

ESTTA Tracking number: **ESTTA537189**

Filing date: **05/10/2013**

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

Proceeding	91210360
Party	Plaintiff Cequent Performance Products, Inc.
Correspondence Address	WILLIAM A MCKENNA WOODARD EMHARDT MORIARTY MCNETT ET AL 111 MONUMENT CIRCLE , SUITE 3700 INDIANAPOLIS, IN 46204-5137 UNITED STATES wmckenna@uspatent.com, docketing@uspatent.com
Submission	Other Motions/Papers
Filer's Name	William A. McKenna
Filer's e-mail	wmckenna@uspatent.com, docketing@uspatent.com
Signature	/William A. McKenna, Reg. No. 64,488/
Date	05/10/2013
Attachments	Notice re Service of Ntc of Opposition.pdf (1 page)(111613 bytes) Exhibit A.pdf (1 page)(173626 bytes) Exhibit B.pdf (1 page)(57908 bytes) Exhibit C.pdf (1 page)(221821 bytes) Exhibit D.pdf (1 page)(261385 bytes) Exhibit E.pdf (1 page)(132552 bytes)

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

In the matter of trademark application Serial No. 77/938,369
For the mark DRAW-TITE
Published in the Official Gazette on December 25, 2012

CEQUENT PERFORMANCE PRODUCTS, INC.

v.

Opposition No. 91210360

ILES PROFESSIONAL ENGINEERING CORP.

NOTICE REGARDING SERVICE OF NOTICE OF OPPOSITION

Cequent Performance Products, Inc. (hereafter “Opposer”) hereby notifies the Board pursuant to 37 C.F.R §2.101 that it attempted to serve a copy of the Notice of Opposition on the Applicant via Federal Express International Priority on April 23, 2013. Subsequently, on April 30, 2013, our office was contacted by a representative from Federal Express who informed us that they attempted to deliver the package on April 23, 2013 but the addressee was not available and that a notice was left on the door for the addressee to pick up the package at the Federal Express facility. Our office requested Federal Express to make one more attempt and on May 2, 2013, the package was “left on porch” at addressee’s location. A copy of the shipment tracking results is attached as Exhibit A.

Opposer had previously written two letters on January 25, 2013 and February 21, 2013 to the Applicant indicating that it would be filing an Opposition if the dispute was not resolved. On February 21, 2013, we received a responsive letter via e-mail from Mr. Trottier of the law offices of Bartlet & Richardes LLP informing us that they represent Applicant Iles Professional Engineering Corporation. A copy of this letter is attached as Exhibit B. On February 22, 2013, we also received an e-mail from Mr. Beshiri acknowledging receipt of our previous letters,

attached as Exhibit C. Although, an agreement of email service was not entered, on April 22, 2013, a confirmation copy of the Notice of Opposition was sent via email to both Mr. Trottier and Mr. Beshiri, attached as Exhibit D. We also successfully served the Notice of Opposition on Mr. Trottier via Federal Express International Priority on April 23, 2013. A copy of the Federal Express confirmation of delivery to Mr. Trottier is attached as Exhibit E.

On May 6, 2013, counsel for Opposer requested confirmation from Mr. Trottier by phone that service upon him was sufficient for purposes of the opposition. Mr. Trottier stated that he needed his client's consent for such an agreement. To date Mr. Trottier has not responded to Opposer's request. Accordingly, while Opposer believes that Applicant and Applicant's counsel have both received sufficient service and sufficient notice of the Opposition, Opposer nevertheless submits this notice pursuant to 37 C.F.R §2.101 to protect its rights.

Respectfully submitted,
Cequent Performance Products, Inc.

By: /William A. McKenna/
William A. McKenna
Woodard, Emhardt, Moriarty
McNett & Henry, LLP
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204-5137
(317) 634-3456

Attorney for Opposer
Cequent Performance Products, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing is being sent via international first class mail this May 10, 2013 in an envelope addressed to:

Mr. Ilir Beshiri, President
ILES Professional Engineering Corporation
574 Cora Greenwood Dr.
Windsor N8P 1K1, CANADA

Mr. Gerald. E. Trottier
BARTLET & RICHARDES LLP
374 Ouellette Avenue
Canada Building, Suite 1000
Windsor, Ontario N9A 1A9

with a confirmation copy via-email to:

