

ESTTA Tracking number: **ESTTA29625**

Filing date: **04/01/2005**

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>	Brink's Network, Incorporated
<b>Granted to Date of previous extension</b>	04/03/2005
<b>Address</b>	3411 Silverside Road203 Bancroft Building Wilmington, DE 19810 UNITED STATES

<b>Attorney information</b>	Alan S. Cooper, Eric T. Fingerhut Howrey Simon Arnold & White, LLP 1299 Pennsylvania Ave., N.W. Washington, DC 20004 UNITED STATES CooperA@howrey.com, FingerhutE@howrey.com, KayserS@howrey.com, RenneM@howrey.com Phone:2027830800
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#### Applicant Information

<b>Application No</b>	76483115	<b>Publication date</b>	10/05/2004
<b>Opposition Filing Date</b>	04/01/2005	<b>Opposition Period Ends</b>	04/03/2005
<b>Applicant</b>	The Brinkmann Corporation 4215 McEwen Road		

Dallas, TX 75244 UNITED STATES
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**Goods/Services Affected by Opposition**

Class 009. First Use: 19780612 First Use In Commerce: 19780612 Opposed goods and services in the class: Home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets, batteries, wall mount brackets for battery chargers and flashlight, cooking thermometers;
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<b>Attachments</b>	Notice of Opposition.pdf ( 9 pages )
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<b>Signature</b>	/Susan M Kayser/
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<b>Name</b>	Susan M. Kayser
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<b>Date</b>	04/01/2005
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application:

Serial No.: 76/483,115  
Filed: January 17, 2003  
Applicant: The Brinkmann Corporation  
Mark: BRINKMANN  
Classes: 4, 6, 7, 8, 9, 11, 12, 21, and 30  
Published in the *Official Gazette* of October 5, 2004

BRINK'S NETWORK, INCORPORATED	)	
	)	
Opposer	)	
	)	
v.	)	Opposition No. _____
	)	Application Serial No. 76/483,115
THE BRINKMANN CORPORATION	)	
	)	
Applicant	)	

NOTICE OF OPPOSITION

Brink's Network, Incorporated, a Delaware corporation, located and doing business at 203 Bancroft Building, 3411 Silverside Road, Wilmington Delaware 19810 (hereinafter "Opposer"), believes that it will be damaged by registration of the mark shown in Application Serial No. 76/483,115 with respect to certain of the goods described in said Application as alleged more fully below, and hereby opposes same.

The grounds for the opposition are as follows:

- (1) Application Serial No. 76/483,115 (hereinafter the "opposed application") seeks registration of the mark BRINKMANN for a number of goods and services including specifically "home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall

mount brackets, batteries, wall mount brackets for battery chargers and flashlight, cooking thermometers,” in International Class 9 (hereinafter “home security systems and components”).

(2) The opposed application was filed on January 17, 2003, based on a claim of Applicant’s use of the mark BRINKMANN in interstate commerce in connection with home security systems and components on June 12, 1978.

(3) On information and belief, the June 12, 1978 date of first use stated in the opposed application with respect to the goods in International Class 9 is not applicable to the home security systems and components sold by Applicant under the mark BRINKMANN.

(4) Long prior to the January 17, 2003 filing date of the opposed application and the true date of Applicant’s first use of the mark BRINKMANN in connection with home security systems and components, Opposer’s predecessor adopted and used, and Opposer’s related companies Brink’s Home Security Inc. and Brink’s, Incorporated are still using the trade name, trademark and service mark BRINK’S, alone and/or in combination with other words and design(s), in interstate commerce for commercial and residential security systems and equipment; residential and commercial security alarm and monitoring services; check and payroll processing and security services; and convention, exhibit and performance ticket sales and security services.

(5) In accordance with § 5 of the Federal Trademark Act, all use of the trade name, trademark and service mark BRINK’S, alone and/or in combination with other words and design(s), by Opposer’s related companies Brink’s Home Security Inc. and Brinks, Incorporated inures to the benefit of Opposer.

