

ESTTA Tracking number: **ESTTA8952**

Filing date: **05/19/2004**

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

### Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

#### Opposer Information

<b>Name</b>	Schindler Aufzuge AG		
<b>Entity</b>	Corporation	<b>Citizenship</b>	Switzerland
<b>Address</b>	Zugerstrasse 13 Ebikon, 6030 SWITZERLAND		

<b>Attorney information</b>	Klaus P. Stoffel Ostrolenk, Faber, Gerb & Soffen LLP 1180 Avenue of the Americas New York, NY 10036 UNITED STATES kstoffel@ostrolenk.com, receipts@ostrolenk.com Phone:212-382-0700		
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#### Applicant Information

<b>Application No</b>	76444409	<b>Publication date</b>	04/20/2004
<b>Opposition Filing Date</b>	05/19/2004	<b>Opposition Period Ends</b>	05/20/2004
<b>Applicant</b>	Ziegler, Mitchell		

#### Goods/Services Affected by Opposition

Class 009. First Use: First Use In Commerce:

Opposed goods and services in the class: VIDEO MONITORS, LIQUID CRYSTAL DISPLAY MONITORS, PLASMA MONITORS FOR FACILITATING VIEWING OF DATA OR SIGNAL INFORMATION

<b>Attachments</b>	7-4309-74Grounds.txt ( 2 pages )
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<b>Signature</b>	/klaus p. stoffel/
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<b>Name</b>	Klaus P. Stoffel
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<b>Date</b>	05/19/2004
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1. Opposer is the owner of the mark E-VISION in Switzerland, as evidenced by its Swiss Trademark Registration No. 480370 which issued from Swiss trademark application No. 5201/2000 filed on July 14, 2000. Said Swiss registration covers, among other things, electric luminescent display panels, video monitors and liquid crystal displays in International Class 9.
2. Opposer is the owner of U.S. Trademark Registration No. 2,692,139 for the mark E-VISION, which was filed on January 12, 2001 and which claims priority from Swiss application No. 5201/2000 under 35 U.S.C. Sec. 1126(d) (Lanham Action Section 44(d)).
3. Opposer's U.S. Trademark Registration No. 2,692,139 covers goods in International classes 7, 9, and 37, including electric luminescent display panels, video monitors and liquid crystal displays.
4. Opposer's Swiss Trademark App. No. 05201/2000 for the mark E-VISION was filed on July 14, 2000 covering goods in international Classes 7, 9 and 37, including electric luminescent display panels, video monitors and liquid crystal displays.
5. By virtue of its Swiss registration and the U.S. Trademark registration, Opposer has proprietary rights in the E-VISION mark in connection with the goods listed in the aforementioned U.S. trademark registration since at least as early as the filing date of its Swiss trademark application, i.e. since at least as early as July 14, 2000.
6. On August 26, 2002, Applicant, Mitchell Ziegler, filed the intent-to-use application at issue to register the mark E-VISION for "Interactive electronic and digital equipment for use in a memorial for the deceased, namely, video monitors, liquid crystal display monitors, plasma monitors for facilitating viewing of data or signal information, media storage and delivery equipment in the nature of prerecorded DVDs, prerecorded compact discs, and computer memory RAM and ROM cards containing information on relative to the deceased individual, such memorials also containing housings for holding of electronic equipment, solar receptors and chargers as well as security and support, namely, radio and cellular transmitters and receivers, and solar panels for charging of power sources and cellular phones and antennas which are built into the memorial for use in communicating between the central station and the housing for the electronic equipment" in International Class 9. Said application bears Serial No. 76/444,409, was published in the Official Gazette on April 20, 2004, and is not based on use.
7. Upon information and belief, Applicant cannot rely on a date of first use earlier than the filing date of Opposer's Swiss trademark application, and Opposer's U.S. trademark registration which claims priority from its Swiss application.
8. The mark that Applicant seeks to register wholly encompasses the spirit of Opposer's E-VISION mark, is identical in sight, connotation and commercial impression to Opposer's E-VISION mark, and will be used for goods and services that are related to the goods and services for which Opposer uses and has registered its mark. Based on the similarities of the marks and the goods and services, the public is likely to associate the goods intended to be offered by Applicant under the mark E-VISION with Opposer's goods and services, or to believe that Applicant's goods and services are sponsored, endorsed or licensed by Opposer, or that there is some relationship between Applicant and Opposer. Use or continued use and registration of Applicant's mark

will therefore seriously damage Opposer.