ESTTA Tracking number: **ESTTA126391**

Filing date: **02/22/2007**

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

Proceeding	91167540
Party	Plaintiff Mintek Corporation Mintek Corporation Unit A 1022 Main Street Dunedin, FL 34698
Correspondence Address	Thomas E. Toner SMITH & HOPEN, P.A. 180 Pine Avenue North Oldsmar, FL 34677 UNITED STATES tom.toner@smithhopen.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Thomas E. Toner
Filer's e-mail	tom.toner@smithhopen.com, trademarks@smithhopen.com
Signature	/thomas e toner/
Date	02/22/2007
Attachments	NOR official records-as filed.pdf (18 pages)(2507805 bytes)

Practitioner's Docket No.: **1185.26** **TRADEMARKS**

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

Mintek Corporation, Opposer, v. **Samuel Bouter, D.B.A. Minatek Solutions,** Applicant.	In re Serial No. **78/490,643** For the Mark **MINATEK** Filed **September 28, 2004** Opposition No. **91167540**

NOTICE OF RELIANCE: OFFICIAL RECORDS

CERTIFIED ARTICLES OF INCORPORATION AND ANNUAL REPORTS FOR MINTEK CORPORATION

Opposer, Mintek Corporation (Mintek), through counsel and pursuant to 37 C.F.R. §2.122(e), hereby gives notice that it will rely on official records of the State of Florida Department of State which constitute official records pursuant to TBMP 704.07. The official records on which Mintek will rely are attached hereto as Exhibits 6 through 8.

These official records are relevant to this proceeding because they demonstrate that Mintek Corporation has been operating continuously since at least 1995. Moreover, these records demonstrate that Mintek Corporation was operating prior to the existence of Minatek Solutions.

Date: February 22, 2007

Very respectfully,

SMITH & HOPEN, P.A.

By: _____

Thomas E. Toner
180 Pine Avenue North
Oldsmar, FL 34677
(813) 925-8505
Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing NOTICE OF RELIANCE: OFFICIAL RECORDS CERTIFIED ARTICLES OF INCORPORATION AND ANNUAL REPORTS FOR MINTEK CORPORATION, and duly signed by attorneys for Opposer, has been served upon Applicant this **February 22, 2007** via email to sbouter@minateksolutions.com followed by mailing a copy by U.S. Express Mail Postage Label No. **EV 896394710 US** to the following: 9049 Commercial St., Suit 260, New Minas, NS B4N 5A4, CAX-Canada.

Date: February 22, 2007

By: April Turley

April Turley

EXHIBIT

6

Opposer's Exhibit 6
Opp. No. 91167540
MINATEK

State of Florida

Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation, as amended to date, of MINTEK CORPORATION, a corporation organized under the laws of the State of Florida, as shown by the records of this office.

The document number of this corporation is L44701.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Ninth day of February, 2007

Kurt S. Browning
Secretary of State

CR2E022 (01-07)

Opposer's Exhibit 6
Opp. No. 91167540
MINATEK

FILED
03 JUN 26 PM 3:38
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF INCORPORATION
OF
MINTEK ASSOCIATES, INC.

The undersigned subscriber to these Articles of Incoporation, a natural person competent to contract, hereby forms a corporation under the laws of the State of Florida.

ARTICLE I. NAME.

The name of the corporation is MINTEK ASSOCIATES, INC.

ARTICLE II. PRINCIPAL OFFICE AND REGISTERED AGENT.

The principal office of the Corporation is at 1463 Sturbridge Court, Dunedin, in Pinellas County, State of Florida. The registered agent at this address is JAMES L. HUTTON.

ARTICLE III. DURATION.

The Corporation shall have perpetual existence.

ARTICLE IV. NATURE OF BUSINESS.

The general nature of the business to be transacted by this corporation is to serve as a manufacturer's agent, and any other activities or business permitted under the laws of the United States and the State of Florida.

Opposer's Exhibit 6
Opp. No. 91167540
MINATEK

ARTICLE V. POWERS.

