

ESTTA Tracking number: **ESTTA577822**

Filing date: **12/20/2013**

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

Proceeding	91190278
Party	Defendant Harmonic Drive L.L.C.
Correspondence Address	BASSAM N IBRAHIM BUCHANAN INGERSOLL ROONEY PC 1737 KING STREET, SUITE 500 ALEXANDRIA, VA 22314 2727 UNITED STATES bassam.ibrahim@bipc.com, florence.goodman@bipc.com, lloyd.smith@bipc.com
Submission	Motion to Suspend for Civil Action
Filer's Name	Bassam N. Ibrahim
Filer's e-mail	bassam.ibrahim@bipc.com, florence.goodman@bipc.com
Signature	/Bassam N. Ibrahim/
Date	12/20/2013
Attachments	Motion and Memorandum to Suspend .pdf(2283404 bytes)

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

<p>In re Matter of Serial No. 77/373,925 <i>for the mark:</i> HARMONIC DRIVE</p> <p>NAC HARMONIC DRIVE, INC.,</p> <p style="text-align:center">Opposer,</p> <p style="text-align:center">vs.</p> <p>HARMONIC DRIVE LLC,</p> <p style="text-align:center">Applicant.</p>	<p>Opposition No. 91190278</p>
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MOTION AND MEMORANDUM TO SUSPEND PURSUANT TO 37 C.F.R. § 2.177(a)

Pursuant to 37 C.F.R. § 2.177(a) and TBMP §510, Applicant Harmonic Drive LLC ("Applicant"), by and through its counsel, hereby moves to suspend the above proceeding on the grounds that Opposer NAC Harmonic Drive, Inc. ("Opposer") and Applicant are engaged in a civil case that will be dispositive of these proceedings. This Motion is supported by the Memorandum in Support of Motion to Suspend Proceedings below.

MEMORANDUM IN SUPPORT OF MOTION TO SUSPEND

Applicant submits this Memorandum in support of its Motion to suspend Opposition No. 91190278.

I. INTRODUCTION

On May 19, 2009, Opposer filed a Notice of Opposition to Applicant's registration of HARMONIC DRIVE in Class 7 in connection with "electric motors; motor shaft retention brakes; adjustable shaft couplings and couplings for machines; servo motors for positioning in response to electrical control signals; drives and transmissions in the nature of speed and power

increasers and reducers, all accept for land vehicles” and Class 9 for “electric rotary actuators and electronic controllers for producing control signals for electric rotary actuators and motor shaft retention brakes” (Appl. No. 77/373,925) (the “HARMONIC DRIVE Application”).

Opposer’s Notice of Opposition was based on allegations of descriptiveness and/or genericness. On July 24, 2009, Applicant filed its answer to Opposer’s Notice of Opposition, denying Applicant's allegations.

Opposer filed a Motion for Summary Judgment on December 9, 2009, which was denied by the Board on September 7, 2010. The case is currently in the discovery period, which has been extended several times to allow the parties time to engage in settlement negotiations.

On December 12, 2013, Applicant filed a complaint against Opposer and its affiliates alleging that Opposer’s use of NAC HARMONIC DRIVE infringed upon Applicant’s rights in the mark HARMONIC DRIVE mark. The case is pending in the United States District Court for the District of Delaware (the "Civil Action"). The Civil Action is designated as Case No. 1:13-cv-13110. A true and correct copy of the complaint in the Civil Action is attached hereto as

Exhibit A.

Applicant respectfully requests that this proceeding be suspended pending resolution of the Civil Action, since the Civil Action has a bearing on the issues in the current opposition, and is likely to be dispositive of these issues.

II. THE MOTION TO SUSPEND SHOULD BE GRANTED

Under 37 C.F.R. § 2.117(a), "[w]henver it shall come to the attention of the Board that parties to a pending case are engaged in a civil action which may be dispositive of the case, proceedings before the Board may be suspended until termination of the civil action." 37 C.F.R. § 2.117(a); see *also* TBMP §510 ("Ordinarily, the Board will suspend proceedings in the case before it if the final determination of the other proceedings will *have a bearing on the issues*

before the Board.") (emphasis added).

Here, the Civil Action may be dispositive of the proceeding, and will undoubtedly have a bearing on the issues before the Board, as the issues to be determined in the Opposition are identical to issues that the District Court will have to decide in the Civil Action.

Specifically, Applicant has alleged in the Civil Action that Opposer's use of HARMONIC DRIVE constitutes trademark infringement, unfair competition, and false designation of origin. Applicant has relied in part upon the rights embodied in Application Serial No. 77/373,925, the same application being opposed in this proceeding. Applicant specifically alleges, in Paragraph 13 of the complaint in the Civil Action, that "Plaintiff's HARMONIC DRIVE Mark is inherently distinctive." In Paragraph 14, Applicant goes on to allege that "Plaintiff's HARMONIC DRIVE Mark has achieved a secondary meaning in the marketplace." Exhibit A, ¶ 13-14.

As Plaintiff in the Civil Action, Applicant will be required to prove, either through inherent distinctiveness or secondary meaning, that its HARMONIC DRIVE mark is distinctive, and is not descriptive or generic. This is the same issue at stake in the current opposition proceeding, which alleges that the mark is descriptive and/or generic. Further, Registrant will presumably deny these allegations in its Answer in the Civil Action, and file affirmative defenses and/or counterclaims in the Civil Action alleging that the HARMONIC DRIVE mark is descriptive and/or generic. Although the Civil Action also includes the separate issue of whether Opposer's use of NAC HARMONIC DRIVE is confusingly similar to Applicant's HARMONIC DRIVE mark – which is not at issue in the present opposition – this does not mean that the Board should not suspend the Opposition. Indeed, the Civil Action need only have a bearing on the Board's decisions with respect to the consolidated proceedings to justify a suspension. TBMP § 510(a). If the District Court decides that Applicant's HARMONIC DRIVE mark is

inherently distinctive, that would obviously obviate the need for the Board to consider Opposer's arguments that the mark is descriptive and/or generic.

Although the Board is certainly just as capable of deciding whether Applicant's HARMONIC DRIVE mark is descriptive or generic as the U.S. District Court deciding the Civil Action, it should not do so for the three reasons outlined below.

First, and most importantly, if the Board suspends the Opposition and allows the District Court to rule first, the District Court's decision would be binding on the Board under the doctrines of res judicata and collateral estoppel. *Mother's Restaurant Inc. v. Mama's Pizza, Inc.*, 723 F.2d 1566, 1569-73 (Fed. Cir. 1983) (collateral estoppel); *Midland Cooperatives, Inc. v. Midland International Corp.*, 421 F.2d 754, 758-59 (C.C.P.A. 1970) (res judicata).

By contrast, if the Board decides these proceedings before the District Court adjudicates the Civil Action, the Board's findings could be challenged in the Civil Action or in another civil action in another federal district court. 15 U.S.C. § 1071(b). Similarly, whereas federal district courts may rule on issues related to both use and registration of trademarks, the Board may only decide issues relating to the registration of trademarks. 15 U.S.C. § 1119; *PHC, Inc. v. Pioneer Healthcare, Inc.*, 75 F.3d 75, 79 (1st Cir. 1996). A ruling by the District Court in the Civil Action will thus control the outcome of the Opposition, but not vice versa. TBMP § 510.02(a). Therefore, in the interest of judicial economy, the Board should suspend the Opposition.

Second, allowing these matters to be resolved by the Civil Action promotes judicial efficiency and encourages the parties themselves to resolve this dispute in the most efficient matter possible. The fundamental issues in this Opposition are indisputably encompassed within the issues in the Civil Action, as described above. If the Opposition is suspended pending the disposition of the Civil Action, the parties will avoid unnecessarily expending resources fighting the proverbial "battle" on two "fronts" instead of just one. Thus, suspending the Opposition will

not prejudice either party, as it will allow the parties to resolve their entire dispute while expending the least amount of resources.

Similarly, and as addressed above, the District Court hearing the Civil Action will ultimately determine not only whether Applicant's HARMONIC DRIVE mark is distinctive, but other issues relating to Opposer's alleged infringement of the mark, i.e. whether Opposer's use of NAC HARMONIC DRIVE mark is likely to cause confusion, whether Applicant has suffered any damages, etc. The Civil Action will thus resolve all issues before the Board and then some, whereas the converse is not true.

Third, the proceeding should be suspended to avoid inconsistent rulings between the Board and the District Court, especially since the District Court's decision will ultimately be binding on the Board.

