

ESTTA Tracking number: **ESTTA1024185**

Filing date: **12/19/2019**

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	Zodiac Pool Systems LLC
Granted to Date of previous extension	12/22/2019
Address	2882 WHIPTAIL LOOP EAST #100 CARLSBAD, CA 92010 UNITED STATES

Attorney information	SARAH E BRO MCDERMOTT WILL & EMERY LLP 18565 JAMBOREE RD, SUITE 250 IRVINE, CA 92612 UNITED STATES IPDocketOrangeCounty@mwe.com, sbro@mwe.com, efarrahi@mwe.com, orangecountydoctring@mwe.com 949-757-6001
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Applicant Information

Application No	87537562	Publication date	06/25/2019
Opposition Filing Date	12/19/2019	Opposition Period Ends	12/22/2019
International Registration No.	NONE	International Registration Date	NONE
Applicant	Glass Hardware Australia Pty Ltd 4 Huntleys Point Road Huntleys Point, New South Wales, 2111 AUSTRALIA		


Goods/Services Affected by Opposition

Class 006. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Door hinges of metal; hinges of metal; hinges of metal having a spring action; hinges of metal incorporating a spring; metal hinges; metal anchors; metal anchor sockets for supporting post; spigots, namely, metal supports for doors, glass fencing, pool fencing, fences

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Dilution by tarnishment	Trademark Act Sections 2 and 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3337636	Application Date	12/03/2004
Registration Date	11/20/2007	Foreign Priority Date	NONE
Word Mark	POLARIS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 1974/03/01 First Use In Commerce: 1974/03/01 Pool and spa surface cleaners</p> <p>Class 007. First use: First Use: 1974/03/01 First Use In Commerce: 1974/03/01 Automated swimming pool and spa cleaners designed to travel on and clean submerged surfaces by a combination of jet action and vacuuming and hose couplers and swimming pool and spa cleaner heads for use therewith; swimming pool water cleaning and filtering units, namely, suctionpowered pool cleaners; mechanical pool cleaning machines, pool cleaner machine drives and drive mechanism components, namely, magnetic drivers, oscillating flow interrupters, wheels and tracks; pool cleaner booster pumps; hand-held vacuum cleaners for picking up debris in a pool or spa; manually-operated, hand-held, self-contained vacuum cleaners for cleaning spas, pools and fountains</p> <p>Class 009. First use: First Use: 1997/10/31 First Use In Commerce: 1997/12/01 Automatic controllers and chemical feeders for pools and spas; wireless remote controls for pool and spa equipment; wireless and wired automatic control systems for pools and spas; wireless and automatic control systems for irrigation, chemical control, chemical monitoring and feeding; and electronic X-10 controllers</p> <p>Class 011. First use: First Use: 1998/07/31 First Use In Commerce: 1999/10/01 Indoor and outdoor water fountains; spas in the nature of portable heated pools; residential and commercial water features, namely, waterfalls, ponds, and fountains; waterfalls, namely decorative water spray displays for use within swimming pools; electric pool, spa, and landscape lighting fixtures; lighted waterfalls, namely, decorative lights and water spray displays for use within swimming pools; plumbing fittings, namely, restrictors, collars, and valves for connecting cleaners and fountains to return lines of pools; electric powered bubble generators for spas; swimming pool and spa equipment, namely, automatic dispensers for dispensing water purification materials; turbulence suppressors for waterfalls for pools and spas; electric LED light bulbs and lamps for use in electric pool, spa and landscape lighting fixtures; decorative waterfall water features which incorporate a pre-fabricated plaster planter and plumbing fixtures for projecting a stream of water to create water effects in swimming pools and spas, namely, fluid nozzles and laminar water sheers</p> <p>Class 019. First use: First Use: 1999/11/01 First Use In Commerce: 1999/11/01 FITTED COVERS FOR SWIMMING POOL DRAINS;AND RESIDENTIAL OR COMMERCIAL NON-METALPOOLS</p> <p>Class 020. First use: First Use: 1990/09/01 First Use In Commerce: 1990/09/01</p>		

	FITTINGS, NAMELY, PIPE FITTINGS FOR CONNECTING CLEANERS AND FOUNTAINS TO A RETURN LINES OF POOLS
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U.S. Registration No.	1061118	Application Date	09/03/1974
Registration Date	03/15/1977	Foreign Priority Date	NONE
Word Mark	POLARIS VAC-SWEEP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 007. First use: First Use: 1974/02/28 First Use In Commerce: 1974/02/28 AUTOMATIC SWIMMING POOL CLEANERS DESIGNED TO TRAVEL ON AND CLEAN THE BOTTOM OF THE POOL BY A COMBINATION OF JET ACTION AND VACUUMING		

U.S. Registration No.	2962428	Application Date	02/09/2004
Registration Date	06/14/2005	Foreign Priority Date	NONE
Word Mark	POLARISQTBLOWER		
Design Mark	 <p style="text-align: center; font-size: 2em; font-weight: bold;">POLARISQTBLOWER</p>		
Description of Mark	NONE		
Goods/Services	Class 007. First use: First Use: 1989/11/01 First Use In Commerce: 1989/11/01 ELECTRIC POWERED BUBBLE GENERATORS FOR SPAS		

Attachments	76623130#TMSN.png(bytes) 78364926#TMSN.png(bytes) Notice of Opposition - 87537562 - POLARIS.pdf(21264 bytes)
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Signature	/sarah e. bro/
Name	Sarah E. Bro
Date	12/19/2019

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

In the matter of trademark application Serial No. 87/537,562
For the mark POLARIS
Published in the Official Gazette on June 25, 2019

Zodiac Pool Systems LLC,	
Opposer,	
v.	
Glass Hardware Australia Pty Ltd.,	
Applicant.	

NOTICE OF OPPOSITION

Zodiac Pool Systems LLC, a Delaware limited liability company, with its principal place of business at 2882 Whiptail Loop East #100, Carlsbad, California 92010 (the “Opposer”), through its counsel, McDermott Will & Emery LLP, 18565 Jamboree Rd., Suite 250, Irvine, California 92612, hereby states that it will be damaged by registration of the mark POLARIS, covered by U.S. Application Serial Number 87/537,562, filed by Glass Hardware Australia Pty Ltd. (“Applicant”), and therefore files this Notice of Opposition to the application.

The grounds for this Opposition are as follows:

1. Opposer is known for its best-in-class consumer products for pool owners and professionals worldwide, and Opposer’s expansive product line delivers the most technologically advanced, energy-efficient, durable, and reliable pool and spa products available. For more than 40 years, Opposer’s POLARIS® brand has been known in the U.S. and internationally for its quality and industry-leading automatic pool cleaners.

2. Opposer’s POLARIS® trademark is inherently distinctive because it does not describe an attribute of Opposer’s goods or services.

3. Opposer has expended substantial resources to advertise and promote its goods and services under its POLARIS® trademark in the United States and worldwide.

4. Consumers in the United States and around the world associate Opposer’s POLARIS® trademark as identifying goods and services emanating exclusively from Opposer and did so well before Applicant filed its application.

5. Opposer owns common law rights in the POLARIS trademark based on its use of the mark in commerce on and in connection with automatic pool cleaners, booster pumps, pool accessories and other goods and services for swimming pools and spas.

6. Opposer also owns the following U.S. trademark registrations for its POLARIS® trademarks (together, the POLARIS® Marks):

Trademark	Reg. No. (Reg. Date)	Services
POLARIS	3,337,636 (November 20, 2007)	<p>International Class 03: pool and spa surface cleaners;</p> <p>International Class 07: automated swimming pool and spa cleaners designed to travel on and clean submerged surfaces by a combination of jet action and vacuuming and hose couplers and swimming pool and spa cleaner heads for use therewith; swimming pool water cleaning and filtering units, namely, suction powered pool cleaners; mechanical pool cleaning machines, pool cleaner machine drives and drive mechanism components, namely, magnetic drivers, oscillating flow interrupters, wheels and tracks; pool cleaner booster pumps; hand-held vacuum cleaners for picking up debris in a pool or spa; manually-operated, hand-held, self-contained vacuum cleaners for cleaning spas, pools and fountains;</p> <p>International Class 09: automatic controllers and chemical feeders for pools and spas; wireless remote controls for pool and spa equipment; wireless and wired automatic control systems for pools and spas; wireless and automatic control systems for irrigation, chemical control, chemical monitoring and feeding; and electronic x-10 controllers;</p> <p>International Class 11: indoor and outdoor water fountains; spas in the nature of portable heated pools; residential and commercial water features, namely, waterfalls, ponds, and fountains; waterfalls, namely decorative water spray displays for</p>

Trademark	Reg. No. (Reg. Date)	Services
		<p>use within swimming pools; electric pool, spa, and landscape lighting fixtures; lighted waterfalls, namely, decorative lights and water spray displays for use within swimming pools; plumbing fittings, namely, restrictors, collars, and valves for connecting cleaners and fountains to return lines of pools; electric powered bubble generators for spas; swimming pool and spa equipment, namely, automatic dispensers for dispensing water purification materials; turbulence suppressors for waterfalls for pools and spas; electric led light bulbs and lamps for use in electric pool, spa and landscape lighting fixtures; decorative waterfall water features which incorporate a pre-fabricated plaster planter and plumbing fixtures for projecting a stream of water to create water effects in swimming pools and spas, namely, fluid nozzles and laminar water sheers;</p> <p>International Class 19: fitted covers for swimming pool drains; and residential or commercial non-metal pools;</p> <p>International Class 20: fittings, namely, pipe fittings for connecting cleaners and fountains to a return lines of pools</p>
POLARIS VAC-SWEEP	1,061,118 (March 15, 1977)	International Class 07: automatic swimming pool cleaners designed to travel on and clean the bottom of the pool by a combination of jet action and vacuuming
POLARISQTBLOWER	2,962,428 (June 14, 2005)	International Class 07: electric powered bubble generators for spas

7. By reason of the widespread advertisement, promotion and sale of its goods and services under the POLARIS® Marks for over 40 years, Opposer has developed substantial goodwill in the POLARIS® Marks.

8. Despite Opposer’s superior rights in its POLARIS® Marks, on July 21, 2017, Applicant filed U.S. Application Serial No. 87/537,562 (“Applicant’s Application”), for registration of the trademark POLARIS for use in connection with “Door hinges of metal; hinges of metal; hinges of metal having a spring action; hinges of metal incorporating a spring; metal hinges;

metal anchors; metal anchor sockets for supporting post; spigots, namely, metal supports for doors, glass fencing, pool fencing, fences” in International Class 6.

9. Applicant’s Application was published in the *Official Gazette* (Trademarks) of the United States Patent and Trademark Office on June 25, 2019. Opposer obtained extensions of time to file this Notice of Opposition through December 22, 2019. Therefore, this Opposition is being timely filed.

10. Applicant’s POLARIS mark is identical and confusingly similar in sight, sound, meaning, and overall commercial impression to Opposer’s POLARIS® Marks.

11. Opposer’s goods and Applicant’s applied-for goods are highly similar and will be provided in the same channels of trade and rendered to the same customers for use in relation to swimming pools and spas.

12. Applicant knew or had reason to know of Opposer’s POLARIS® Marks when Applicant filed its applications for the POLARIS trademark.

13. Applicant’s use and registration of the POLARIS trademark is likely to cause confusion, deception, and/or mistake with Opposer and Opposer’s POLARIS® Marks.

14. Based on the related nature of the goods offered by Applicant and Opposer, consumers are likely to believe that the goods offered under Applicant’s POLARIS mark are related to, affiliated with, or extensions of the goods offered by Opposer, or are otherwise approved or sponsored by, Opposer.

15. Applicant’s intended use of its applied-for POLARIS trademark is also likely to falsely suggest a connection between Applicant and Opposer and Opposer’s POLARIS® Marks.

16. Applicant’s use of its applied-for POLARIS mark is likely to cause dilution by blurring and tarnishment of Opposer's famous POLARIS Marks. Applicant’s use of its applied-for

mark will lessen the capacity of Opposer's POLARIS® Marks to identify and distinguish Opposer's goods, and defects and dissatisfaction with Applicant's applied-for goods will be attributed to Opposer's POLARIS® Marks.

17. Applicant's use and registration of the POLARIS trademark will interfere with Opposer's POLARIS® Marks and will damage Opposer, its reputation, its business, and its goodwill.

WHEREFORE, Opposer believes that it will be damaged by registration of the POLARIS mark in Applicant's Application and prays that registration be denied.

Respectfully submitted,

Zodiac Pool Systems LLC

Date: December 19, 2019

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