



TAD

Atty. Docket No. 163852402230

CERTIFICATE OF HAND DELIVERY

I hereby certify that this correspondence is being hand filed with the United States Patent and Trademark Office in Arlington, VA on October 8, 2002.

*Hsiao-Ting Cheng*  
Hsiao-Ting Cheng

In the Matter of Application Serial No. 76/367,844

Published in the Official Gazette on September 17, 2002

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

Omron Corporation

Opposer,

v.

BioCom L.L.C

Applicant.

Opposition No.:



10-08-2002

U.S. Patent & TMO/TM Mail Rpt Dt. #

02 OCT 16 PM 9:30

TPA DIVISION TRIAL AND APPEAL BOARD

NOTICE OF OPPOSITION

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

Omron Corporation, a Japanese corporation located and doing business at 801, Minamifudodo-cho, Horikawahigashiiru, Shiokoji-dori Shimogyo-ku, Kyoto-shi, Kyoto 600-8530, Japan, believes that it will be damaged by registration of the mark shown in Application Serial No. 76/367,844 and hereby opposes the same.

As grounds for opposition, Opposer states as follows:

03/24/2003 SWILSON 00000052 031952 76367844

01 FC:6402 300.00 CH

va-12690

1. Opposer, Omron Corporation, a Japanese corporation, is in the business of designing, manufacturing and selling in many countries of the world, including the United States, industrial automation equipment, computer peripherals, card readers and related components, radio frequency identification equipment and related components, healthcare and social systems equipment and various other electronic components for business and industry. Among its wide range of business products is a security access control system for the facial identification of individuals.

2. Since at least as early as February 2000 in Japan, and since at least as early as June 2000 in the United States, substantially prior to February 8, 2002, the date of filing of the intent-to-use application for the opposed mark, Opposer has been using, and continues to use, the mark FACE KEY in interstate commerce and in commerce between Japan and the United States in connection with a security access control system including cameras and computerized control systems for the facial identification of individuals.

3. On April 4, 2002, Opposer applied to the United States Patent and Trademark Office for registration on the Principal Register of the mark FACE KEY for use in connection with "access control systems comprised of cameras and computerized control system, namely, display monitors, intercoms, uninterrupted power supplies, printers, zip drives and printers" in International Class 9. In that application, designated Application Serial No. 76/391,404, Opposer asserted dates of first use both anywhere and in commerce of at least as early as June 2000. Opposer is the owner of Application Serial No. 76/391,404, of the FACE KEY mark covered thereby, and of the good will of the business connected with and symbolized by the FACE KEY mark. Through its continuous use and promotion of that mark, Opposer has acquired common law rights in the FACE KEY mark. True and correct copies of the original

application for Application No. 76,391,404 and the relevant filing receipt are attached hereto as Exhibit A.

4. By its Application Serial No. 76/367,844 herein opposed, Applicant seeks to register the mark KEYFACE in International Class 9 for "system comprised of cameras, computers, circuit boards, and software modules for use in biometrically-based access control."

5. The opposed application is an intent-to-use application filed February 8, 2002, well after Opposer first commenced use of its mark at common law.

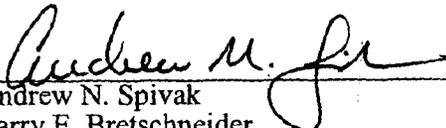
6. The goods for which Applicant seeks registration of the mark KEYFACE are competitive with, or related and/or complementary to, the goods upon which Opposer uses its FACE KEY mark and the goods that are recited in Opposer's application.

7. In view of the fact that Applicant's KEYFACE mark is confusingly similar in sight, sound and meaning to Opposer's FACE KEY mark; that the goods in connection with which Applicant claims to use the mark are competitive with, or related and/or complementary to, Opposer's goods; and that the channels of trade and customer base for Applicant's alleged goods and Opposer's goods and products appear to be the same or overlapping, Applicant's mark KEYFACE so resembles Opposer's mark FACE KEY as to be likely to cause confusion, or to cause mistake, or to deceive.

