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11-22-2002  
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #01

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

BLUEAIR, INC.

*Opposer,*

HAMILTON BEACH/PROCTOR SILEX, INC.,

*Applicant.*

) Opposition No. 91153135  
)

) Appl. Serial No. 76/085,778  
)

) Published in Official Gazette  
) July 30, 2002  
)

) NOTICE OF APPEARANCE  
)

Timothy P. Fraelich and the firm Jones, Day, Reavis & Pogue hereby enter their  
appearance as counsel of record on behalf of applicant Hamilton Beach/Proctor Silex, Inc.

Please provide us with notice of all proceedings.

Respectfully submitted,



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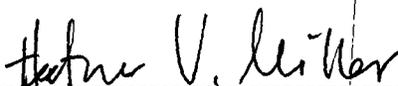
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was on Opposer's counsel:

John R. Crossan, Esq.  
Chapman and Cutler  
111 W. Monroe St., Suite 1700  
Chicago, IL 60603

by mailing the same via United States mail, postage prepaid, on this 22<sup>d</sup> day of November, 2002.

  
\_\_\_\_\_  
Attorney for Applicant

11-22-2002  
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #01

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

BLUEAIR, INC.	)	Opposition No. 91:153135
	)	
<i>Opposer,</i>	)	Appl. Serial No. 76/085,778
	)	
	)	Published in Official Gazette
	)	July 30, 2002
HAMILTON BEACH/PROCTOR SILEX, INC.,	)	
	)	
<i>Applicant.</i>	)	

**APPLICANT'S MOTION TO STRIKE  
OPPOSER'S NOTICE OF OPPOSITION**

**I. INTRODUCTION**

Applicant, Hamilton Beach/Proctor Silex, Inc. ("Hamilton Beach"), respectfully moves the Trademark Trial and Appeal Board (the "Board") to strike the Notice of Opposition ("Notice") filed by Opposer, Blueair, Inc. ("Blueair"). As set forth below, Blueair's Notice clearly is deficient and does not comply with either the Trademark Rules of Practice or the Federal Rules of Civil Procedure.

**II. STATEMENT OF FACTS AND LEGAL ARGUMENT**

Even a cursory review of the Notice confirms that Blueair has submitted the document in letter form in complete disregard for the Federal Rules of Civil Procedure and the well-known practices of the Board. Indeed, given the odd way in which the Notice has been constructed, Hamilton Beach is at a loss to submit an Answer to the Notice.

As the Board is well aware, Trademark Trial and Appeal Board Manual of Procedure § 312.03 (the "TBMP") expressly adopts the language of Federal Rule of Civil Procedure 10(b). Rule 10(b) requires that "all averments of claim or defense shall be made in

numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances." Fed.R.Civ.P. 10(b). It is indisputable that Blueair's Notice fails to comply with TBMP § 312.03 or Federal Rule of Civil Procedure 10(b).

For example, Blueair fails to number its paragraphs. Moreover, Blueair disregards the language of § 312.03 and Rule 10(b), which requires each paragraph be limited to a statement of a *single set of circumstances*. Blueair's letter includes multiple allegations relating to multiple sets of circumstances. In light of these obvious deficiencies, the Board should strike the Notice as an appropriate sanction. See, Isle of Aloe, Inc. v. Aloe Crème Lab., 180 U.S.P.Q. 794 (TTAB 1974) (where opposer, in a single paragraph, included multiple allegations relating to multiple sets of circumstances, motion to strike Notice of Opposition was granted).

### III. CONCLUSION

For the reasons set forth above, Hamilton Beach respectfully requests that the Board strike the Notice of Opposition of Blueair, Inc. from the record.

Dated this 22nd day of November, 2002.

Respectfully submitted,

By: 

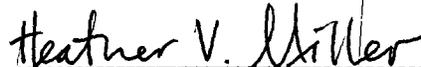
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\_\_\_\_\_  
Attorney for Applicant