III. CONCLUSION

For the reasons stated herein, the Board should suspend the Opposition pending the outcome of the Civil Action. Should the Board deny its motion to suspend, Applicant respectfully requests the Board to reset all pending deadlines to run from the Board's decision on this motion. 37 C.F.R. § 2.121(a)(1).

Date: December 20, 2013

Respectfully submitted,



BUCHANAN INGERSOLL & ROONEY PC

Bassam N. Ibrahim

S. Lloyd Smith

Bryce J. Maynard

1737 King Street, Suite 500

Alexandria, Virginia 22314-2756

703-836-6620 (phone)

703-836-2021 (fax)

Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing MOTION AND MEMORANDUM TO SUSPEND PURSUANT TO 37 C.F.R. § 2.177(a) was served this 20th day of December, 2013 via e-mail and U.S. first class mail on:

Lawrence C. Hersh, Esq.
Attorney At Law
17 Sylvan Street
Suite 102B
Rutherford, NJ 07070
hersh222@yahoo.com


Florence Goodman

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

HARMONIC DRIVE LLC,

Plaintiff,

v.

NAC HARMONIC DRIVE, INC.,
HARMONIC DRIVE CANADA, and
BEIJING CTKM HARMONIC DRIVE CO.,
LTD.,

Defendants.

Civil Action No. _____

COMPLAINT

Plaintiff, Harmonic Drive LLC (“Plaintiff”), by and through its undersigned counsel, for its Complaint against Defendants NAC Harmonic Drive, Inc. (“NAC”), Harmonic Drive Canada (“Harmonic Drive Canada”) and Beijing CTKM Harmonic Drive Co., Ltd. (“CTKM”), hereby alleges the following:

PARTIES

1. Plaintiff is a limited liability company organized under the laws of the State of Delaware, and has its principal place of business at 247 Lynnfield Street, Peabody, MA 01960.

2. Defendant NAC is a Delaware corporation with its principal place of business at 4720 Salisbury Road, Suite 1, Jacksonville, FL 32256.

3. Defendant Harmonic Drive Canada is a Canadian corporation with its principal place of business at 89 Fawndale Crescent, Toronto, Ontario M1W 2X3 Canada.

4. Defendant CTKM is a Chinese corporation with its principal place of business at A21, Yuhua Road, B of Beijing Airport Industrial Zone, Shunyi Beijing, China, 100044.

JURISDICTION AND VENUE

5. This is a claim for damages and injunctive relief for trademark infringement, unfair competition, and false advertising under the Lanham Act, 15 U.S.C. § 1051, et seq., unfair competition and trademark infringement under Delaware statutory and common law.

6. The Court has subject matter jurisdiction over this action pursuant to the Lanham Act, 15 U.S.C. § 1121, and 28 U.S.C. §§ 1331 and 1338. This court has pendant jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1338(b).

7. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) because Defendant NAC is incorporated in this judicial district, Defendant transacts business within this district, and the acts complained of herein that have caused and are continuing to cause injury to Plaintiff have occurred and are continuing to occur within this district.

PLAINTIFF'S HARMONIC DRIVE MARK

8. Plaintiff and their affiliates are the world's leading manufacturer of strain wave gearing. Strain wave gearing is a type of mechanical gearing that is more accurate and compact than traditional types of gearing, such as planetary gearing. Strain wave

gearing is used in a variety of industries and applications, including robotics, motion control, aeronautics, machine tools, and others.

9. Plaintiff and its predecessors in interest have been using the mark HARMONIC DRIVE (hereinafter "Plaintiff's HARMONIC DRIVE Mark") in connection with strain wave gearing and related goods and services in commerce in the United States continuously since at least as early as 1960. Plaintiff sells its products bearing Plaintiff's HARMONIC DRIVE Mark throughout the United States.

10. Plaintiff is the owner of the following U.S. Trademark Registrations and Applications consisting of or containing Plaintiff's HARMONIC DRIVE Mark:

Mark	Reg. No./ App. No.	Goods/Services	Reg. Date/ Filing Date.
HARMONIC DRIVE TECHNOLOGIES	1,728,918	(Int'l Class: 7) Electric motors, adjustable couplings, drives, transmissions in the nature of speed and power increasers and reducers (Int'l Class: 9) Stepping motors and servo actuators in the nature of electromechanical stepping devices for positioning in response to electrical control signals	Registered: November 3, 1992
HARMONIC DRIVE TECHNOLOGIES and Design 	1,727,054	(Int'l Class: 7) Electric motors, adjustable couplings, drives, transmissions in the nature of speed and power increasers and reducers (Int'l Class: 9) Stepping motors and servo actuators in the nature of electromechanical stepping devices for positioning in response to electrical control signals	Registered: October 27, 1992
HARMONIC DRIVE and Design 	77/391,285	(Int'l Class: 7) Stepping motors for machines; electric motors for machines; machine couplings and transmission components except for land vehicles, namely, adjustable couplings, drives, and transmission components in the nature of speed and power increasers and reducers	Filed: February 7, 2008

Mark	Reg. No./ App. No.	Goods/Services	Reg. Date/ Filing Date.
		(Int'l Class: 9) Electronic servo motor controllers, namely, actuators in the nature of electromechanical stepping devices for positioning in response to electrical control pulses	
HARMONIC DRIVE	77/373,925	(Int'l Class: 7) Electric motors; motor shaft retention brakes; adjustable shaft couplings and couplings for machines; servo motors for positioning in response to electrical control signals; drives and transmissions in the nature of speed and power increasers and reducers, all except for land vehicles (Int'l Class: 9) Electric rotary actuators and electronic controllers for producing control signals for electric rotary actuators and motor shaft retention brakes	Filed: January 17, 2008

U.S. Reg. Nos. 1,727,054 and 1,728,918 are valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065. Copies of the Certificates of Registration for these marks, and the documents showing that the registrations have been assigned to Plaintiff, are attached as Exhibit 1.

11. Plaintiff and its affiliates own numerous domain names containing Plaintiff's HARMONIC DRIVE Mark, including www.harmonicdrive.com, www.harmonicdrive.net, www.harmonicdrive.de, and www.harmonicdrive.jp.

12. The products sold under Plaintiff's HARMONIC DRIVE Mark are recognized throughout the United States for their superior technical qualities. Consumers associate Plaintiff's HARMONIC DRIVE Mark with products of high quality and reliability.

13. Plaintiff's HARMONIC DRIVE Mark is inherently distinctive.

14. As a result of the extensive advertising and promotion of Plaintiff's HARMONIC DRIVE Mark, the volume of sales of the services offered in connection with Plaintiff's HARMONIC DRIVE Mark, the unsolicited media coverage of Plaintiff's HARMONIC DRIVE Mark, and other factors, Plaintiff's HARMONIC DRIVE Mark has achieved a secondary meaning in the marketplace among consumers identifying Plaintiff as the sole source of goods and services offered under the HARMONIC DRIVE Mark

15. Plaintiff has developed substantial goodwill in Plaintiff's HARMONIC DRIVE Mark, which is a business asset of immense value to Plaintiff.

16. Plaintiff has actively and consistently policed Plaintiff's HARMONIC DRIVE Mark, by demanding that third party users of similar marks cease and desist such use and by pursuing legal remedies where necessary.

DEFENDANTS' INFRINGING ACTIVITIES

17. Defendant CTKM is a Chinese manufacturer of strain wave gearing products and related goods and services.

18. Upon information and belief, Defendant NAC is the primary U.S. importer and distributor for the strain wave gearing products manufactured by Defendant CTKM.

19. Upon information and belief, Defendant Harmonic Drive Canada is a Canadian importer and distributor for the strain wave gearing products manufactured by Defendant CTKM. Defendant Harmonic Drive Canada is actively marketing and selling these products in the United States.

20. Defendants are operating under the trade names "NAC Harmonic Drive, Inc.," "Harmonic Drive Canada" and "Beijing CTKM Harmonic Drive Co., Ltd." without Plaintiff's permission.

21. Defendants are using the mark HARMONIC DRIVE in interstate commerce in the United States in connection with their strain wave gearing products without Plaintiff's permission.

22. Upon information and belief, Defendants did not begin using the HARMONIC DRIVE mark in commerce in the United States or the various trade names containing "Harmonic Drive" until long after Plaintiff's first use of its HARMONIC DRIVE Mark, and long after Plaintiff's HARMONIC DRIVE Mark became distinctive and famous in the United States.

23. Upon information and belief, Defendants adopted and are currently using the mark HARMONIC DRIVE with full knowledge of Plaintiff's prior rights in Plaintiff's HARMONIC DRIVE Mark, and with the intent to trade off the consumer recognition and goodwill associated with Plaintiff's HARMONIC DRIVE Mark.