The Corporation may exercise any powers, without limitation whatsoever, which a corporation may legally exercise under the laws of the state of Florida where this Corporation is formed. In addition, the Corporation shall have the following specific powers:

(A) To elect or appoint officers and agents of the Corporation and to fix their compensation;

(B) To act as an agent for any individual, association, partnership, corporation or other legal entity;

(C) To receive, acquire, hold, exercise rights arising out of the ownership or possession thereof, sell, or otherwise dispose of, shares or other interests in, or obligations of, individuals, associations, partnerships, corporations, or governments;

(D) To receive, acquire, hold, pledge, transfer, or otherwise dispose of shares of the Corporation;

(E) To make gifts or contributions for the public welfare or for charitable, scientific or educational purposes.

ARTICLE VI. CAPITAL STOCK

Section 1. Authorized Shares. The total number of shares which this Corporation is authorized to issue is 1000 shares, $1.00 par value.

Section 2. Pre-emptive rights. The holder of any shares of the stock of the Corporation shall have pre-emptive rights to purchase, subscribe for, or otherwise acquire any shares of stock of the Corporation of any class now or hereafter authorized, or any securities exchangeable for or convertible into such shares, or any warrants or other instruments evidencing rights or options to subscribe for, purchase, or otherwise acquire such shares.

Opposer's Exhibit 6
Opp. No. 91167540
MINATEK

ARTICLE VII. COMMENCEMENT OF BUSINESS.

The minimum amount of capital with which the Corporation will commence business is five hundred Dollars ($500.00).

ARTICLE VIII. DIRECTORS.

This corporation shall not have Directors, but will be managed by the stockholders.

ARTICLE IX. INITIAL OFFICERS

The names and street address of the officers of the corporation, who, subject to this Charter, By-laws of the corporation, and the laws of the State of Florida, shall hold office for the first year of the corporation's existence, or until an election is held by the stockholders for the election of permanent officers, or until their successors have been duly elected and qualified, are:

NAME & ADDRESS	OFFICE
JAMES L. HUTTON 1663 Sturbridge Ct. Dunedin, FL 34698	President

ARTICLE X. SUBSCRIBERS

The names and the street addresses of the subscribers of these Articles of Incorporation, the number of shares of stock which they agree to take and the value of the consideration therefor are:

Opposer's Exhibit 6
Opp. No. 91167540
MINATEK

NAME & ADDRESS	SHARES	CONSIDERATION
JAMES L. HUTTON 1463 Sturbridge Ct. Dunedin, FL 34698	500	$500.00

In Witness Whereof, the undersigned have hereunto set their hands this 12 day of January, 19[illegible].

JAMES L. HUTTON

STATE OF FLORIDA

COUNTY OF PINELLAS

I HEREBY CERTIFY that on this day, before me, a Notary Public duly authorized in the State and County named above to take acknowledgements, personally appeared JAMES L. HUTTON, to me known to be the person described as subscriber in and who executed the foregoing Articles of Incorporation, and acknowledged before me that he subscribed to those Articles of Incorporation.

WITNESS my hand and official seal in the county and state named above, this 12 day of December, 1988.

January [illegible]

NOTARY PUBLIC
My Commission Expires:

ACCEPTANCE OF DESIGNATION AS REGISTERED AGENT

I HEREBY ACCEPT the designation of Registered Agent to accept service of process for the Florida Corporation, MINTEK ASSOCIATES, INC.

Opposer's Exhibit 6
Opp. No. 91167540
MINATEK

FILED
90 JAN 24 PM 2 39
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

STATE OF FLORIDA

COUNTY OF PINELLAS

BEFORE ME, a Notary Public, authorized to take acknowledgements in the State and County set forth above, personally appeared JAMES L. HUTTON, known to me to be the person who executed the foregoing Acceptance of Designation as Registered Agent, and acknowledged before me that he executed the same.

IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal in Pinellas County, Florida, this ~~December~~ January 11 1990.

NOTARY PUBLIC
My Commission Expires:

Notary Public, State of Florida
My Commission Expires Feb. 2, 1992

Opposer's Exhibit 6
Opp. No. 91167540
MINATEK

ARTICLES OF AMENDMENT TO CHANGE CORPORATE NAME OF MINTEK ASSOCIATES, INC., TO MINTEK CORPORATION

The following provision of the Articles of Incorporation of MINTEK ASSOCIATES, INC., a Florida Corporation, filed in the office of the Florida Department of State on January 24, 1990, Charter Number L46701, is hereby deleted in its entirety and replaced with the following:

ARTICLE I

Name of Corporation

The name of the corporation shall be MINTEK CORPORATION

The foregoing amendment and the following resolution were unanimously adopted by the Stockholders of the Corporation pursuant to the Bylaws of the Corporation on the 15th day of March, 1990

IT IS RESOLVED that all of the outstanding shares of said Corporation shall be surrendered to the Treasurer in exchange for new stock in exactly the same number of shares issued under the corporate name as amended. The Secretary of the Corporation shall notify each Stockholder, in writing as to the necessity and reason for this exchange of stock. The expenses of the exchange of stock shall be the sole expense of the Corporation; and

BE IT FURTHER RESOLVED that the President and the Secretary of the Corporation shall execute a Certificate of Amendment to the Articles of Incorporation and shall cause the Amendment to be filed with the Department of State, Corporation Division, State of Florida. Further, the President and Secretary shall take such

Opposer's Exhibit 6
Opp. No. 91167540
MINATEK

ARTICLES OF AMENDMENT
TO CHANGE CORPORATE NAME OF
MINTEK ASSOCIATES, INC., TO MINTEK CORPORATION

The following provision of the Articles of Incorporation of MINTEK ASSOCIATES, INC., a Florida Corporation, filed in the office of the Florida Department of State on January 24, 1990, Charter Number L44701, is hereby deleted in its entirety and replaced with the following:

ARTICLE I

Name of Corporation

The name of the corporation shall be MINTEK CORPORATION

The foregoing amendment and the following resolution were unanimously adopted by the Stockholders of the Corporation pursuant to the Bylaws of the Corporation on the 15th day of March, 1990

IT IS RESOLVED that all of the outstanding shares of said Corporation shall be surrendered to the Treasurer in exchange for new stock in exactly the same number of shares issued under the corporate name as amended. The Secretary of the Corporation shall notify each Stockholder, in writing as to the necessity and reason for this exchange of stock. The expenses of the exchange of stock shall be the sole expense of the Corporation; and

BE IT FURTHER RESOLVED that the President and the Secretary of the Corporation shall execute a Certificate of Amendment to the Articles of Incorporation and shall cause the Amendment to be filed with the Department of State, Corporation Division, State of Florida. Further, the President and Secretary shall take such

Opposer's Exhibit 6
Opp. No. 91167540
MINATEK

CONSENT TO USE OF CORPORATE NAME

The undersigned, as President of NENTEC, INC., a Florida Corporation, hereby consents to the use of the corporate name NINTEK CORPORATION, by James L. Hutton, for the corporation previously incorporated under the name of NINTEK ASSOCIATES, INC.

Dated this 11th day of May, 1990.

NENTEC, INC.

By: _____
its President

STATE OF FLORIDA
COUNTY OF DADE

SWORN TO AND SUBSCRIBED before me by JOHN CLARK, as President of NENTEC, INC., on behalf of said corporation, this 11 day of May, 1990.

_____
Notary Public
My commission expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. OCT 14,1993
BONDED THRU GENERAL INS. UND.

EXHIBIT

7

PqqptfsÀ!Fyi jcju8!
Pqq/!Op/!: 2278651!
NJOBUFL!

State of Florida

Department of State

I certify the attached is a true and correct copy of the annual report(s)/uniform business report(s) for the year 2007, which was filed on January 26, 2007 for MINTEK CORPORATION, a Florida corporation, as shown by the records of this office.

The document number of this corporation is L44701.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Ninth day of February, 2007

Kurt S. Browning
Secretary of State

CR2E022 (01-07)

2007 FOR PROFIT CORPORATION ANNUAL REPORT (AR)

FILED
Jan 26, 2007 08:00 AM
Secretary of State

DOCUMENT # L44701

1. Entity Name
MINTEX CORPORATION

Pqqptf sÅ!Fyi jcju8!
Pqq/!Op/!: 2278651!
NJOBUFL!

Principal Place of Business	Mailing Address
1022 MAIN ST., UNIT A DUNEDIN FL 34698 US	1022 MAIN ST., UNIT A DUNEDIN FL 34698 US

2. Principal Place of Business - No P.O. Box #
Street, Apt. #, etc.
City & State
Zip
County

3. Mailing Address
Street, Apt. #, etc.
City & State
Zip
County

4. FEI Number: 59-2999696 — Applied For / Not Applicable

5. Certificate of Status Desired ☐ $8.75 Additional Fee Required

6. Name and Address of Current Registered Agent

HUTTON, JAMES L.
1463 STURBRIDGE COURT
DUNEDIN FL 34697

7. Name and Address of New Registered Agent

Name
Street Address (P.O. Box Number is Not Acceptable)
City — FL — Zip Code

8. The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida. I am familiar with, and authorize the obligations of registered agent.

