

ESTTA Tracking number: **ESTTA772034**

Filing date: **09/21/2016**

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	AMBIT HOLDINGS, L.L.C.
Granted to Date of previous extension	11/23/2016
Address	1801 N. Lamar Street Suite 200 Dallas, TX 75202 UNITED STATES

Attorney information	George R. Schultz Schultz & Associates, P.C. 5400 LBJ Freeway Suite 1200 Dallas, TX 75240 UNITED STATES rschultz@grspc.com, nmarsh@grspc.com, kneedham@grspc.com, docket@grspc.com Phone:214-210-5940
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Applicant Information

Application No	86959859	Publication date	07/26/2016
Opposition Filing Date	09/21/2016	Opposition Period Ends	11/23/2016
Applicant	Baker Hughes Incorporated P. O. Box 4740 Houston, TX 772104740 UNITED STATES		

Goods/Services Affected by Opposition

Class 042. First Use: 2014/11/30 First Use In Commerce: 2014/11/30
All goods and services in the class are opposed, namely: Custom design and engineering of well monitoring systems; Performing oil well diagnostics; Production engineering

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.	3443624	Application Date	02/15/2007
Registration Date	06/10/2008	Foreign Priority Date	NONE
Word Mark	AMBIT ENERGY		

Design Mark	<h1>AMBIT ENERGY</h1>		
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2006/09/00 First Use In Commerce: 2006/09/00 DISTRIBUTION OF ENERGY, NAMELY, PROVIDING ELECTRICAL ENERGY AND NATURAL GAS TO RESIDENTIAL AND COMMERCIAL USERS		

U.S. Registration No.	3786848	Application Date	04/14/2009
Registration Date	05/11/2010	Foreign Priority Date	NONE
Word Mark	AMBIT		
Design Mark	<h1>AMBIT</h1>		
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2006/09/00 First Use In Commerce: 2006/09/00 distribution of energy, namely, distribution of electricity and natural gas to residential and commercial users		

Attachments	77108474#TMSN.png(bytes) 77713731#TMSN.png(bytes) Notice of Opposition 092116.pdf(1102759 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	/george r. schultz/
Name	George R. Schultz
Date	09/21/2016

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

**In the matter of Trademark
Application Serial No.: 86/959,859**

For the mark: AMBIT

Published in the Official Gazette on: July 26, 2016

AMBIT HOLDINGS, L.L.C.

Opposer,

v.

OPPOSITION NO. _____

BAKER HUGHES INCORPORATED

Applicant.

NOTICE OF OPPOSITION

Ambit Holdings, L.L.C. (“Opposer”) believes that it has been and will be damaged by registration of the mark shown in Application No. 86/959,859 (the “Application”), and therefore files this Notice of Opposition pursuant to 15 U.S.C. § 1063, and would respectfully show the Board the following:

I. Parties

1. Opposer is a Texas limited liability company having a principal place of business at 1801 N. Lamar Street, Suite 200, Dallas, Texas 75202.

2. Baker Hughes Incorporated (“Applicant”) is a Delaware corporation having an address of P.O. Box 4740, Houston, Texas 77210. The attorney of record is Timothy M. Donoghue, located at that same address.

II. Standing

3. Opposer owns incontestable U.S. Registration No. 3,443,624 for the standard character mark “AMBIT ENERGY” for use in association with “distribution of energy, namely, providing electrical energy and natural gas to residential and commercial users” in international class 39. The mark was registered on June 10, 2008. The Registration is valid and subsisting. The date of first use cited in the Registration is September 2006. A copy of Registration No. 3,443,624 is attached as Exhibit A. A printout from the USPTO's TSDR database for Registration No. 3,443,624 is attached as Exhibit B.

4. Opposer owns incontestable U.S. Registration No. 3,786,848 for the standard character mark “AMBIT” for use in association with “distribution of energy, namely, distribution of electricity and natural gas to residential and commercial users” in international class 39. The mark was registered on May 11, 2010. The Registration is valid and subsisting. The date of first use cited in the Registration is September 2006. A copy of Registration No. 3,786,848 is attached as Exhibit C. A printout from the USPTO's TSDR database for Registration No. 3,786,848 is attached as Exhibit D.

5. The marks shown in Registration Nos. 3,443,624 and 3,786,848 are hereinafter collectively referred to as “Opposer’s Marks.” The services listed in Opposer’s Registrations are hereinafter collectively referred to as “Opposer’s Services.”

