

ESTTA Tracking number: **ESTTA417832**

Filing date: **07/05/2011**

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	Group Lotus PLC
Granted to Date of previous extension	07/06/2011
Address	Potash Lane Hethel Norwich, Norfolk, NR14 8EZ UNITED KINGDOM
Attorney information	GARY M ANDERSON FULWIDER PATTON LLP 6060 CENTER DRIVE, 10TH FLOOR LOS ANGELES, CA 90045 UNITED STATES ganderson@fulpat.com, litdocketla@fulpat.com Phone:310-824-5555

Applicant Information

Application No	79087334	Publication date	03/08/2011
Opposition Filing Date	07/05/2011	Opposition Period Ends	07/06/2011
International Registration No.	1050999	International Registration Date	04/01/2010
Applicant	Zhejiang Jonway Machinery & Electric Manufacture CO., Ltd Lingang industrial park Datang Jiantiao Sanmen county; 317109 Zhejiang CHINA		

Goods/Services Affected by Opposition

<p>Class 007. All goods and services in the class are opposed, namely: Dynamos; compressed air driven hand tools, namely, drills, screwdrivers, rivet hammers, saws; hydraulic pumps; gas engine components, namely, pistons, piston rings, coils, connecting rods, distributor caps and contact points; electric welding machines; compressed air machines; mixing machines; agricultural machines, namely, cultivators, harvestors, disk harrows, seeders; pressure washing machines</p>
<p>Class 012. All goods and services in the class are opposed, namely: Hand trucks; motors for land vehicles; trailers; hydroplane; motorcycles; yachts; ski lifts; pumps for bicycles and tricycles; electric bicycles; automobiles</p>

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Dilution	Trademark Act section 43(c)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3324447	Application Date	07/05/2006
Registration Date	10/30/2007	Foreign Priority Date	NONE
Word Mark	ELAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 012. First use: LAND VEHICLES AND STRUCTURAL PARTS THEREFOR; PARTS AND FITTINGS FOR LAND VEHICLES, NAMELY, TRANSMISSIONS, WHEELS, FENDERS, BRAKES AND GAS CAPS; ENGINES FOR LAND VEHICLES AND STRUCTURAL PARTS THEREFOR</p> <p>Class 016. First use: Printed matter, namely car owner's manuals and handbooks, periodicals, pamphlets, brochures, newsletters, journals, magazines, all in the field of automobiles and automobile engineering and automobile design; periodicals in the field of automobiles, vehicles, automobile and vehicle engineering and automobile and vehicle design; books in the field of automobiles, vehicles, automobile and vehicle engineering and automobile and vehicle design; photographs; printed instruction and teaching material, namely, car owners manuals and handbooks, pamphlets, brochures, newsletters and journals, all in the field of automobiles and automobile engineering and automobile design; writing instruments; stationery; decalcomania</p> <p>Class 037. First use: REPAIR AND MAINTENANCE OF VEHICLES</p>		

Attachments	78923087#TMSN.jpeg (1 page)(bytes) GRLOT1-86110 Notice of Opposition.pdf (8 pages)(190002 bytes)
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Certificate of Service

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

Signature	/Gary M. Anderson/
Name	GARY M ANDERSON

Date	07/05/2011
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of:
Serial No.: 79/087,334
Filed: April 1, 2010
Mark: ELUAN
Published: March 8, 2011
Applicant: Zhejiang Jonway Machinery & Electric Manufacture Co., Ltd.

GROUP LOTUS PLC,

Opposer,

v.

ZHEJIANG JONWAY MACHINERY &
ELECTRIC MANUFACTURE CO., LTD.,

Applicant.

Opposition No.

NOTICE OF OPPOSITION

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

To Commissioner of Trademarks:

Group Lotus PLC, a corporation organized and existing under the laws of the United Kingdom having its business address in Hethel, Norwich Norfolk, United Kingdom NR148E2, ("OPPOSER"), believes that it will be damaged by the registration of the mark shown in Application Serial No. 79/087,334, which was filed by Zhejiang Jonway Machinery & Electric Manufacture Co., Ltd. ("APPLICANT") and hereby opposes same.

As grounds for this Notice, it is alleged upon information and belief that:

1. OPPOSER is the intellectual property owner of the famous mark ELAN® in the automobile or motor vehicle industries.

2. OPPOSER is the owner and registrant of U.S. Registration No. 3,324,447 directed at the mark ELAN® (hereinafter "OPPOSER'S Registration"). A copy of the registration is attached as Exhibit A.

