

ESTTA Tracking number: **ESTTA185785**

Filing date: **01/10/2008**

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 | General Cable Technologies Corporation | | |
| Entity | Corporation | Citizenship | Delaware |
| Address | Four Tesseneer Drive Highland Heights, KY 41076 UNITED STATES | | |

| | |
|----------------------|--|
| Attorney information | Timothy D. Pecsénye Blank Rome LLP One Logan Square Philadelphia, PA 19103 UNITED STATES Dwyer-s@blankrome.com Phone:215-569-5539 |
|----------------------|--|

Applicant Information

| | | | |
|--------------------------------|---|---------------------------------|------------|
| Application No | 77042735 | Publication date | 01/08/2008 |
| Opposition Filing Date | 01/10/2008 | Opposition Period Ends | 02/07/2008 |
| International Registration No. | NONE | International Registration Date | NONE |
| Applicant | Hitachi Cable, Ltd. 14-1 Sotakanda 4-chome, Chiyoda-ku Tokyo, 101-8971 JAPAN | | |

Goods/Services Affected by Opposition

| |
|---|
| <p>Class 009. All goods and services in the class are opposed, namely: Electric wires and cables, namely, electric cables, telecommunication cables, coaxial cables, electronic cables; optical fiber cables; optical cables; optical fibers sold as a component of fiber optical cables; measuring and testing machines and instruments, namely, telecommunication line integrity testing apparatus, printed circuit board testing apparatus, ammeters, electric discharge measuring apparatus, namely, sensors for detecting electric discharge generated in cable, sensors for detecting electric discharge in atmosphere; gyroscopes; electric switches; light switches; telecommunication switches; electric plugs; electric outlet plates; electric outlet covers; telecommunication outlet plates; telecommunication outlet covers; electric connectors; telecommunication connectors; electrical power distribution blocks; electrical power distributing boxes; cable closure for telecommunication, namely, boxes for connecting and branching communication cables, coaxial cables, optical fiber cables, and optical fiber cores; electric circuit closers for telecommunication; batteries and electrical cells; electric and magnetic meters and testers, namely, voltmeter, ammeters, wattmeters, wavemeters; optical glasses, namely, optical waveguides of glass; telephone equipment, namely, private branch exchanges (PBX) switching systems, switching systems used for voice over internet protocol (VOIP) services; equipment for voice over Internet protocol, namely, Internet phones, telephone apparatus; mobile telephones; wireless communication equipment, namely, antenna; telecommunication exchangers; computer</p> |
|---|

network hubs, switches and routers; gateway routers in the nature of computer control hardware; plugboards, namely, plug connectors; circuit boards, antennas; electric coils; computers, computer operating programs; computer software programs for the database management, and integration of text, audio, graphics, still image and moving pictures into an interactive delivery for multimedia and telecommunication applications; computer programs recorded on data media designed for use in data base management and integration of text, audio, graphics, still image and moving pictures into an interactive delivery for multimedia and telecommunication applications; downloadable software designed for use in data base management and integration of text, audio, graphics, still image and moving pictures into an interactive delivery for multimedia and telecommunication applications; semiconductors; electronic circuit boards; electronic integrated circuits; resistance wires

Grounds for Opposition

| | |
|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
|--------------------------------------|----------------------------|

Marks Cited by Opposer as Basis for Opposition

| | | | |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 2769607 | Application Date | 08/16/2000 |
| Registration Date | 09/30/2003 | Foreign Priority Date | NONE |
| Word Mark | EMPOWR | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 009. First use: First Use: 2001/07/00 First Use In Commerce: 2001/07/00 ELECTRICAL POWER CABLES | | |

| | | | |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 2786941 | Application Date | 12/29/2000 |
| Registration Date | 11/25/2003 | Foreign Priority Date | NONE |
| Word Mark | EMPOWR | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 009. First use: First Use: 2001/07/01 First Use In Commerce: 2001/07/01 ELECTRICAL POWER CABLES | | |

| | |
|-------------|--|
| Attachments | 76110554#TMSN.gif (1 page)(bytes) 76187800#TMSN.gif (1 page)(bytes) Notice of Opposition.pdf (18 pages)(199172 bytes) |
|-------------|--|

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

| | |
|-----------|-----------------|
| Signature | /Sean W. Dwyer/ |
| Name | Sean W. Dwyer |
| Date | 01/10/2008 |

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

GENERAL CABLE TECHNOLOGIES CORPORATION, :
a Delaware corporation, :
 :
 :
 Opposer, : Serial No.: 77/042,735
 :
 v. : Opposition No.: _____
 :
 HITACHI CABLE, LTD., :
 a Japan corporation, :
 :
 :
 Applicant. :
 :
 _____ :

Hon. Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Attn.: Trademark Trial and Appeal Board

