's attorney and have questions about this file, please contact the Trademark Assistance Center UNITED STATES PATENT AND TRADEMARK OFFICE ABOUT THIS SITE BROWSE BY TOPIC USPTO BACKGROUND FEDERAL GOVERNMENT Federal Activity Inventory Reform Act Patents Accessibility Regulations.gov Privacy Policy StopFaxes gov (FAIR) Terms of Use Learning & Resources USA.gov USPTO Budget and About the USPTO Department of Performance Commerce Glossary Systems Status Freedom of Information Strategy Targeting Carpers Site Map Organized Piracy Information Quality Guidelines Contact Us

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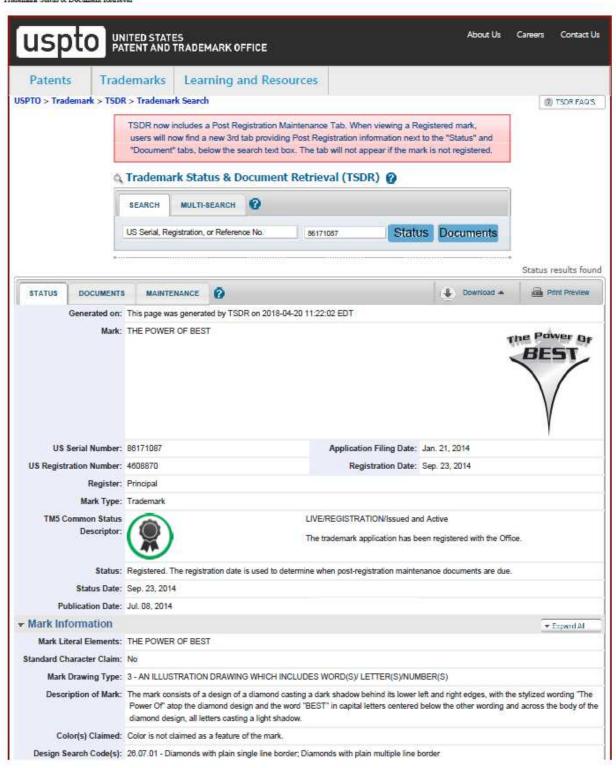
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19262440.1 -13-

Basis: 1(a) First Use: Sep. 01, 2007 Use in Commerce: Sep. 01, 2007 ▲ Basis Information (Case Level) ▲ Current Owner(s) Information ▲ Attorney/Correspondence Information ▲ Prosecution History ▲ Maintenance Filings or Post Registration Information ▲ TM Staff and Location Information Assignment Abstract Of Title Information - Click to Load ▲ Proceedings - Click to Load Download Adobe Reader If you are the applicant or the applicant's attorney and have questions about this file, please contact the Trademark Assistance Center UNITED STATES PATENT AND TRADEMARK OFFICE ABOUT THIS SITE USPTO BACKGROUND BROWSE BY TOPIC FEDERAL GOVERNMENT Federal Activity
Inventory Reform Act Patents Accessibility Regulations gov Trademarks Privacy Policy StopFakes.gov (FAIR) Learning & Resources Terms of Use USA.gov USPTO Budget and About the USPTO Security Department of Performance Glossary Systems Status Freedom of Information Strategy Targeting Site Map Careers Organized Piracy Contact Us Information Quality