ilesengineering@cogeco.ca
gtrottier@bartlet.com
lstangaciu@bartlet.com

By: /William A. McKenna/

EXHIBIT A



Ship (P/U) date :
Mon 4/22/2013 5:34 pm

Indianapolis, IN US



Delivered
Signature release on file

Actual delivery :
Thur 5/02/2013 10:59 am

WINDSOR, ON CA

Travel History

Date/Time	Activity	Location
- 5/02/2013 - Thursday		
10:59 am	Delivered Left on porch. Package delivered to recipient address - release authorized	WINDSOR, ON
9:39 am	On FedEx vehicle for delivery	WINDSOR, ON
- 4/30/2013 - Tuesday		
6:39 pm	At local FedEx facility	WINDSOR, ON
3:38 pm	Held at FedEx location for recipient pickup Package available for pickup at FedEx Facility: 3505 RHODES DRIVE	WINDSOR, ON
- 4/29/2013 - Monday		
5:44 pm	At local FedEx facility	WINDSOR, ON
- 4/26/2013 - Friday		
5:50 pm	At local FedEx facility	WINDSOR, ON
- 4/25/2013 - Thursday		
6:32 pm	At local FedEx facility	WINDSOR, ON
- 4/24/2013 - Wednesday		
6:24 pm	At local FedEx facility	WINDSOR, ON
- 4/23/2013 - Tuesday		
6:14 pm	At local FedEx facility	WINDSOR, ON
4:58 pm	Held at FedEx location for recipient pickup Package available for pickup at FedEx Facility: 3505 RHODES DRIVE	WINDSOR, ON
11:01 am	Delivery exception Customer not available or business closed	WINDSOR, ON
9:50 am	On FedEx vehicle for delivery	WINDSOR, ON
9:22 am	International shipment release - Import	WINDSOR, ON
9:22 am	At local FedEx facility	WINDSOR, ON
6:05 am	At destination sort facility	ROMULUS, MI
1:52 am	Arrived at FedEx location	MEMPHIS, TN

1:46 am	Departed FedEx location	INDIANAPOLIS, IN
- 4/22/2013 - Monday		
10:59 pm	Arrived at FedEx location	INDIANAPOLIS, IN
10:20 pm	Left FedEx origin facility	INDIANAPOLIS, IN
5:34 pm	Picked up Tendered at FedEx Office	INDIANAPOLIS, IN
4:46 pm	Shipment information sent to FedEx	

Local Scan Time

Shipment Facts

Tracking number	799584016489	Service	FedEx International Priority
Weight	1 lbs	Delivery attempts	2
Delivered To	Residence	Total pieces	1
Total shipment weight	1 lbs / 0.5 kgs	Shipper reference	8362-281
Packaging	FedEx Envelope	Special handling section	Deliver Weekday, Residential Delivery

EXHIBIT B

BARTLET & RICHARDES LLP
Barristers & Solicitors

ESTABLISHED IN 1887

JAMES N. BARTLET, Q.C. (1950 - 2005)

MILTON H. GRANT
LAWRENCE R. MERRAIE
KAROL F. DYCHA
ELIZABETH J. MUSYJ
AARON P. MARCOTTE
MARY-JOE RENAUD
CRISTA L. REA
JENNIFER L. MCKIM
D. STEPHEN JOVANOVIC
JEAN L. MARENTE
GERALD E. TROTTIER
GREGORY J. VERBEM
ROBERT W. WEISSER
GERALD E. SKILLINGS
PHILIP S. CHANDLER

FREDERICK W. KNIGHT, Q.C. (retired)

BY EMAIL (wmckenna@uspatent.com)

February 21, 2013

Woodard, Emhardt, Moriarty,
McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

Attention: Mr. William A. McKenna

Dear Mr. McKenna:

Re: **DRAW-TITE TM Application Serial No. 77/938369**
Your Ref.: 8362-281

We represent ILES Professional Engineering Corporation. Our client has provided us with a copy of your letters dated January 25, 2013 and February 21, 2013, for reply. We are currently reviewing this matter and will respond more fully very shortly.

Yours truly,

BARTLET & RICHARDES LLP


GERALD E. TROTTIER
GET/ls

TELEPHONE (519) 253-7461
FAX (Main) (519) 253-2321
FAX (11th Floor) (519) 253-4194
374 QUELLETTE AVENUE
CANADA BUILDING, SUITE1000
WINDSOR, ONTARIO
N9A 1A9
E-mail: gtrottier@bartlet.com

EXHIBIT C

Kellermeier, Grace E.

From: ILES Engineering [ilesengineering@cogeco.ca]
Sent: Friday, February 22, 2013 10:07 PM
To: McKenna, William A.
Cc: jeffurian@trimascorp.com; Kellermeier, Grace E.; Gerald E Trottier
Subject: RE: Trademark Application Serial No. 77/938369; Mark: DRAW-TITE; Our Ref.: 8362-281
Dear Mr. McKenna,

I acknowledge the receipt of this email and the attachments.

Sincerely

Iilir Beshiri

From: Kellermeier, Grace E. [<mailto:gkellermeier@uspatent.com>]
Sent: Thursday, February 21, 2013 2:35 PM
To: ilesengineering@cogeco.ca
Cc: jeffurian@trimascorp.com
Subject: Trademark Application Serial No. 77/938369; Mark: DRAW-TITE; Our Ref.: 8362-281

Dear Mr. Beshiri:

Please see the attached letter from Mr. McKenna regarding the above-referenced matter.