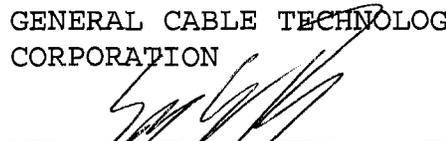
Madam:

Pursuant to Federal Rule of Civil Procedure 15(a) and 37 C.F.R. § 2.101 et seq., Opposer respectfully requests that the Board accept a Notice of Opposition against the mark EMPOWERING ENERGY AND COMMUNICATION. We respectfully request that the above-indicated Notice of Opposition be instituted and that, in due course, notification be sent regarding answer dates and testimony periods. Please charge our Deposit Account No. 02-2555 for fees due in connection with the filing of this Notice of Opposition.

Respectfully submitted,

GENERAL CABLE TECHNOLOGIES
CORPORATION

Date: January 10, 2007 By: _____


Timothy D. Pecszenye
Sean W. Dwyer
Its Attorneys

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

In re Application of Hitachi Cable, Ltd.,

Application No.: 77/042,735

Filed: November 13, 2006

Mark: EMPOWERING ENERGY AND COMMUNICATION

| | |
|---|-------------------------|
| GENERAL CABLE TECHNOLOGIES CORPORATION, | : |
| a Delaware corporation, | : |
| | : |
| Opposer, | : |
| | : |
| v. | : Opposition No.: _____ |
| | : |
| HITACHI CABLE, LTD., | : |
| a Japan corporation, | : |
| | : |
| Applicant. | : |

Hon. Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Attn.: Trademark Trial and Appeal Board

NOTICE OF OPPOSITION

Madam:

Opposer General Cable Technologies Corporation, a Delaware corporation located at Four Tesseneer Drive Highland Heights Kentucky 41076, believes that it would be damaged by the registration of the mark shown in Application Serial No. 77/042,735 and hereby opposes the same under the provision of Section 13 of the Trademark Act of July 5, 1946, as amended, 15 U.S.C. § 1063.

As grounds of opposition, it is alleged that:

1. Opposer has made continuous and extensive use of the following marks comprised in whole or in part of the word "EMPOWR" (collectively, hereinafter, "the EMPOWR Mark"): EMPOWR; and EMPOWR (Stylized); which use has developed widespread public recognition and appeal for the EMPOWR Mark.

2. Opposer has continuously and exclusively used the EMPOWR Mark in interstate commerce on or in connection with "electrical power cables."

3. Opposer is the Owner of all rights, title and interest in and to the EMPOWR Mark and is the owner of U.S. registrations for the EMPOWR Mark. See EMPOWR, U.S. Registration No. 2,769,607; and EMPOWR (Stylized) U.S. Registration No. 2,786,941 attached hereto as Exhibit 1. Opposer's registrations are valid

and subsisting and are conclusive evidence of Opposer's exclusive right to use the EMPOWER Mark in commerce for "electrical power cables," and goods and services within the natural zone of expansion related thereto.

4. Through extensive and continuous use of the EMPOWER Mark, Opposer has established substantial goodwill in the EMPOWER Mark in connection with "electrical power cables."

**APPLICANT'S MARK IS CONFUSINGLY SIMILAR
TO THE MARKS OWNED AND REGISTERED BY OPPOSER**

5. Opposer's extensive promotion and use of the EMPOWER Mark since at least as early as July 1, 2001 has caused customers and prospective purchasers to immediately associate the EMPOWER Mark with Opposer and to expect identical or similar products bearing the EMPOWER Mark to have a connection with, or association with, Opposer.

6. On November 13, 2006, Applicant filed an application for registration of the mark EMPOWERING ENERGY AND COMMUNICATION (hereinafter, "Applicant's Mark") to be used in connection with "chemicals for use in industry and science; adhesives not for stationery or household purposes; chemicals in the nature of nonferrous metals in solid, liquid, foil or powder form used in the manufacture of commercial and industrial goods, namely, gallium; alloys of rare earth metals; metal chlorides; metal

plating chemical compositions; metallates (metal salts of acids); metallic oxide; unprocessed plastics for industrial use; starch paste not for stationery or household purposes" in class 1, "castings, foils, powder, and rolled, drawn or extruded semi-finished articles of aluminum or its alloys; copper ingots; copper-base alloy ingots; copper panels for circuit boards; metal pipes, namely, pipes of copper or its alloys; metal tubes, namely, tubes of copper or its alloys; metal junctions for pipes; metal hardware, namely, springs; construction elements made of metal, namely, supports, shores, braces; industrial packaging containers of metal" in class 6, "electric wires and cables, namely, electric cables, telecommunication cables, coaxial cables, electronic cables; optical fiber cables; optical cables; optical fibers sold as a component of fiber optical cables; measuring and testing machines and instruments, namely, telecommunication line integrity testing apparatus, printed circuit board testing apparatus, ammeters, electric discharge measuring apparatus, namely, sensors for detecting electric discharge generated in cable, sensors for detecting electric discharge in atmosphere; gyroscopes; electric switches; light switches; telecommunication switches; electric plugs; electric outlet plates; electric outlet covers; telecommunication outlet plates; telecommunication outlet covers; electric connectors;