24. Defendants' strain wave gearing products are used in the same industries and applications as Plaintiff's strain wave gearing products, and are sold to the same types of consumers.

25. Defendants' strain wave gearing products are marketed and sold through the same channels of trade as Plaintiff's strain wave gearing products.

26. Defendants' strain wave gearing products are sold at price levels similar to those at which Plaintiff's strain wave gearing products are sold.

27. Upon information and belief, Defendants are colluding in a pattern of misleading and deceptive conduct and representations in order to mislead the purchasing public as to the source, origin and quality of Defendants' goods.

28. Defendant NAC has registered the domain name www.nacharmonicdrive.com without the permission of Plaintiff, and is operating a web site at this domain name promoting the infringing products bearing the HARMONIC DRIVE mark. A printout of Defendant NAC's web site is attached as Exhibit 2.

29. Defendant NAC's website at www.nacharmonicdrive.com has displayed photographs of Plaintiff's products in a manner that was intended to confuse the purchasing public into believing that Defendant NAC's products and Plaintiff's products are identical, or that the products sold by Defendant NAC are manufactured by, licensed by, or otherwise associated with Plaintiff.

30. Defendant NAC is using product model numbers that are confusingly similar to Plaintiff's model numbers, including using the identical prefix "CSF-" that Plaintiff uses for its model numbers and which consumers associate with Plaintiff's products sold under Plaintiff's HARMONIC DRIVE Mark.

31. Defendant Harmonic Drive Canada has registered the domain names www.harmonicdrive.ca and www.harmonicdrivegearing.com without the permission of Plaintiff, and is operating web sites at these domain names promoting the infringing products bearing the HARMONIC DRIVE mark. A printout of Defendant Harmonic Drive Canada's web site at www.harmonicdrive.ca and www.harmonicdrivegearing.com (the content is the same on both web sites) is attached as Exhibit 3. Defendant Harmonic Drive Canada has registered the domain name www.hdinfo.net which promotes the infringing products bearing the HARMONIC DRIVE mark.

32. Defendant Harmonic Drive Canada's web sites at www.harmonicdrive.ca, www.harmonicdrivegearing.com and www.hdinfo.net have displayed photographs of

Plaintiff's products and photographs of actual Plaintiff's applications in a manner that was intended to confuse the purchasing public into believing that Defendant Harmonic Drive Canada's products and Plaintiff's products are identical, or that the products sold by Defendant Harmonic Drive Canada are manufactured by, licensed by, or otherwise associated with Plaintiff.

33. Defendant Harmonic Drive Canada is using product model numbers that are confusingly similar to Plaintiff's model numbers, including using the identical prefix "HDC-" that Plaintiff uses for its model numbers and which consumers associate with Plaintiff's products sold under Plaintiff's HARMONIC DRIVE Mark.

34. Defendants' conduct has created actual confusion among purchasing consumers, and Plaintiff has received misdirected complaints about Defendants' products.

35. Defendants have misrepresented the country of origin of their products.

36. Defendants have sought to mislead consumers as to the source of their products by failing to mark their products with the country of origin of the products.

37. Defendants have misrepresented to consumers an affiliation with Plaintiff.

38. Defendants' unauthorized use of Plaintiff's HARMONIC DRIVE Mark, Plaintiff's part numbers, depictions of Plaintiff's products, and other activities are misleading consumers concerning the origin or sponsorship of Defendants' products, with intent to create a false impression among consumers that Defendants' products are associated with or sponsored by Plaintiff.

39. Defendants' activities have caused actual confusion in the marketplace. Plaintiff has received several purchase orders, inquiries, and other communications from

consumers that were intended for Defendant NAC. An example of a purchase order showing consumer confusion is attached as Exhibit 4. This order was sent to Plaintiff but lists several products manufactured by Defendant NAC.

40. Upon information and belief, Defendants have actively encouraged and abetted this consumer confusion. For example, one consumer performed a Google search to locate an item manufactured by Plaintiff, and came up with Defendant Harmonic Drive Canada. Defendant Harmonic Drive Canada subsequently referred this consumer to Defendant NAC, stating that Defendant NAC was the current supplier for the product.

COUNT I - TRADEMARK INFRINGEMENT UNDER THE LANHAM ACT

41. Plaintiff repeats and re-alleges paragraphs 1 through 40 above, as if set forth fully herein.

42. Without Plaintiff's permission, Defendants adopted and are currently using in connection with their strain wave gearing the mark HARMONIC DRIVE, which is identical and/or confusingly similar to Plaintiff's HARMONIC DRIVE Mark. Defendants are also using trade names containing Plaintiff's HARMONIC DRIVE Mark.

43. Defendants are advertising and promoting to the general public their line of strain wave gearing using the HARMONIC DRIVE mark.

44. Defendants' strain wave gearing products directly compete with and are sold to the same consumers as Plaintiff's strain wave gearing products.

45. Upon information and belief, Defendants have sold, advertised and transported their strain wave gearing in connection with the HARMONIC DRIVE mark in interstate commerce in the United States.

46. As a direct consequence of Defendants' actions, consumers have been, and are likely to continue to be, deceived, confused, and/or mistaken as to the source, origin, sponsorship and/or endorsement of Defendants' products and their relationship to Plaintiff.

47. Upon information and belief, Defendants adopted and are currently using the mark HARMONIC DRIVE, and the trade names "NAC Harmonic Drive," "Harmonic Drive Canada" and "Beijing CTKM Harmonic Drive Co., Ltd." with full knowledge of Plaintiff's rights and with the intent to deceive, mislead and confuse consumers into believing that Plaintiff are the source of Defendants' products, or that Defendants' products are sponsored by, licensed by, or otherwise affiliated with Plaintiff, so as to trade on the substantial fame, reputation and goodwill associated with Plaintiff's HARMONIC DRIVE Mark.

48. Defendants' unlawful acts constitute trademark infringement in violation of the Lanham Act, 15 U.S.C. § 1114.

49. As a direct and proximate result of Defendants' unlawful acts and practices in violation of the Lanham Act, Plaintiff has suffered, and will continue to suffer damage to its business, reputation and goodwill, for which Plaintiff is entitled to injunctive relief and damages.

COUNT II - UNFAIR COMPETITION UNDER THE LANHAM ACT

50. Plaintiff repeats and re-alleges paragraphs 1 through 49 above, as if fully set forth herein.

51. Plaintiff's continuous and substantially exclusive use of Plaintiff's HARMONIC DRIVE Mark for decades has established a strong association between

Plaintiff's HARMONIC DRIVE Mark and Plaintiff in the minds of consumers and the general public.

52. Without Plaintiff's permission, Defendants have adopted and are continuing to use the mark HARMONIC DRIVE in connection with their products, and are advertising and promoting to the general public their products bearing this mark, which is identical and/or confusingly similar to Plaintiff's HARMONIC DRIVE Mark. Defendants are also using the trade names "NAC Harmonic Drive," "Harmonic Drive Canada" and "Beijing CTKM Harmonic Drive Co., Ltd.," all of which fully incorporate and are confusingly similar to Plaintiff's HARMONIC DRIVE Mark.

53. Upon information and belief, Defendants have sold, advertised and transported their strain wave gearing bearing the HARMONIC DRIVE mark in interstate commerce.

54. As a direct consequence of Defendants' actions, Plaintiff's customers and potential customers have been and are likely to continue to be mistaken, deceived or confused into believing that Defendants' products were made by, licensed by, sponsored by, endorsed by, approved by, authorized by, or otherwise affiliated with Plaintiff.

55. Upon information and belief, Defendants adopted and are currently using the HARMONIC DRIVE mark with full knowledge of Plaintiff's rights and with the intent to deceive, mislead and confuse customers and the public into believing that Plaintiff is the source of Defendants' strain wave gearing, or that Defendants' strain wave gearing is sponsored by, endorsed by, licensed by, or affiliated with Plaintiff so as to enable Defendants to take advantage of Plaintiff's HARMONIC DRIVE Mark and the

substantial fame, reputation and goodwill enjoyed by Plaintiff in connection with Plaintiff's HARMONIC DRIVE Mark.

56. Defendants' use of Plaintiff's HARMONIC DRIVE Mark and of the trade names "NAC Harmonic Drive," "Harmonic Drive Canada" and "Beijing CTKM Harmonic Drive Co., Ltd." constitutes false representation as to source in violation of the Lanham Act, 15 U.S.C. § 1125(a).

57. As a direct and proximate result of Defendants' unlawful acts and practices, Plaintiff has suffered, and will continue to suffer damage to its business, reputation and goodwill, for which Plaintiff is entitled to injunctive relief and damages.