(6) Opposer is the owner of the trade name, trademark and service mark BRINK'S. Opposer and its predecessor and related companies have continuously used the trade name and mark BRINK'S for commercial and residential security systems and related residential and commercial security alarm and monitoring services, among other goods and services, since long prior to the filing date of the opposed application and the true date of first use of the mark BRINKMANN by Applicant in connection with home security systems and components.

(7) Opposer's related company Brink's Home Security Inc. offers for sale and sells numerous residential and commercial security products and related services under the trade name, trademark and service mark BRINK'S, alone and/or in combination with other words and design(s).

(8) By virtue of the prior and continuous advertising and sales of commercial and residential security systems and related services under the mark BRINK'S, and the maintenance of premium quality standards relating thereto, purchasers of such goods and services and others have come to recognize the mark BRINK'S as a singular, highly distinctive indication of origin, as a consequence of which Opposer has established valuable goodwill and exclusive rights in this mark.

(9) The mark BRINK'S, alone and/or in combination with other words and design(s), had become exceedingly well-known and a famous mark within the meaning of § 43(c) of the Federal Trademark Act long prior to the filing date of the opposed application and the true date of Applicant's first use of the mark BRINKMANN in connection with home security systems and components.

(10) Opposer duly registered the mark BRINK'S HOME SECURITY & Design for commercial and residential intrusion, fire and emergency alarm apparatus using video cameras and monitors and wired and wireless intercoupling for the same and electric locks in the United States Patent and Trademark Office under Registration No. 2,476,114 which issued August 7, 2001.

(11) Opposer's related company Brink's, Incorporated duly registered the mark BRINK'S & Design for security transportation, namely, armored car transport services of currency, securities and other valuables; domestic and international air courier services; receiving and cashing checks for others, coin processing and wrapping and change services; payroll preparation and consolidation of deposits for others; cash maintenance of bank automatic teller stations; food stamp distribution services; selling tickets and handling proceeds from conventions, exhibits and performances for others in the United States Patent and Trademark Office under Registration No. 1,313,790 which issued January 8, 1985 and has been duly renewed. Opposer is the record owner of Registration No. 1,313,790 by virtue of an assignment recorded in the Assignment Branch on April 19, 1996 at Reel 1452, Frame 0600.

(12) Opposer's related company Brink's, Incorporated duly registered the mark BRINK'S (Stylized) for receiving checks; cashing the same; making up payrolls; carrying same or other moneys or securities; guarding and protecting same and paying payrolls; handling clearings; selling tickets; handling proceeds from conventions, exhibitions, and performances; repairing safes, chests, cash protectors and similar equipment in the United States Patent and Trademark Office under Registration No. 529,622 which issued August 22, 1950 and has been duly renewed. Opposer is the record owner of Registration No.

529,622 by virtue of an assignment recorded in the Assignment Branch on April 19, 1996 at Reel 1452, Frame 0600.

(12) Opposer's related company Brink's, Incorporated duly registered the mark BRINK'S for security transportation, namely, armored car transport services of currency, securities, and other valuables; domestic and international air courier services; air transport and air freight of goods in the United States Patent and Trademark Office under Registration No. 1,309,375 which issued December 11, 1984 and has been duly renewed. Opposer is the record owner of Registration No. 1,309,375 by virtue of an assignment recorded in the Assignment Branch on April 19, 1996 at Reel 1452, Frame 0600.

(13) Opposer's related company Brink's, Incorporated duly registered the mark BRINK'S HOME SECURITY for security alarm and monitoring system services in the United States Patent and Trademark Office under Registration No. 1,412,587 which issued October 7, 1986. Opposer is the record owner of Registration No. 1,412,587 by virtue of an Assignment recorded in the assignment Branch on April 19, 1996 at Reel 1452, Frame 0600.

(14) Opposer's related company Brink's, Incorporated duly registered the mark BRINK'S & Design for security alarm and monitoring system services in the United States Patent and Trademark Office under Registration No. 1,411,610 which issued on September 30, 1986. Opposer is the record owner of Registration No. 1,411,610 by virtue of an assignment recorded in the assignment Branch on April 19, 1996 at Reel, 1452, Frame 0600.