telecommunication connectors; electrical power distribution blocks; electrical power distributing boxes; cable closure for telecommunication, namely, boxes for connecting and branching communication cables, coaxial cables, optical fiber cables, and optical fiber cores; electric circuit closers for telecommunication; batteries and electrical cells; electric and magnetic meters and testers, namely, voltmeter, ammeters, wattmeters, wavemeters; optical glasses, namely, optical waveguides of glass; telephone equipment, namely, private branch exchanges (PBX) switching systems, switching systems used for voice over internet protocol (VOIP) services; equipment for voice over Internet protocol, namely, Internet phones, telephone apparatus; mobile telephones; wireless communication equipment, namely, antenna; telecommunication exchangers; computer network hubs, switches and routers; gateway routers in the nature of computer control hardware; plugboards, namely, plug connectors; circuit boards, antennas; electric coils; computers, computer operating programs; computer software programs for the database management, and integration of text, audio, graphics, still image and moving pictures into an interactive delivery for multimedia and telecommunication applications. computer programs recorded on data media designed for use in data base management and integration of text, audio, graphics, still image and moving

pictures into an interactive delivery for multimedia and telecommunication applications; downloadable software designed for use in data base management and integration of text, audio, graphics, still image and moving pictures into an interactive delivery for multimedia and telecommunication applications; semiconductors; electronic circuit boards; electronic integrated circuits; resistance wires," in class 9, and "raw and semi-worked rubber; rollers of rubber for industrial machinery; rubber tubes and pipes; non-metal, plastic and rubber hoses for industrial applications; rubber sheets; semi-processed plastic in the form of films, sheets, tubes, bars or rods; electrical insulating materials" in class 17. Applicant's Mark was published for opposition in the Official Gazette January 8, 2008.

7. Applicant's basis for filing is use, pursuant to Section 44(e) of the Lanham Act. Applicant's foreign registration date is June 22, 2007.

8. Opposer's use of the EMPOWR Mark predates Applicant's use of the mark in the United States, as well as, Applicant's foreign registration date.

9. "EMPOWERING," the dominant portion of Applicant's Mark, is confusingly similar to the EMPOWR Mark, both phonetically and in appearance.

10. The use and registration of Applicant's Mark to identify its goods, which are closely related to Opposer's goods, is likely to cause confusion, mistake and deception as to the source, origin, sponsorship or association of the goods, and will injure Opposer.

11. Any objections or faults found with the services provided by Applicant under Applicant's Mark, because of the false association with Opposer, would inflict upon and seriously injure the reputation of Opposer.

12. The grant of a Certificate of Registration to Applicant for Applicant's Mark would be inconsistent with and in derogation of Opposer's prior rights and would therefore cause damage and injury to Opposer and deception of and confusion to the public.

For the reasons set forth in the foregoing paragraphs one through twelve, Opposer believes that it would be damaged by the registration of Applicant's Mark, and thus Applicant should be denied registration of the mark.

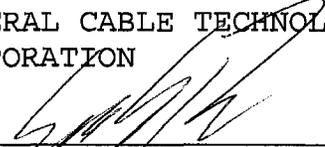
WHEREFORE, Opposer prays that this opposition be sustained and that Application Serial No. 77/042,735 be refused Registration.

Respectfully submitted,

GENERAL CABLE TECHNOLOGIES
CORPORATION

Date: January 10, 2008

By:

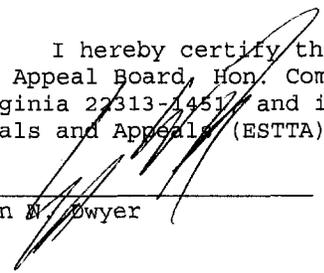


Timothy D. Pecsénye
Sean W. Dwyer
Its Attorneys

BLANK ROME LLP
ONE LOGAN SQUARE
PHILADELPHIA, PA 19103
(215) 569-5539

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is addressed to the Trademark Trial and Appeal Board, Hon. Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 and is being deposited via the Electronic System for Trademark Trials and Appeals (ESTTA) on January 10, 2008.



Sean W. Dwyer

Exhibit 1

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-01-08 09:18:49 ET

Serial Number: 76110554 Assignment Information Trademark Document Retrieval

Registration Number: 2769607

Mark (words only): EMPOWR

Standard Character claim: No

Current Status: Registered.

Date of Status: 2003-09-30

Filing Date: 2000-08-16

Transformed into a National Application: No

Registration Date: 2003-09-30

Register: Principal

Law Office Assigned: LAW OFFICE 114

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-10-07

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. General Cable Technologies Corporation

Address:

General Cable Technologies Corporation

Four Tesseneer Drive

Highland Heights, KY 41076

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

ELECTRICAL POWER CABLES

Basis: 1(a)**First Use Date:** 2001-07-00**First Use in Commerce Date:** 2001-07-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2003-09-30 - Registered - Principal Register

2003-07-31 - Allowed for Registration - Principal Register (SOU accepted)

2003-07-23 - Case File In TICRS

2003-06-16 - Statement of use processing complete

2003-04-28 - Amendment to Use filed

2003-04-25 - Extension 2 granted

2003-04-25 - Extension 2 filed

2003-04-28 - PAPER RECEIVED

2003-04-25 - TEAS Extension Received

2002-11-05 - Extension 1 granted

2002-09-25 - Extension 1 filed

2002-09-25 - PAPER RECEIVED

2002-04-30 - Notice of allowance - mailed

2001-06-07 - Extension Of Time To Oppose Received

2001-05-08 - Published for opposition

2001-04-25 - Notice of publication

2001-02-05 - Approved for Pub - Principal Register (Initial exam)

2001-01-31 - Assigned To Examiner

2001-01-30 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

TIMOTHY D. PECSENYE

Correspondent

TIMOTHY D. PECSENYE

BLANK ROME COMISKY & MCCAULEY

1 LOGAN SQ FL 3

PHILADELPHIA PA 19103-6998

Phone Number: 215.569.5348

Fax Number: 215.832.5348



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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 2Serial #: 76110554

Filing Dt: 08/16/2000

Reg #: 2769607

Reg. Dt: 09/30/2003

Registrant: General Cable Technologies Corporation

Mark: EMPOWR

Assignment: 1Reel/Frame: 2555/0001

Received: 08/05/2002

Recorded: 08/05/2002

Pages: 104

Conveyance: SECURITY INTEREST

Assignor: GENERAL CABLE TECHNOLOGIES CORPORATION

Exec Dt: 04/25/2002

Entity Type: CORPORATION

Citizenship: NONE

Assignee: JPMORGAN CHASE BANK

270 PARK AVENUE

NEW YORK, NEW YORK 10017

Entity Type: CORPORATION

Citizenship: NEW YORK

Correspondent: FEDERAL RESEARCH CORPORATION

PENELOPE AGODOA

400 SEVENTH STREET, NW

SUITE 101

WASHINGTON, D.C. 20004

Assignment: 2Reel/Frame: 2816/0030

Received: 12/08/2003

Recorded: 12/05/2003

Pages: 22

Conveyance: SECURITY INTEREST

Assignor: GENERAL CABLE TECHNOLOGIES CORPORATION

Exec Dt: 11/24/2003

Entity Type: CORPORATION

Citizenship: DELAWARE

Assignee: MERRILL LYNCH CAPITAL, A DIVISION OF MERRILL LYNCH
BUSINESS FINANCIAL SERVICES, AS COLLATERAL AGENT

222 N. LASALLE STREET

CHICAGO, ILLINOIS 60601

Entity Type: CORPORATION

Citizenship: DELAWARE

Correspondent: LATHAM & WATKINS

ELIZABETH J. BURNS

233 SOUTH WACKER DRIVE

SEARS TOWER, SUITE 5800

CHICAGO, IL 60606

Search Results as of: 01/08/2008 10:29 AM

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Web interface last modified: April 20, 2007 v.2.0.1

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Serial Number: 76187800 Assignment Information Trademark Document Retrieval

Registration Number: 2786941

Mark

EmPowr

(words only): EMPOWR

Standard Character claim: No

Current Status: Registered.

Date of Status: 2003-11-25

Filing Date: 2000-12-29

Transformed into a National Application: No

Registration Date: 2003-11-25

Register: Principal

Law Office Assigned: LAW OFFICE 103

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Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-12-02

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State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009
Class Status: Active
ELECTRICAL POWER CABLES
Basis: 1(a)
First Use Date: 2001-07-01
First Use in Commerce Date: 2001-07-01

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

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2001-04-11 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

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Correspondent

MICHAEL J SMITH
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ONE LOGAN SQUARE
PHILADELPHIA PA 19103-6998



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Correspondent: FEDERAL RESEARCH CORPORATION

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SUITE 101
WASHINGTON, D.C. 20004**Assignment: 2**Reel/Frame: 2816/0030

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Entity Type: CORPORATION

Citizenship: DELAWARE

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Correspondent: LATHAM & WATKINS

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