COUNT III – FALSE ADVERTISING UNDER THE LANHAM ACT

58. Plaintiff repeats and re-alleges paragraphs 1 through 57 above, as if fully set forth herein.

59. Defendants have, in connection with goods or services, used a false or misleading description of fact, or a false or misleading representation of fact, which in commercial advertising or promotion, misrepresents the nature, characteristics and/or qualities of Defendants' goods or services.

60. Defendants' statements have actually deceived or have the tendency to deceive a substantial segment of their audience.

61. Defendants' false and misleading statements and representations are material and are likely to influence consumer purchasing decisions.

62. Defendants' false and misleading statements and representations were and are made in interstate commerce.

63. Defendants' false and misleading statements and representations are in violation of the Lanham Act, 15 U.S.C. § 1125(a).

64. As a result of Defendants' improper activities, Plaintiff has suffered and continues to suffer substantial injury, including irreparable injury and damages, including but not limited to lost profits which would have made but for the false and deceptive advertising by Defendants, unless Defendants are preliminarily and/or permanently enjoined by this Court. Defendants' improper activities, as described above, have been willful and deliberate, thereby making this an exceptional case under the Lanham Act.

COUNT IV – CYBERSQUATTING UNDER THE LANHAM ACT

65. Plaintiff repeats and re-alleges paragraphs 1 through 64 above, as if fully set forth herein.

66. Defendant NAC has registered, trafficked in, and used the domain name www.nacharmonicdrive.com which incorporates Plaintiff's HARMONIC DRIVE Mark.

67. Defendant NAC's domain name www.nacharmonicdrive.com is identical or confusingly similar to Plaintiff's HARMONIC DRIVE Mark.

68. Defendant NAC has registered and used the domain name www.nacharmonicdrive.com with a bad faith intent to profit from the reputation and goodwill associated with Plaintiff's HARMONIC DRIVE Mark.

69. Defendant NAC's registration and use of the domain name www.nacharmonicdrive.com is not fair use or otherwise lawful use.

70. Defendant Harmonic Drive Canada has registered, trafficked in, and used the domain names www.harmonicdrive.ca and www.harmonicdrivegearing.com, both of which fully incorporate Plaintiff's HARMONIC DRIVE Mark.

71. Defendant Harmonic Drive Canada's domain name is identical or confusingly similar to Plaintiff's HARMONIC DRIVE Mark.

72. Defendant Harmonic Drive Canada has registered and used the domain name www.harmonicdrive.ca and www.harmonicdrivegearing.com with a bad faith intent to profit from the reputation and goodwill associated with Plaintiff's HARMONIC DRIVE Mark.

73. Defendant Harmonic Drive Canada's registration and use of the domain names www.harmonicdrive.ca and www.harmonicdrivegearing.com is not fair use or otherwise lawful use.

74. Defendants' registration and use of domain names confusingly similar to Plaintiff's HARMONIC DRIVE Mark has been in bad faith.

75. Defendants' registration and use of domain names confusingly similar to Plaintiff's HARMONIC DRIVE Mark is in violation of the Lanham Act, 15 U.S.C. § 1125(d).

76. As a result of Defendants' improper activities, Plaintiff has suffered and continues to suffer substantial injury, including irreparable injury and damages, including but not limited to lost profits which would have made but for the cybersquatting by Defendants, unless Defendants are preliminarily and/or permanently enjoined by this Court. Defendants' improper activities, as described above, have also been willful and deliberate, thereby making this an exceptional case under the Lanham Act.

COUNT V – VIOLATION OF DELAWARE UNIFORM DECEPTIVE TRADE PRACTICES ACT

77. Plaintiff repeats and re-alleges paragraphs 1 through 76 above, as if fully set forth herein.

78. Defendants' intentional infringement of Plaintiff's HARMONIC DRIVE Mark constitutes unfair and fraudulent business acts and practices and unfair, deceptive, untrue and misleading advertising under Delaware Uniform Deceptive Trade Practices Act, 6 Del. C. § 2531 et seq.

COUNT VI - UNFAIR COMPETITION UNDER DELAWARE COMMON LAW

79. Plaintiff repeats and re-alleges paragraphs 1 through 78 as if fully set forth herein.

80. Defendants' intentional infringement of Plaintiff's HARMONIC DRIVE Mark constitutes trademark infringement, passing off, and unfair competition under the common law of the State of Delaware.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court enter judgment in its favor and grant the following relief:

A. An injunction enjoining Defendants and their officers, directors, employees, subsidiaries or affiliates from using any mark, trade name, product model numbers or source identifiers, which are confusingly similar to Plaintiff's HARMONIC DRIVE Mark and rights;

B. An injunction enjoining Defendants and their officers, directors, employees, subsidiaries or affiliates from selling, advertising or promoting any of its services that infringe upon Plaintiff's HARMONIC DRIVE Mark and rights;

C. That Plaintiff be awarded its actual damages and lost profits in an amount to be proven at trial;

D. That Defendants be required to account for any profits attributable to their infringing acts;

E. That Plaintiff be awarded the greater of three times Defendants' profits and three times any damages sustained by Plaintiff, and prejudgment interest;

F. That punitive damages be awarded to Plaintiff;

G. That all products, labels, signs, prints, packages, brochures, and advertising and promotional materials in the possession of Defendants bearing the mark HARMONIC DRIVE, or any word, term, name, symbol, device, product model numbers, combinations thereof, designation, description, or representation that is found in violation of the Lanham Act, or any reproduction, counterfeit, copy, or colorable imitation thereof, and all plates, molds, matrices, and other means of making the same, shall be delivered up by Defendants and destroyed;

H. That any domain names registered by Defendants containing Plaintiff's HARMONIC DRIVE Mark or confusingly similar to Plaintiff's HARMONIC DRIVE Mark, including but not limited to www.nacharmonicdrive.com, www.harmonicdrive.ca, and www.harmonicdrivegearing.com, be transferred to Plaintiff;

I. That pursuant to 15 U.S.C. § 1116, Defendants file and serve a report under oath within thirty (30) days of the issuance of injunctive relief indicating the manner in which they have complied with any injunctive relief ordered by the Court;

J. That pursuant to 15 U.S.C. § 1117(d), Plaintiffs be awarded \$100,000 in statutory damages for each of Defendant NAC's and Defendant Harmonic Drive Canada's violations of 15 U.S.C. § 1125(d).

K. That Plaintiff be awarded its reasonable attorneys' fees in prosecuting this action; and

L. That Plaintiff be granted such other and further relief which the Court deems just and proper.

Date: December 12, 2013

Respectfully submitted,

/s/ Geoffrey G. Grivner
Geoffrey G. Grivner (#4711)
Buchanan Ingersoll & Rooney PC
1105 North Market Street, Suite 1900
Wilmington, Delaware 19801
Telephone: (302) 552-4200
Facsimile: (302) 552-4295
geoffrey.grivner@bipc.com

Bassam N. Ibrahim
S. Lloyd Smith
Bryce J. Maynard
Buchanan Ingersoll & Rooney PC
1737 King Street, Suite 500
Alexandria, Virginia 22314-2756
Telephone: 703-836-6620
Facsimile: 703-836-2021

Attorneys for Plaintiff

EXHIBIT

1

Int. Cls.: 7 and 9

Prior U.S. Cls.: 21 and 23

United States Patent and Trademark Office Reg. No. 1,728,918
Registered Nov. 3, 1992

**TRADEMARK
PRINCIPAL REGISTER**

HARMONIC DRIVE TECHNOLOGIES

TEIJIN SEIKI BOSTON, INC. (DELAWARE
CORPORATION)
247 LYNNFIELD STREET
PEABODY, MA 019604905

FOR: ELECTRIC MOTORS, ADJUSTABLE
COUPLINGS, DRIVES, TRANSMISSIONS IN
THE NATURE OF SPEED AND POWER IN-
CREASERS AND REDUCERS, IN CLASS 7 (U.S.
CL. 23).

FIRST USE 10-25-1991; IN COMMERCE
10-25-1991.

FOR: STEPPING MOTORS AND SERVO AC-
TUATORS IN THE NATURE OF ELECTROME-

CHANICAL STEPPING DEVICES FOR POSI-
TIONING IN RESPONSE TO ELECTRICAL
CONTROL SIGNALS, IN CLASS 9 (U.S. CLS. 21
AND 23).

FIRST USE 10-25-1991; IN COMMERCE
10-25-1991.

OWNER OF U.S. REG. NO. 1,325,439.
NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DRIVE TECHNOLOGIES",
APART FROM THE MARK AS SHOWN.