WHEREFORE, Opposer prays that Application Serial No. 76/367,844 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Respectfully submitted,

Dated: October 8, 2002

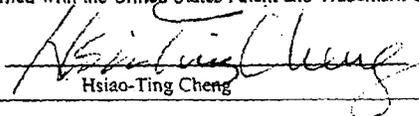
By:   
Andrew N. Spivak  
Barry E. Bretschneider  
Attorneys for Opposer

Morrison & Foerster LLP  
1650 Tyson's Boulevard, Suite 300  
McLean, Virginia 22102  
Telephone: (703) 760-7761  
Facsimile: (703) 760-7777

TRADEMARK  
Docket No. 16385-24022.00  
Client Reference TM-US-075

**CERTIFICATE OF HAND DELIVERY**

I hereby certify that this correspondence is being hand filed with the United States Patent and Trademark Office in Washington, D.C. on April 4, 2002

  
Hsiao-Ting Cheng

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Mark: FACE KEY

Class: 9

**TRADEMARK/SERVICE MARK APPLICATION,  
PRINCIPAL REGISTER, WITH DECLARATION**

BOX NEW APP FEE  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

**APPLICANT NAME:** Omron Corporation

**APPLICANT BUSINESS ADDRESS:** 801, Minamifudodo-cho, Horikawahigashiiru,  
Shiokoji-dori Shimogyo-ku, Kyoto-shi,  
Kyoto 600-8530 JAPAN

**APPLICANT ENTITY: (\*Check one and supply requested information.)**

- Individual - Citizenship (Country):
- Partnership - State where organized (Country, if appropriate):  
Names and Citizenship (Country of General Partners):
- Corporation - State (Country, if appropriate) of Incorporation:  
Japan
- Other (Specify Nature of Entity and Domicile):

**GOODS AND/OR SERVICES:**

Applicant requests registration of the trademark/service mark shown in the accompanying drawing in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. § 1051 et seq., as amended) for the following goods/services:

Access control systems comprised of cameras and computerized control system, namely, display monitors, intercoms, uninterrupted power supplies, printers, zip drives and printers, in International Class 9.

**BASIS FOR APPLICATION:**

- Applicant is using the mark in commerce on or in connection with the above-identified goods/services. (15 U.S.C. § 1051(a), as amended.) One specimen showing the mark as used in commerce is submitted with this application.
- Date of first use of the mark anywhere:  
At least as early as June, 2000.
  - Date of first use of the mark in commerce which the U.S. Congress may regulate:  
At least as early as June, 2000.

**POWER OF ATTORNEY**

Applicant hereby appoints Philip T. Besirof, Barry E. Bretschneider, Thomas E. Ciotti, John F. Delaney, Stephen C. Durant, Christine Lebrón Dykeman, Kimberly A. Eckhart, Douglas Hendricks, Lynn M. Humphreys, Gladys H. Monroy, Kate H. Murashige, Carole E. Reagan, Debra A. Shetka, Martha P. Siegel, Andrew N. Spivak, Rosemary S. Tarlton, Jennifer Lee Taylor, and Dean J. Zipser, all members of a bar of a state in the United States, as its attorneys with full power of substitution and revocation, to prosecute the application to register, and to transact all business in the Patent and Trademark Office in connection therewith and to receive the Certificate of Registration.

Please direct all communications to:

Andrew N. Spivak  
Morrison & Foerster LLP  
2000 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006-1888

Please direct all telephone calls to Andrew N. Spivak at (202) 778-1604.

**DOMESTIC REPRESENTATIVE**

Applicant hereby appoints Andrew N. Spivak, whose postal address is Morrison & Foerster LLP, 2000 Pennsylvania Avenue, N.W., Washington, D.C. 20006-1888, as applicant's representative upon whom notices of process in proceedings affecting the mark may be served.

**DECLARATION**

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. § 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the above-identified mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Omron Corporation

April 4, 2002

Date

*Tetsuyuki Nakano*

Signature

Tetsuyuki Nakano Manager

Print Name and Title

APPLICANT: Omron Corporation

ADDRESS: 801, Minamifudodo-cho, Horikawahigashiiru, Shiokoji-dori Shimogyo-ku, Kyoto-shi, Kyoto 600-8530 JAPAN

DATE OF FIRST USE: At least as early as June, 2000.

FIRST USE IN COMMERCE: At least as early as June, 2000.

GOODS: Access control systems comprised of cameras and computerized control system, namely, display monitors, intercoms, uninterrupted power supplies, printers, zip drives and printers, in International Class 9.

