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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Bombardier Inc.,)
)
 Opposer,)
)
 v.)
)
 MasterCraft Boat Company, Inc.,)
)
 Applicant.)
)
 Our Ref. No. 9919/291221)

09-27-2002
 U.S. Patent & TMO/c/TM Mail Rcpt Dt. #77

Opposition No.
 Ser. No. 76/333,227

NOTICE OF OPPOSITION

Commissioner for Trademarks
 BOX TTAB – Fee
 2900 Crystal Drive
 Trademark Trial and Appeal Board
 Arlington, Virginia 22202-3513

Sir:

Bombardier Inc. (hereinafter Opposer) is or will be damaged by the registration of the mark X-15, which is set forth in application Ser. No. 76/333,227 and owned by MasterCraft Boat Company, Inc. (hereinafter Applicant), and hereby opposes the same.

As grounds for the opposition, Opposer, by its attorneys, avers as follows:

1. On November 2, 2001, Applicant submitted application Ser. No. 76/333,227 for the proposed mark X-15 for boats to the United States Patent and Trademark Office. Information about this application is submitted herewith.
2. On April 30, 2002, application Ser. No. 76/333,227 was published for opposition.

3. On October 17, 2001, Applicant also submitted application Ser. Nos. 76/326,229 for the proposed mark X-10 for boats and 76/326,230 for the proposed mark X-30 for boats to the United States Patent and Trademark Office. Information about these applications is submitted herewith.

4. The mark set forth in application Ser. No. 76/333,227 merely describes the applicant's boats.

5. The mark set forth in application Ser. No. 76/333,227 describes an ingredient, quality, characteristic, function, feature, purpose or use of the applicant's boats.

6. The mark set forth in application Ser. No. 76/333,227 consists of the letter X and the number 15. The letter X is a commonly recognized abbreviation for the term "extreme" and the number 15 identifies a length, size, dimension and/or measurement of an aspect of the applicant's boats.

7. The mark set forth in application Ser. No. 76/333,227 has not acquired distinctiveness as applied to the applicant's boats.

8. Opposer will be damaged by the issuance of this registration on the Principal Register. Specifically, the mark set forth in application Ser. No. 76/333,227 is merely descriptive of the applicant's boats within the meaning of Section 2(e)(1) of the Trademark Act, 15 U.S.C. § 1052(e)(1) and is, therefore, not entitled to be registered on the Principal Register.

9. The mark set forth in application Ser. No. 76/333,227 is used solely as a model, style or grade designation rather than as a trademark for the applicant's boats.

10. Opposer will be damaged by the issuance of this registration. Specifically, because the mark set forth in application Ser. No. 76/333,227 is a model, style or grade designation, it does not function as a trademark. Therefore, the mark set forth in application Ser.

No. 76/333,227 is not entitled to be registered under Section 1, 2 and 45 of the Trademark Act, 15 U.S.C. §§ 1051, 1052 and 1127.

11. The public would perceive the mark set forth in application Ser. No. 76/333,227 as being a decorative or ornamental feature of the applicant's boats and not as an indicator of the source of the applicant's boats.

12. Opposer will be damaged by the issuance of this registration. Specifically, because the mark set forth in application Ser. No. 76/333,227 is intended to be used as a decorative or ornamental feature on the applicant's boats, it does not function as a trademark. Therefore, the mark set forth in application Ser. No. 76/333,227 is not entitled to be registered under Section 1, 2 and 45 of the Trademark Act, 15 U.S.C. §§ 1051, 1052 and 1127.

WHEREFORE, Opposer requests that application Ser. No. 76/333,227 be refused registration.

Please charge any fees due in connection with this document to Deposit Account No. 03-3975, 9919/291221.

Respectfully submitted,
BOMBARDIER INC.

By: 
James R. Menker
Paul W. Kruse

Opposer's Attorneys
Pillsbury Winthrop LLP
P.O. Box 10500
McLean, Virginia 22102



UNITED STATES PATENT AND TRADEMARK OFFICE

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Typed Drawing

Word Mark X-15

Goods and Services IC 012. US 019 021 023 031 035 044. G & S: Boats

Mark Drawing Code (1) TYPED DRAWING

Serial Number 76333227

Filing Date November 2, 2001

Filed ITU FILED AS ITU

Published for Opposition April 30, 2002

Owner (APPLICANT) MasterCraft Boat Company, Inc. CORPORATION DELAWARE
100 Cherokee Cove Drive Vonore TENNESSEE 37885

Attorney of Record John W. Behringer, Esq.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Typed Drawing

Word Mark X-10
 Goods and Services IC 012. US 019 021 023 031 035 044. G & S: Boats. FIRST USE: 20000530.
 FIRST USE IN COMMERCE: 20000530
 Mark Drawing Code (1) TYPED DRAWING
 Serial Number 76326229
 Filing Date October 17, 2001
 Published for Opposition March 19, 2002
 Owner (APPLICANT) MasterCraft Boat Company, Inc. CORPORATION DELAWARE
 100 Cherokee Cove Drive Vonore TENNESSEE 37885
 Attorney of Record John W. Behringer
 Type of Mark TRADEMARK
 Register PRINCIPAL
 Live/Dead Indicator LIVE

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Typed Drawing

Word Mark X-30

Goods and Services IC 012. US 019 021 023 031 035 044. G & S: Boats. FIRST USE: 20000530. FIRST USE IN COMMERCE: 20000530

Mark Drawing Code (1) TYPED DRAWING

Serial Number 76326230

Filing Date October 17, 2001

Published for Opposition March 26, 2002

Owner (APPLICANT) MasterCraft Boat Company, Inc. CORPORATION DELAWARE
100 Cherokee Cove Drive Vonore TENNESSEE 37885

Attorney of Record John W. Behringer, Esq.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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U.S. Patent & TMOfc/TM Mail Rcpt. Dt. #57

 09-27-2002

AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

Commissioner for Trademarks
 2900 Crystal Drive
 Arlington, Virginia 22202-3513

Sir:

The following Trademark Processing Fees are due in connection with this document:

Fee Code 377, Notice of Opposition, in the amount of \$300

Please charge these fees to Deposit Account No. 03-3975, 9919/291221.

Filed by JRM on September 27, 2002.

Respectfully submitted,

BOMBARDIER INC.

By: 

 James R. Menker
 Paul W. Kruse