SER. NO. 74-226,863, FILED 11-29-1991,

RANDY RICARDO, EXAMINING ATTORNEY

Int. Cls.: 7 and 9

Prior U.S. Cls.: 23 and 26

United States Patent and Trademark Office

Reg. No. 1,727,054
Registered Oct. 27, 1992

TRADEMARK
PRINCIPAL REGISTER



TEIJIN SEIKI BOSTON, INC. (DELAWARE
CORPORATION)
247 LYNNFIELD STREET
PEABODY, MA 019604905

FOR: ELECTRIC MOTORS, ADJUSTABLE
COUPLINGS, DRIVES, TRANSMISSIONS IN
THE NATURE OF SPEED AND POWER IN-
CREASERS AND REDUCERS, IN CLASS 7 (U.S.
CL. 23).

FIRST USE 10-25-1991; IN COMMERCE
10-25-1991.

FOR: STEPPING MOTORS AND SERVO AC-
TUATORS IN THE NATURE OF ELECTROME-

CHANICAL STEPPING DEVICES FOR POSI-
TIONING IN RESPONSE TO ELECTRICAL
CONTROL SIGNALS, IN CLASS 9 (U.S. CL. 26).

FIRST USE 10-25-1991; IN COMMERCE
10-25-1991.

OWNER OF U.S. REG. NO. 1,325,439.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "DRIVE TECHNOLOGIES",
APART FROM THE MARK AS SHOWN.

SER. NO. 74-226,860, FILED 11-29-1991.

RANDY RICARDO, EXAMINING ATTORNEY



United States Patent and Trademark Office

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Record 1 out of 1

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Word Mark	HARMONIC DRIVE
Goods and Services	IC 007. US 013 019 021 023 031 034 035. G & S: Stepping motors for machines; electric motors for machines; machine couplings and transmission components except for land vehicles, namely, adjustable couplings, drives, and transmission components in the nature of speed and power increasers and reducers IC 009. US 021 023 026 036 038. G & S: Electronic servo motor controllers, namely, actuators in the nature of electromechanical stepping devices for positioning in response to electrical control pulses
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	26.01.02 - Circles, plain single line; Plain single line circles 26.01.20 - Circles within a circle
Serial Number	77391285
Filing Date	February 7, 2008
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) HARMONIC DRIVE LLC LIMITED LIABILITY COMPANY DELAWARE 247 LYNNFIELD STREET PEABODY MASSACHUSETTS 01960
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Gary D. Krugman
Prior Registrations	1727054;1728918

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DRIVE" APART FROM THE MARK AS SHOWN

Description of Mark Color is not claimed as a feature of the mark. The mark consists of the stylized words Harmonic Drive with a circle design.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Record 1 out of 1

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HARMONIC DRIVE

Word Mark HARMONIC DRIVE
Goods and Services IC 007. US 013 019 021 023 031 034 035. G & S; Electric motors; motor shaft retention brakes; adjustable shaft couplings and couplings for machines; servo motors for positioning in response to electrical control signals; drives and transmissions in the nature of speed and power increasers and reducers, all except for land vehicles. FIRST USE: 19600101. FIRST USE IN COMMERCE: 19600101
IC 009. US 021 023 026 036 038. G & S; Electric rotary actuators and electronic controllers for producing control signals for electric rotary actuators and motor shaft retention brakes. FIRST USE: 19600101. FIRST USE IN COMMERCE: 19600101
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 77373925
Filing Date January 17, 2008
Current Basis 1A
Original Filing Basis 1A
Published for Opposition January 20, 2009
Owner (APPLICANT) Harmonic Drive L.L.C. LIMITED LIABILITY COMPANY DELAWARE 247 Lynnfield Street Peabody MASSACHUSETTS 019604905
Attorney of Record Bassam N. Ibrahim
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DRIVE" APART FROM THE MARK AS

SHOWN
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead
Indicator LIVE

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900210129 12/20/2011

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:		NEW ASSIGNMENT	
NATURE OF CONVEYANCE:		ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL	
CONVEYING PARTY DATA			
Name		Formerly	Execution Date
Nabtesco USA Inc.			05/18/2011
		Entity Type	
		CORPORATION; DELAWARE	
RECEIVING PARTY DATA			
Name:	Harmonic Drive LLC		
Street Address:	247 Lynnfield Street		
City:	Peabody		
State/Country:	MASSACHUSETTS		
Postal Code:	01960		
Entity Type:	limited liability company: DELAWARE		
PROPERTY NUMBERS Total: 6			
Property Type	Number	Word Mark	
Registration Number:	1728918	HARMONIC DRIVE TECHNOLOGIES	
Registration Number:	1727054	HARMONIC DRIVE TECHNOLOGIES	
Registration Number:	2395607	CHAMBERLINK	
Registration Number:	2395612	POWERHUB	
Registration Number:	1678271	INFINIT-INDEXER	
Serial Number:	77391285	HARMONIC DRIVE	
CORRESPONDENCE DATA			
Fax Number:	(703)836-7419		
Email:	bassam.ibrahim@bipc.com,adlpcoc1@bipc.com		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			
Correspondent Name:	Bassam N. Ibrahim		
Address Line 1:	P.O. Box 1404		
Address Line 4:	Alexandria, VIRGINIA 22313-1404		
ATTORNEY DOCKET NUMBER:	0076290-000011/10/9/8/7		

OP \$165.00 1728918

900210129

TRADEMARK
 REEL: 004683 FRAME: 0360

NAME OF SUBMITTER:	Bassam N. Ibrahim
Signature:	/Bassam N. Ibrahim/
Date:	12/20/2011
Total Attachments: 3 source=Assignment 05-2011#page1.tif source=Assignment 05-2011#page2.tif source=Assignment 05-2011#page3.tif	

TRADEMARK
REEL: 004683 FRAME: 0361

Exhibit A

TRADEMARK ASSIGNMENT

This Trademark Assignment (this "Assignment") is entered into and effective on the last signature date below between Nabtesco USA, Inc., a Delaware corporation with its principal place of business at 1013 Centre Road, Wilmington, DE, 19805 ("Assignor"), and Harmonic Drive LLC, a limited liability company organized under the laws of the State of Delaware, with its principal place of business at 247 Lynnfield Street, Peabody, MA 01960 ("Assignee").

WHEREAS, Assignor is the owner of the entire right, title and interest in and to the trademarks HARMONIC DRIVE TECHNOLOGIES, U. S. Registration No. 1,728,918; HARMONIC DRIVE TECHNOLOGIES & Design, U.S. Registration No. 1,727,054; CHAMBERLINK, U.S. Registration No. 2,395,607; POWERHUB, U.S. Registration No. 2,395,612; INFINIT-INDEXER, U.S. Registration No. ,1678,271; INFINIT-INDEXER, Canadian Registration No. TMA437625 and HARMONIC DRIVE TECHNOLOGIES & Design, Canadian Registration No. TMA432756 ("Registrations"); and U.S. Application Serial No. 77/391,285 for HARMONIC DRIVE & Design ("Application") (collectively "Registrations and Application") together with all of the goodwill of the business associated with the Registrations and symbolized thereby, and/or the portion of the business to which the Application pertains;

WHEREAS, Assignee is desirous to obtain an Assignment of the Registrations and Application listed above;

WHEREAS, Assignor consents to assign all of its rights, title and interest in the HARMONIC DRIVE Registrations together with the goodwill of the business associated with the use and symbolized by the Registrations, and/or the portion of the business to which the Application pertains;

TRADEMARK
REEL: 004683 FRAME: 0362

NOW THEREFORE, be it known that, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. This Assignment covers (a) the Registrations, together with the goodwill of the business associated with the foregoing; (b) the Registrations and Application and any unregistered rights in any of the foregoing; (c) all rights therein provided by the laws of the United States, Canada and the several states, all common law rights, and all rights to obtain trademarks and registrations thereto; (d) the portion of the business to which the Application pertains; (e) with that part of the goodwill of the business connected with the use and symbolized by the Registrations; and (f) all rights to sue and recover damages or obtain injunctive relief for past and future infringement, misappropriation, violation or breach of any of the foregoing (subsections (a) through (f) hereof, collectively, the "Assigned Trademark Rights").

2. Assignor does hereby sell, assign, transfer, and set over unto the Assignee, its lawful successors and assigns, Assignor's entire right, title, and interest in and to the Assigned Trademark Rights, in its entirety.

3. Assignee, by its own responsibility, requests any official of the United States or the several states whose duty it is to issue registrations thereon to issue same to Assignee, its successors and assigns. Assignor agrees to, depending on Assignee's written request, provide Assignee reasonable assistance to execute any and all papers that may be necessary or desirable to perfect the title of the Assigned Trademark Rights in Assignee, its successors or assigns.