(15) Opposer duly registered the mark BRINK'S HOME SECURITY & Design for residential and commercial metal safes; keyed and combination metal locks; non-

metal residential and commercial safes under Registration No. 2,330,884 which issued March 21, 2000.

(16) Opposer duly registered the mark BRINK'S for intrusion detection computer hardware and software for detecting and indicating undesirable Internet signals and communications prior to entry to a customer's computer network and monitoring signals from computer network intrusion detection systems in the United States Patent and Trademark Office under Registration No. 2,691,470 which issued February 25, 2003.

(17) Opposer duly registered the mark BRINK'S & Design for intrusion detection computer hardware and software for detecting and indicating undesirable Internet signals and communications prior to entry to a customer's computer network and monitoring signals from computer network intrusion detection systems in the United States Patent and Trademark Office under Registration No. 2,646,784 which issued November 5, 2002.

(18) Registration Nos. 2,476,114, 1,313,790, 529,622, 1,309,375, 1,412,587, 1,411,610, 2,330,884, 2,691,470, and 2,646,784 are *prima facie* evidence of the validity thereof and Opposer's ownership and exclusive right to use the marks BRINK'S HOME SECURITY, BRINK'S HOME SECURITY & Design, BRINK'S, BRINK'S & Design, and BRINK'S (Stylized), respectively, in commerce and are constructive notice of Opposer's ownership thereof, all as provided by §§ 7(b) and 22 of the Federal Trademark Act of 1946, as amended. The right to use the marks BRINK'S HOME SECURITY, BRINK'S, BRINK'S & Design, and BRINK'S (Stylized) having become incontestable, Registration Nos. 1,313,790, 529,622, 1,309,375, 1,412,587, 1,411,610, are conclusive evidence of

Opposer's exclusive right to use the marks shown therein in commerce as provided by §§ 15 and 33(b) of the Federal Trademark Act.

(19) The commercial and residential security systems and equipment, and related residential and commercial security alarm and monitoring services described in Opposer's Registration Nos. 2,476,114, 1,313,790, 529,622, 1,309,375, 1,412,587, 1,411,610, 2,330,884, 2,691,470, and 2,646,784 and the home security systems and components described in the opposed application are commercially related, and are likely sold and/or rendered to the same or overlapping classes of purchasers. Therefore, purchasers, prospective purchasers and others are likely to be confused, mistaken or deceived into the belief, contrary to fact, that Applicant's home security systems and components sold under the mark BRINKMANN emanate from and/or are in some way sponsored or approved by Opposer and/or that Applicant is somehow affiliated with Opposer, thereby damaging Opposer.

(20) Applicant is not lawfully entitled to the registration which it seeks for the reason, *inter alia*, that Applicant's mark BRINKMANN, as used in connection with the home security systems and components described in the opposed application, so resembles Opposer's previously used and/or registered marks BRINK'S, BRINK'S & Design, BRINK'S (Stylized), BRINK'S HOME SECURITY, and BRINK'S HOME SECURITY & Design as to be likely to cause confusion, to cause mistake or to deceive within the meaning of § 2(d) of The Federal Trademark Act, thereby damaging Opposer.

(21) Applicant is not lawfully entitled to the registration which it seeks for the reason, *inter alia*, that its use of the mark BRINKMANN in connection with the home security systems and components described in the opposed application dilutes and/or is

likely to dilute the distinctiveness of Opposer's famous marks BRINK'S, BRINK'S & Design, BRINK'S (Stylized), BRINK'S HOME SECURITY, and BRINK'S HOME SECURITY & Design within the meaning of § 43(c) of the Federal Trademark Act.

(22) Attached hereto as Exhibit A is a true copy of a specimen submitted by Applicant in connection with the opposed application showing use of the mark BRINKMANN in connection with home security systems and components that displays the federal statutory registration symbol ® in association with the mark BRINKMANN.

(23) Applicant does not own a subsisting federal registration of the mark BRINKMANN that covers home security systems and components.

(24) Applicant's use of the federal statutory notice of registration symbol ® in association with the mark BRINKMANN as shown in Exhibit A constitutes a misuse of that symbol in violation of § 29 of The Federal Trademark Act and deceives the consuming public into believing that the mark is registered, thereby damaging Opposer.

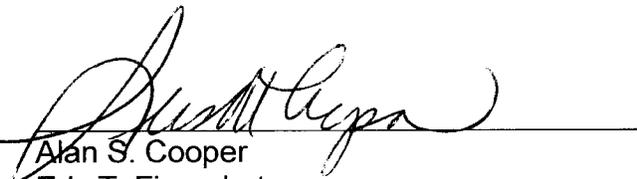
WHEREFORE, Opposer believes that the present opposition should be sustained and the registration of Applicant's mark refused.

The requisite filing fee for the Notice of Opposition is submitted herewith.

BRINK'S NETWORK, INCORPORATED

Dated: April 1, 2005

By:



Alan S. Cooper

Eric T. Fingerhut

Susan M. Kayser

Attorneys for Opposer

Howrey Simon Arnold & White LLP

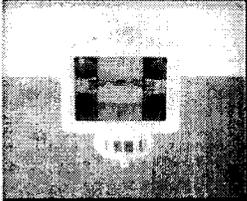
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Washington, D.C. 20004

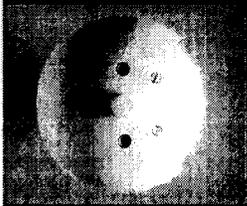
(202) 783-0800

Fax: (202) 383-6610

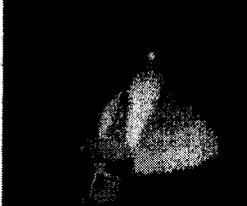
**BRINKMANN®**  
**Home Security**  
Motion Activated Lighting System



*Special two-way mounting design is suitable for ceilings and under eaves as well as wall mounting.*



*Easy to adjust, no tools are needed. Lighting time is adjustable for up to 12 minutes. Lux control allows you to set at what darkness level lights will come on.*

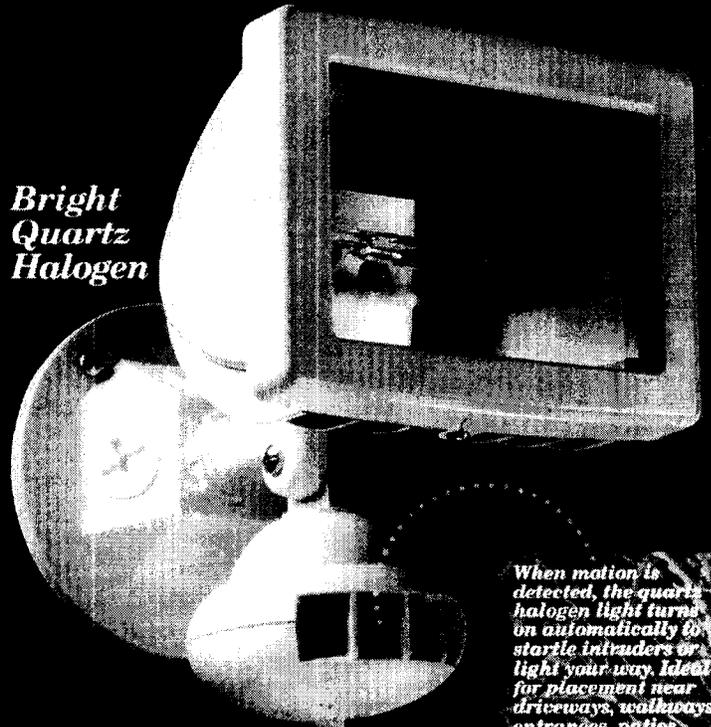


*The area of detection can be adjusted to cover over 1,500 sq. ft. with the wide angle sensor seeing up to 40 ft. away in a 110° arc.*

**BRINKMANN®**  
**Home Security**  
Motion Activated Lighting System

**150 Watt/110°**  
*Motion detector with Quartz Halogen light included*

**Bright  
Quartz  
Halogen**



*When motion is detected, the quartz halogen light turns on automatically to startle intruders or light your way. Ideal for placement near driveways, walkways, entrances, patios and pools.*

Pre-assembled

EXHIBIT A