6. Opposer’s Marks either originated with Opposer or were assigned to Opposer along with all the goodwill generated by the assignor or any of its predecessors-in-interest. Opposer and its predecessors-in-interest are collectively referred to as “Opposer.”

7. Since long before the date of filing of the Application, Opposer adopted and used Opposer's Mark in association with the Opposer's Services. Opposer has continuously sold its services under Opposer's Marks since they were adopted.

8. Opposer has expended substantial amounts of money, time, and effort in advertising and promoting Opposer's Marks. The trade and purchasing public have come to know and recognize Opposer's Marks and the associated services as being those of Opposer. Opposer's Marks identify Opposer as the source of Opposer's Services and distinguishes them from the goods and services of many others.

9. Opposer's Marks are inherently distinctive or have acquired secondary meaning.

10. By virtue of the excellent quality of the services and its general reputation, Opposer has become well known and has acquired an excellent and widespread reputation for the services sold in connection with Opposer's Marks. Opposer's Marks are symbolic of the extensive goodwill and consumer recognition established by Opposer and indicative of its widely recognized reputation for excellence in the industry.

11. On information and belief, Applicant has adopted the mark "AMBIT" ("Applicant's Mark") for use in association with "Custom design and engineering of well monitoring systems; performing oil well diagnostics; production engineering" in international class 42 ("Applicant's Services"). An application to register Applicant's Mark was filed on March 31, 2016. The Application was filed under Section 1(a) as a use based application. The date of first use stated in the Application is November 30, 2014. The date of first use in commerce stated in the Application is November 30, 2014. The Application was published on July 26, 2016.

12. On August 17, 2016, Opposer requested a ninety (90) day extension of time, or until November 23, 2016, to oppose registration of Applicant's Mark. Opposer's request was granted on August 17, 2016.

13. Opposer's Services as recited in Opposer's Registrations are highly related to Applicant's Services as recited in the Application. On information and belief, Applicant's Services are intended to be provided to in the same industry, to similar consumers, under similar or identical advertising, and move in the same channels of trade as Opposer's Services.

14. Opposer's Marks and Applicant's Mark are substantially similar, both visually and phonetically, and create the same commercial impression.

III. Grounds

Likelihood of Confusion 15 U.S.C. § 1052(d)

15. Under § 2(d) of the Act, 15 U.S.C. § 1052(d), Applicant's Mark so resembles Opposer's Marks, previously used in the United States and registered with the USPTO by Opposer and not abandoned, as to be likely, when used on or in connection with Applicant's Services, to cause confusion, to cause mistake or to deceive.

16. Applicant's Mark is confusingly similar to Opposer's Marks. The similarity in sight, sound, and appearance between Opposer's Marks and Applicant's Mark creates a similar or identical commercial impression.

17. Applicant's Services overlap with or are related to Opposer's Services at least to the extent that both are in the energy industry and likely to be confused by consumers as emanating from the same source.

IV. Damage

18. Opposer has superior rights in Opposer's Marks as compared to those of Applicant since Opposer has used Opposer's Marks in commerce continuously and prior to the filing of the Application by Applicant and prior to Applicant's date of first use. Consequently, confusion, mistake or deception in the trade and in the minds of the consuming public between Opposer and Applicant as to the origin of Applicant's Services is likely to occur and be exacerbated with resulting damage to Opposer if the mark in the Application is allowed to be registered.

V. Fees

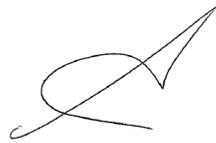
19. Pursuant to 37 C.F.R. 2.6(a)(17), the required fee of Three Hundred Dollars (\$300.00) has been electronically paid in conjunction with the electronic filing of this Notice.

20. The Board is authorized to charge additional required amounts or issue any credits for overpayments to Deposit Account No. 50-2225.

WHEREFORE, Opposer prays that registration of the mark as shown in Application No. 86/959,859 be denied.

Dated: September 21, 2016.

Respectfully submitted,



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Suite 1200
Dallas, Texas 75240
214-210-5940 telephone
214-210-5941 facsimile

ATTORNEYS FOR OPPOSER
AMBIT HOLDINGS, L.L.C.

