

ESTTA Tracking number: **ESTTA443829**

Filing date: **11/30/2011**

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	Alexander Dennis Limited
Granted to Date of previous extension	11/30/2011
Address	16 Charlotte Square Edinburgh Midlothian, EH24DF UNITED KINGDOM

Correspondence information	Janet Shih Hajek Attorney Holland & Hart LLP One Boulder Plaza 1800 Broadway, Suite 300 Boulder, CO 80302 UNITED STATES JSHajek@hollandhart.com, docket@hollandhart.com Phone:(303) 473-2798
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**Applicant Information**

Application No	85156872	Publication date	08/02/2011
Opposition Filing Date	11/30/2011	Opposition Period Ends	11/30/2011
Applicant	Chan, Michael 1321 North Carolan Avenue Burlingame, CA 94010 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 012. All goods and services in the class are opposed, namely: Engines and drivetrains in the nature of transmissions, all for hybrid land vehicles
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	4024831	Application Date	06/12/2010
Registration Date	09/13/2011	Foreign Priority Date	NONE
Word Mark	ENVIRO		

Design Mark	<h1>ENVIRO</h1>		
Description of Mark	NONE		
Goods/Services	Class 012. First use: Buses and coaches; structural parts, chassis and sub-frames for buses and coaches		

U.S. Registration No.	3177654	Application Date	05/16/2003
Registration Date	11/28/2006	Foreign Priority Date	NONE
Word Mark	ENVIRO 500		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2005/01/28 First Use In Commerce: 2005/01/28 Vehicles, namely buses; apparatus for locomotion by land, namely, automobiles; buses in the nature of motorbuses		

U.S. Registration No.	4027770	Application Date	06/12/2010
Registration Date	09/20/2011	Foreign Priority Date	NONE
Word Mark	ENVIRO 400		
Design Mark	<h1>ENVIRO 400</h1>		
Description of Mark	NONE		
Goods/Services	Class 012. First use: Land vehicles; buses; coaches; vehicles for use in refuse collection and disposal; structural parts for vehicles; chassis and vehicle sub-frames		

U.S. Application No.	85095424	Application Date	07/28/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ENVIRO 200		
Design Mark			
Description of Mark	The mark consists of stylized lettering of the word "ENVIRO" larger and to the left of the number "200".		
Goods/Services	Class 012. First use: Land vehicles; land vehicles, namely, buses and coaches; structural parts for buses and coaches; vehicle sub-frames for buses and coaches; chassis, structural panels, and other structural components and structural parts and fittings for buses and coaches		

Attachments	85061340#TMSN.jpeg ( 1 page )( bytes ) 85061342#TMSN.jpeg ( 1 page )( bytes ) 85095424#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition - ENVIROTEK.pdf ( 13 pages )(123686 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 First Class Mail on this date.

Signature	/Janet Shih Hajek/
Name	Janet Shih Hajek
Date	11/30/2011

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

<p>ALEXANDER DENNIS LIMITED,</p> <p style="padding-left: 40px;">Opposer,</p> <p>v.</p> <p>MICHAEL CHAN,</p> <p style="padding-left: 40px;">Applicant.</p>	<p>Opposition No.:</p> <p>Mark: ENVIROTEK</p> <p>Serial No.: 85/156,872</p>
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**NOTICE OF OPPOSITION**

Alexander Dennis Limited (“Opposer”), by and through its attorneys, believes that it would be damaged by the registration of the mark ENVIROTEK shown in U.S. Trademark Application Serial Number 85/156,872 for: “*engines and drivetrains in the nature of transmissions, all for hybrid land vehicles*” in International Class 12, and hereby opposes the same. As grounds for its opposition, Opposer alleges as follows:

1. Opposer is a United Kingdom corporation, having an address at 16 Charlotte Square, Edinburgh Midlothian EH24DF, United Kingdom.
2. Upon information and belief, Michael Chan (“Applicant”) is an individual residing and/or doing business at 1321 North Carolan Avenue, Burlingame, CA 94010, and filed an intent-to-use application to register the mark ENVIROTEK on or about October 20, 2010, Application Serial Number 85/156,872, for “*engines and drivetrains in the nature of transmissions, all for hybrid land vehicles*” in International Class 12.

3. Opposer is a leading bus and coach manufacturer that produces a wide range of innovative and fuel efficient, low floor single and double deck buses and a full portfolio of coaches, welfare and mini vehicles in North America, Europe and Asia.

4. Since at least as early as 2005, and since long prior to any date of first use that can be relied upon by Applicant and up to and including the present time, Opposer has continuously used a family of ENVIRO-formative trademarks to identify its products, including but not limited to the following (Opposer’s “ENVIRO Marks”):

<b>Trademark</b>	<b>Goods</b>
ENVIRO Reg. No. 4,024,831	Buses and coaches; structural parts, chassis and sub-frames for buses and coaches (Class 12)
ENVIRO 500 Reg. No. 3,177,654	Vehicles, namely buses; apparatus for locomotion by land, namely, automobiles; buses in the nature of motorbuses (Class 12)
ENVIRO 400 Reg. No. 4,027,770	Land vehicles; buses; coaches; vehicles for use in refuse collection and disposal; structural parts for vehicles; chassis and vehicle sub-frames (Class 12)
ENVIRO 200 Serial No. 85/095,424 (Notice of Allowance issued)	Land vehicles; land vehicles, namely, buses and coaches; structural parts for buses and coaches; vehicle sub-frames for buses and coaches; chassis, structural panels, and other structural components and structural parts and fittings for buses and coaches (Class 12)

5. Copies of the certificates of registration and/or U.S. Patent & Trademark Office (“USPTO”) record for Opposer’s ENVIRO Marks is attached hereto as Exhibit A. Opposer’s registered ENVIRO Marks remain valid and subsisting and the federal registrations constitute *prima facie* evidence of the validity of the marks and

registrations, of Opposer's ownership of and exclusive right to use such marks in commerce, and provide constructive notice of Opposer's rights. The filing dates and/or first use dates for all of the above registrations and the filing date for the noted published application predate Applicant's filing date for its trademark application being opposed herein.

6. By virtue of its long use of the ENVIRO Marks for vehicles and related goods, the ENVIRO Marks have become strong, well known, and have come to be exclusively associated with Opposer and with the products emanating from Opposer.

7. On or about October 20, 2010, Michael Chan filed an intent-to-use application to register ENVIROTEK for goods identified as "engines and drivetrains in the nature of transmissions, all for hybrid land vehicles" in International Class 12. Application Serial Number 85/156,872 was published for opposition on August 2, 2011. Opposer timely obtained a 90-day extension of time to oppose for good cause and that extension was granted until November 30, 2011.

8. Opposer's ENVIRO mark is wholly contained in the Applicant's ENVIROTEK mark. Moreover, the "TEK" element of Applicant's ENVIROTEK mark is a shortened form of the term "technology" and is not distinctive for the goods listed in the application.

9. Opposer believes and therefore alleges that the use and registration of the ENVIROTEK mark covered by Application Serial Number 85/156,872 will damage Opposer because customers and purchasers of the respective goods will be confused, mistaken or deceived as to the source of origin of Applicant's goods offered under the

ENVIROTEK mark with Opposer and the goods offered by Opposer under the ENVIRO Marks.

10. Opposer believes and therefore alleges that the use and registration of the ENVIROTEK mark covered by Application Serial Number 85/156,872 will damage Opposer because customers and purchasers of the respective goods will incorrectly assume that Applicant's goods are associated with, sponsored by, approved by or otherwise related to or affiliated with Opposer, when such is not the case.

11. In view of the confusingly similar nature of the marks, Applicant's ENVIROTEK application is likely, when used in connection with the goods set forth in the Application, to cause confusion, or to cause mistake, or to deceive consumers under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer respectfully requests that the mark ENVIROTEK shown in Application Serial No. 85/156,872 be refused registration and that the opposition be sustained.

The filing fee in the amount of \$300 is being submitted electronically with this submission. Should this payment method fail, however, please charge the filing fee to Deposit Account No. 08-2623.

Dated this 30th day of November, 2011.

Respectfully submitted,

/Janet Shih Hajek/

Janet Shih Hajek

Donald A. Degnan

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[Docket@hollandhart.com](mailto:Docket@hollandhart.com)

**ATTORNEYS FOR OPPOSER**

**ALEXANDER DENNIS LIMITED**

**CERTIFICATE OF SERVICE**

I certify that on November 30, 2011, I served a copy of the above **NOTICE OF OPPOSITION** to the following by:

- U.S. Mail, postage prepaid
- Hand Delivery
- Fax

Mr. Michael Chan  
1321 North Carolan Avenue  
Burlingame, CA 94010-2401

/Joyce Crow/

# **EXHIBIT A**

**United States of America**  
United States Patent and Trademark Office

**ENVIRO**

**Reg. No. 4,024,831**

**Registered Sep. 13, 2011**

**Int. Cl.: 12**

**TRADEMARK**

**PRINCIPAL REGISTER**

ALEXANDER DENNIS LIMITED (SCOTLAND CORPORATION)  
16 CHARLOTTE SQUARE  
EDINBURGH MIDLOTHIAN, SCOTLAND EH24DF

FOR: BUSES AND COACHES; STRUCTURAL PARTS, CHASSIS AND SUB-FRAMES FOR BUSES AND COACHES, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

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

OWNER OF ERPN CMNTY TM OFC REG. NO. 005478276, DATED 9-5-2007, EXPIRES 11-17-2016.

OWNER OF U.S. REG. NOS. 2,864,741 AND 3,177,654.

SER. NO. 85-061,340, FILED 6-12-2010.

