

TTAB

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U.S. Patent & TMO/c/TM Mail Rcpt Dt. #73

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

In the Matter of Application Serial No. 78/076,494 Eletromecanica Dyna S/A; Published on page TM362 of the Official Gazette of August 6, 2002 in International Class 12.

H-D MICHIGAN, INC. )  
)  
)  
Opposer, )  
)  
v )  
)  
ELETROMECHANICA DYNA S/A )  
)  
Applicant. )

Opposition No. \_\_\_\_\_

RECEIVED  
12/23/02

**NOTICE OF OPPOSITION**

H-D Michigan, Inc., a Michigan corporation with its principal place of business at 315 W. Huron Street, Suite 400, Ann Arbor, Michigan, believes it will be damaged by registration of the mark DYNA & DESIGN shown in application Serial No. 78/076,494 and hereby opposes same.

As grounds for opposition, Opposer alleges:

**FIRST GROUND FOR OPPOSITION**

1. Since 1903, H-D Michigan, Inc., its subsidiary, Harley-Davidson Motor Company Group, Inc. and their predecessors in interest (hereinafter collectively referred to as "Opposer") have been engaged continuously in the manufacture, advertising and sale of motorcycles and related products and services.

2. In addition Opposer is the owner of the following trademarks registered in the United States Patent and Trademark Office:

MARK	REG. NO.	FILING DATE	DATE OF REG.	DATE OF FIRST USE	GOODS
DYNA DEFENDER	2,632,484	March 11, 2000	October 8, 2002	October 6, 1999	Motorcycles used primarily for law enforcement
DYNA	1,953,344	March 17, 1995	January 30, 1996	July 19, 1990	Sandwiches

3. Each of the registrations cited above has a filing date and a date of first use in commerce that is prior to the date of Applicant's filing date.

4. These registered marks of Opposer are valid and subsisting. The registrations are prima facie evidence of Opposer's exclusive right to use the term DYNA in commerce in connection with motorcycles as well as other goods and services.

5. Opposer's DYNA marks have also been used on clothing and other licensed products related to motorcycling and motorcycling enthusiasts.

6. Because of the similarity between Opposer's mark, DYNA DEFENDER used to identify "motorcycles used primarily for law enforcement" and Applicant's mark DYNA & DESIGN used to identify "motors for motorcycles, motors for land vehicles, electric motors for land vehicles, transmission shafts for land vehicles, transmissions for land vehicles, windscreen wipers and windshield wipers" it is alleged that Applicant's mark so resembles Opposer's several registered marks such that confusion, mistake or deception is likely.

## SECOND GROUND FOR OPPOSITION

7. In 1990, Opposer (through its predecessor-in-interest) first introduced a motorcycle in its DYNA family. This model, the DYNA GLIDE STURGIS was in introduced in 1990. Since 1990, Opposer has continued to introduce DYNA motorcycle models.

8. Since 1990, Applicant (through its exclusive licensee Harley-Davidson Motor Company) has offered several different motorcycle models comprised of DYNA marks. These models include: DYNA GLIDE STURGIS, DYNA GLIDE CUSTOM, DYNA WIDE GLIDE, DYNA LOW RIDER, DYNA SUPER GLIDE, DYNA SUPER GLIDE SPORT, and DYNA SUPER GLIDE T-SPORT. These motorcycle models are commonly referred to as models from the DYNA family.

9. As a result, motorcyclists, and the public at large, have come to associate the term DYNA with Opposer's motorcycles.

10. Because of the similarity of Applicant's mark DYNA & DESIGN to identify "motors for motorcycles, motors for land vehicles, electric motors for land vehicles, transmission shafts for land vehicles, transmissions for land vehicles, windscreen wipers and windshield wipers" and Opposer's designations, DYNA GLIDE STURGIS, DYNA GLIDE CUSTOM, DYNA WIDE GLIDE, DYNA LOW RIDER, DYNA SUPER GLIDE, DYNA SUPER GLIDE SPORT, DYNA SUPER GLIDE T-SPORT for motorcycles and motorcycle parts and accessories Opposer alleges that Applicant's mark DYNA consists of and comprises this matter that may disparage and falsely suggest a connection between Applicant and Opposer.

WHEREFORE, Opposer requests that Application Serial No. 78/076,494 for DYNA & DESIGN be rejected, that no registration be issued to Applicant and that this opposition be sustained in its favor.

A duplicate copy of this Notice of Opposition is enclosed herewith. Please charge the filing fee to Deposit Account No. 08-0100.

Respectfully submitted,  
H-D MICHIGAN, INC.

Dated: December 20, 2002

By: 

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Services as Express Mail in an envelope addressed to: Assistant Commissioner of Patents and Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3515, on December 20, 2002.

  
Terri Ogans