SIGNATURE: _____ (If an officer or director of a corporation is not an agent, the corporation must designate a registered agent.) (If not a director or officer, list the capacity in which the individual is signing.) DATE

FILE NOW!!! FEE IS $150.00
After May 1, 2007 Fee Will Be $350.00
Make Check Payable to Florida Department of State

9. Election Campaign Financing Trust Fund Contribution. ☐ $5.00 May Be Added to Fees

10. CURRENT OFFICERS AND DIRECTORS

Title	P	☐ Delete
Name	HUTTON, JAMES L.	
Address	1463 STURBRIDGE CT.	
City-St-Zip	DUNEDIN FL	
Title	V	☐ Delete
Name	HUTTON, LINDA S	
Address	315 OLD OAK CIRCLE	
City-St-Zip	PALM HARBOR FL	
Title	TR	☐ Delete
Name	CHAYKA, CATHERINE L.	
Address	1480 GULF BLVD. #907	
City-St-Zip	CLEARWATER FL 33767	
Title	V	☐ Delete
Name	FORD, JERMIE S	
Address	10818 ECHO LAKE DRIVE	
City-St-Zip	ODESSA FL 33556	
Title		☐ Delete
Name		
Address		
City-St-Zip		
Title		☐ Delete
Name		
Address		
City-St-Zip		

11. ADDITIONAL CHANGES TO OFFICERS AND DIRECTORS

Title		☐ Delete ☐ Add
Name		
Address		
City-St-Zip		
Title		☐ Delete ☐ Add
Name		
Address		
City-St-Zip		
Title		☐ Delete ☐ Add
Name		
Address		
City-St-Zip		
Title		☐ Delete ☐ Add
Name		
Address		
City-St-Zip		
Title		☐ Delete ☐ Add
Name		
Address		
City-St-Zip		
Title		☐ Delete ☐ Add
Name		
Address		
City-St-Zip		

12. I hereby certify that the information supplied with this filing does not qualify for the exemption contained in Section 119, Florida Statutes. I further certify that the information indicated on this report or supplemental report is true and accurate and that my signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 607, Florida Statutes; and that my name appears in Block 10 or Block 11 if changed, or on an attachment with an address, with all other like empowered.

SIGNATURE: Catherine L Chayka — 1-22-07 — 727-734-9175
(Attach additional pages if more than 6 names are listed.) Date Daytime Phone Number

EXHIBIT

8

Opposer's Exhibit 8
Opp. No. 91167540
MINATEK

State of Florida

Department of State

I certify the attached is a true and correct copy of the annual report(s)/uniform business report(s) for the year 1995, which was filed on March 13, 1995 for MINTEK CORPORATION, a Florida corporation, as shown by the records of this office.

The document number of this corporation is L44701.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Ninth day of February, 2007

Kurt S. Browning
Secretary of State

CR2EO22 (01-07)

FILE NOW: FILING FEE AFTER MAY 1 IS $225.00

CORPORATION ANNUAL REPORT 1995

FLORIDA DEPARTMENT OF STATE
Sandra B. Mortham
Secretary of State
DIVISION OF CORPORATIONS

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
95 MAR 13 AM 11:30

DOCUMENT # L44701 (5)

1. Corporation Name
MINTEK CORPORATION

Opposer's Exhibit 8
Opp. No. 91167540
MINATEK

Principal Place of Business	Mailing Address
JAMES L. HUTTON 2340 MAIN ST STE 1 DUNEDIN FL 34698	JAMES L. HUTTON 2340 MAIN ST STE 1 DUNEDIN FL 34698

DO NOT WRITE IN THIS SPACE

3. Date Incorporated or Qualified: 01/24/1990
3a. Date of Last Report: 03/02/1994

2. Principal Place of Business	2a. Mailing Address
21 2196 Main St	26 2196 Main St
Suite, Apt. #, etc. 22 STE 1	Suite, Apt. #, etc. 27 STE 1
City & State 23 DUNEDIN FL	City & State 28 DUNEDIN FL
Zip 24 34698 County 25 U.S.O.	Zip 29 34698 County 30 U.S.O.