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing Notice of Opposition was served upon the persons listed below in the manner indicated on September 21, 2016:

Mr. Timothy M. Donoghue
Baker Hughes Incorporated
P.O. Box 4740
Houston, TX 77210

Via First Class Mail, Postage Prepaid



George R. Schultz

Exhibit A

Int. Cl.: 39

Prior U.S. Cls.: 100 and 105

United States Patent and Trademark Office

Reg. No. 3,443,624

Registered June 10, 2008

**SERVICE MARK
PRINCIPAL REGISTER**

AMBIT ENERGY

AMBIT ENERGY, L.P. (TEXAS LIMITED PART-
NERSHIP)
STE. 200
1801 N. LAMAR STREET
DALLAS, TX 75202

FOR: DISTRIBUTION OF ENERGY, NAMELY,
PROVIDING ELECTRICAL ENERGY AND NATUR-
AL GAS TO RESIDENTIAL AND COMMERCIAL
USERS, IN CLASS 39 (U.S. CLS. 100 AND 105).

FIRST USE 9-0-2006; IN COMMERCE 9-0-2006.

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

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "ENERGY", APART FROM THE
MARK AS SHOWN.

SER. NO. 77-108,474, FILED 2-15-2007.

SUSAN RICHARDS, EXAMINING ATTORNEY

Exhibit B



TSDR FAQ'S

1. The Post Registration "Maintenance Tab" has been temporarily disabled. It will return soon.
2. TSDR now displays information regarding TM5 Common Status Descriptors.

Trademark Status & Document Retrieval (TSDR) ?

SEARCH MULTI-SEARCH ?

US Serial, Registration, or Reference No.

Status results found

STATUS DOCUMENTS ?

Generated on: This page was generated by TSDR on 2016-09-21 14:56:39 EDT

Mark: AMBIT ENERGY

AMBIT ENERGY

US Serial Number: 77108474

Application Filing Date: Feb. 15, 2007

US Registration Number: 3443624

Registration Date: Jun. 10, 2008

Register: Principal

Mark Type: Service Mark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Dec. 04, 2013

Publication Date: Mar. 25, 2008

Mark Information

Collapse All

Mark Literal Elements: AMBIT ENERGY

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Disclaimer: "ENERGY"

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "*" identify additional (new) wording in the goods/services.

For: DISTRIBUTION OF ENERGY, NAMELY, PROVIDING ELECTRICAL ENERGY AND NATURAL GAS TO RESIDENTIAL AND COMMERCIAL USERS

International Class(es): 039 - Primary Class

U.S Class(es): 100, 105

Class Status: ACTIVE

Basis: 1(a)

First Use:	Sep. 2006	Use in Commerce:	Sep. 2006
▼ Basis Information (Case Level)			
Filed Use:	Yes	Currently Use:	Yes
Filed ITU:	No	Currently ITU:	No
Filed 44D:	No	Currently 44D:	No
Filed 44E:	No	Currently 44E:	No
Filed 66A:	No	Currently 66A:	No
Filed No Basis:	No	Currently No Basis:	No
▼ Current Owner(s) Information			
Owner Name:	AMBIT HOLDINGS, L.L.C.		
Owner Address:	1801 N. LAMAR STREET SUITE 200 DALLAS, TEXAS UNITED STATES 75202		
Legal Entity Type:	LIMITED LIABILITY COMPANY	State or Country Where Organized:	TEXAS
▲ Attorney/Correspondence Information			
▲ Prosecution History			
▼ Maintenance Filings or Post Registration Information			
Affidavit of Continued Use:	Section 8 - Accepted		
Affidavit of Incontestability:	Section 15 - Accepted		
▲ TM Staff and Location Information			
▼ Assignment Abstract Of Title Information			
Summary		▼ Conveyance Filter	
Total Assignments:	1	Registrant:	Ambit Energy, L.P.
▼ Assignment 1 of 1			Expand All
Conveyance:	ASSIGNS THE ENTIRE INTEREST		
Reel/Frame:	4539/0211	Pages:	6
Date Recorded:	May 11, 2011		
Supporting Documents:	assignment-tm-4539-0211.pdf		
Assignor			
Name:	AMBIT ENERGY, L.P.	Execution Date:	May 05, 2011
Legal Entity Type:	LIMITED PARTNERSHIP	State or Country Where Organized:	TEXAS
Assignee			
Name:	AMBIT HOLDINGS, L.L.C.		
Legal Entity Type:	LIMITED LIABILITY COMPANY	State or Country Where Organized:	TEXAS
Address:	1801 N. LAMAR STREET SUITE 200 DALLAS, TEXAS 75202		
Correspondent			
Correspondent Name:	GEORGE R. SCHULTZ		
Correspondent Address:	5400 LBJ FREEWAY SUITE 1200 DALLAS, TX 75240		
Domestic Representative - Not Found			
▼ Proceedings - Click to Load			

