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February 23, 2011

VIA EXPRESS MAIL

Commissioner for Trademarks
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

RE: Notice of Opposition
Application Serial No. 77/576,530

Dear Sir or Madam:

Enclosed please find a Notice of Opposition regarding the above-referenced trademark registration application. Please charge Deposit Account 17-0055 of Quarles & Brady LLP for the Notice of Opposition fee. The U.S. Patent and Trademark Office is also authorized to charge any additional fees associated with this Notice of Opposition to Deposit Account 17-0055.

Very truly yours,

QUARLES & BRADY LLP

Martha Jahn Snyder

Enclosure

Certificate of Mailing by Express Mail

Express Mail Mailing Label Number **EB 435108030 US**

Date of Deposit: February 23, 2011

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR § 2.198 on the date indicated above and is addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

Martha Jahn Snyder



02-23-2011

U.S. Patent & TMO/TM Mail Rpt. Dt. #72

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

In the Matter of Application Serial No. 77/576,530
Mark: PIPETMATE
Published in the *Official Gazette* on October 26, 2010

GILSON SAS and GILSON, INC.,

Opposers,

v.

Opposition No. _____

MATPHIL TECHNOLOGIES, INC.,

02/28/2011 SHILSON1 00000009 170055 77576530

Applicant.

01 FC:6402 300.00 DA

NOTICE OF OPPOSITION

Opposers, Gilson SAS, a French simplified joint stock company with its principal place of business at 19 Avenue des Entrepreneurs, Z1 Tissonvilliers, BP 145, F-95400 Villiers le Bel, France, and Gilson, Inc. (collectively, "Gilson"), a Wisconsin corporation with its principal place of business at 3000 Parmenter Street, Middleton, Wisconsin 53562, believe that they would be damaged by Applicant's registration of PIPETMATE (as shown in Application No. 77/576,530) and hereby oppose same.

Description of Applicant's Application: Filed on September 23, 2008. Published for Opposition in the *Official Gazette* on October 26, 2010. Mark: PIPETMATE in International Class 009 for laboratory consumables, namely pipette tips; pipettes. Filed under Section 1(a) of the Lanham Act, but switched to an intent-to-use application.

As grounds of opposition, Gilson alleges as follows:

1. Gilson SAS is the owner of PIPETMAN, Registration No. 1,080,818, in International Class 009 for pipettes. On October 29, 1975, Gilson Medical Electronics

(France) S.A. filed Application Serial No. 73/011,711 to register PIPETMAN based on Sections 1(a) and 44(e) of the Lanham Act. On December 17, 1986, the resulting registration was assigned to Rainin Instrument Co., Inc., which assigned the registration to Gilson, Inc. on May 2, 2001, which assigned the registration to Gilson SAS on January 24, 2006.

2. On December 30, 1976, Gilson Medical Electronics (France) S.A. filed a response to an office action stating PIPETMAN was first used in commerce in April, 1972.

3. On December 27, 1983, Gilson Medical Electronics (France) S.A. filed a Combined Declaration Under Sections 8 and 15, which was acknowledged by the United States Patent and Trademark Office on March 6, 1984. The mark continues to be in continuous use in interstate commerce and the registration was renewed in 1998 and 2007. As such, Gilson SAS' PIPETMAN mark is incontestable.

4. Gilson SAS is the owner of PIPETMAN CLASSIC, Registration No. 3,233,648, in International Class 009 for laboratory apparatus and instruments, namely, pipettes, motorized pipettes and pipette tips. On November 4, 2005, Gilson SAS filed Application Serial No. 79/021,291 to register PIPETMAN CLASSIC in International Class 009 based on Section 66(a) of the Lanham Act with a priority date of June 2, 2005.

5. Gilson SAS is the owner of PIPETMAN CLASSIC, Registration No. 3,801,223, in International Class 009 for laboratory equipment, namely pipettes. On February 28, 2006, Gilson SAS filed an intent-to-use application (Serial No. 78/825,511) to register PIPETMAN CLASSIC in International Class 009.

6. Gilson SAS is the owner of PIPETMAN CONCEPT, Registration No. 3,090,514, in International Class 009 for pipettes and motorized pipettes. On July 18, 2005, Gilson SAS filed Application Serial No. 79/014,157 to register PIPETMAN CONCEPT based on Section 66(a) of the Lanham Act with a priority date of May 9, 2006. PIPETMAN CONCEPT has been used in commerce since June, 2005.

7. Gilson SAS is the owner of AS SIMPLE AS PIPETMAN, Registration No. 3,206,383, in International Class 009 for laboratory equipment, namely, pipettes, motorized pipettes, centrifuges, vortex mixers, peristaltic pumps, laboratory pumps, pipette tips, pipetting aids, racks, stands, pipette identification clips, reagent reservoirs, and in International Class 037 for repair of laboratory equipment and apparatus. On August 19, 2005, Gilson SAS filed Application Serial No. 79/015,600 to register AS SIMPLE AS PIPETMAN based on Section 66(a) of the Lanham Act with a priority date of March 14, 2005.