4. FEI Number: 59-2999696 — Applied For ☐ Not Applicable ☐

6. Certificate of Status Desired ☐ — $8.75 Additional Fee Required

6. Election Campaign Financing Trust Fund Contribution ☐ — $5.00 May Be Added to Fees

8. This corporation has liability for intangible tax under S. 199.033, Florida Statutes ☒ Yes ☐ No

7. Name and Address of Current Registered Agent

HUTTON, JAMES L.
1463 STURBRIDGE COURT
DUNEDIN FL 34697

7b. Name and Address of New Registered Agent

81 Name
82 Street Address (P.O. Box Number is Not Acceptable)
83
84 City FL 85 Zip Code

11. Pursuant to the provisions of Section 607.0502 and 607.1908, Florida Statutes, the above named corporation submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida. Such change was authorized by the corporation's board of directors. I hereby accept the appointment as registered agent. I am familiar with, and accept the obligations of, Section 607.0505, Florida Statutes.

SIGNATURE _____ DATE _____
Signature, name or printed name of registered agent and title if applicable. NOTE: Registered Agent is required when changing

12. OFFICERS AND DIRECTORS		13. ADDITIONS/CHANGES TO OFFICERS AND DIRECTORS IN 12	
1 TITLE	P	9.1 TITLE	☐ Change ☐ Addition
NAME	HUTTON, JAMES L.	9.2 NAME	
STREET ADDRESS	1463 STURBRIDGE CT.	9.3 STREET ADDRESS	
CITY-ST-ZIP	DUNEDIN FL	9.4 CITY-ST-ZIP	
2 TITLE	V	8.1 TITLE	☐ Change ☐ Addition
NAME	HUTTON, LINO E	8.2 NAME	
STREET ADDRESS	315 OLD OAK CIRCLE	8.3 STREET ADDRESS	
CITY-ST-ZIP	PALM HARBOR FL	8.4 CITY-ST-ZIP	
3 TITLE	V	7.1 TITLE	☒ Change ☐ Addition
NAME	MINTZ, BRIAN L	7.2 NAME	MINTZ, BRIAN L
STREET ADDRESS	APT 218 - 1600 GULF BLVD	7.3 STREET ADDRESS	2224 COUNTRYSIDE BLVD #212
CITY-ST-ZIP	CLEARWATER FL	7.4 CITY-ST-ZIP	CLEARWATER FL 34621-2625
4 TITLE	ST	6.1 TITLE	SECRETARY ☒ Change ☐ Addition
NAME	HUTTON, SHIRLEY J	6.2 NAME	HUTTON SHIRLEY J
STREET ADDRESS	1463 STURBRIDGE COURT	6.3 STREET ADDRESS	1463 STURBRIDGE CT
CITY-ST-ZIP	DUNEDIN FL	6.4 CITY-ST-ZIP	DUNEDIN FL 34698
5 TITLE		5.1 TITLE	TREASURER ☐ Change ☒ Addition
NAME		5.2 NAME	MINTZ, CATHERINE L.
STREET ADDRESS		5.3 STREET ADDRESS	1450 GULF BLVD #309
CITY-ST-ZIP		5.4 CITY-ST-ZIP	CLEARWATER FL 34630
6 TITLE		4.1 TITLE	☐ Change ☐ Addition
NAME		4.2 NAME	
STREET ADDRESS		4.3 STREET ADDRESS	
CITY-ST-ZIP		4.4 CITY-ST-ZIP	

14. I do hereby certify that the information supplied with this filing is voluntarily furnished and does not qualify for the exemption stated in Section 119.07(3)(i), Florida Statutes. I further certify that the information indicated on this annual report or supplemental annual report is true and accurate and that my signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 607, Florida Statutes; and that my name appears in Block 12 or Block 13 if changed, or on an attachment with an asterisk.

SIGNATURE: Shirley J Hutton 3/1/95 813/734-9175
SIGNATURE AND TYPED OR PRINTED NAME OF INDIVIDUAL OFFICER OR DIRECTOR — DATE — DAYTIME TELEPHONE NUMBER

DOMREV - CP