

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

In Re Trademark Appln.

Serial No. 76/332,592

Filed: November 2, 2001

Published in the Official Gazette  
Of December 10, 2002

Mark: fxP

DOCKET:  
FRD012

Freudenberg Nonwovens )  
Limited Partnership. )  
Opposer )  
v. )  
TRIKON HOLDINGS LIMITED )  
Applicant )  
\*  
\_\_\_\_\_

Opposition No.

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington VA 22202-3513

Sir:

NOTICE OF OPPOSITION

Freudenberg Nonwovens Limited Partnership, a German Limited Partnership having a principal place of business at 221 Jackson Street, Lowell, Massachusetts 01852, believes that it will be damaged by the registration of the mark "fxP, stylized" shown in Application Serial No. 76/332592, filed on November 2, 2001, by Trikon Holdings Limited, and published in the Official Gazette of December 10, 2002, and hereby opposes registration of the mark shown in

said application in International Class 7 (U.S. Classes 13, 19, 21, 23, 31, 34 and 35) under Section 2(d) of the Trademark Act of 1946 and TLRA of 1988.

The grounds for opposition against said application are as follows:

1. By the application herein opposed, Applicant is seeking to obtain, under the provisions of the Trademark Act of 1946 and TLRA of 1988, registration upon the Principal Register of the term "fxP, stylized" as a trademark for semi-conductor or dielectric wafer fabrication and processing apparatus and instruments; chemical vapor deposition apparatus; physical vapor deposition apparatus; plasma etchers; ion implantors; workpiece transport mechanisms and apparatus; parts and fittings for all the aforesaid goods in Int. Class 7.
2. Opposer is in the business of designing, developing, selling a wide variety of nonwoven materials including for use in the semiconductor manufacturing industry. Opposer is a leader in this field, and due to its leadership position is well known in the industry and among consumers.
3. Applicant filed an application to register its alleged trademark based on UK Registration No. 2269243 and on an allegation of its bona fide intent to use the mark in commerce. A claim of priority under Section 44(d) of the Trademark Act was made based on a UK filing date of May 4, 2001. No use of the mark has been claimed by Applicant and reliance on Section 1(b) as a filing basis has been deleted from the Application.
4. Long prior to the filing date and the Section 44(d) priority date of Applicant's trademark application, Opposer adopted and used FX9 in interstate commerce in connection with polishing pads for use in semiconductor manufacturing. Opposer has continuously used its FX9 trademark in connection with said goods since at least as early as January, 1998. The trade has come to

know, recognize and identify polishing pads for use in semiconductor manufacturing sold under the FX9 trademark as being supplied by Opposer. Materials showing Opposer's use of FX9 as a trademark are attached hereto as Exhibits A, B, C and D.

5. Opposer manufactures and sells nonwoven materials including polishing pads for use in semiconductor manufacture under its FX9 trademark throughout the United States. Since adopting its FX9 trademark as early as January 1998, Opposer has expended considerable money and effort in advertising and promoting the sale of polishing pads for semiconductor manufacture under the FX9 trademark.

6. Since adopting its FX9 trademark at least as early as January 1998, Opposer has increased the types of polishing pads for semiconductor manufacture sold under its FX9 trademark to meet the needs of a variety of customers. Opposer uses its FX9 trademark together with other alphanumeric designations in order to identify different products in Opposer's line (See exhibits hereto). Through use and promotion, these composite trademarks also are perceived as marks indicating origin.

7. The "fxP, stylized" mark proposed for registration by Applicant is similar in sound, appearance and meaning to Opposer's FX9 trademark. Moreover, the letters "fx" appear in the initial, and thus dominant, part of Opposer's mark. Thus, the appearance of the letters "fx" in the initial part of Applicant's mark forms a mark that is essentially identical in sound, appearance and meaning to Opposer's prior FX9 trademark. Thus, the overall commercial impression conveyed by Applicant's mark is essentially identical and Applicant's alleged mark is essentially identical in sound, appearance and meaning to Opposer's mark and Applicant's mark creates the

impression that it is another mark in Opposer's "FX9" line of polishing pads for semiconductor manufacture.

8. Both Applicant and Opposer sell products for use in the field of semiconductor manufacture.

Thus, it would be reasonable for consumers to believe or to be confused or deceived into thinking that Applicant's fxP products originate with or are in some way associated with or connected with, sponsored, authorized or endorsed by Opposer.

