

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

In The Matter of Application Serial No. 76/235,525: FX35
Published in the *Official Gazette* of February 17, 2004 at TM239 in International Class 12

FORD MOTOR COMPANY,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
NISSAN JIDOSHI KABUSHIKI)	
KAISHA, trading as NISSAN MOTOR)	
COMPANY, LTD.,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Ford Motor Company, a Delaware corporation having a place of business at The American Road, Dearborn, Michigan 48121 ("Opposer"), believes it will be damaged by registration of the mark shown in Application Serial No. 76/235,525 and opposes the same. The grounds for opposition are:

1. Opposer has for several years manufactured, distributed, provided, advertised and sold motor vehicles under the trademark FX4.
2. Opposer owns U.S. Reg. No. 2,665,271 for the mark FX4 for "motor vehicles, namely, automobiles, vans, sport utility vehicles, multipurpose vehicles, and their structural parts and engines" in Class 12. The filing date for this registration, August 30, 2000, predates the filing date for the application opposed herein. This registration is valid and subsisting and is owned by Opposer.

3. Opposer also owns federal applications to register FX4 LEVEL I (Ser. No. 78/110,009), FX4 LEVEL II (Ser. No. 78/110,023) and FX4 LEVEL III (Ser. No. 78/110,0028), all for "motor vehicles, namely automobiles, vans, sports utility vehicles, multipurpose vehicles, and their structural parts and engines" in Class 12 (collectively with the mark FX4, "FX4 Marks").

4. Opposer has sold substantial quantities of goods under the FX4 Marks in the United States, and has spent significant sums advertising and promoting the FX4 Marks throughout the United States.

5. By virtue of these sales and the success of its advertising and promotional efforts, Opposer now owns an enormously valuable goodwill which is symbolized by the FX4 Marks.

6. Applicant filed the application opposed herein to register the mark FX35 for "motor vehicles, namely, automobiles, trucks, vans, sport utility vehicles and structural parts therefor" in Class 12 on April 4, 2001.

7. On information and belief, neither Applicant nor any predecessor or related company of Applicant made commercial use of the mark FX35 prior to April 4, 2001, the date Applicant filed the application opposed herein.

8. Applicant's use of the mark FX35 for these goods is likely to result in the mistaken belief that Applicant, or its goods or services, are somehow legitimately connected with, licensed or approved by Opposer.

9. Applicant's use of the mark FX35, for which registration is sought in the application opposed herein, is without Opposer's consent or permission.

10. Accordingly, registration of the mark FX35 would be damaging to Opposer.

Opposer submits the requisite filing fee of \$300.00. Please debit any deficiency or credit

~~any overpayment to Account No. 16-0650. Please address all correspondence to Janet Marvel at~~

Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP, 311 South Wacker Drive, Suite
5000, Chicago, IL 60606.

PATTISHALL, McAULIFFE, NEWBURY,
HILLIARD & GERALDSON LLP

Dated: August 16, 2004

By:



David C. Hilliard

Janet A. Marvel

Danielle B. Lemack

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(312) 554-8000

Attorneys for Opposer

Certificate of Mailing

I, Lisa Nangle, hereby certifies that the attached is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514 on August 16, 2004.



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September 17, 2004

VIA HAND DELIVERY

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-2514

Re: Ford Motor Company v. Nissan Jidoshi Kabushiki
Opposition No. 161876

Dear Sir/Madam:

Attached is a copy of the Notice of Opposition we filed in the above-referenced matter. We understand that the signature page of the Notice was inadvertently lost, therefore, this opposition was instituted in the name of Elizabeth Janda at Brooks & Kushman. As the attached signature page indicates, the opposition is being handled by the Pattishall, McAuliffe firm. We therefore request that you correct the record to reflect that Janet Marvel of Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP is the attorney of record for this matter.

If you have any questions, please feel free to contact us.

Thank you for your assistance.

Very truly yours,



DBL/sm
Attachment