

ESTTA Tracking number: **ESTTA34201**

Filing date: **05/27/2005**

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>	Airtec Pneumatic GmbH
<b>Granted to Date of previous extension</b>	06/18/2005
<b>Address</b>	Westerbachstr, 7 Kronberg, 61476 GERMANY

<b>Attorney information</b>	Scott D. Woldow Smith, Gambrell & Russell 1850 M Street, NW Washington, DC 20036 UNITED STATES sdwoldow@sgrlaw.com Phone:202--263-4300
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#### Applicant Information

<b>Application No</b>	76484983	<b>Publication date</b>	04/19/2005
<b>Opposition Filing Date</b>	05/27/2005	<b>Opposition Period Ends</b>	06/18/2005
<b>Applicant</b>	AIRTAC ENTERPRISE CO., LTD No. 13, Lane 14, Ho-Ping Rd. Pan-Chiao City, Taipei Hsien,		

TAIWAN
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**Goods/Services Affected by Opposition**

Class 007. First Use: 19941000 First Use In Commerce: 20000400

All goods and services in the class are opposed, namely: AIR CYCLINDERS FOR MACHINES; AIR FILTERS FOR DOMESTIC AND INDUSTRIAL USE; AIR REGULATORS BEING PARTS OF MACHINES; LUBRICATORS BEING PARTS OF MACHINES

<b>Attachments</b>	airtac.tif ( 3 pages )
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<b>Signature</b>	/SW/
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<b>Name</b>	Scott D. Woldow
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<b>Date</b>	05/27/2005
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AIRTEC PNEUMATIC GMBH (hereinafter "OPPOSER"), a corporation of the Federal Republic of Germany, having offices at Westerbachstr. 7, 61476 Kronberg, Germany, believes that it will be damaged by registration of the mark AIRTAC, Application Serial No. 76/484,983 and hereby opposes the same.

The grounds for opposition are as follows.

1. Opposer is now and has been engaged in the machine parts, cylinders and valves business as well as in businesses related to machine parts, cylinders and valves. Opposer has used and is using the mark AIRTEC in association with "pneumatic valves for pneumatic control systems; machines and machine parts, namely, pneumatically driven working cylinders, pneumatically driven rotary tables, pneumatically driven feed tables, stationary pneumatically driven drilling machines for cutting and metal working and magnetic valves for pneumatics." The AIRTEC trademark application was filed on November 7, 1995 and was registered on September 16, 1997.

2. Opposer owns Registration No. 2,096,497 for the mark AIRTEC, registered on September 16, 1997 for "pneumatic valves for pneumatic control systems; machines and machine parts, namely, pneumatically driven working cylinders, pneumatically driven rotary tables, pneumatically driven feed tables, stationary pneumatically driven drilling machines for cutting and metal working and magnetic valves for pneumatics." The aforesaid registration is valid and subsisting, unrevoked and uncanceled and Airtec Pneumatic GmbH is the owner of the aforesaid registration and all of the goodwill represented thereby.

3. Prior to the filing of the application herein opposed, Airtec Pneumatic GmbH has used the designation AIRTEC as a trademark in connection with valves, cylinders and the machinery parts industry.

4. The use of Opposer's mark has been valid and continuous and has not been abandoned. Opposer's mark is symbolic of extensive goodwill and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion.

5. Notwithstanding Opposer's rights in and to its AIRTEC mark, Applicant on January 24, 2003, filed an application for registration of the mark AIRTAC for "air cylinders for machines; air filters for domestic and industrial use; air regulators being parts of machines; lubricators being parts of machines." That application was given Serial No. 76/484,983 and was published for opposition in the Official Gazette of April 19, 2005.

6. Applicant's mark AIRTAC, when used in connection with the goods set forth in its application, is confusingly similar to Opposer's use of its AIRTEC mark, as set forth and protected by Opposer's above-identified registration. Registration of Applicant's mark and continued use by it for its products is likely to cause confusion, mistake and deception. The marks are nearly identical in appearance, sound, and meaning, and the goods are nearly identical so that there would be a likelihood of such confusion, mistake and deception.

7. Despite Opposer's rights in and to the AIRTEC mark, Applicant has been using the AIRTAC designation to refer to its products. For example, both goods are highly similar machine parts and both marks are used in association with cylinders. The nearly identical nature of the goods accentuates the similarity between AIRTEC and AIRTAC and exacerbates the likelihood of confusion regarding the marks and the likelihood of confusion as to sponsorship or affiliation.

8. If Applicant is permitted to use and register its mark, AIRTAC, for the goods specified in the application, confusion in the trade resulting in damage and injury to Opposer would be caused and would result by reason of the similarity between Applicant's mark and

Opposer's mark. Persons familiar with Opposer's mark would be likely to confuse Applicant's goods as a product made, sold, or sponsored by Opposer. Any such confusion in the trade would inevitably result in loss of sales to Opposer.

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9. In addition to the harm identified in paragraph 8, any defect, objection or fault found with Applicant's products marketed under the AIRTAC mark would necessarily reflect badly upon and significantly injure the reputation which Opposer has established for its products.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's mark, and prays that registration be denied.