9. The goods offered by Opposer and Applicant under their respective marks are similar if not identical, the channels of trade through which Opposer's and Applicant's goods are sold are identical, and the classes of purchasers sold to by Opposer and Applicant are identical. Thus, a purchaser or potential purchaser of Applicant's goods is likely to believe or to be confused and deceived into thinking that Applicant's goods also originate with or are in some way associated with, connected with, sponsored, endorsed or authorized by Opposer. By reason of the essentially identical meaning, sound and appearance of Applicant's alleged mark fxP and Opposer's FX9 trademark, the common identity of the goods sold thereby, the common identity of the channels of trade, and the common identity of the classes of customers, there is a likelihood of confusion between Applicant's alleged mark and Opposer's trademark. Thus, Applicant's alleged mark is likely, when used in connection with the goods identified in Application Serial No. 76/332592, to cause mistake, or to deceive, all to the injury or threatened injury to Opposer.

10. Because of the considerable money and effort which Opposer has expended in advertising and promoting its polishing pads for semiconductor manufacture under its FX9 trademarks, and

the superior rights which Opposer has established by using FX9 as a trademark, Opposer will be damaged by issuance of the requested registration to Applicant. If Applicant were granted the registration applied for, it would obtain at least prima facie exclusive right to the use of its mark "fxP, stylized" for the goods specified in its application and all related goods and services. Such registration would be a source of damage to Opposer, is likely to cause customer confusion of existing product lines, and would prevent the natural expansion of Opposer to related product lines under its FX9 family of trademarks.

11. Applicant is not the owner of the mark shown in Serial No. 76/332592 because Opposer is the sole owner of FX9 and similar marks in connection with goods that are identical, similar or related to polishing pads for semiconductor manufacture, and has granted no license, right or title in the same to Applicant. Therefore, Applicant is not entitled to the registration.

WHEREFORE, Opposer prays that registration of the mark shown in Serial No. 76/332592 for the goods specified therein, be refused and that its Opposition be sustained.

All correspondence in this matter should be addressed to Teresa C. Tucker, Grossman, Tucker, Perreault & Pflieger, PLLC, 55 South Commercial Street, Manchester, New Hampshire 03101.

#### DECLARATION

The undersigned, Teresa C. Tucker, declares that she is attorney for Opposer, FREUDENBERG NONWOVENS LIMITED PARTNERSHIP and she is authorized to execute this Notice of Opposition and Declaration on behalf of said Opposer; that she has read and signed the Notice of Opposition and knows the contents thereof; and that all the statements

made therein of her knowledge are true and that all statements made therein on information and belief are believed to be true; and further that all false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this document.



Teresa C. Tucker  
GROSSMAN TUCKER PERREAULT  
& PFLEGER PLLC  
55 South Commercial Street  
Manchester, New Hampshire 03101  
(603) 668-6560

Attorney for the Opposer

Date: October 6, 2003

**A**

**FREUDENBERG  
FX9 PAD ID:**

**SUB PAD ID  
SUBA 4  
D.O.M.07/30/03**

**FREUDENBERG  
FX9 PAD ID:**

**SUB PAD ID  
SUBA 4  
D.O.M.07/30/03**

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**FREUDENBERG  
FX9 PAD ID:**

**SUB PAD ID  
SUBA 4  
D.O.M.07/30/03**

FX9S23P

viledon®

B

FX9S23P (AVOID LIGHT & UV)

Couleur:

Style:

NAT

FX9S23P

Finish/Texture:

Width/Largeur: 23.0"Dia.

Unit Measure:

Put-up:

Unit Qty.:

EA

10.0

10.0

Unité de mesure:

Longueur:

Quantité unitaire:

M² equiv.

# d'insp.:

Lot / # de lot:

Roll / # de rouleau:

182482

Freudenberg

Made in U.S.A.



075269

P00000000100A

FM-090-INS-103A Rev.1

Item FX9S23P  
Style FX9S23P  
Color NAT  
Finish  
Put-up 10.0  
Insp.

Width 23.0"Dia.  
Units 10.0  
Lot No. 182482  
Roll No.

Item FX9S23P  
Style FX9S23P  
Color NAT  
Finish  
Put-up 10.0  
Insp.

