

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

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TRADEMARK TRIAL AND
APPEAL BOARD
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In the Matter of Application Serial No. 76/257,798
Published in the *Official Gazette* on July 9, 2002

TRIPMASTER CORPORATION)
Opposer,)
v.)
MULOX IBC LIMITED)
Applicant.)

Opposition No.:

Mark: TRIPMASTER



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

10-08-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #76

NOTICE OF OPPOSITION

TRIPMASTER CORPORATION, a corporation organized and existing under the laws of the State of Texas, believes that it will be damaged by registration of the mark shown in Serial No. 76/257,798 in Class 22 and hereby opposes the same.

As grounds of opposition, it is alleged that:

1. The Applicant seeks to register TRIPMASTER for fabric bags for use in the storage and transportation of materials in bulk, which was filed in the U.S. Patent and Trademark Office on May 16, 2001, and claims priority under Section 44(D) from Great Britain Application No. 2255678, filed December 14, 2000.
2. The Opposer and its predecessors in title have since at least 1976 used the mark TRIPMASTER, alone or as part of a family of composite marks, on a variety of products, which include performance monitoring and data acquisition systems and software used in the vehicle and transportation industry.
3. There is no issue as to priority. The Applicant's claimed 44(D) priority date is subsequent to the issuance date of Opposer's valid and subsisting Federal Registration No. 1,101,312 (TRIPMASTER), as well as the filing dates for Opposer's Application Nos. 76/149,318 (TRIPMASTER ROUTES) and 76/149,672 (TRIPMASTER STANDARDS). Further, Applicant is also the owner of valid and subsisting Federal Registration No. 2,565,201 (TRIPMASTER OFFICE) and the following trademark applications, all of which were filed more than 3 months prior to the Applicant's U.S. filing date for the opposed mark: Application Nos. 76/204,082 (TRIPMASTER DOT), 76/204,083 (TRIPMASTER EVENTS), 76/204,084 (TRIPMASTER TIMECLOCK), and 76/204,085 (TRIPMASTER FUEL TAX).
4. Among other things, Opposer has marketed and sold its goods listed in the aforesaid registrations and applications under the aforesaid marks as hereinbefore referred to throughout the United States. Opposer has developed an exceedingly valuable good-will in respect to the marks covered by the aforesaid registrations and applications.

5. By virtue of its efforts, and the expenditure of considerable sums for promotional activities, and by virtue of the excellence of its products, the Opposer has met with commercial success and gained for its above-identified marks a valuable reputation. The products covered by the Opposer's family of TRIPMASTER marks have become symbols of its quality products and services and its goodwill.

6. The trademark proposed for registration by the Applicant, namely, TRIPMASTER, is identical to the Opposer's registered mark TRIPMASTER and the term TRIPMASTER as included in the aforementioned applications. Moreover, based upon the identification of goods set forth in Applicant's application for registration, Applicant's mark is applied to goods marketed and sold for use in similar industries to that of the Opposer, e.g., the field of transportation. Consequently, Applicant's mark so resembles Opposer's previously used and registered mark, and family of TRIPMASTER marks, that the use and registration thereof by Applicant is likely to cause confusion, mistake, and/or deception within the meaning of Section 2(d) of the Trademark Act.

7. If the Applicant were granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its mark. Such registration would be a source of damage and injury to the Opposer.

WHEREFORE, the Opposer prays that the application Serial No. 76/257,798 be rejected, the mark therein sought for the goods herein specified in International Class 22 be denied and refused, and this Opposition be sustained in favor of Opposer.

A duplicate copy of this Notice of Opposition and the fee required in § 2.6(a)(17) are enclosed herewith. Any additional required fees required should be charged to the same account.

Respectfully submitted,

Dated: October 3, 2002

By: 

John P. Guenther
RADER FISHMAN & GRAUER PLLC
Attorney for Opposer
39533 Woodward Avenue, Suite 140
Bloomfield Hills, Michigan 48304
Telephone: (248) 594-0600
Facsimile: (248) 594-0610

CERTIFICATE OF MAILING

I hereby certify that this Notice of Opposition is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to BOX TTAB - FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on October 3, 2002.


Julie A. Barber