

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

Applicant : Emson Research, Inc.
Serial No. : 76/418,411
Filed : June 7, 2002
Mark : ECOFOAM
Published : December 17, 2002



05-01-2003

U.S. Patent & TMOfo/TM Mail Rcpt Dt. #22

BOX TTAB – NO FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

AGREEMENT NOT TO OPPOSE IF APPLICATION IS AMENDED

Potential Opposer, Ecolab Inc., (“Ecolab”) sought and obtained extensions of time to oppose the above-identified application (the “Application”). In addition, Applicant Emson Research, Inc. (“Applicant”) consented to a further extension of time, until May 16, 2003, for Ecolab to file a notice of opposition.

After engaging in settlement discussions, Applicant has agreed to amend the identification of goods in the Application to read as follows:

Portable handheld dispensing systems comprising valves, valve actuators and or pumps for use in aerosol and non-aerosol containers sold empty; portable handheld non-pressurized spray systems, namely, atomizers and bottles sold empty.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

April 28, 2003

Date of Deposit

Signature

Tammy McCanna

Tammy McCanna

Typed or Printed Name of Person Signing Certificate

Applicant : Emson Research, Inc.
Serial No. : 76/418,411
Filed : June 7, 2002
Mark : ECOFOAM
Page : 2

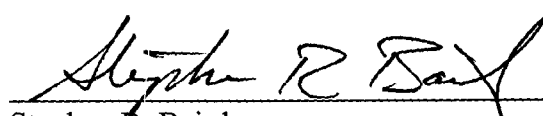
Attorney Docket No.: 11434-209PP1

If the Examining Attorney accepts and enters the requested amendment, Ecolab will not oppose the Application.

Respectfully submitted,

Date: _____

4/28/03



Stephen R. Baird
Joel D. Leviton
FISH & RICHARDSON P.C., P.A.
60 South Sixth Street
Suite 3300
Minneapolis, MN 55402
Telephone: (612) 335-5070
Facsimile: (612) 288-9696

Attorneys for Potential Opposer,
ECOLAB INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the following document:

Agreement Not To Oppose Application If Amended

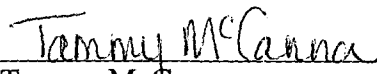
has been served upon the following counsel on the 28th day of April, 2003, directed to said counsel at the following address and in the below manner:

Joseph F. Nicholson
Kenyon & Kenyon
One Broadway
New York, NY 10004-1050

VIA FEDERAL EXPRESS

Respectfully submitted,

Dated: April 28, 2003



Tammy McCanna

FISH & RICHARDSON P.C., P.A.

TTAB

3300 Dain Rauscher Plaza
60 South Sixth Street
Minneapolis, Minnesota
55402

Telephone
612 335-5070

Facsimile
612 288-9696

Web Site
www.fr.com

Frederick P. Fish
1855-1930

W.K. Richardson
1859-1951



05-01-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt #22

April 28, 2003

BOX TTAB – NO FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Re: ECOFOAM
Applicant: Emson Research, Inc.
Serial No.: 76/418,411
Filed: June 7, 2002
Our Ref. No.: 11434-209PP1

CERTIFICATE OF MAILING
37 C.F.R. 1.8
I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: BOX TTAB – NO FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, on the date below:
Date: 4/28/03
Tommy McCanna
Tammy J. McCanna



BOSTON

DALLAS

DELAWARE

NEW YORK

SAN DIEGO

SILICON VALLEY

TWIN CITIES

WASHINGTON, DC

Dear Commissioner:

Enclosed for filing in connection with the above-referenced application is:

- 1) Agreement Not to Oppose if Application is Amended;
- 2) Certificate of Service; and
- 3) Postcard to acknowledge receipt of these materials

Please date stamp and return the enclosed postcard to acknowledge receipt of these materials. Should any fees be required relating to the enclosed document, the Honorable Commissioner for Trademarks is authorized to deduct said fees from Fish & Richardson Deposit Account No. 06-1050 with reference to 11434-209PP1.

03 JUN 03 10:03:31
TRADEMARKS AND PATENT OFFICE

Very truly yours,

Stephen R Baird

Stephen R. Baird

Enclosures

60138786.doc