

ESTTA Tracking number: **ESTTA587568**

Filing date: **02/17/2014**

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	Baldor Electric Company		
Entity	Corporation	Citizenship	Missouri
Address	5711 R.S. Boreham Jr. Street Fort Smith, AR 72901 UNITED STATES		

Attorney information	Matthew J. Himich Thompson Coburn LLP One US Bank Plaza St. Louis, MO 63101 UNITED STATES mhimich@thompsoncoburn.com, hal-shathir@thompsoncoburn.com, ipdocket@thompsoncoburn.com, mnoelke@thompsoncoburn.com
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Applicant Information

Application No	79112458	Publication date	01/21/2014
Opposition Filing Date	02/17/2014	Opposition Period Ends	02/20/2014
Applicant	KSB Aktiengesellschaft Johann-Klein-Strasse 9 DEX DEX		

Goods/Services Affected by Opposition

<p>Class 007. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Motors and engines except for land vehicles; machines, namely, pumps for machines, pumps as parts of machines, motors and engines; installations for transport, regulation and/or treatment and/or filling for liquid media, namely, electric pump motors; pumps, fittings, and parts for electric motors not for land vehicles; units comprising pumps and motors for machines; control and regulating apparatus, namely, pump control valves, regulators being parts of machines, pump monitoring gauges being parts of machines, flow regulators being parts of machines, pressure regulators being parts of machines, pumps for machines, and motor controllers in the nature of hydraulic controls for motors</p>
<p>Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Electric and electronic apparatus, components and instruments for switching, measuring, controlling, regulating, testing, checking and supervision, recording, transmitting and displaying, namely, electrical switches, operation sensors and monitors for sensing and monitoring position, temperature, pressure, leakage, speed, vibration, flow rate and/or liquid level, and associated software for controlling the aforementioned apparatus and bus systems comprising USB hardware and operating software therefor; electric cables and wires; electric drives for use with pumps and valves in the nature of electronic controllers for pumps and valves; electronic components and modules, namely, integrated circuit modules; computer hardware; computer software for use in database management in the field of pumps</p>

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Lack of bona fide intent to use in commerce

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2820046	Application Date	05/13/2003
Registration Date	03/02/2004	Foreign Priority Date	NONE
Word Mark	SUPER-E		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 007. First use: First Use: 1983/03/25 First Use In Commerce: 1983/03/25 electric motors		

Related Proceedings	TTAB Opp. No. 91213891
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Attachments	notice of opposition.pdf(95482 bytes) Exhibit.pdf(51230 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	/s/ Matthew J. Himich
Name	Matthew J. Himich
Date	02/17/2014

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

Baldor Electric Company,)
)
 Opposer,)
) Opp. No. _____
)
 vs.) Directed to U.S. Ser. No. 79/112,458
)
 KSB Aktiengesellschaft,)
)
 Applicant.)

NOTICE OF OPPOSITION

Baldor Electric Company (“Baldor” or “Opposer”) believes it will be damaged by registration of the mark REEL SuPremE for the goods in International Classes 007 and 009 as shown in U.S. Ser. No. 79/112,458 filed by KSB Aktiengesellschaft (“KSB” or “Applicant”). Accordingly, Baldor opposes registration of the REEL SuPremE mark.

PARTIES AND BACKGROUND

1. Baldor is a Missouri corporation with an address of 5711 R.S. Boreham Jr. Street, Fort Smith, Arkansas 72901.
2. On information and belief, KSB is a joint stock company of Germany with an address of Johann-Klein-Strasse 9, 67227 Frankenthal, Germany.
3. On information and belief, KSB is the owner of U.S. Ser. No. 79/112,458 for the mark REEL SuPremE (“KSB’s Mark”) for *motors and engines except for land vehicles; machines, namely, pumps for machines, pumps as parts of machines, motors and engines; installations for transport, regulation and/or treatment and/or filling for liquid media, namely, electric pump motors; pumps, fittings, and parts for electric motors not for land vehicles; units comprising pumps and motors for machines; control and regulating apparatus, namely, pump*

control valves, regulators being parts of machines, pump monitoring gauges being parts of machines, flow regulators being parts of machines, pressure regulators being parts of machines, pumps for machines, and motor controllers in the nature of hydraulic controls for motors in Class 7 and electric and electronic apparatus, components and instruments for switching, measuring, controlling, regulating, testing, checking and supervision, recording, transmitting and displaying, namely, electrical switches, operation sensors and monitors for sensing and monitoring position, temperature, pressure, leakage, speed, vibration, flow rate and/or liquid level, and associated software for controlling the aforementioned apparatus and bus systems comprising USB hardware and operating software therefor; electric cables and wires; electric drives for use with pumps and valves in the nature of electronic controllers for pumps and valves; electronic components and modules, namely, integrated circuit modules; computer hardware; computer software for use in database management in the field of pumps in Class 9 (collectively, “KSB’s Goods”).

4. Prior to the filing date of U.S. Ser. No. 79/112,458 and any use by KSB of KSB’s Mark, Baldor began using and has continuously used in interstate commerce the mark SUPER-E in connection with *electric motors*. As a result of the extensive use and promotion of Baldor’s SUPER-E mark, the mark has become well known to the trade and to the public, and has therefore acquired significant goodwill and fame.

5. In addition to its common law rights in the SUPER-E mark, Baldor owns U.S. Reg. No. 2820046 for the mark. A print-out from the USPTO’s website of this registration is attached and incorporated by reference.

**COUNT I
(Likelihood of Confusion)**

6. Baldor incorporates the above allegations by reference.

7. KSB's Mark so resembles Baldor's SUPER-E mark, previously used in the United States by Baldor and not abandoned, as to be likely, when applied to KSB's Goods, to cause confusion or to cause mistake or to deceive, thus causing damage to Baldor.

COUNT II
(No Bona Fide Intent to Use Mark in Commerce)

8. Baldor incorporates the above allegations by reference.

9. On information and belief, KSB lacked a bona fide intention to use KSB's Mark in commerce in connection with KSB's Goods at the time KSB filed its request for extension of protection of its international registration to the United States.

10. Accordingly, U.S. Ser. No. 79/112,458 is void under Section 66 of the Lanham Act, 15 U.S.C. §1141f.

ACCORDINGLY, based upon the above grounds, Baldor respectfully requests that this opposition be sustained and that registration of KSB's Mark be refused.

Respectfully submitted,

By: /s/ Matthew J. Himich
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Attorneys for Opposer,
Baldor Electric Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via U.S. mail this 17th day of February, 2014, to the following:

William J. Sauers
Crowell & Moring LLP
P.O. Box 14300
Washington, D.C. 20044-4300

/s/ Matthew J. Himich



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Typed Drawing

Word Mark SUPER-E
Goods and Services IC 007. US 013 019 021 023 031 034 035. G & S: electric motors. FIRST USE: 19830325. FIRST USE IN COMMERCE: 19830325
Mark Drawing Code (1) TYPED DRAWING
Serial Number 78249307
Filing Date May 13, 2003
Current Basis 1A
Original Filing Basis 1A
Published for Opposition December 9, 2003
Registration Number 2820046
Registration Date March 2, 2004
Owner (REGISTRANT) Baldor Electric Company CORPORATION MISSOURI P.O. Box 2400 5711 R.S. Boreham, Jr. Street Fort Smith ARKANSAS 72902
Attorney of Record Jennifer A. Visintine
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR).
Live/Dead Indicator LIVE

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