3. OPPOSER is the owner of all goodwill associated with its United States Trademark Registration directed at the ELAN® mark for use in connection with *land vehicles and structural parts thereof; parts and fittings for land vehicles, namely, transmissions, wheels, fenders, brakes and gas caps; engines for land vehicles and structural parts therefor in Class 012, Printed matter, namely car owner's manuals and handbooks, periodicals, pamphlets, brochures, newsletters, journals, magazines, all in the field of automobiles and automobile engineering and automobile design; periodicals in the field of automobiles, vehicles, automobile and vehicle engineering and automobile and vehicle design; books in the field of automobiles, vehicles, automobile and vehicle engineering and automobile and vehicle design; photographs; printed instruction and teaching material, namely, car owners manuals and handbooks, pamphlets, brochures, newsletters and journals, all in the field of automobiles and automobile engineering and automobile design; writing instruments; stationery; decalcomania in Class 016, and repair and maintenance of vehicles in Class 037.*

4. OPPOSER'S Registration has neither been canceled nor abandoned, has been used continuously since adoption, and is valid and currently in full force and effect.

5. OPPOSER has developed an exceedingly valuable goodwill with respect to its ELAN® mark. OPPOSER's ELAN® mark has become widely and favorably known throughout the United States and worldwide and has become recognized by the vehicle industry and consumers alike as identifying and distinguishing OPPOSER as the source and origin of the goods identified in paragraph 3, bearing the ELAN® mark. This famous mark is very valuable

to OPPOSER and any registration by APPLICANT of the mark claimed in the above captioned service mark application, has and will cause immediate and irreparable harm to OPPOSER, because it is dilutive of OPPOSER's famous mark, it is likely to cause consumer confusion, and it falsely suggests an affiliation of APPLICANT with or sponsorship of APPLICANT by OPPOSER.

6. OPPOSER has expended great effort and considerable expense in advertising, promoting, offering for sale and selling its goods under the ELAN® mark in the United States and elsewhere throughout the world.

7. OPPOSER is informed and believes, and on that ground avers that APPLICANT, Zhejiang Jonway Machinery & Electric Manufacture Co., Ltd., is a corporation of China having an address at Lingang Industrial Park Datang Jiantiao Sanmen County; 317109 Zhejiang China.

8. APPLICANT seeks to register the mark ELUAN and filed a trademark application (Serial No. 79/087,334) directed at said mark on April 1, 2010 for use in connection with various goods including "gas engine components, namely pistons, piston rings, coils, connecting rods, distributor caps and contact points" in International Class 007 and "motors for land vehicles, trailers, motorcycles, and automobiles" in International Class 012.

9. OPPOSER's ELAN® mark was granted federal registration prior to APPLICANT's filing of Application Serial No. 79/087,334.

10. Upon information and belief, the Class 007 and 012 goods specified in APPLICANT's ELUAN trademark application would be distributed through similar, if not identical, channels of trade and marketed under similar, if not identical, circumstances to a same or similar class of purchasers as the products marketed by OPPOSER under its ELAN® mark.

11. If the APPLICANT is permitted to use and register its ELUAN mark for the Class 007 and 012 goods identified in the application herein opposed, industry and consumer confusion is likely to occur due to the similarity between APPLICANT's ELUAN mark and the OPPOSER's ELAN® mark, resulting in damage and injury to OPPOSER. Persons familiar with OPPOSER's ELAN® Mark would be likely to buy APPLICANT's Class 007 and 012 goods, mistakenly assuming them to be goods offered and sold by OPPOSER and/or would incorrectly assume APPLICANT's goods are affiliated with or sponsored by OPPOSER. Any defect, objection or fault found with APPLICANT's Class 007 and 012 goods marketed and sold under the ELUAN mark would necessarily injure OPPOSER's reputation under the ELAN® mark.

12. If APPLICANT is granted the registration herein opposed, it would thereby obtain at least a prima facie exclusive right to the use of the mark. Such registration would be a source of damage and injury to the OPPOSER, including but not limited to, placing a cloud upon the right of OPPOSER to naturally expand use or registration of its ELAN® mark or other trademarks and service marks, to any other related goods or services not specifically defined within OPPOSER's Registration, including the goods identified in Serial No. 79/087,334.

13. By reason of the foregoing allegations, OPPOSER has the right to use and register trademarks and service marks which are believed to be confusingly similar to the ELAN® mark, such as the ELUAN mark sought to be registered by APPLICANT, and OPPOSER believes it will be damaged by registration of the mark shown in the opposed application.

WHEREFORE, OPPOSER prays that registration of the mark shown in Application Serial No. 79/087,334, published on March 8, 2011 in the Official Gazette, for the International Classes 007 and 012 goods specified therein, be refused and denied, and that this opposition be sustained.

OPPOSER hereby gives notice under Rule 2.122(d) of the Rules of Practice that after hearing and any appeal on this opposition proceeding, it will rely on its registration, which is annexed as an exhibit to this Notice of Opposition as evidence in support of this Notice of Opposition, as well as its common law rights in the ELAN® mark.

Respectfully submitted,

FULWIDER PATTON LLP

Dated: July 5, 2011

By: /S/ Gary M. Anderson
Gary M. Anderson
Attorney for Opposer

6060 Center Drive, Tenth Floor
Los Angeles, California 90045
(310) 824-5555

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing NOTICE OF OPPOSITION upon Applicant's Attorney/Correspondent of record listed on the Trademark Applications and Registrations Retrieval (TARR) system by depositing one copy thereof with DHL Express Courier on July 5, 2011, addressed as follows:

Taizhou Nanfang; Trademark & Patent Law
No. 116 Jinshui Street,
Luqiao District
Taizhou, Zhejiang
CHINA



Mitchell Rudacille

EXHIBIT A

Int. Cls.: 12, 16 and 37

Prior U.S. Cls.: 2, 5, 19, 21, 22, 23, 29, 31, 35, 37, 38,
44, 50, 100, 103 and 106

Reg. No. 3,324,447

Registered Oct. 30, 2007

United States Patent and Trademark Office

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

ELAN

GROUP LOTUS PLC (UNITED KINGDOM COR-
PORATION)
HETHEL
NORWICH , NORFOLK, UNITED KINGDOM NR14
8EZ

FOR: LAND VEHICLES AND STRUCTURAL
PARTS THEREFOR; PARTS AND FITTINGS FOR
LAND VEHICLES, NAMELY, TRANSMISSIONS,
WHEELS, FENDERS, BRAKES AND GAS CAPS;
ENGINES FOR LAND VEHICLES AND STRUCTUR-
AL PARTS THEREFOR, IN CLASS 12 (U.S. CLS. 19,
21, 23, 31, 35 AND 44).

FOR: PRINTED MATTER, NAMELY CAR OWN-
ER'S MANUALS AND HANDBOOKS, PERIODI-
CALS, PAMPHLETS, BROCHURES,
NEWSLETTERS, JOURNALS, MAGAZINES, ALL
IN THE FIELD OF AUTOMOBILES AND AUTOMO-
BILE ENGINEERING AND AUTOMOBILE DESIGN;
PERIODICALS IN THE FIELD OF AUTOMOBILES,
VEHICLES, AUTOMOBILE AND VEHICLE ENGI-
NEERING AND AUTOMOBILE AND VEHICLE DE-
SIGN; BOOKS IN THE FIELD OF AUTOMOBILES,
VEHICLES, AUTOMOBILE AND VEHICLE ENGI-
NEERING AND AUTOMOBILE AND VEHICLE DE-

SIGN; PHOTOGRAPHS; PRINTED INSTRUCTION
AND TEACHING MATERIAL, NAMELY, CAR
OWNERS MANUALS AND HANDBOOKS, PAMPH-
LETS, BROCHURES, NEWSLETTERS AND JOUR-
NALS, ALL IN THE FIELD OF AUTOMOBILES AND
AUTOMOBILE ENGINEERING AND AUTOMO-
BILE DESIGN; WRITING INSTRUMENTS; STA-
TIONERY; DECALCOMANIA, IN CLASS 16 (U.S.
CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FOR: REPAIR AND MAINTENANCE OF VEHI-
CLES , IN CLASS 37 (U.S. CLS. 100, 103 AND 106).

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

OWNER OF ERPN CMNTY TM OFC REG. NO.
003193422, DATED 2-28-2005, EXPIRES 5-14-2013.

OWNER OF U.S. REG. NO. 1,399,322.

SER. NO. 78-923,087, FILED 7-5-2006.

ELLEN B. AWRICH, EXAMINING ATTORNEY