Exhibit C

United States of America

United States Patent and Trademark Office

AMBIT

Reg. No. 3,786,848

Registered May 11, 2010

Int. Cl.: 39

SERVICE MARK

PRINCIPAL REGISTER

AMBIT ENERGY, LP (TEXAS LIMITED PARTNERSHIP)
SUITE 200
1801 N. LAMAR STREET
DALLAS, TX 75202

FOR: DISTRIBUTION OF ENERGY, NAMELY, DISTRIBUTION OF ELECTRICITY AND NATURAL GAS TO RESIDENTIAL AND COMMERCIAL USERS, IN CLASS 39 (U.S. CLS. 100 AND 105).

FIRST USE 9-0-2006; IN COMMERCE 9-0-2006.

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

OWNER OF U.S. REG. NOS. 3,389,005 AND 3,443,624.

SER. NO. 77-713,731, FILED 4-14-2009.

CYNTHIA TRIPI, EXAMINING ATTORNEY



David J. Kyffers

Director of the United States Patent and Trademark Office

Exhibit D

1. The Post Registration "Maintenance Tab" has been temporarily disabled. It will return soon.

2. TSDR now displays information regarding [TM5 Common Status Descriptors](#).

Trademark Status & Document Retrieval (TSDR)

SEARCH MULTI-SEARCH ?

US Serial, Registration, or Reference No. [Status](#) [Documents](#)

Status results found

STATUS **DOCUMENTS** ? [Download](#) [Print Preview](#)

Generated on: This page was generated by TSDR on 2016-09-21 14:53:02 EDT

Mark: AMBIT

AMBIT

US Serial Number: 77713731

Application Filing Date: Apr. 14, 2009

US Registration Number: 3786848

Registration Date: May 11, 2010

Register: Principal

Mark Type: Service Mark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Jul. 18, 2016

Publication Date: Feb. 23, 2010

Mark Information

[Collapse All](#)

Mark Literal Elements: AMBIT

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US Registrations: 3389005, 3443624

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "*" identify additional (new) wording in the goods/services.

For: distribution of energy, namely, distribution of electricity and natural gas to residential and commercial users

International Class(es): 039 - Primary Class

U.S Class(es): 100, 105

Class Status: ACTIVE

Basis:	1(a)	
First Use:	Sep. 2006	Use in Commerce: Sep. 2006
▼ Basis Information (Case Level)		
Filed Use:	Yes	Currently Use: Yes
Filed ITU:	No	Currently ITU: No
Filed 44D:	No	Currently 44D: No
Filed 44E:	No	Currently 44E: No
Filed 66A:	No	Currently 66A: No
Filed No Basis:	No	Currently No Basis: No
▼ Current Owner(s) Information		
Owner Name:	AMBIT HOLDINGS, L.L.C.	
Owner Address:	1801 N. LAMAR STREET SUITE 200 DALLAS, TEXAS UNITED STATES 75202	
Legal Entity Type:	LIMITED LIABILITY COMPANY	State or Country Where Organized: TEXAS
▲ Attorney/Correspondence Information		
▲ Prosecution History		
▼ Maintenance Filings or Post Registration Information		
Affidavit of Continued Use:	Section 8 - Accepted	
Affidavit of Incontestability:	Section 15 - Accepted	
▲ TM Staff and Location Information		
▼ Assignment Abstract Of Title Information		
Summary	▼ Conveyance Filter	
Total Assignments:	1	Registrant: AMBIT ENERGY, LP
▼ Assignment 1 of 1 ▼ Expand All		
Conveyance:	ASSIGNS THE ENTIRE INTEREST	
Reel/Frame:	4539/0211	Pages: 6
Date Recorded:	May 11, 2011	
Supporting Documents:	assignment-tm-4539-0211.pdf	
Assignor		
Name:	AMBIT ENERGY, L.P.	Execution Date: May 05, 2011
Legal Entity Type:	LIMITED PARTNERSHIP	State or Country Where Organized: TEXAS
Assignee		
Name:	AMBIT HOLDINGS, L.L.C.	
Legal Entity Type:	LIMITED LIABILITY COMPANY	State or Country Where Organized: TEXAS
Address:	1801 N. LAMAR STREET SUITE 200 DALLAS, TEXAS 75202	
Correspondent		
Correspondent Name:	GEORGE R. SCHULTZ	
Correspondent Address:	5400 LBJ FREEWAY SUITE 1200 DALLAS, TX 75240	
Domestic Representative - Not Found		