8. Gilson SAS is the owner of PIPETMAN NEO, Registration No. 3,421,562, in International Class 009 for laboratory apparatus, namely, pipettes, pipette tips and pipette racks. On March 8, 2007, Gilson SAS filed Application Serial No. 77/125,701 to register PIPETMAN NEO. The mark is registered on the basis of Section 44(e) the Lanham Act with a priority date of January 22, 2007. PIPETMAN NEO has been used in commerce since March, 2007.

9. Gilson SAS is thus the owner of a family of registered marks which incorporate its PIPETMAN mark, which include PIPETMAN CONCEPT, PIPETMAN NEO, AS SIMPLE AS PIPETMAN, and two registrations for PIPETMAN CLASSIC (hereinafter referred to collectively as the "PIPETMAN Family of Marks").

10. Gilson SAS is the wholly owned and controlled subsidiary of Gilson, Inc. Gilson, Inc. serves as the head of United States distribution of products under the PIPETMAN Family of Marks and thus has an interest in protecting those marks.

11. Gilson's PIPETMAN Family of Marks has been extensively used and advertised in commerce to identify Gilson's products, such that the PIPETMAN Family of Marks enjoys worldwide notoriety in the academic, commercial and clinical life sciences. Gilson's PIPETMAN Family of Marks has been prominently featured in advertising and promotional materials distributed throughout the United States and internationally. Gilson has developed and owns valuable property rights and goodwill in the family of marks.

12. Based on the use of "Pipetman" in its various forms by Gilson, the consuming public has grown to recognize Gilson as the source of products marked with any of the PIPETMAN Family of Marks.

13. Gilson has priority over Applicant's registration with respect to laboratory equipment and instruments, namely pipettes, motorized pipettes, pipette tips and other pipette-related equipment based on Application Serial No. 73/011,711, Application Serial No. 79/021,291, Application Serial No. 78/825,511, Application Serial No. 79/014,157, Application Serial No. 79/015,600 and Application Serial No. 77/125,701.

14. Since long prior to the date on which Applicant filed its PIPETMATE intent-to-use application, Gilson has used and continues to use the PIPETMAN Family of Marks in interstate commerce in connection with laboratory equipment and instruments, namely pipettes, motorized pipettes, pipette tips and other pipette-related equipment.

15. Applicant's goods in International Class 009 for "laboratory consumables" and "pipettes" are in the same classification as the "pipettes" in International Class 009 offered by Gilson under its PIPETMAN mark, the "laboratory apparatus and instruments," "laboratory equipment" and "pipettes" in International Class 009 offered by Gilson under its PIPETMAN CLASSIC marks, the "pipettes" in International Class 009 offered by Gilson under its PIPETMAN CONCEPT mark, the "laboratory apparatus" and "pipettes" in International Class 009 offered by Gilson under its PIPETMAN NEO mark, and the "laboratory equipment" and "pipettes" in International Class 009 offered by Gilson under its AS SIMPLE AS PIPETMAN mark.

16. As Applicant's application does not recite any limitations on consumers or trade channels, the goods identified therein are presumed to be promoted to all customers appropriate for such goods and are presumed to be rendered through all trade channels appropriate for such goods.

17. Applicant's proposed mark PIPETMATE so resembles Gilson's marks to be likely to cause confusion and to cause mistake and to deceive when used in connection with Applicant's goods. Specifically, and without limitation, members of the public seeing Applicant's mark are likely to believe or assume that Applicant's PIPETMATE mark identifies goods that are provided by, or otherwise associated with or sponsored by, the Opposer, Gilson, or that Gilson and Applicant are affiliated.

18. By reason of the foregoing, registration of Applicant's mark will result in irreparable injury to Gilson and to its rights in its family of marks.

WHEREFORE, Gilson prays that this Opposition be sustained and that registration of Applicant's mark be refused.

Dated: February 23, 2011

Respectfully submitted,

GILSON SAS and GILSON, INC.

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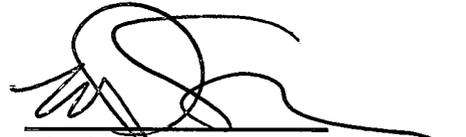
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Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451


Martha Jahn Snyder

Certificate of Transmittal: I hereby further certify that a copy of the above Notice of Opposition is being deposited with the United States Postal Service on the date set forth below as first class mail, postage prepaid, in an envelope addressed to:

Alex Spector
9212 Mira Este Ct.
Suite 100
San Diego, CA 92616-6337

Date: February 23, 2011



Martha Jahn Snyder