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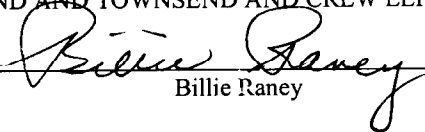
RADEMARK

Attorney Docket No. 15258-065210

Date of Deposit: November 18, 2005

I hereby certify that this paper or fee is being deposited with the United States Postal Service by "First Class Mail" service under 37 C.F.R. 1.8 on the date indicated above and is addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

TOWNSEND AND TOWNSEND AND CREW LLP

By: 
Billie Raney

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: *Application Ser. No. 78/438,487*
Published: September 20, 2005, in the Official Gazette
Applicant: EATON CORPORATION
Mark: EFM

SULZER MANAGEMENT AG,

Opposer,

vs.

EATON CORPORATION,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Madam:

Sulzer Management AG, ("Opposer"), a business entity organized under the laws of Switzerland, doing business at Zürcherstrasse 14 CH-8401 Winterthur Switzerland, believes that it will be damaged by registration of the mark shown in U.S. Trademark Application Serial No. 78/438,487, and hereby opposes the registration of the same with respect to the goods in

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U.S. Patent & TMOtc/TM Mail Rcpt Dt. #01

International Classes 7 and 12 as set forth in the Application. As grounds for opposition,

Opposer alleges:

1. Opposer is the owner of U.S. Trademark Application Serial No. 79/005,469 (the "EF Application") for the mark "EF" filed on February 26, 2004 for "lining materials of metal applied to work pieces; metal linings for use as protection of sliding parts from wear; and metal linings for use as protection from wear" in International Class 6; "machine parts for use in drive chains of vehicles, namely manual and automatic transmissions, axles and parts thereof, transfer cases, clutch plates, torque converters, synchronizers, limited slip differentials, shift forks, shifting elements, and wet running clutches; and machine parts, namely manual and automatic transmissions, axles and parts thereof, transfer cases, clutch plates, torque converters, synchronizers, limited slip differentials, shift forks, shifting elements, and wet running clutches with coatings and/or linings made of metal, carbon, carbon fiber, carbon sheet and/or friction linings" in International Class 7; "friction linings for use in the drive chain of a vehicle; friction linings for use with synchronizers, gearboxes and clutch forks; and vehicle brakes" in International Class 12; "reinforcing lining materials made of carbon fiber; linings for protection of sliding parts from wear; reinforcing linings for protection from wear made of carbon fiber materials; reinforcing linings made of carbon fiber materials; and friction linings for use with vehicles" in international Class 17; and "applying metal-containing coatings and carbon-containing linings to work pieces" in International Class 40. Opposer's application has a convention priority date of December 16, 2003 under § 44(d) of the Lanham Act, 15 U.S.C. § 1126(d).

2. Applicant filed U.S. Trademark Application Serial No. 78/438,487 (the "EFM Application"), which is the subject of this Opposition, on June 21, 2004, for the mark "EFM" for:

"clutch surface lining and pads for machines; brake surface lining and pads for machines; synchronizer surface lining and pads for machines; differential surface lining and pads for machines" in International Class 7 and "clutch surface lining and pads for land vehicles; brake surface lining and pads for land vehicles; surface lining and pads for use in a vehicle transmission synchronizer; surface lining and pads for use in a vehicle differential" in International Class 12.

3. The EFM Application was filed on an Intent-to-Use basis.

4. Opposer's priority date of December 16, 2003 is prior to June 21, 2004, the EFM Application's filing date.

5. The goods identified in the EFM Application are substantially similar or related to Opposer's goods and services in the EF Application.

6. As a result of the similarity between Opposer's EF mark and Applicant's EFM mark and the relatedness of the parties' goods set forth in their respective applications, consumers are likely to confuse Applicant's goods with those of Opposer.

7. Registration of the mark in the Application and use of Applicant's mark are likely to cause confusion, or to cause mistake, or to deceive, particularly as to the source or origin of the goods with which Applicant uses its mark, to induce consumers to believe that the goods of Applicant are those of Opposer, or are endorsed by, or are in some way affiliated or associated with Opposer.

8. If the Application is permitted to register, the registration would presumptively entitle Applicant to *prima facie* exclusive ownership and rights to the mark EFM and would, therefore, cause confusion among consumers as to the separate and distinct sources of Applicant's goods and Opposer's goods and the relationship of Opposer to Applicant, thereby damaging Opposer's goodwill in his EF Mark, diluting the value thereof and causing Opposer's

business and reputation irreparable harm, all to the detriment of Opposer who has expended considerable sums and effort in promoting its EF Mark.

WHEREFORE, Opposer requests that the registration sought by Applicant in the United States Application Serial No. 78/438,487 be refused and that this Notice of Opposition be sustained in favor of Opposer.

Respectfully submitted,

TOWNSEND AND TOWNSEND AND CREW LLP

Date: November 18, 2005.

By



Marc M. Gorelnik
Attorneys for Opposer

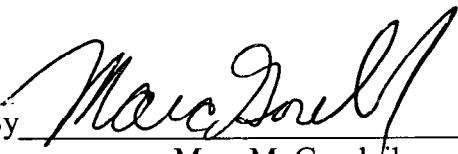
AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

Please charge the fee of \$300 per class to Townsend and Townsend and Crew LLP, Deposit Account No. 20-1430. Please charge any additional fees that may be due, or credit any overpayment, to our Deposit Account No. 20-1430.

Respectfully submitted,

TOWNSEND AND TOWNSEND AND CREW LLP

Date: November 18, 2005.

By 

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