

ESTTA Tracking number: **ESTTA140729**

Filing date: **05/15/2007**

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

Name	Bearings Limited
Granted to Date of previous extension	05/23/2007
Address	20 Davids Drive Hauppauge, NY 11788 UNITED STATES

Attorney information	David E. Weslow Sutherland Asbill & Brennan LLP 1275 Pennsylvania Ave., NW Washington, DC 20004 UNITED STATES eteas@sablaw.com
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Applicant Information

Application No	78709886	Publication date	01/23/2007
Opposition Filing Date	05/15/2007	Opposition Period Ends	05/23/2007
Applicant	NOVANITEK, Inc. 10763 Mapleridge Drive Dallas, TX 75238 UNITED STATES		

Goods/Services Affected by Opposition

Class 007. All goods and services in the class are opposed, namely: Gears and enclosed drives for industrial machinery

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	78455680	Application Date	07/23/2004
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TRITAN		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 007. First use: First Use: 2005/01/31 First Use In Commerce: 2005/01/31 Machine parts, namely, bearings, bearing seals, bushings, belts, couplings, roller chain drives and roller chains, sprockets, pulleys, collars, clutches, retaining rings, brakes, mechanical seals, starters, electric motors, sheaves, hoses, v-belts, belt drives, gears, gear boxes, linear cam shafting and pulleys; starters for motors and engines, all not for trucks or automobiles

Attachments	78455680#TMSN.jpeg (1 page)(bytes) Bearings v. Novanitek N of Opp.pdf (4 pages)(85747 bytes)
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Signature	/David E. Weslow/
Name	David E. Weslow
Date	05/15/2007

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

BEARINGS LIMITED,

Opposer,

v.

NOVANITEK, INC.,

Applicant.

E-FILING

Opposition No.: _____

App. No.: 78709886

Mark: TITAN

Published: January 23, 2007

BOX TTAB

FEE

NOTICE OF OPPOSITION

BEARINGS LIMITED (“Opposer”), a corporation organized and existing under the laws of the state of New York, having its office and principal place of business at 20 Davids Drive, Hauppauge, NY 11788, believes that it will be damaged by registration of the mark subject of Application Serial No. 78709886 as it relates to all goods recited in the application, namely, “gears and enclosed drives for industrial machinery.” As grounds for opposition, Opposer hereby alleges:

1. On information and belief, NOVANITEK, INC. (“Applicant”) is a Texas corporation having a principal place of business at 10763 Mapleridge Drive, Dallas, TX 75238.
2. Opposer has adopted and continuously used the mark TRITAN in U.S. Commerce from at least as early as January 2005 in association with bearings, drives, and related products and shall rely upon its common law rights in and to its TRITAN mark.
3. Opposer is also the owner of allowed U.S. Application Serial No. 78455680 for registration of its TRITAN mark in association with “machine parts, namely, bearings, bearing

seals, bushings, belts, couplings, roller chain drives and roller chains, sprockets, pulleys, collars, clutches, retaining rings, brakes, mechanical seals, starters, electric motors, sheaves, hoses, v-belts, belt drives, gears, gear boxes, linear cam shafting and pulleys; starters for motors and engines, all not for trucks or automobiles.”

4. The intent-to-use application opposed herein was signed by Jing Dong Li, President of Applicant, on September 9, 2005, was filed on September 9, 2005, and was assigned Application Serial No. 78709886 by the U.S. Patent and Trademark Office.

5. By the intent-to-use application opposed herein, Applicant is seeking to register the mark TITAN in association with “gears and enclosed drives for industrial machinery” in International Class 7.

6. The goods recited in the application at issue herein are identical and/or closely related to the goods promoted and sold by Opposer through use of its TRITAN mark.

7. The TITAN mark of the application at issue herein differs in only one letter from Opposer’s TRITAN mark.

8. The TITAN mark of the application at issue herein is very similar in appearance to Opposer’s TRITAN mark.

9. The TITAN mark of the application at issue herein contains the same number of syllables as Opposer’s TRITAN mark and the mark is very similar in pronunciation to Opposer’s mark.

10. Upon information and belief, neither Applicant nor any predecessor or related company of Applicant has any right in the mark of the intent-to-use application opposed herein prior to September 9, 2005, the filing date of the intent-to-use application.

11. There is no issue of priority. Opposer has priority by virtue of its continuous and

extensive use of its TRITAN mark well prior to the filing date of the intent-to-use application opposed herein.

12. By virtue of its extensive advertising, promotion and sales through use of the TRITAN mark, Opposer's TRITAN mark has become well known to the public as an indication of source for Opposer's bearings, drives, and related products.

13. Concurrent registration of the TITAN mark by Applicant would result in irreparable damage to Opposer as purchasers would be likely to consider Applicant's goods offered under its registered mark as emanating from Opposer, and purchase such goods, resulting in a loss of sales to Opposer.

14. Concurrent registration of the TITAN mark by Applicant would result in irreparable damage to Opposer's reputation and goodwill if Applicant's goods are inferior to Opposer's goods because purchasers would be likely to consider the source of Applicant's goods, offered under its registered mark, to be Opposer.

15. If Applicant is permitted to obtain registration of the TITAN mark, and thereby the prima facie exclusive right to use in commerce of the mark on goods which are identical and/or related to goods provided by Opposer through use of its TRITAN mark, confusion within the meaning of Section 2(d) of the Trademark Act (15 U.S.C. § 1052(d)) is likely to result, to the detriment of Opposer.

16. The bona fides of Applicant's intent-to-use are not apparent from the materials of record in Application Serial No. 78709886 and Opposer therefore challenges the same and leaves the Applicant to its proofs regarding the nature and sufficiency of its intent-to-use at the time of Jing Dong Li's execution of the application opposed herein.

WHEREFORE, Opposer requests that Application Serial No. 78709886 be rejected, that

no registration be issued in connection with this application, and that this opposition be sustained in favor of Opposer.

Respectfully submitted,

BEARINGS LIMITED



Date: May 15, 2007

By:

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