4. This Assignment may be executed in counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

5. The Assignment shall be governed by and construed in accordance with the laws of the United States of America, Canada and of the State of Delaware.

6. The terms, covenants and provisions of this Assignment shall inure to the benefit of Assignee, its successors and other legal representatives, and shall be binding upon Assignor, its successors, assigns and other legal representatives.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment on the dates shown below.

ASSIGNOR:
NABTESCO USA, INC.

By: M. Sasaki
Name: Masaru Sasaki
Title: President
Date: 5/18/2011

ASSIGNEE:
HARMONIC DRIVE, LLC

By: Douglas Olson
Name: Douglas Olson
Title: President / CEO
Date: 5/16/11

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Harmonic Drive Technologies Nabtesco, Inc.		12/26/2006	CORPORATION: DELAWARE
RECEIVING PARTY DATA			
Name:	Nabtesco USA, Inc.		
Street Address:	1013 Centre Road		
City:	Wilmington		
State/Country:	DELAWARE		
Postal Code:	19805		
Entity Type:	CORPORATION: DELAWARE		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	1727054	HARMONIC DRIVE TECHNOLOGIES	
Registration Number:	1728918	HARMONIC DRIVE TECHNOLOGIES	
CORRESPONDENCE DATA			
Fax Number:	(202)331-4308		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	2026637484		
Email:	gkrugman@sughrue.com, mperry@sughrue.com, tm@sughrue.com		
Correspondent Name:	Gary D. Krugman		
Address Line 1:	2100 Pennsylvania Avenue, N.W.		
Address Line 4:	Washington, DISTRICT OF COLUMBIA 20037-3213		
ATTORNEY DOCKET NUMBER:	S12783		
NAME OF SUBMITTER:	Gary D. Krugman		
Signature:	/Gary D. Krugman/		

CH \$65.00 1727054

900105007

TRADEMARK
 REEL: 003766 FRAME: 0040

Date:	04/24/2008
Total Attachments: 1 source=S12783 Declaration#page1.tif	

DECLARATION

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of any registration, declares that all statements made of his own knowledge are true; and all statements made on information and belief are believed to be true; that the undersigned states that Nabtesco USA, Inc. is a corporation organized under the laws of the State of Delaware, with a business address of 1013 Center Road, Wilmington, Delaware; that Nabtesco USA, Inc. was the parent company of Harmonic Drive Technologies Nabtesco, Inc., a Delaware corporation; that Harmonic Drive Technologies Nabtesco, Inc. was liquidated on December 26, 2006; that, as of the December 26, 2006 liquidation date of Harmonic Drive Technologies Nabtesco, Inc., all right, title and interest in and to the trademarks HARMONIC DRIVE TECHNOLOGIES and HARMONIC DRIVE TECHNOLOGIES and Design, which are the subject of United States Trademark Registration Nos. 1,728,918 and 1,727,054, were transferred to and assigned to the parent company, Nabtesco USA, Inc.; that this Assignment and transfer of the trademarks and trademark registrations was an assignment of all right, title and interest in and to the trademarks and trademark registrations, together with the good will associated with the business symbolized by the marks and that, since December 26, 2006, Nabtesco USA, Inc. has been and continues to be the owner of the trademarks and trademark registrations.

Respectfully submitted,

NABTESCO USA, INC.

By:



Name:

Daisuke Hakoda

Title:

Director of the Board, President

Date:

3/26/2008

3417707_1.DOC

RECORDED: 04/24/2008

TRADEMARK
REEL: 003766 FRAME: 0042

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	CHANGE OF NAME		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Teljin Selki Boston, Inc.		12/03/2003	CORPORATION: DELAWARE
RECEIVING PARTY DATA			
Name:	Harmonic Drive Technologies Nabtesco Inc.		
Street Address:	247 Lynnfield St.		
City:	Peabody		
State/Country:	MASSACHUSETTS		
Postal Code:	01960		
Entity Type:	CORPORATION: DELAWARE		
PROPERTY NUMBERS Total: 5			
Property Type	Number	Word Mark	
Registration Number:	2395607	CHAMBERLINK	
Registration Number:	2395612	POWERHUB	
Registration Number:	1728918	HARMONIC DRIVE TECHNOLOGIES	
Registration Number:	0834671	INFINIT-INDEXER	
Registration Number:	1727054	HARMONIC DRIVE TECHNOLOGIES	
CORRESPONDENCE DATA			
Fax Number:	(617)951-3927		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Email:	jfm@c-m.com		
Correspondent Name:	John F. McKenna		
Address Line 1:	88 Black Falcon Avenue		
Address Line 4:	Boston, MASSACHUSETTS 02210		
ATTORNEY DOCKET NUMBER:	015657-0000		
NAME OF SUBMITTER:	John F. McKenna		

CH \$140.00 2395607

900060579

TRADEMARK
 REEL: 003412 FRAME: 0202

Signature:	/john f. mckenna/
Date:	10/19/2006
Total Attachments: 3 source=namechange#page1.tif source=namechange#page2.tif source=namechange#page3.tif	

		<p align="center">The Commonwealth of Massachusetts William Francis Galvin</p> <p align="center">Secretary of the Commonwealth One Ashburton Place, Boston, Massachusetts 02108-1512 Telephone: (617) 727-9640</p>												
<p>HARMONIC DRIVE TECHNOLOGIES NABTESCO INC. Summary Screen</p>		<p>Help with this form</p>												
<p>Request a Certificate</p>														
<p>The exact name of the Foreign Corporation: <u>HARMONIC DRIVE TECHNOLOGIES NABTESCO INC.</u></p>														
<p>The name was changed from: <u>TEIJIN SEIKI BOSTON, INC.</u> on <u>12/3/03</u></p>														
<p>Entity Type: <u>Foreign Corporation</u></p>														
<p>Identification Number (FEIN, Trust ID, etc.): <u>043107948</u></p>														
<p>Date of Registration in Massachusetts: <u>01/28/1991</u></p>														
<p>The is organized under the laws of: State: <u>DE</u> Country: <u>USA</u> on: <u>12/28/1990</u></p>														
<p>Current Fiscal Month / Day: <u>12/31</u></p>		<p>Previous Fiscal Month / Day: <u>09/00</u></p>												
<p>The location of its principal office: No. and Street: <u>247 LYNNFIELD ST.</u> City or Town: <u>PEABODY</u> State: <u>MA</u> Zip: <u>01960</u> Country: <u>USA</u></p>														
<p>The location of its Massachusetts, if any: No. and Street: City or Town: State: Zip: Country:</p>														
<p>The name and address of the Resident Agent: Name: <u>C.T. CORPORATION SYSTEM</u> No. and Street: <u>101 FEDERAL STREET,</u> City or Town: <u>BOSTON</u> State: <u>MA</u> Zip: <u>02110</u> Country: <u>USA</u></p>														
<p>The officers and all of the directors of the corporation:</p> <table border="1"> <thead> <tr> <th>Title</th> <th>Individual Name <small>First, Middle, Last, Suffix</small></th> <th>Address (no PO Box) <small>Address, City or Town, State, Zip Code</small></th> <th>Expiration of Term</th> </tr> </thead> <tbody> <tr> <td>PRESIDENT</td> <td>ROBERT P. LASCELLES</td> <td rowspan="2">247 LYNNFIELD ST., PEABODY, MA 01960 USA</td> <td></td> </tr> <tr> <td>TREASURER</td> <td>UNKNOWN</td> <td></td> </tr> </tbody> </table>				Title	Individual Name <small>First, Middle, Last, Suffix</small>	Address (no PO Box) <small>Address, City or Town, State, Zip Code</small>	Expiration of Term	PRESIDENT	ROBERT P. LASCELLES	247 LYNNFIELD ST., PEABODY, MA 01960 USA		TREASURER	UNKNOWN	
Title	Individual Name <small>First, Middle, Last, Suffix</small>	Address (no PO Box) <small>Address, City or Town, State, Zip Code</small>	Expiration of Term											
PRESIDENT	ROBERT P. LASCELLES	247 LYNNFIELD ST., PEABODY, MA 01960 USA												
TREASURER	UNKNOWN													

<http://corp.sec.state.ma.us/corp/corptest/CorpSearchSummary.asp?ReadFromDB=True...> 12/16/2003

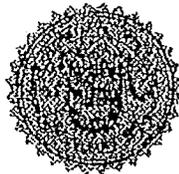
TRADEMARK
REEL: 003412 FRAME: 0204

Delaware

The First State

PAGE 1

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "HARMONIC DRIVE TECHNOLOGIES NABTESCO INC." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE NINETEENTH DAY OF NOVEMBER, A.D. 2003.



