

ESTTA Tracking number: **ESTTA1043**

Filing date: **06/11/2013**

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	QC Manufacturing, Inc.		
Entity	Corporation	Citizenship	united states
Address	30100 Technology Dr. Murrieta, CA 92563 UNITED STATES		

Attorney information	Matthew H. Swyers The Trademark Company 344 Maple Avenue West Vienna, VA 22180 UNITED STATES mswyers@thetrademarkcompany.com Phone:800-906-8626 x100		
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### Applicant Information

Application No	77946976	Publication date	06/11/2013
Opposition Filing Date	06/11/2013	Opposition Period Ends	07/11/2013
Applicant	ELCO HOLLAND B.V. STRAWINSKYLAAN 3501 1077ZX AMSTERDAM, NETHERLANDS		

### Goods/Services Affected by Opposition

Class 011. All goods and services in the class are opposed, namely: Portable compact residential window and wall room air conditioning units
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### Grounds for Opposition

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

U.S. Application No.	85772628	Application Date	11/06/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	QUIETCOOL		
Design Mark			
Description of Mark	The mark consists of QUIET in red stylized font outlined in black with the Q also a fan with the stem of the Q forming an underline below all words. To the right is COOL in blue stylized font outlined in black with three wind waves.		

Goods/Services	Class 011. First use: First Use: 2003/05/00 First Use In Commerce: 2003/05/00 Electric fans
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Attachments	Notice of Opposition.pdf(102053 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	/Matthew H. Swyers/
Name	Matthew H. Swyers
Date	06/11/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

In the Matter of Serial No. 77/946,976, for the trademark application  
EMERSON QUIET KOOL,

QC Manufacturing, Inc.,	:	
	:	
Opposer,	:	
	:	
vs.	:	Opposition No. _____
	:	
Airwell Hong Kong Technologies, Ltd.,	:	
	:	
Applicant.	:	

**NOTICE OF OPPOSITION**

COMES NOW QC Manufacturing, Inc., a California corporation, with an address of 30100 Technology Dr., Murrieta, California 92563 (hereinafter, “Opposer”), by counsel, The Trademark Company, states that it believes it will be damaged by the registration of the trademark EMERSON QUIET KOOL as more fully set forth in Serial No. 77/946,976 as filed for by Airwell Hong Kong Technologies, Ltd., Inc., with an address of Room 805 Houston Centre, 63 Mody Road, Tsim Sha Tsui East, Kowloon Hong Kong (hereinafter “Applicant”) and, accordingly, hereby opposes the granting of said registration.

As grounds for this opposition, it is alleged that:

1. For many years, QC Manufacturing, Inc. (referred to as “Opposer”) has been, and now is engaged in the production and distribution of electric fans under the trademark known as



2. Opposer has used the mark  (hereinafter “Opposer’s Mark”) in connection with electric fans in commerce since as early as May of 2003.

3. As a result of Opposer’s longstanding use of Opposer’s Mark and the high quality of goods, Opposer has established an excellent quality in identifying and distinguishing Opposer’s goods.

4. On March 1, 2010, Applicant filed an application to register the trademark EMERSON QUIET KOOL (hereinafter “Applicant’s Mark) used in connection with “Portable compact residential window and wall room air conditioning units” in International Class 11. (hereinafter “Applicant’s goods”). This application was assigned Application No. 77/946,976.

5. Upon information and belief, the Applicant’s application was filed on an Intent-to-Use basis, and has yet to be used in commerce.

6. There is no issue of priority. Upon information and belief, Applicant acquired no rights in Applicant’s Mark before Opposer acquired rights in Opposer’s Mark.

7. Upon information and belief, Applicant’s goods will be offered to the same of consumers and at least through some of the same channels of trade as Opposer’s goods. As applied to Applicant’s goods, Applicant’s Mark so resembles the Opposer’s Mark that it is likely to cause confusion, or cause to mistake, or to deceive as to the source of the services.

8. Opposer has spent time and money and effort in in promoting his goods under his Mark, which are associated exclusively with Opposer and his goods. The goodwill of the business connected with the use of, and symbolized by, Opposer’s Mark is an asset of incalculable value.

9. Upon information and belief, registration of Applicant’s Mark will diminish and dilute the distinctive quality of Opposer’s Mark. One viewing Applicant’s Mark will associate the mark with Opposer’s services, resulting in damage to Opposer.

10. Opposer will be damaged by Applicant’s registration of Applicant’s Mark for the services identified in US Serial No. 77/946,976 as a result of the aforementioned confusion, mistake, and deception.

11. By reason of the foregoing, Applicant is not entitled to registration of Applicant’s Mark, Serial No. 77/946,976 in International Class 11.

WHEREFORE, Opposer respectfully requests that the Application, Serial No. 77/946,976 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of the Opposer.

Respectfully submitted this 11<sup>th</sup> day of June, 2013.

THE TRADEMARK COMPANY, PLLC

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