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

Proceeding	91243345
Party	Defendant Home Products International - North America, Inc.ica, Inc.
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Date	12/03/2018
Attachments	Answer to NOO - ECOSTORAGE.pdf(110577 bytes )

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

TRINITY INTERNATIONAL INDUSTRIES,  
L.L.C., a Delaware limited liability company,

Opposer,

v.

HOME PRODUCTS INTERNATIONAL –  
NORTH AMERICA, INC., a Delaware  
corporation,

Applicant.

Opposition No. 91243345

Application No. 87534642

Mark: ECOSTORAGE

**APPLICANT’S ANSWER TO NOTICE OF OPPOSITION**

Applicant Home Products International - NA (“HPI”) through its attorneys, answers the Notice of Opposition filed by Opposer, Trinity International Industries, LLC, in the above proceeding.

1. Applicant seeks to register the mark shown below, which includes the word ECOSTORAGE, as a trademark for plastic storage containers in International Class 20 (“Identified Goods”). Said application was filed on July 19, 2017 and based on alleged use in commerce, alleging a date of first use in commerce in November 2016.



**RESPONSE:** Admitted.

2. Opposer is the owner of the following valid and subsisting registration:

Reg. No.	Mark	Issue Date	Goods/Services
4173189	ECOSTORAGE	07-10-12	shelving; shelving and components thereof, namely, shelves and brackets sold as a unit; furniture; non-metal bins

The registration above is conclusive evidence of the validity of the registration, of Opposer's ownership thereof, and of Opposer's exclusive right to use the registered mark in commerce in connection with the goods specified in the registration ("Opposer's Goods"). Pursuant to Rule 2.122(d), Opposer attaches hereto, as Exhibit A, printouts from the Trademark Status & Document Retrieval (TSDR) electronic database showing the current status and title of each registration.

**RESPONSE:** HPI admits that printouts from the TSDR electronic database of the referenced registration on the Supplemental Register is attached to the Notice of Opposition as Exhibit A, but is without knowledge or information concerning the ownership, validity or legal significance of the registration, and therefore denies each and every remaining allegation of this paragraph.

3. From a date long prior to Applicant's alleged date of first use in commerce, Opposer has used its mark ECOSTORAGE in connection with a wide range of shelving, storage and furniture products.

**RESPONSE:** HPI is without information or knowledge sufficient to admit or deny the allegations of this paragraph and therefore denies the same.

4. On August 9, 2017, Opposer filed U.S. Trademark Application No. 87562291 for registration of the mark ECOSTORAGE on the Principal Register for Opposer's Goods.

**RESPONSE:** HPI is without information or knowledge sufficient to admit or deny the allegations of this paragraph and therefore denies the same.

5. In an Office Action dated November 11, 2017, the USPTO indicated that a prior-filed pending application, namely Application Serial No. 87534642 (the application opposed herein) may present a bar to registration of applicant's mark under Section 2(d) of the Trademark Act. The Trademark Examining Attorney further stated: "If the mark in the referenced application(s) registers, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion with that registered mark(s). See 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 et seq." In the same Office Action, the USPTO suspended Opposer's pending application no. 87562291 until the application opposed herein "is either registered or abandoned."

**RESPONSE:** HPI is without information or knowledge sufficient to admit or deny the allegations of this paragraph and therefore denies the same.

6. Applicant's Identified Goods are similar or identical to Opposer's Goods with which Opposer has used and is using mark ECOSTORAGE. On information and belief, Applicant's Identified Goods are or will be offered to the same classes of consumers who purchase Opposer's Goods offered under the mark ECOSTORAGE.

**RESPONSE:** Denied.

7. The applied-for ECOSTORAGE mark in Application Serial No. 87534642 is substantially similar to Opposer's mark ECOSTORAGE, and is likely to cause confusion, mistake and deception as to the source of Applicant's goods, all to Opposer's damage and in violation of 15 U.S.C. § 1052(d). Consumers are likely to believe that Applicant's goods offered in connection with the applied-for mark emanate from, or are licensed by, approved by, or otherwise associated with, Opposer. Any dissatisfaction with Applicant's goods will adversely reflect upon and irreparably damage Opposer's reputation and goodwill as embodied in its mark ECOSTORAGE.

**RESPONSE:** Denied.

8. If Applicant is granted the registration herein opposed, Applicant would thereby obtain a prima facie right to use of the applied-for mark, which would be a further source of damage to Opposer.

**RESPONSE:** Denied.

Dated: December 3, 2018

Respectfully submitted,

**HOME PRODUCTS INTERNATIONAL –  
NORTH AMERICA, INC.**

By: /s/ Antony J. McShane

One of its Attorneys

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**CERTIFICATE OF SERVICE**

I, Andrea Fuelleman, an attorney, states that I caused a copy of the foregoing ***APPLICANT'S RESPONSE TO NOTICE OF OPPOSITION*** to be served upon:

Vic Lin  
Innovation Capital Law Group, LLP  
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by electronic transmission and depositing the same in the U.S. Mail, postage prepaid, at 2 North LaSalle Street, Chicago, Illinois 60602 on the 3<sup>rd</sup> day of December, 2018, with a copy via email.

/s/ Andrea Fuelleman \_\_\_\_\_