

ESTTA Tracking number: **ESTTA533297**

Filing date: **04/19/2013**

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

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	R J MACHINE COMPANY INC		
Entity	Corporation	Citizenship	Texas
Address	130 Northridge Road Marble Falls, TX 78654 UNITED STATES		

Attorney information	Douglas N. Masters Loeb & Loeb LLP 321 N. Clark Street Suite 2300 Chicago, IL 60654 UNITED STATES chdocket@loeb.com , dmasters@loeb.com, tsaunders@loeb.com, ngosselin@loeb.com Phone:312-464-3100
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### Registrations Subject to Cancellation

Registration No	3934642	Registration date	03/22/2011
Registrant	Canada Pipeline Accessories Co. Ltd 10653-46th Street S.E. Calgary, Alberta, T2C-5C2 CANADA		

### Goods/Services Subject to Cancellation

Class 011. First Use: 1999/06/30 First Use In Commerce: 1999/06/30 All goods and services in the class are cancelled, namely: Flow conditioners, namely, devices for regulating fluid flow in pressurized pipelines
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### Grounds for Cancellation

Genericness	Trademark Act section 23		
The mark is deceptively misdescriptive	Trademark Act section 2(e)(1)		
Registration No	2994138	Registration date	09/13/2005
International Registration No.	NONE	International Registration Date	NONE
Registrant	Canada Pipeline Accessories Co. Ltd. 10653-46TH Street S.E. Calgary, Alberta, T2C 5C2 CANADA		

### Goods/Services Subject to Cancellation

Class 009. First Use: 1997/12/31 First Use In Commerce: 1999/06/30 All goods and services in the class are cancelled, namely: In-line pipeline flow conditioners for
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improved flow measurement readings for use with metering liquids and gasses
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## Grounds for Cancellation

Genericness
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Trademark Act section 23
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Attachments
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Petition for Cancellation Canada Pipeline.pdf ( 4 pages )(17637 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	/Douglas N. Masters/
Name	Douglas N. Masters
Date	04/19/2013

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

In The Matter of Registration Nos. 3,934,642 and 2,994,138:

R J MACHINE COMPANY INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No.
	)	
CANADA PIPELINE ACCESSORIES CO. LTD ,	)	
	)	
Respondent.	)	

**PETITION FOR CANCELLATION**

RJ Machine Company Inc., a Texas corporation located and doing business at 130 Northridge Road, Marble Falls, TX, believes it is being damaged by the maintenance of Registration Nos. 3,934,642 and 2,994,138 and petitions to cancel them.

As grounds for cancellation, it is alleged:

1. Petitioner is in the business of manufacturing machine parts for use in the oil industry and is planning to manufacture in-line flow conditioners with a design based on the Laws/K-lab/NOVA-50E patent for flow conditioners, which expired in 2011.
2. Registrant has obtained a registration for “50E” for "Flow conditioners, namely, devices for regulating fluid flow in pressurized pipelines," Reg. No. 3,934,642
3. Registrant has obtained a registration for “CPA-50E” for “In-line pipeline flow conditioners for improved flow measurement readings for use with metering liquids and gasses,” Reg. No. 2,994,138.
4. The term "50E" identifies a particular style, type or design of in-line flow conditioner with regard to solidity and configuration as taught by the expired Laws/K-lab/NOVA-50E patent.

5. “50” identifies the solidity of the flow conditioner or the percentage of the flow conditioner that allows liquid or gas to pass through it. “E” identifies a particular configuration used to limit the “swirl” of gas or liquid as it passes through a flow conditioner.

6. “50E” is a flow conditioner design with of a particular solidity and configuration, made famous within the industry by virtue of its incorporation into “NOVA-50E,” a product tested by the Gas Research Institute (GRI-97/0207) and the subject of the subsequent test results publication.

7. The International Organization for Standardization (ISO) is an independent body that publishes industry standards that provide “requirements, specifications, guidelines or characteristics that can be used consistently to ensure that materials, products, processes and services are fit for their purpose.” Since 2003, the “NOVA-50E” design has been identified through ISO 5167-1 as a standard flow conditioner design.

8. “50E” is a generic term as applied to registrant's goods, or it is a merely descriptive term as applied to registrant's goods.

9. On information and belief, “50E” has not become distinctive of registrant’s goods in commerce.

10. Continued registration of the term shown in Registration Nos. 3,934,642 and 2,994,138, without a disclaimer of “50E,” provides registrant with certain statutory rights, including *prima facie* rights to the exclusive use of the term “50E,” all to the damage of Petitioner and others.

11. Continued registration of the marks shown in Registration No. 3,934,642 and 2,994,138, without a disclaimer of “50E,” are inconsistent with petitioner’s and others’ right to use “50E” generically and/or descriptively.

WHEREFORE, continued registration by registrant of the aforesaid registrations for the aforesaid goods damages petitioner.

Petitioner submits the requisite filing fee in the amount of \$600.00.

Please address all correspondence to Douglas N. Masters, Loeb & Loeb LLP, 321 North Clark, Suite 2300, Chicago, Illinois 60654.

LOEB & LOEB LLP

By  \_\_\_\_\_

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Chicago, Illinois 60654  
(312) 464-3144

Attorney for Petitioner

**CERTIFICATE OF SERVICE**

I, Noreen Gosselin, hereby certify that a copy of this **PETITION FOR CANCELLATION** has been served upon:

Neil Kathol  
Field Law  
400 - 604 1 ST SW  
Calgary, AB T2P 1M7  
Canada

via first class mail, postage prepaid, on April 19, 2013.

/s Noreen Gosselin