

Notice of Opposition

Application Serial No. 76/012,861

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processing, pulp and paper and wastewater industries in the United States and, along with its predecessors-in-interest, has been engaged in such use for many years.

3. Opposer's MAXFLO trademark symbolizes the good will, reputation and consumer recognition built up by Opposer and its predecessor-in-interest through substantial amounts of time and effort spent advertising and promoting its MAXFLO trademark. As a result, Opposer's MAXFLO trademark has become so associated with Opposer that the trademark MAXFLO identifies Opposer.

4. Applicant, Kaspar Electroplating Company, Inc., seeks to register the trademark "MAX-FL0" for waste water purification units, namely, electrocoagulation reactors for treatment of waste water in International Class 11, as evidenced by the publication of said mark in the November 27, 2001 *Official Gazette* on page TM 350.

5. Applicant's MAX-FL0 trademark is virtually identical to Opposer's MAXFLO mark in sight and sound. Given the identity of Applicant's and Opposer's MAXFLO marks and the close relationship between the goods as listed in Applicant's application and the goods sold by Opposer under its MAXFLO trademark, Applicant's mark points uniquely and unmistakably to Opposer. As a result, Opposer reasonably believes that purchasers would assume that the goods bearing Applicant's mark are authorized or sponsored by Opposer, are made in accordance with instructions or specification of Opposer, or are connected in some way with Opposer.

6. If Applicant is permitted to use and register its MAX-FL0 mark for the goods specified in Applicant's application herein opposed, confusion in trade resulting in damage and injury to Opposer would be caused. Any such confusion in trade inevitably would result in damage to Opposer through loss in sales. Furthermore, any defect, objection or fault found with the aforementioned goods of Applicant marketed and sold under its MAX-FL0 mark would necessarily reflect upon and seriously injure the reputation which Opposer and its predecessor-in-interest have established under the MAXFLO mark, thereby resulting in damage to Opposer.

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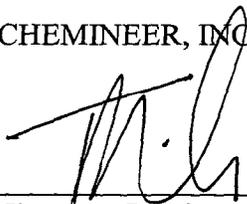
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WHEREFORE, Opposer, Chemineer, Inc., prays that this Opposition be sustained and that Applicant be denied registration of the mark MAX-FL0 as identified in application Ser. No. 76/012,861 in International Class 11.

A duplicate copy of this Notice of Opposition and the filing fee as required by 37 C.F.R. Section 2.6(a)(17) are enclosed.

CHEMINEER, INC.

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