Harriet Smith Windsor
Harriet Smith Windsor, Secretary of State

2250749 8300

030708678

AUTHENTICATION: 2758186

DATE: 11-19-03

TRADEMARK
REEL: 003412 FRAME: 0205

State of Delaware
Secretary of State
Division of Corporations
Delivered 08:30 AM 09/03/2003
FILED 08:30 AM 09/03/2003
SRV 030568482 - 2250749 FILE

STATE of DELAWARE
CERTIFICATE of AMENDMENT of
CERTIFICATE of INCORPORATION

- First: That at a meeting of the Board of Directors of T. S. Boston, Inc.

resolutions were duly adopted setting forth a proposed amendment of the Certificate of Incorporation of said corporation, declaring said amendment to be advisable and calling a meeting of the stockholders of said corporation for consideration thereof.

The resolution setting forth the proposed amendment is as follows:

Resolved, that the Certificate of Incorporation of this corporation be amended by changing the Article thereof numbered "First" so that, as amended, said Article shall be and read as follows:

" Harmonic Drive Technologies Nabtesco Inc. "
"

- Second: That thereafter, pursuant to resolution of its Board of Directors, a special meeting of the stockholders of said corporation was duly called and held, upon notice in accordance with Section 222 of the General Corporation Law of the State of Delaware at which meeting the necessary number of shares as required by statute were voted in favor of the amendment.
- Third: That said amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.
- Fourth: That the capital of said corporation shall not be reduced under or by reason of said amendment.

BY: Ronald J. Golini 8/27/03
(Authorized Officer)

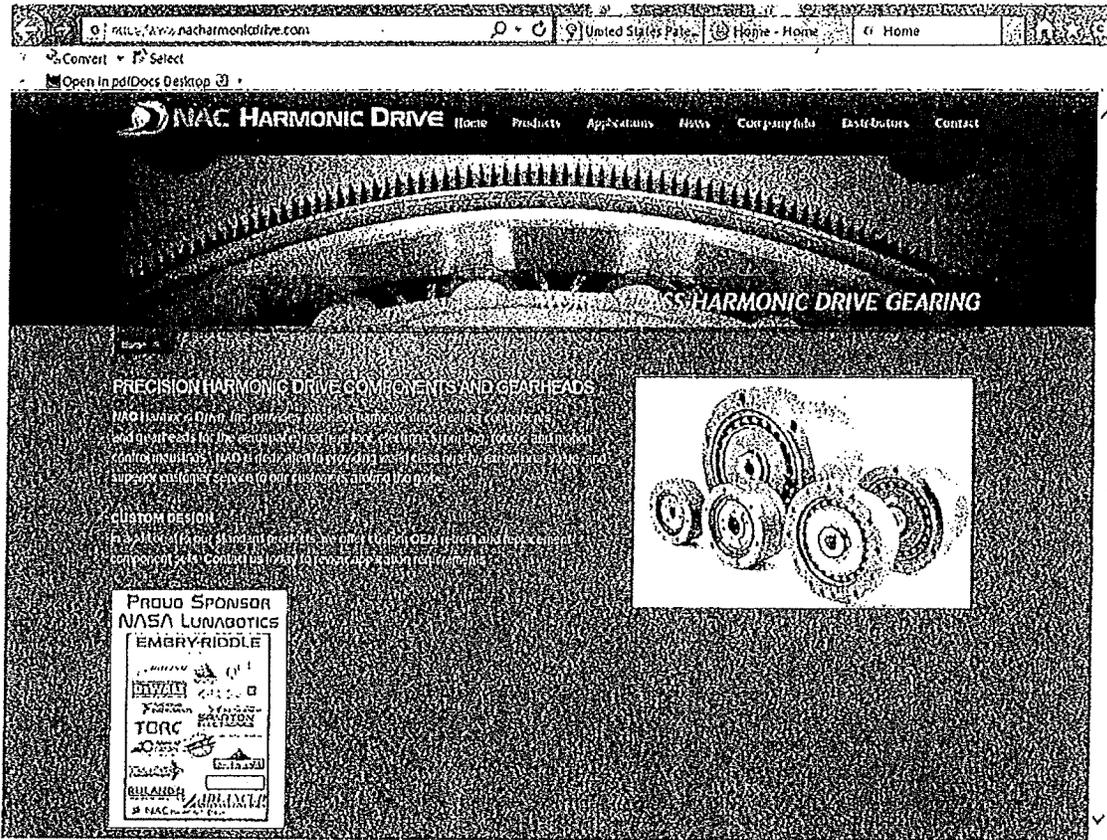
NAME: Ronald J. Golini
(Type or Print)

RECORDED: 10/19/2006

TRADEMARK
REEL: 003412 FRAME: 0206

EXHIBIT

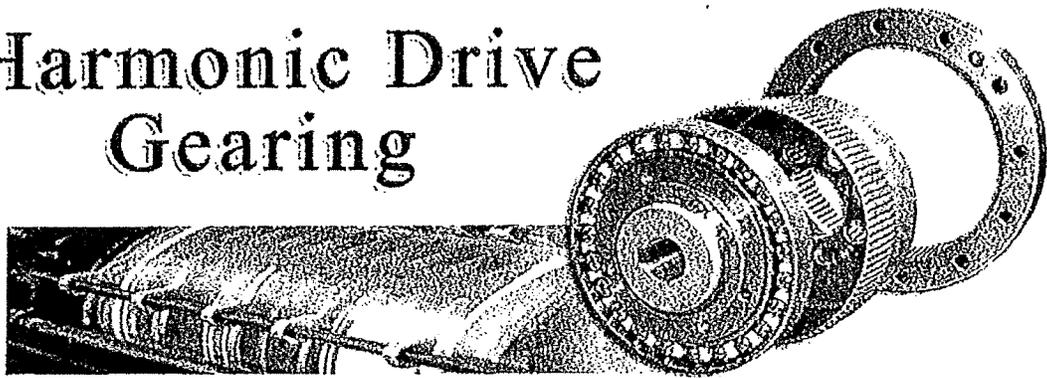
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EXHIBIT

3

Harmonic Drive Gearing



World services

Precision Harmonic Drive Gearing Components and Gearheads Provider

Select Language

Application Samples



HDS Series
Short Cup Style Components



HDC Series
Cup Style Components



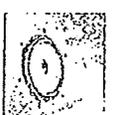
HDF Series
Pancake Style Components



HDA Series
Heavy Duty Pancake Style Components (with hubs)



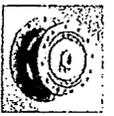
HDD Series
Heavy Duty Pancake Style Components (with casing)



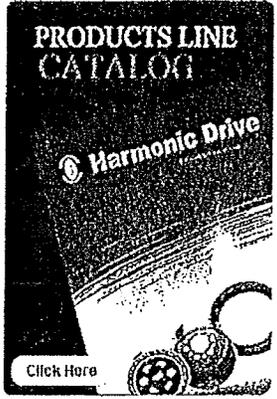
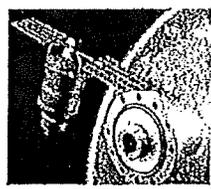
HDR Series
Heavy Duty Pancake Style Components



HDB Series
Phasing Drive Components



HDH Series
Hollow Shaft Gearing Components



Advantages of Harmonic Drive

- High Torque Capacity
- In-Line Configuration
- Single-Stage High Reduction Ratio
- Compact Size and Light Weight
- High Precision and Low Backlash
- Smooth Running and Low Noise
- Efficiencies
- Back Drive





Applications of Harmonic Drive

Harmonic Drive Gearing is known for zero backlash, high torque, compact size, and excellent positional accuracy.

Harmonic Drive Systems is used in a wide range of applications. Different applications utilize different advantages of the gearing technology.

A brief list of applications are:

- Aerospace
- Industrial Robots
- Medical Equipment
- Machine Tools
- Measuring and Testing Machines
- Printing Presses
- Semi-Conductor Equipment Manufacturing
- Communications Equipment
- Terminology
- Woodworking Machine

Harmonic Drive products maximize output torque & minimize size & weight. our harmonic drive and planetary gears offer advantages such as high reduction ratios in a single stage, zero backlash & high precision that cannot be equaled by conventional gear trains. DC motor controllers, incremental encoders and actuators are also available.

Harmonic drive gearing is in a class of its own when it comes to mechanical power transmission design. Combining unique operating principles with constructions that minimize size and weight, harmonic drive transmissions offer advantages such as high reduction ratios in a single stage, very low backlash and in-line input/output that cannot be equalled by conventional gear trains.

