

ESTTA Tracking number: **ESTTA161073**

Filing date: **09/06/2007**

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	Plasti-Fab Ltd.		
Entity	Corporation	Citizenship	Canada
Address	3015 5th Avenue N.E., Suite 270 Calgary, AB T2A 6T8 CANADA		

Attorney information	David E. Sipiora Townsend and Townsend and Crew LLP 1200 17th Street, Suite 2700 Denver, CO 80202 UNITED STATES denverteas@townsend.com Phone:303.571.4000
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Applicant Information

Application No	79023935	Publication date	08/07/2007
Opposition Filing Date	09/06/2007	Opposition Period Ends	09/06/2007
International Registration No.	0885067	International Registration Date	03/30/2006
Applicant	KOBELCO CONSTRUCTION MACHINERY CO., LTD. 12-4, Gion 3-chome Asaminami-ku, Hiroshima-shi Hiroshima, 7310138 JAPAN		

Goods/Services Affected by Opposition

Class 007. All goods and services in the class are opposed, namely: POWER SHOVELS AND CRANES

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.	78431217	Application Date	06/07/2004
Registration Date	NONE	Foreign Priority Date	05/06/2004
Word Mark	GEOSPEC		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 017. First use: molded expanded polystyrene (EPS) blocks and boards designed to act as a lightweight fill material used in geotechnical applications and compressible inclusion against structures; expanded polystyrene (EPS) foundation drainage boards designed to provide insulation and drainage to hydrostatic pressure on foundations; and insulation for walls, pipes, utility lines and vessels

Attachments	78431217#TMSN.jpeg (1 page)(bytes) GEOSPEC_opposition.pdf (5 pages)(1129630 bytes)
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Signature	/des/
Name	David E. Sipiora
Date	09/06/2007

TTAB

Atty. File No. 26694-000500

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

In the Matter of Application Serial No. 79/023935
Published in the Official Gazette on August 7, 2007

PLASTI-FAB LTD.,)	
)	
Opposer,)	Opposition No.
)	
v.)	
)	
KOBELCO CONSTRUCTION MACHINERY CO., LTD,)	
)	
Applicant.)	
)	
)	
)	
)	
)	

NOTICE OF OPPOSITION

Plasti-Fab Ltd. ("Opposer"), a corporation duly organized and existing under the laws of the Canada, having its headquarters at 3015 5th Avenue N.E., Suite 270, Calgary, Alberta T2A 6T8 Canada, believes that it will be damaged by registration of the mark shown in Application Serial No. 79/023,935, and hereby opposes the same.

As grounds for opposition, Opposer alleges:

1. The mark GEOSPEC is in use by the Opposer for "molded expanded polystyrene (EPS) blocks and boards designed to act as a lightweight fill material used in geotechnical applications and compressible inclusion against structures; expanded polystyrene (EPS) foundation drainage boards designed to provide insulation and drainage to hydrostatic pressure on foundations; and insulation for walls, pipes, utility lines and vessels." As a result of such use, Opposer's GEOSPEC mark is well known to purchasers. By virtue of such use, Opposer has

established valuable goodwill in the mark, and the public has come to associate the GEOSPEC mark with Opposer and to know GEOSPEC as an indication of goods that emanate from Opposer

2. Opposer is the owner of the valid and subsisting U.S. Trademark Application Serial Number 78/431,217 for "GEOSPEC" for "molded expanded polystyrene (EPS) blocks and boards designed to act as a lightweight fill material used in geotechnical applications and compressible inclusion against structures; expanded polystyrene (EPS) foundation drainage boards designed to provide insulation and drainage to hydrostatic pressure on foundations; and insulation for walls, pipes, utility lines and vessels." A copy of the USPTO TESS database printout for this mark is attached hereto and incorporated herein as Exhibit A. The application was filed on June 7, 2004, based on priority of May 6, 2004, and was allowed for registration on July 10, 2007.

3. Applicant filed Serial No. 79/023,935 which is the subject of this Opposition, on March 30, 2006, for "Geospec" for use in connection with "power shovels and cranes." The application was filed based on § 66(a) of the Lanham Act (*i.e.*, extension of protection of a Madrid Protocol filing).

4. Opposer filed to register, and adopted and used the GEOSPEC mark, prior to Applicant's filing date of March 30, 2006.

5. The goods identified in Application Serial No. 79/023,935, for "Geospec" are substantially similar, overlap with, are sold to similar customers, and/or travel in the same channels of commerce as Opposer's goods sold under its well known GEOSPEC mark.

6. As a result of the public association of the well known GEOSPEC mark with Opposer, consumers are likely to consider Applicant's goods sold under the mark "Geospec" as emanating from or associated with or endorsed by Opposer, and to confuse those goods with those of Opposer.

7. Registration of the mark in Application Serial No. 79/023,935, and use of Applicant's mark is likely to cause confusion, or to cause mistake, or to deceive, particularly as to

the source or origin of the goods with which Applicant uses its mark, to induce purchasers to believe that the goods of Applicant are those of Opposer, or are endorsed by, or are in some way affiliated or associated with Opposer.

8. If Application Serial No. 79/023,935, for "Geospec" is permitted to register, the registration by Applicant would presumptively entitle it to *prima facie* exclusive ownership and rights to the mark "Geospec" and would, therefore, cause confusion among consumers of the relevant services as to the separate and distinct sources of Applicant's goods and Opposer's services and goods and the relationship of Opposer to Applicant, thereby damaging Opposer's goodwill in its GEOSPEC marks, diluting the value thereof and causing Opposer's business and reputation irreparable harm, all to the detriment of Opposer who has expended considerable sums and effort in promoting its mark.

Wherefore, Opposer prays that this Opposition be sustained and that registration of Application Serial No. 79/023,935, for "Geospec" be denied. The filing fee of \$300.00 should be charged to this firm's Deposit Account No. 20-1430 as required by 37 CFR §§ 2.101 and 2.6(a)(1'). The Commissioner also is authorized to charge any additional fees which may be required or credit any overpayment, to that Deposit Account.

Respectfully submitted,

TOWNSEND AND TOWNSEND AND CREW LLP

Date: September 6, 2007

By:



David E. Sipiora
1200 Seventeenth Street, Suite 2700
Denver, CO 80202
(303) 571-4000

Attorney for Opposer PLASTI-FAB LTD.

EXHIBIT A



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GEOSPEC

Word Mark GEOSPEC

Goods and Services IC 017. US 001 005 012 013 035 050. G & S: molded expanded polystyrene (EPS) blocks and boards designed to act as a lightweight fill material used in geotechnical applications and compressible inclusion against structures; expanded polystyrene (EPS) foundation drainage boards designed to provide insulation and drainage to hydrostatic pressure on foundations; and insulation for walls, pipes, utility lines and vessels

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 78431217

Filing Date June 7, 2004

Current Filing Basis 1B;44E

Original Filing Basis 1B;44D;44E

Published for Opposition April 17, 2007

Owner (APPLICANT) Plasti-Fab Ltd. CORPORATION CANADA Suite 270 3015 5th Avenue N.E. Calgary, Alberta CANADA T2A 6T8

Attorney of Record Jessica Stone Levy

Priority Date May 6, 2004

Type of Mark TRADEMARK

Register PRINCIPAL

EXHIBIT A

Live/Dead
Indicator LIVE

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