

TTAB

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



KOCH MEMBRANE SYSTEMS, INC.)
)
Opposer,)
)
vs.)
)
FLUID SYSTEMS PARTNERS S.A.)
)
Applicant.)
)

10-09-2001

U.S. Patent & TMO/TM Mail Rept Dt #5:

Opposition No. _____

Serial No. 75/575,586

TM: FLUID SYSTEMS PARTNERS

Attorney Docket: KOCH.83413

10/11/2001 KGIBBONS 00000229 75575586

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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 Fee, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, on:	
10/4/2001	Constance M. Jordan
Date	Signature

NOTICE OF OPPOSITION

ATTN: BOX TTAB FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Dear Sir:

In the matter of an application to register the mark FLUID SYSTEMS PARTNERS for filters and filter cartridges, namely hydraulic filters, suction filters, press filters, and ventilation filters for use on industrial machinery and motors; and cartridges for filtering machines for industrial use, in International Class 7, application Serial No. 75/575,586, filed October 21, 1998, by FLUID SYSTEMS PARTNERS S.A., published in the Official Gazette on May 8, 2001, KOCH

JL

MEMBRANE SYSTEMS, INC., a corporation duly organized under the laws of the State of Delaware, with its principal office and place of business at 850 Main Street, Wilmington, Massachusetts 01887, believes that it will be damaged by registration of the published mark for the above goods in International Class 7 and hereby opposes same.

Requests for extensions of time to October 5, 2001, have been timely filed, with consent of Applicant's counsel obtained for the last requested extension.

The grounds for opposition are as follows:

1. Opposer and/or its predecessors, have, since long prior to the filing date of Applicant's 44(d) priority application filed in Benelux on May 19, 1998, used the trademark FLUID SYSTEMS for filtration membranes, water and wastewater treatment and desalination systems for use in the municipal drinking water industry; industrial water treatment systems for use in the boiled feedwater, electronic, mining, refining and petro/chemical industries; wastewater treatment systems for use in the pulp and paper, automotive and metal finishing industries; and food separation systems for use in the dairy, sugar and juice markets.

2. Opposer has filed an application to register FLUID SYSTEMS for the goods identified in paragraph 1, Serial No. 76/239,313, filed April 11, 2001, with a claimed first use date in interstate commerce of 1976. Opposer and/or its predecessors, since 1976 have been, and are now, using the mark FLUID SYSTEMS on such goods. Said use has been valid and continuous since said date of first use and has not been abandoned.

3. Opposer has received a Trademark Office action on its pending application in which the Examining Attorney has cited Serial No. 75/575,586 as a possible bar to registration of Opposer's mark if and when Serial No. 75/575,586 matures to registration.

4. Opposer and/or its predecessors have invested substantial time, money and effort in promoting, advertising and popularizing its FLUID SYSTEMS mark and have developed substantial and exclusive good will in connection with its use of FLUID SYSTEMS in connection with the goods identified in paragraph 1.

5. Opposer believes that, after a reasonable opportunity for further investigation and discovery, the evidence will show that Applicant's goods in conjunction with which it intends to use the mark sought to be registered will be offered through the same channels of trade as Opposer's goods offered under the mark FLUID SYSTEMS.

6. Opposer believes that, after a reasonable opportunity for further investigation and discovery, the evidence will show that the class of users and purchasers of Applicant's goods in conjunction with which it intends to use the mark sought to be registered is the same as the class of users and purchasers of Opposer's goods offered under its mark FLUID SYSTEMS.

7. If Applicant is allowed to register and use the mark FLUID SYSTEMS PARTNERS for the goods designated in its application Serial No. 75/575,586, the public will likely be confused, deceived or mistaken and is likely to believe that Applicant's goods are in some way connected with or sponsored by Opposer.

8. If Applicant is allowed to register and use the mark FLUID SYSTEMS PARTNERS for the goods designated in its application Serial No. 75/575,586, purchasers are likely to believe that the goods sold thereunder originate with Opposer, thereby generating consumer confusion.

9. In view of the fact that Applicant's proposed mark encompasses the entirety of Opposer's mark and the goods are related or similar, Applicant's proposed mark FLUID

SYSTEMS PARTNERS, when applied as intended to Applicant's goods, will be confusingly similar to Opposer's mark FLUID SYSTEMS, as applied to the goods specified herein and is therefore unregistrable under 15 U.S.C. § 1052(d).

10. By reason of the foregoing, Opposer will be damaged by the issuance to Applicant of a registration of the proposed trademark.

WHEREFORE, Opposer prays that application Serial No. 75/575,586 filed October 21, 1998, be rejected and that registration of the proposed trademark therein recited be refused and denied as this opposition is sustained.

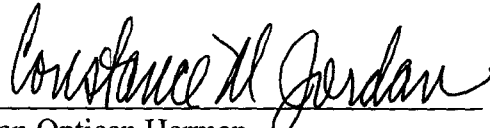
A duplicate copy of this Notice of Opposition and the statutory fee of \$300 are enclosed herewith. The Commissioner is hereby authorized to charge any additional amount required, or credit any overpayment, to Deposit Account No. 19-2112.

Please direct all communications regarding this matter to the following attorneys for

Opposer:

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Respectfully submitted,



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