

TIAB

Trademarks

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

NILES AUDIO CORPORATION

Opposer,

Opposition No. _____

v.

NOTICE OF OPPOSITION

In the Matter of Application

Serial No. 76/071,958

Published in the Official Gazette

September 18, 2001

Mark: **INTELICONTROL**

LIEBERT CORPORATION

Applicant.



NOTICE OF OPPOSITION

11-15-2001

U.S. Patent & TMO/TM Mail Rcpt Dt. #61

Opposer, **NILES AUDIO CORPORATION**, a Florida corporation, is doing business at 12331 S.W. 130 Street, P.O. Box 161210, Miami, Florida 33186, believes that it is or will be damaged by United States Trademark Application Serial No. 75/071,958 and hereby opposes the same.

According to the records of the United States Patent and Trademark Office, Applicant, **LIEBERT CORPORATION**, is an Ohio corporation located at 1050 Dearborn Drive, Columbus, Ohio 43229.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the trademark **INTELLICONTROL**, Registration No. 2,143,462 used in respect of:

“Remote controls for audio and video components, in Class 9.”

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2. Opposer has been using **INTELLICONTROL** in commerce since at least as early as June 23, 1997.

3. Opposer has developed a valuable reputation and tremendous goodwill in the **INTELLICONTROL** mark.

4. Applicant has filed an intent-to-use application, Serial No. 76/071,958, to register the **INTELLICONTROL** mark in International Class 9 for "Electronic Controller for uninterruptible power supplies for use with computers and telecommunications equipment."

5. Applicant's proposed mark is confusingly similar to the Opposer's mark. Moreover, Opposer would be damaged by the registration of **INTELLICONTROL** within the meaning of Section 1063 of Title 15, United States Code.

6. Registration by Applicant of the **INTELLICONTROL** mark in connection with "Electronic Controller for uninterruptible power supplies for use with computers and telecommunications equipment" is likely to: (i) give rise to the mistaken belief by members of the public that Applicant's goods originate from, or are in some way associated with, Opposer, Opposer's mark and/or the goods and services that Opposer offers under Opposer's mark; and/or (ii) cause members of the public to be confused and deceived as to source, origin, affiliation and sponsorship of Applicant's goods offered under the **INTELLICONTROL** mark. Opposer believes that Applicant's registration of the **INTELLICONTROL** mark for the goods set forth above will continue to damage Opposer's good will and reputation.

8. Registration of the mark sought to be registered in Application Serial No. 76/071,958 is barred by provisions of Section 2(d) of the Trademark Act, 15 U.S.C.

§ 1052(d), in that it consists of or comprises a mark which so resembles a mark previously used in the United States by Opposer on related goods and services, and not abandoned, as to be likely to cause confusion, or to cause mistake or deceive.

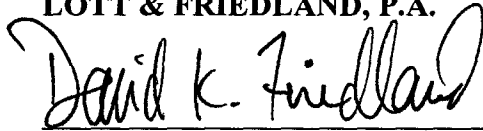
PRAYER FOR RELIEF

WHEREFORE, Opposer respectfully requests that the opposition be granted and the Applicant's mark, Serial No. 76/071,958, be denied registration.

Date: November 8, 2001

Respectfully submitted,

LOTT & FRIEDLAND, P.A.



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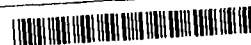
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TRANSMITTAL

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Enclosed for filing please accept the following papers related to this proceeding:

NOTICE OF OPPOSITION

Also enclosed is our return postcard, which we would appreciate the mail room stamping as to the date received and returning to our offices. The Commissioner is authorized to charge any additional fees, or credit any overpayment, to Account No. 12-2155. A duplicate copy of this sheet is enclosed.

Date: November 8, 2001

Respectfully submitted,

LOTT & FRIEDLAND, P.A.

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Niles Audio Corporation

EXPRESS MAIL CERTIFICATE OF MAILING

Express Mail Label: EL 859 965 378 US
Date: November 15, 2001

I hereby certify that this correspondence is being deposited with the United States Postal Service's "Express Mail -- Post Office to Addressee" service on the date indicated above and is addressed to: Assistant Commissioner of Trademarks, Box TTAB, 2900 Crystal Drive, Arlington, VA 22202-3513.

Anna-Louise Owens

Typed or printed name of person mailing paper or fee

Anna Louise Owens

Signature of person mailing paper or fee