DAVID ELTON, EXAMINING ATTORNEY



*David J. Kyfos*

Director of the United States Patent and Trademark Office

**Int. Cl.: 12**

**Prior U.S. Cls.: 19, 21, 23, 31, 35, and 44**

**Reg. No. 3,177,654**

**United States Patent and Trademark Office**

**Registered Nov. 28, 2006**

**TRADEMARK  
PRINCIPAL REGISTER**

**ENVIRO 500**

ALEXANDER DENNIS LIMITED (UNITED  
KINGDOM CORPORATION)

16 CHARLOTTE SQUARE  
EDINBURGH, UNITED KINGDOM

FOR: VEHICLES, NAMELY BUSES; APPARATUS  
FOR LOCOMOTION BY LAND, NAMELY, AUTO-  
MOBILES; BUSES IN THE NATURE OF MOTOR-

BUSES, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND  
44).

FIRST USE 1-28-2005; IN COMMERCE 1-28-2005.

SN 78-251,136, FILED 5-16-2003.

TANYA AMOS, EXAMINING ATTORNEY

**United States of America**  
United States Patent and Trademark Office

# ENVIRO 400

**Reg. No. 4,027,770**

ALEXANDER DENNIS LIMITED (SCOTLAND CORPORATION)  
16 CHARLOTTE SQUARE

**Registered Sep. 20, 2011**

EDINBURGH MIDLOTHIAN, SCOTLAND EH24DF

**Int. Cl.: 12**

FOR: LAND VEHICLES; BUSES; COACHES; VEHICLES FOR USE IN REFUSE COLLECTION AND DISPOSAL; STRUCTURAL PARTS FOR VEHICLES; CHASSIS AND VEHICLE SUB-FRAMES, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

**TRADEMARK**

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

**PRINCIPAL REGISTER**

OWNER OF UNITED KINGDOM REG. NO. 2391979, DATED 11-11-2005, EXPIRES 5-14-2015.

OWNER OF U.S. REG. NOS. 2,864,741 AND 3,177,654.

SER. NO. 85-061,342, FILED 6-12-2010.

DAVID ELTON, EXAMINING ATTORNEY



*David J. Kyfos*

Director of the United States Patent and Trademark Office

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2011-11-30 11:49:01 ET

Serial Number: 85095424 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark

**ENVIRO<sup>200</sup>**

(words only): [ENVIRO 200](#)

Standard Character claim: [No](#)

Current Status: [A first request for extension of time to file a Statement of Use has been granted.](#)

Date of Status: [2011-08-01](#)

Filing Date: [2010-07-28](#)

The Notice of Allowance Date is: [2011-05-03](#)

Transformed into a National Application: [No](#)

Registration Date: (DATE NOT AVAILABLE)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 106](#)

Attorney Assigned:  
[ELTON DAVID JONATHAN](#)

Current Location: [700 -Intent To Use Section](#)

Date In Location: [2011-05-03](#)

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

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1. [Alexander Dennis Limited](#)

**Address:**

[Alexander Dennis Limited](#)  
[16 Charlotte Square](#)  
[Edinburgh, Midlothian EH24DF](#)  
[United Kingdom](#)

**Legal Entity Type:** [Corporation](#)

**State or Country of Incorporation:** [United Kingdom](#)

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**GOODS AND/OR SERVICES**

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**International Class:** [012](#)

**Class Status:** [Active](#)

[Land vehicles; land vehicles, namely, buses and coaches; structural parts for buses and coaches; vehicle sub-frames for buses and coaches; chassis, structural panels, and other structural components and structural parts and fittings for buses and coaches](#)

**Basis:** [1\(b\)](#)

**First Use Date:** [\(DATE NOT AVAILABLE\)](#)

**First Use in Commerce Date:** [\(DATE NOT AVAILABLE\)](#)

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**ADDITIONAL INFORMATION**

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**Color(s) Claimed:** [Color is not claimed as a feature of the mark.](#)

**Description of Mark:** [The mark consists of stylized lettering of the word "ENVIRO" larger and to the left of the number "200".](#)

**Prior Registration Number(s):**

[2864741](#)

[3177654](#)

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**MADRID PROTOCOL INFORMATION**

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[\(NOT AVAILABLE\)](#)

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**PROSECUTION HISTORY**

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

[2011-08-03 - Notice Of Approval Of Extension Request E-Mailed](#)

[2011-08-01 - Extension 1 granted](#)

[2011-08-01 - Extension 1 filed](#)

[2011-08-01 - TEAS Extension Received](#)

[2011-05-03 - NOA E-Mailed - SOU Required From Applicant](#)

[2011-03-08 - Notice Of Actual Publication E-Mailed](#)

[2011-03-08 - Published for opposition](#)

[2011-01-29 - Law Office Publication Review Completed](#)

2011-01-28 - Approved For Pub - Principal Register  
2011-01-12 - Teas/Email Correspondence Entered  
2011-01-12 - Communication received from applicant  
2011-01-11 - TEAS Response to Office Action Received  
2010-09-25 - Notification Of Non-Final Action E-Mailed  
2010-09-25 - Non-final action e-mailed  
2010-09-25 - Non-Final Action Written  
2010-09-21 - Assigned To Examiner  
2010-09-09 - Applicant amendment prior to exam entered  
2010-09-09 - Assigned To LIE  
2010-08-22 - TEAS Voluntary Amendment Received  
2010-08-02 - New Application Office Supplied Data Entered In Tram  
2010-07-31 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

Scott S. Havlick

**Correspondent**

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