The major applications of this innovative principle in power transmission range from use in industrial robots and machine tools to medical equipment and solar energy devices.



Photos

We can provide high quality Harmonic Drive Gearing products.

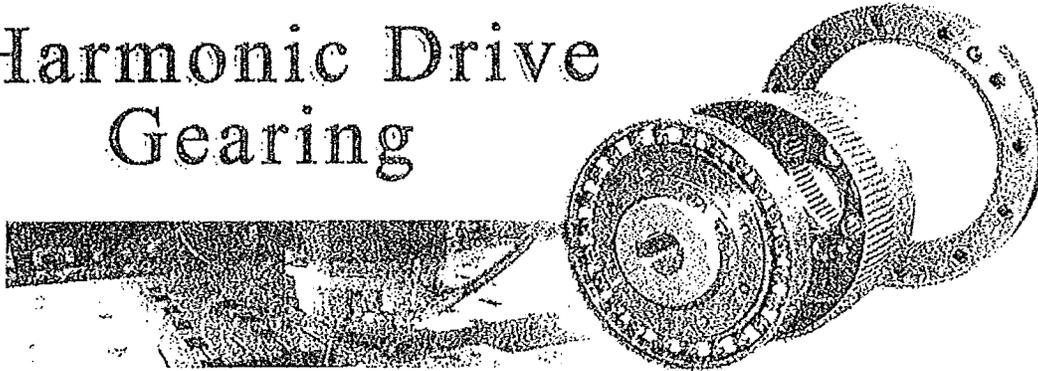
Harmonic Drive

Harmonic Drive

Harmonic Drive



Harmonic Drive Gearing



World services

Precision Harmonic Drive Gearing Components and Gearheads Provider

Select Language ▼



HDS Series
Short Cup Style Components



HDC Series
Cup Style Components



HDF Series
Pancake Style Components



HDA Series
Heavy Duty Pancake Style Components (with hubs)



HDD Series
Heavy Duty Pancake Style Components (with casing)



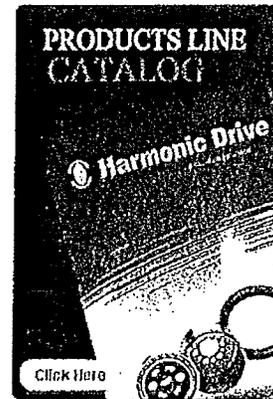
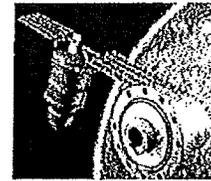
HDR Series
Heavy Duty Pancake Style Components



HDB Series
Phasing Drive Components



HDH Series
Hollow Shaft Gearing Components



Advantages of Harmonic Drive

- ① High Torque Capacity
- ② In-Line Configuration
- ③ Single-Stage High Reduction Ratio
- ④ Compact Size and Light Weight
- ⑤ High Precision and Low Backlash
- ⑥ Smooth Running and Low Noise
- ⑦ Efficiencies
- ⑧ Back Drive





Applications of Harmonic Drive

Harmonic Drive Gearing is known for zero backlash, high torque, compact size, and excellent positional accuracy.

Harmonic Drive Systems is used in a wide range of applications. Different applications utilize different advantages of the gearing technology.

A brief list of applications are:

- Aerospace
- Industrial Robots
- Medical Equipment
- Machine Tools
- Measuring and Testing Machines
- Printing Presses
- Semi-Conductor Equipment Manufacturing
- Communications Equipment
- Terminology
- Woodworking Machine

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We can provide high quality Harmonic Drive Gearing products.

Harmonic Drive

Harmonic Drive

Harmonic Drive



Photos

EXHIBIT

4



Lam Research Corporation (On behalf of
 Lam Research International Sarl)
 4650 Cushing Parkway
 Fremont, CA 94538
 USA

HARMONIC DRIVE LLC
 247 LYNNFIELD ST
 PEABODY MA 01960
 USA
 978-532-1800

Purchase order

PO number/date
 4500936768 - 1 09/21/2013
 Contact person/Telephone
 Joann Brown/510-572-7300

Your vendor number with us
 1001506

Please deliver to:
 Company
 Lam Research Corp
 (obo Lam Research Int'l Sarl)
 7364 Marathon Dr Suite M
 LIVERMORE CA 94550

Bill to:
 Lam Research International Sarl
 c/o IBM
 PO Box 62169
 Sunnyvale, CA 94088
 ATTENTION: Accounts Payable

Terms of deliv.: ZF3 Collect, Free on board Destination
 Terms of payt.: NET 45 DAYS

Currency USD

Item	Material	Unit	Description	Price per unit	Net value	Tax
00010	676-085862-001	1.000 each	MOT, ELEC, W/HARMONIC GEARHEAD			N
			Deliv. date 12/05/2013 Need date 07/15/2013			
			Your material number CSF-14-50-2XH-SP2650			
			Revision level C			
	Mfg Name/Part : HARMONIC DRIVE LLC / CSF-14-50-2XH-F-SP2650					
			Gross Price	1,112.00 USD	1 EA	1,112.00
00020	748-012161-002	1.000 each	ASSY, HARMONIC DRIVE COMPONENT			N
			Deliv. date 11/22/2013 Need date 11/22/2013			
			Revision level B			
	Mfg Name/Part : NAC HARMONIC DRIVE / N-HDC-1M-060-E1-33-01					
			Gross Price	675.00 USD	1 EA	675.00
00030	748-012161-002	1.000 each	ASSY, HARMONIC DRIVE COMPONENT			N
			Deliv. date 11/19/2013 Need date 08/29/2013			



Lam Research Corporation (On behalf of
 Lam Research International Sarl)
 4650 Cushing Parkway
 Fremont, CA 94538
 USA

HARMONIC DRIVE LLC
 247 LYNNFIELD ST
 PEABODY MA 01960

PO number/date
 4500936768 - 1
 09/21/2013

Page
 2

Item	Material Order qty.	Unit	Description	Price per unit	Net value	Tax
	Revision level B					
	Mfg Name/Part : NAC HARMONIC DRIVE / N-HDC-1M-060-E1-33-01					
	Gross Price		675.00	USD	1 EA	675.00
	Tax					0.00
	Net incl. tax					2,462.00
Total Value				USD		2,462.00

LAM PACKAGING SPECIFICATION #603-090436-001, REV G APPLIES TO THIS PURCHASE ORDER.

DO NOT DELIVER ANY MATERIAL ON THIS PURCHASE ORDER MORE THAN FIVE(5) CALENDER DAYS PRIOR TO SCHEDULED DELIVERY UNLESS REQUESTED BY THE MATERIALS DEPT. ANY SUCH DELIVERY MAY BE RETURNED AT THE SUPPLIER EXPENSE.

SELLER SHALL FURNISH ALL MATERIALS AND FAB COMPLETE IN ACCORDANCE WITH LAM DRAWINGS/SPECIFICATIONS.

PURCHASE ORDER MUST APPEAR ON ALL INVOICES, PACKING LISTS AND BILLS OF LADING.

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Harmonic Drive LLC

(b) County of Residence of First Listed Plaintiff Essex County, MA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Buchanan Ingersoll & Rooney PC
1105 North Market Street, Suite 1900
Wilmington, Delaware 19801 (302) 552-4200

DEFENDANT'S

NAC HARMONIC DRIVE, INC.;
HARMONIC DRIVE CANADA;
BEIJIN CTKM HARMONIC DRIVE CO., LTD.

County of Residence of First Listed Defendant Duval County, FL
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
Lawrence C. Hersh
17 Sylvan Street, Suite 102B
Rutherford, NJ (201) 507-6300

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input checked="" type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. 1051 et. seq.

Brief description of cause:
Trademark Infringement, Unfair Competition, and False Advertising

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 12/12/2013 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

AO 120 (Rev. 98/10)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court for the District of Delaware on the following

Trademarks or Patents. (the patent action involves 35 U.S.C. § 292.);

DOCKET NO.	DATE FILED 12/12/2013	U.S. DISTRICT COURT for the District of Delaware
PLAINTIFF Harmonic Drive LLC		DEFENDANT NAC HARMONIC DRIVE, INC.; HARMONIC DRIVE CANADA; BEIJIN CTKM HARMONIC DRIVE CO., LTD.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 1,728,918	11/3/1992	HARMONIC DRIVE LLC
2 1,727,054	10/27/1992	HARMONIC DRIVE LLC
3 77/391,285	2/7/2008	HARMONIC DRIVE LLC
4 77/373,925	1/17/2008	HARMONIC DRIVE LLC
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK	(BY) DEPUTY CLERK	DATE
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy