

ESTTA Tracking number: **ESTTA1126757**

Filing date: **04/13/2021**

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	Woodland Equipment & Supply Co.
Granted to Date of previous extension	04/14/2021
Address	513 SHAWVILLE HIGHWAY WOODLAND, PA 16881 UNITED STATES
Party who filed Extension of time to oppose	Woodland Equipment Supply Company
Relationship to party who filed Extension of time to oppose	Trademark Reg. No. 5428895 inadvertently issued with a clerical error in the Registrant's name. The Registrant has filed a Section 7 Request with the Trademark Office to correct the owner name. Registrant's correct name is Woodland Equipment & Supply Co.
Attorney information	BRIAN P. GREGG MCNEES WALLACE & NURICK LLC 100 PINE STREET HARRISBURG, PA 17101 UNITED STATES Primary Email: trademarks@mcneeslaw.com Secondary Email(s): bgregg@mcneeslaw.com 717-232-8000
Docket Number	03138-0004

Applicant Information

Application No.	90069447	Publication date	12/15/2020
Opposition Filing Date	04/13/2021	Opposition Period Ends	04/14/2021
Applicant	Flagship Packaged Products, LLC 22 DEER STREET PORTSMOUTH, NH 03801 UNITED STATES		


Goods/Services Affected by Opposition

Class 001. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Chemical preparations for melting snow and ice

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.	5428895	Application Date	01/05/2016
Registration Date	03/20/2018	Foreign Priority Date	NONE
Word Mark	ICE KING		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 2018/01/25 First Use In Commerce: 2018/01/25 Chemical preparations for melting snow and ice		

Attachments	86865914#TMSN.png(bytes) Notice of Opposition.pdf(217280 bytes)
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Signature	/Brian P. Gregg/
Name	BRIAN P. GREGG
Date	04/13/2021

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

In the Matter of Application Serial No. 90/069447
For the mark: ICE ZING
Published: December 15, 2020

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Woodland Equipment & Supply Co.,	:
	:
Opposer,	:
	:
v.	:
	:
Flagship Packaged Products, LLC,	:
	:
Applicant.	:
-----X	

NOTICE OF OPPOSITION

Opposer, Woodland Equipment & Supply Co., a Pennsylvania corporation, with a principal place of business at 513 Shawville Highway, Woodlawn, Pennsylvania 16881, believes that it will be damaged by the issuance of a registration for the applied for mark shown in Application Serial No. 90/069447. Opposer hereby opposes same pursuant to Section 13(a) of the Lanham Trademark Act of 1946 ("Lanham Act"), 15 U.S.C. § 1063(a).

As grounds for opposition, Opposer alleges as follows:

Opposer is a seller of chemical deicing products to a variety of commercial, industrial, and municipal customers.

Opposer is the owner of a United States Trademark Registration on the Principal Register in the United States Patent and Trademark Office Reg. No. 5,428,895 for the mark ICE KING for use with "chemical preparations for melting snow" which issued on March 20, 2018. Attached as Exhibit 1 is a true and correct printout from the United States Patent and Trademark Office electronic database showing the current status and title of the registration as of April 8, 2021.

Opposer has used the ICE KING mark in interstate commerce in the United States continuously since at least January 25, 2018 in connection with the distribution, sale, marketing, advertising and promotion of its chemical preparations for melting snow.

As a result of its widespread, continuous, and exclusive use of the ICE KING mark to identify its chemical preparations for melting snow and Opposer as their source, Opposer owns valid and subsisting federal statutory and common law rights to the ICE KING mark.

Opposer's ICE KING mark is distinctive to both the consuming public and Opposer's trade.

Opposer has expended substantial time, money, and resources marketing, advertising, and promoting the chemical preparations for melting snow and ice sold under the ICE KING mark.

Upon information and belief, Applicant, Flagship Packaged Products, LLC, with an address at 22 Deer Street, Portsmouth, New Hampshire 03801, on July 23, 2020, filed trademark Application Serial No. 90/069447 to register the proposed mark ICE ZING for "Chemical preparations for melting snow and ice" in International Class 1.

Applicant's application is based on its intent to use the ICE ZING mark.

Opposer's ICE KING mark has priority over the Applicant's ICE ZING mark because Opposer's use and registration dates predate the Applicant's filing date, claimed date of first use or any other date on which the Applicant may rely for purposes of priority.

Applicant's mark begins with the descriptive term ICE which refers to the frozen precipitation the chemical is designed to melt and is therefore descriptive of Applicant's chemical preparation which melts ice and snow and is intended to be sold under the ICE ZING mark.

Applicant's mark ends with the term ZING, which makes Applicant's mark almost identical visually and aurally to Opposer's ICE KING mark.

Applicant's mark, ICE ZING, is confusingly similar to Opposer's ICE KING mark.

The goods covered by the Applicant's Application Serial No. 90/069447 are identical to the goods Opposer offers under its ICE KING mark as both are for "Chemical preparations for melting snow and ice."

The goods covered by the Applicant's Application Serial No. 90/069447 are likely to be used in the same channels of trade and sold to the same type of consumers.

GROUND FOR OPPOSITION -- LIKELIHOOD OF CONFUSION

The Applicant's mark is barred from registration because it consists of or comprises a mark which so resembles Opposer's previously used and registered ICE KING mark as to be likely, when used in connection with the goods claimed by the Applicant, to cause confusion, mistake, or deception within the meaning of 15 U.S.C. § 1052(d).

WHEREFORE, Opposer respectfully prays that its opposition be sustained, and that registration of the Applicant's mark ICE ZING be refused.

McNEES WALLACE & NURICK LLC

Dated: April 13, 2021

By /Brian P. Gregg/
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EXHIBIT 1

EVIDENCE OF OPPOSER'S TRADEMARK REGISTRATION



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ICE KING

Word Mark	ICE KING
Goods and Services	IC 001. US 001 005 006 010 026 046. G & S: Chemical preparations for melting snow and ice. FIRST USE: 20180125. FIRST USE IN COMMERCE: 20180125
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	86865914
Filing Date	January 5, 2016
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	May 31, 2016
Registration Number	5428895
Registration Date	March 20, 2018
Owner	(REGISTRANT) Woodland Equipment Supply Company CORPORATION PENNSYLVANIA 513 Shawville Highway Woodland PENNSYLVANIA 16881
Attorney of Record	Brian P. Gregg
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ICE" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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