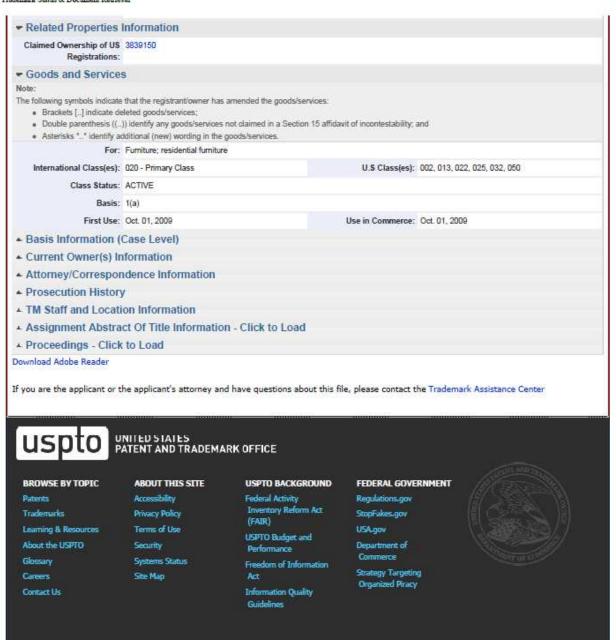
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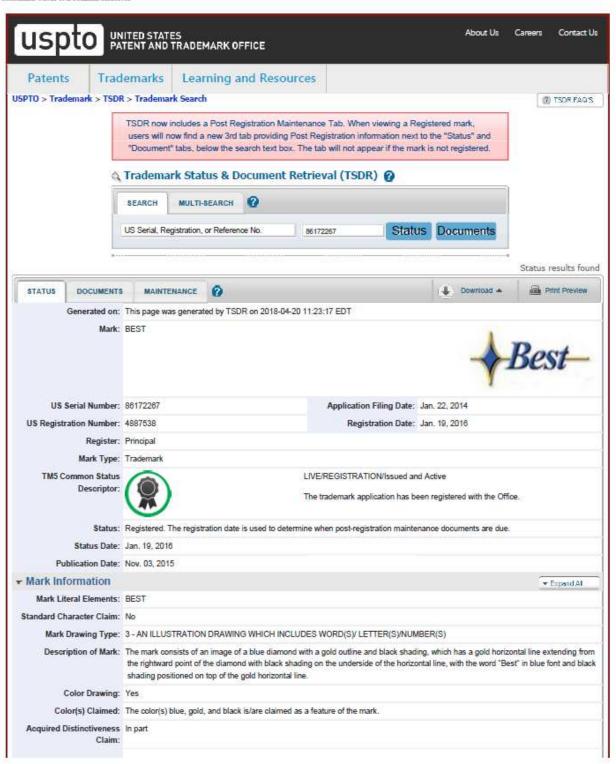
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19262440.1 -15-



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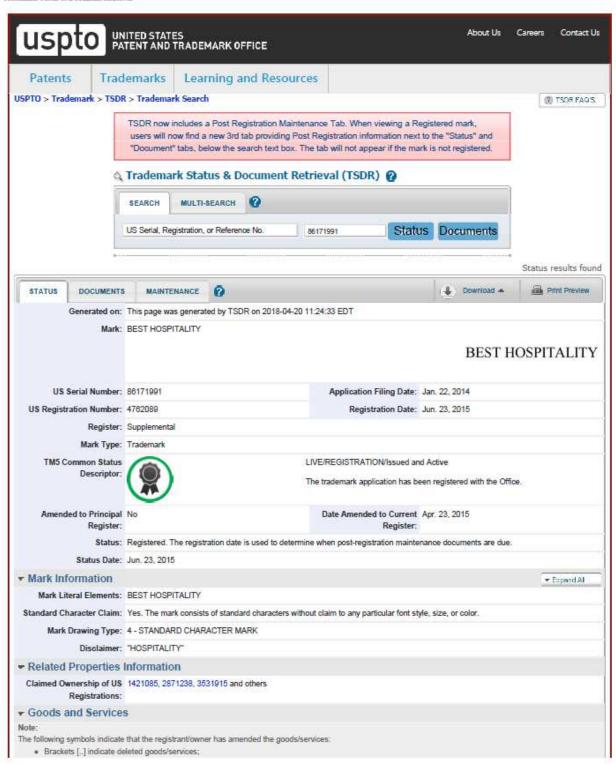
http://tsdr.uspto.gov/#caseNumber=86172267&caseType=SERIAL\_NO&searchType=statusSearch[4/20/2018 11:23:30 AM]

19262440.1 -17-

Distinctiveness Limitation as to "BEST" Statement Design Search Code(s): 26.07.21 - Diamonds that are completely or partially shaded 26.17.01 - Bars, straight; Lines, straight; Bands, straight; Straight line(s), band(s) or bar(s) 26.17.05 - Bands, horizontal; Bars, horizontal; Horizontal line(s), band(s) or bar(s); Lines, horizontal · Related Properties Information Claimed Ownership of US 1421085, 2871238, 3531915 and others Registrations: - Goods and Services Note: The following symbols indicate that the registrant/owner has amended the goods/services: · Brackets [..] indicate deleted goods/services; Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and . Asterisks ".." identify additional (new) wording in the goods/services. For: Furniture; residential furniture International Class(es): 020 - Primary Class U.S Class(es): 002, 013, 022, 025, 032, 050 Class Status: ACTIVE Basis: 1(a) First Use: Nov. 03, 2003 Use in Commerce: Nov. 03, 2003 ▲ Basis Information (Case Level) ▲ Current Owner(s) Information ▲ Attorney/Correspondence Information ▲ Prosecution History ▲ TM Staff and Location Information · Assignment Abstract Of Title Information - Click to Load - Proceedings - Click to Load Download Adobe Reader If you are the applicant or the applicant's attorney and have questions about this file, please contact the Trademark Assistance Center USDTO UNITED STATES PATENT AND TRADEMARK OFFICE ABOUT THIS SITE USPTO BACKGROUND BROWSE BY TOPIC FEDERAL GOVERNMENT Accessibility Federal Activity Patents Regulations.gov Inventory Reform Act. StopFakes.gov Privacy Policy (FAIR) Terms of Use Learning & Resources USA.gov USPTO Budget and Security About the USPTO Department of Commerce Systems Status Freedom of Information Strategy Targeting Site Man Organized Piracy Information Quality Contact Us Guidelines

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http://tsdr.uspto.gov/#caseNumber=86171991&caseType=SERIAL\_NO&searchType=statusSearch[4/20/2018 11:24:45 AM]

19262440.1 -19-

. Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability, and

Asterisks \*..\* identify additional (new) wording in the goods/services.

For: Furniture; hospitality and institutional furniture, not made for medical purposes

International Class(es): 020 - Primary Class U.S Class(es): 002, 013, 022, 025, 032, 050

Class Status: ACTIVE

Basis: 1(a)

First Use: Nov. 09, 2013 Use in Commerce: Nov. 09, 2013

- ▲ Basis Information (Case Level)
- ▲ Current Owner(s) Information
- ▲ Attorney/Correspondence Information
- ▲ Prosecution History
- ▲ TM Staff and Location Information
- Assignment Abstract Of Title Information Click to Load
- ▲ Proceedings Click to Load

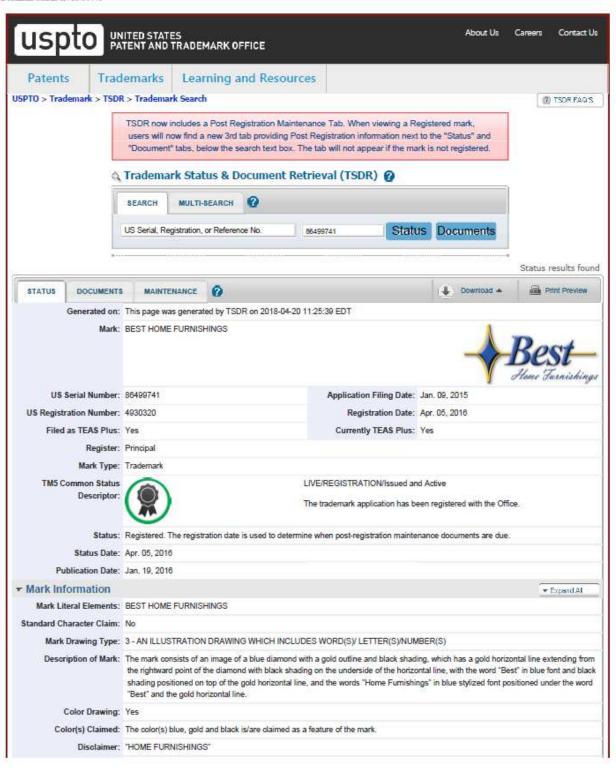
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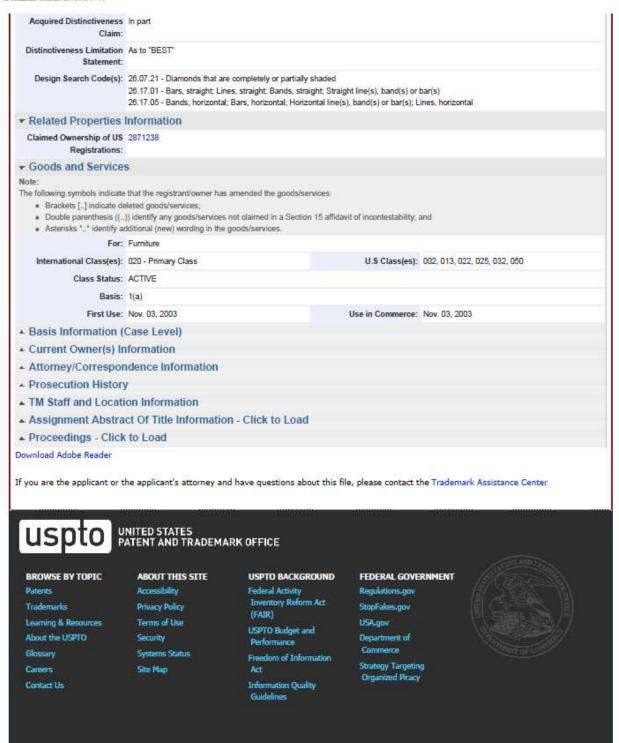
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19262440.1 -21-

#### Document Search SN 86499741

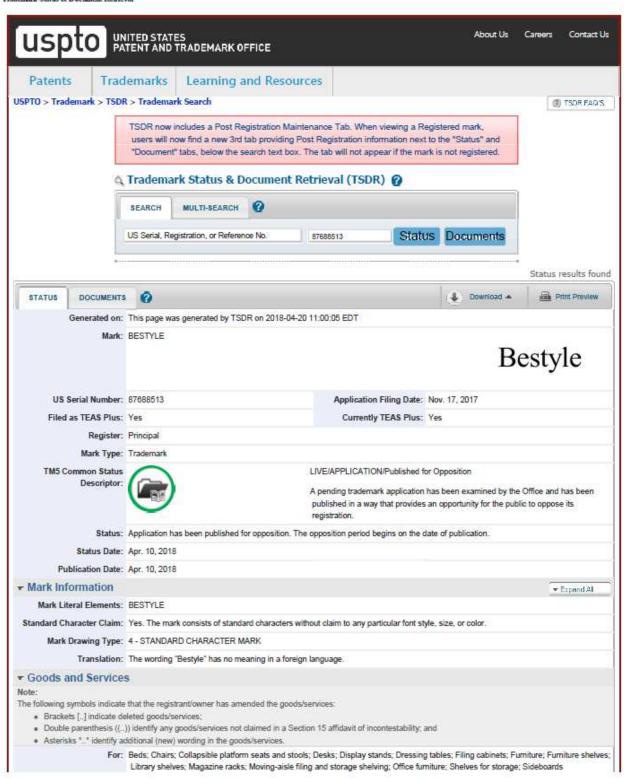


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19262440.1 -22-

#### **EXHIBIT 2**

Trademark Status & Document Retrieval



http://tsdr.uspto.gov/#caseNumber=87688513&caseType=SERIAL\_NO&searchType=statusSearch[4/20/2018 11:27:17 AM]

19262440.1 -23-

International Class(es): 020 - Primary Class U.S Class(es): 002, 013, 022, 025, 032, 050 Class Status: ACTIVE Basis: 1(a) First Use: Oct. 10, 2013 Use in Commerce: Oct. 10, 2013 ▲ Basis Information (Case Level) ▲ Current Owner(s) Information ▲ Attorney/Correspondence Information ♣ Prosecution History ▲ TM Staff and Location Information Assignment Abstract Of Title Information - Click to Load ▲ Proceedings - Click to Load Download Adobe Reader If you are the applicant or the applicant's attorney and have questions about this file, please contact the Trademark Assistance Center UNITED STATES
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http://tsdr.uspto.gov/#caseNumber=87688513&caseType=SERIAL\_NO&searchType=statusSearch[4/20/2018 11:27:17 AM]

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