As always, should you have any questions or concerns, please do not hesitate to contact us.

Sincerely,

Grace E. Kellermeier | Legal Assistant to John C. McNett, Quentin G. Cantrell and William A. McKenna

**WOODARD, EMHARDT, MORIARTY,
McNETT & HENRY LLP**

Make your ideas *untouchable*.®
www.uspatent.com

Chase Tower | 111 Monument Circle, Suite 3700 | Indianapolis, IN 46204
Phone: 317.634.3456 | Fax: 317.637.7561 | Email: gkellermeier@uspatent.com

This message is intended solely for the above addressee. If the reader of this message is not the addressee or the employee intended or agent responsible for delivering the message to the recipient, you are hereby notified that this transmission may contain privileged or confidential information and dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us by phone and destroy the original.

EXHIBIT D

Kellermeier, Grace E.

From: Kellermeier, Grace E.
Sent: Monday, April 22, 2013 4:59 PM
To: 'ilesengineering@cogeco.ca'; 'gtrottier@bartlet.com'; 'lstangaciu@bartlet.com'
Cc: zz.Docketing; McKenna, William A.
Subject: Cequent Performance Products, Inc. v. Iles Professional Engineering Corp.; Our Ref.: 8362-281 - Notice of Opposition
Attachments: Notice of Opposition.pdf; Receipt - Opposition.pdf

All:

Please find attached a copy of the Notice of Opposition that was filed with the Trademark Trial and Appeal Board on today's date and the formal receipt for the above-referenced matter. Please note a copy is being delivered via overnight by FedEx to your offices.

As always, should you have any questions or concerns, please do not hesitate to contact us.

Sincerely,

Grace E. Kellermeier | Legal Assistant to John C. McNett, Quentin G. Cantrell and William A. McKenna

**WOODARD, EMHARDT, MORIARTY,
MCNETT & HENRY LLP**

Make your ideas *untouchable*.®
www.uspatent.com

Chase Tower | 111 Monument Circle, Suite 3700 | Indianapolis, IN 46204
Phone: 317.634.3456 | Fax: 317.637.7561 | Email: gkellermeier@uspatent.com

This message is intended solely for the above addressee. If the reader of this message is not the addressee or the employee intended or agent responsible for delivering the message to the recipient, you are hereby notified that this transmission may contain privileged or confidential information and dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us by phone and destroy the original.

Kellermeier, Grace E.

From: Luminita Stangaciu [LStangaciu@bartlet.com]
To: Kellermeier, Grace E.
Sent: Tuesday, April 23, 2013 9:06 AM
Subject: Read: Cequent Performance Products, Inc. v. Iles Professional Engineering Corp.; Our Ref.: 8362-281 - Notice of Opposition

Your message

To: LStangaciu@bartlet.com
Subject:

was read on 4/23/2013 9:06 AM.

EXHIBIT E

Kellermeier, Grace E.

From: trackingupdates@fedex.com
Sent: Tuesday, April 23, 2013 10:49 AM
To: Kellermeier, Grace E.
Subject: FedEx Shipment 799583965728 Delivered

This tracking update has been requested by:

Company Name: Woodard Emhardt Moriarty McNet
Name: Grace Kellermeier
E-mail: gkellermeier@uspatent.com

Our records indicate that the following shipment has been delivered:

Reference: 8362-281
Ship (P/U) date: Apr 22, 2013
Delivery date: Apr 23, 2013 10:44 AM
Sign for by: T.CECILE
Delivery location: Windsor, ON
Delivered to: Receptionist/Front Desk
Service type: FedEx International Priority
Packaging type: FedEx Envelope
Number of pieces: 1
Weight: 1.00 lb.
Special handling/Services: Deliver Weekday

Tracking number: [799583965728](#)

Shipper Information	Recipient Information
Grace Kellermeier	Gerald E. Trottier
Woodard Emhardt Moriarty McNet	Bartlet & Richardes LLP
111 Monument Circle, Suite 3700	374 Ouellette Avenue
Indianapolis	Canada Building, Suite 1000
IN	Windsor
US	ON
46204	CA
	N9A1A9

Please do not respond to this message. This email was sent from an unattended mailbox. This report was generated at approximately 9:49 AM CDT on 04/23/2013.

To learn more about FedEx Express, please visit our website at fedex.com.

All weights are estimated.

To track the latest status of your shipment, click on the tracking number above, or visit us at fedex.com.

This tracking update has been sent to you by FedEx on the behalf of the Requestor noted above. FedEx does not validate the authenticity of the requestor and does not validate, guarantee or warrant the authenticity of the request, the requestor's message, or the accuracy of this tracking update. For tracking results and fedex.com's terms of use, go to fedex.com.

Thank you for your business.

4/25/2013