Width 23.0"Dia.  
Units 10.0  
Lot No. 182482  
Roll No.

FX9S23P (AVOID LIGHT & UV)

FX9S23P (AVOID LIGHT

2

[REDACTED]

[REDACTED]

# Freudenberg

## FX9S20P

### FX9S20P/55

### 902881

Style: **0** Color: **NAT**

Width: **26 IN** Material # **902881**

Put-up: Unit Qty:  
**10 EA** **10 EA**

m2 equiv. Inspector # Lot # Roll #  
**717546**

Freudenberg

# Made in U.S.A.

076269

Item	FX9S20P	Width	26 IN	Item	FX9S20P	Width	26 IN
Style	0	Units	10 EA	Style	0	Units	10 EA
Color	NAT	Lot No.	717546	Color	NAT	Lot No.	717546
Finish		Roll No.		Finish		Roll No.	
Put-up	10 EA	Material #	902881	Put-up	10 EA	Material #	902881
Insp.				Insp.			

FX9S20P/55

FX9S20P/55

2

1

FREUDENBERG NONWOVENS LIMITED PARTNERSHIP

1978+454+6132

# 2 / 11

1000 WILSON STREET  
WELL, MA. 01852

(978) 454-0461



ORDER NO.	CUSTOMER NO.	ORDER DATE	CUSTOMER ORDER NO.	INVOICE DATE	INVOICE NO.
309055	40225	4/01/99	OR458472	4/15/99	651799
WHSZ	SALESMAN NAME	REP. NO.	TERM	CARRIED	
MA	OSCAR HSU	192	NET 30	FDEP	

SOLD TO

SHIP TO

FL

F1

ITEM NO.	DESCRIPTION	UOM	QTY SHIPPED	PRICE	AMOUNT
K9S24P	FX9S24P	EA	3.00	[REDACTED]	[REDACTED]
AMPLE ROOM	FX9S24P80	EA	3.00	[REDACTED]	[REDACTED]
Ship: UPS next day prepay and add [REDACTED]					
Shipping: Federal Express, Account #1410 9694-0					
Thank you for ordering the above Viledon products.					
SUB TOTAL					[REDACTED]

REMIT TO: P.O. BOX 651618, CHARLOTTE, NC 28265-1618

FREIGHT (F.O.B. PLANT)  
**PAY THIS AMOUNT** [REDACTED] DOLLARS

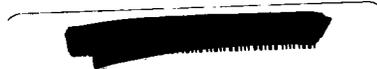
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In Re Trademark Appln.  
Serial No. 76/332,592



Filed: November 2, 2001

10-08-2003

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

Mark: fxP

DOCKET:  
FRD012

Freudenberg Nonwovens )  
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Opposer )  
v. )  
TRIKON HOLDINGS LIMITED )  
Applicant )  
\*

Opposition No.

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington VA 22202-3513

Sir:

In connection with the above identified mark, the term for filing a Notice of Opposition, having been extended to October 5, 2003, a Sunday, enclosed please find duplicate copies of a Notice of Opposition, together with supporting exhibits of prior use, and our check in the amount of \$300.00 in payment of the fee for opposing in one class.

Please charge any additional fees or credit any overpayment to our Deposit Account No.

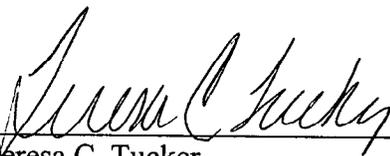
50-2121. A duplicate copy of this sheet is enclosed.

10/14/2003 ZCLIFT01 00000104 76332592

01 FC:6402

300.00 OP

Please direct further correspondence in connection with this Opposition to the undersigned attorney.

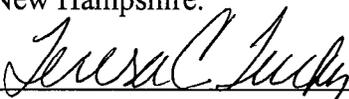
  
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Teresa C. Tucker  
GROSSMAN TUCKER PERREAULT  
& PFLEGER PLLC  
55 South Commercial Street  
Manchester, New Hampshire 03101  
(603) 668-6560

Attorney for the Opposer

Date: October 6, 2003

CERTIFICATE OF MAILING

I hereby certify that a copy of this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: BOX TTAB FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington VA 22202-3513 on October 6, 2003 at Manchester, New Hampshire.

By:   
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