

09/19/2008 7:06:11 AM

3. Opposer has, since long prior to Applicant's filing date or priority date, been engaged in the advertising, promotion and sale of plumbing products and fittings namely sinks, parts thereof and accessories for sinks, under the trademark "PORTO FINO".

4. Opposer has, therefore, prior to the priority date and filing date of Applicant's application herein opposed, and as early as 1988, used and is still using the trademark "PORTO FINO" in connection with the sale of plumbing products and fixtures, wherefore purchasers and prospective purchasers of Applicant's claimed products, as identified in Paragraph 1 hereof under the designation "PORTOFINO" are likely to be confused, or to be mistaken, or to be deceived into the belief, contrary to fact, that such goods of Applicant emanate from, are sponsored by, or are authorized by Opposer, all to Opposer' irreparable damage.

5. The trademark "PORTOFINO", for which Applicant seeks registration in connection with faucets and parts thereof, is identical in meaning, sound, appearance and significance to Opposer's mark "PORTO FINO" as applied to sinks, parts thereof and accessories for sinks, and the use of said mark by Applicant is likely to cause confusion or mistake or to deceive within the meaning of Section 2(d) of the Trademark Act of 1946, all to Opposer's irreparable damage and loss and/or dilution of the goodwill symbolized by Opposer's valuable mark.

6. The goods of Applicant and the goods of Opposer sold under their respective marks as herein identified are or are likely to be distributed, sold, and/or provided in coincident geographical areas through the same or commercially related channels of trade to the same classes of purchasers, wherefore purchasers and prospective purchasers of Applicant's goods sold under the designation "PORTOFINO" are likely to be confused, mistaken or deceived into the

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belief, contrary to fact, that Applicant's goods originate with and/or are in some way sponsored or provided by Opposer, all to Opposer's irreparable damage and loss and/or dilution of its valuable mark.

7. If Applicant is granted registration of its claimed mark "PORTOFINO" herein opposed, Applicant would thereby obtain the prima facie exclusive right to use such mark, and such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that the present opposition be sustained and the registration sought by Applicant be refused.

Enclosed is our check in the amount of \$300.00. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725.

The undersigned hereby appoints Paul A. Welter, Reg. No. 20,890; Mark Schuman, Reg. No. 31,197; Scott W. Johnston, Reg. No. 39,721; Anna Manville; and Greg Golla, and the firm of MERCHANT & GOULD P.C., its attorneys to prosecute this opposition with full power of substitution and revocation, and to transact all business in the Patent and Trademark Office connected therewith.

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08-04-2003

A Professional Corporation

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #22

KOHLER CO.)	
Opposer,)	
)	
v.)	Opposition No. _____
)	Serial No. 76/442,347
MATCO-NORCA, INC.,)	
)	
Applicant.)	

Mark: PORTOFINO
Serial No.: 76/442347
Docket Number: 7293.0246USTA
Official Gazette: May 6, 2003

Due Date: August 4, 2003
Filing Date: August 21, 2003

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Commissioner for Trademarks, Box TTAB, 2900 Crystal Drive, Arlington, VA 22202-3513, on July 31, 2003.

By: Teresa L. Kleven
Name: Teresa L. Kleven

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

Dear Commissioner:

We are transmitting herewith the attached:

- Return postcard.
- Transmittal Sheet in duplicate containing Certificate Under 37 C.F.R. 1.8
- Notice of Opposition (1 Original and 1 Copy)
- Check in the amount of \$300.00 to cover Filing Fee.

Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate copy of this sheet is enclosed.

By: Paul A. Welter
Name: Paul A. Welter
Reg. No.: 20,890
PAWelter/tlk