FACE KEY

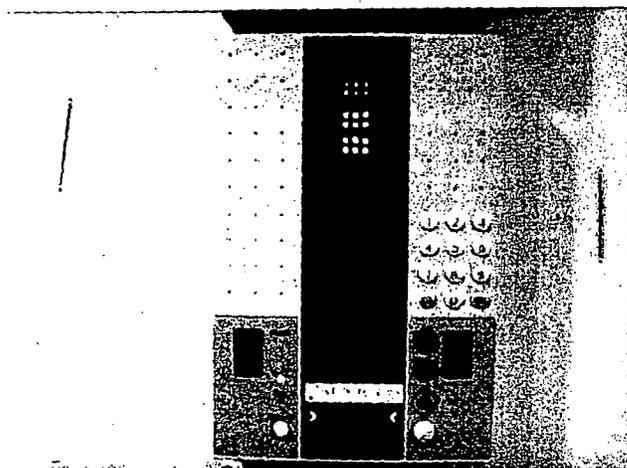
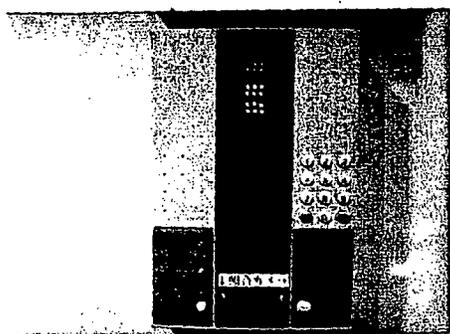
**New Trademark Application**

**Mark: FACE KEY**

**Filing Date: April 4, 2002**

**Applicant: Omron Corporation**

**Int'l Class: 9**

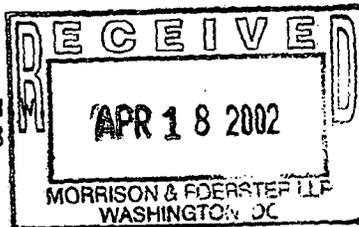


FILING RECEIPT FOR TRADEMARK APPLICATION

Apr 16, 2002

Receipt on the DATE OF FILING of the application for registration and filing fees is acknowledged for the mark identified below. The DATE OF FILING is contingent upon the collection of any payment made by check or draft. Your application will be considered in the order in which it was received and you will be notified as to the examination thereof. Action on the merits should be expected from the Patent and Trademark Office in approximately 06 months from the filing date. When inquiring about this application, include the SERIAL NUMBER, DATE OF FILING, OWNER NAME, and MARK.

ANDREW N. SPIVAK  
MORRISON & FOERSTER LLP  
2000 PENNSYLVANIA AVENUE, N  
WASHINGTON, D.C. 20006-1888



ATTORNEY  
REFERENCE NUMBER  
16385-24022.

DOCKETED

PLEASE REVIEW THE ACCURACY OF THE FILING RECEIPT DATA.

A request for correction to the filing receipt should be submitted within 30 days to the following address: ASSISTANT COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VIRGINIA 22202-3513. The correspondence should be marked to the attention of the Preexamination File Receipt Section. Or fax a request to 703-308-9096. The Patent and Trademark Office will review the request and make corrections when appropriate.

SERIAL NUMBER: 76/391404  
FILING DATE: Apr 4, 2002  
REGISTER: Principal  
LAW OFFICE: 103  
MARK: FACE KEY  
MARK TYPE(S): Trademark  
DRAWING TYPE: Words, letters, or numbers in typed form  
FILING BASIS: Sect. 1(a) (Use in Commerce)

ATTORNEY: Andrew N. Spivak

DOMESTIC REPRESENTATIVE: Morrison & Foerster LLP

OWNER: Omron Corporation (JAPAN, Corporation)  
801, Minamifudodo-cho, Horikawahlgashiiru  
Shiokoji-dori Shimogyo-ku, Kyoto-shi  
Kyoto 600-8530, JAPAN

FOR: Access control systems comprised of cameras and computerized control system, namely, display monitors, intercoms, uninterrupted power supplies, printers, zip drives and printers

INT. CLASS: 009

FIRST USE: Jun 2000

USE IN COMMERCE: Jun 2000

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED