

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

Applicant : RBC Bearings Inc.
Serial No. : 78/745,159
Filed : November 2, 2005
Mark : 400 SERIES
Int. Class : 7
Goods : Ball Bearings, etc.
Published : December 26, 2006
Atty. Dkt. : KAY01 L-306

TTAB

Kaydon Corporation,)
)
Opposer,)
)
v.)
)
RBC Bearings Inc.,)
)
Applicant.)
_____)

Opposition No. _____

Commissioner for Trademarks
PO Box 1451
Alexandria, Virginia 22313-1451

Dear Sir:

TRANSMITTAL LETTER

Enclosed please find two copies of a Notice of Opposition to be filed with the Trademark Trial and Appeal Board, and served on Applicant to initiate the above-entitled action.



04-20-2007

A check for the Opposition fee in the amount of three hundred dollars (\$300.00) is also enclosed. Please charge any additional fees, or credit overpayment, to Deposit Account No. 16-2463. A duplicate copy of this sheet is enclosed.

Kindly date stamp and return the enclosed postal card to acknowledge receipt of this request.

Respectfully submitted,

KAYDON CORPORATION

By: Price, Heneveld, Cooper,
DeWitt & Litton, LLP



Carl S. Clark
Registration No. 28 288
695 Kenmoor S.E.
P.O. Box 2567
Grand Rapids, Michigan 49501
616/949-9610

CERTIFICATE OF MAILING

I hereby certify that this correspondence, and all identified enclosures and attachments, are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, PO Box 1451, Alexandria, Virginia 22313-1451, on 4/17/07.



Carl S. Clark

CSC/jkrp
Enclosures

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04/24/2007 6:00PM 00000129 /0745159
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Dear Sir:

NOTICE OF OPPOSITION

Kaydon Corporation, a corporation of the state of Delaware, having its principal place of business at Suite 300, 315 East Eisenhower Parkway, Ann Arbor, Michigan 48108, (hereinafter referred to as "KAYDON" or "Opposer") believes it would be damaged by registration of the above-identified mark on the Principal Register (hereinafter referred to as "Applicant's Mark") by RBC Bearing Inc. (hereinafter referred to as "RBC" or "Applicant"), and hereby opposes the same.

As grounds for opposing registration of Applicant's Mark, Opposer, upon information and belief, alleges as follows:

OPPOSER'S PRODUCT DESIGNATIONS

1. Opposer is now, and has been for many years, engaged in the manufacture and sale of a wide variety of bearing products including, but not limited to, ball bearings for machines and other applications. More specifically, Opposer, along with its predecessors in title, have been manufacturing and selling various bearing products since at least as early as 1941.

2. Through the years, Opposer has used the term "SERIES" in combination with various alphanumeric prefixes and suffixes in catalogs, advertising, order forms, drawings and the like, to designate or identify certain of Opposer's bearing products and/or groups of bearing products. Such uses include, but are not limited to, "8MM SERIES", "13MM SERIES", "20MM SERIES", "JA SERIES", "JAA SERIES", "500 SERIES", "5000 SERIES" and other similar designations.

3. Through the years, Opposer has also used a multi-digit alphanumeric system to designate or identify certain bearing products and/or groups of bearing products, which incorporate several consecutive numbers that relate to certain characteristics of its bearing products, and are referenced by Opposer, its customers, and others along with the term "SERIES". Such uses include, but are not limited to, the use of the phrase "400 SERIES" to identify bearings having a 40 inch bore size, such as part numbers KF400ARO, KG400XPO, JG400XPO, etc., use of the phrase "350 SERIES" to identify bearings having a 35 inch bore size, such as part numbers KF350XP, KG350XPO, KG350CPO, etc., and other similar uses.

4. At least some of Opposer's product designations, as outlined above, are recognized and used by customers and potential customers with respect to bearing products originating with Opposer.

5. Applicant's Mark is the subject of one of eight related pending federal trademark applications by Applicant for bearings on marks which include a numeral prefix with the "SERIES" suffix, all of which have been published for opposition, and opposed by Opposer on similar grounds, details of which are set forth below.

<u>MARK</u>	<u>APPLICANT</u>	<u>SERIAL NO.</u>
400 SERIES	RBC BEARINGS INC.	78/745,159
500 SERIES	RBC BEARINGS INC.	78/754,811
600 SERIES	RBC BEARINGS INC.	78/745,178
3000 SERIES	RBC BEARINGS INC.	78/745,182
5000 SERIES	RBC BEARINGS INC.	78/754,833
6900 SERIES	RBC BEARINGS INC.	78/754,907
7500 SERIES	RBC BEARINGS INC.	78/754,876
7600 SERIES	RBC BEARINGS INC.	78/754,894

Consequently, Applicant's Mark could be construed as one of a potential "family" of marks for bearing products that have a numeral prefix and a "SERIES" suffix.

6. Opposer will be damaged by registration of Applicant's Mark on the Principal Register of the United States Patent and Trademark Office, since by virtue of said registration, Applicant would be in a position to raise doubts as to the right of Opposer to continue using Opposer's aforesaid product designations in conjunction with its bearing

products, and Applicant would have the ostensible right to use and exclude others from using the phrase "400 SERIES" and other similar terms for bearing products.

MERELY DESCRIPTIVE

7. The "400 SERIES" term which Applicant seeks to register is used by Applicant to designate a group of bearing products having common structural and/or functional characteristics. Consequently, Applicant's Mark is believed to be merely descriptive of the goods recited in the subject application, since it describes an ingredient, quality, characteristic, function, feature, purpose, or use of the same.

8. Applicant has not and cannot demonstrate that Applicant's Mark has become distinctive of Applicant's bearing products in commerce.

9. Opposer believes it would be damaged by registration of Applicant's Mark on the Principal Register of the United States Patent and Trademark Office, since by virtue of said registration, Applicant would be in a position to raise doubts as the right of Opposer to use the term "400 SERIES" and like terms for its bearing products, and would grant to Applicant the ostensible right to use and exclude others from using the same.

APPLICANT'S MARK IS GENERIC

10. The "400 SERIES" term which Applicant seeks to register is a term that the relevant purchasers understand primarily as the common or classic name for the goods recited in Applicant's application, and is incapable of functioning as a registerable trademark noting a single source.

11. Opposer, along with others in the bearing industry, have used and continue to use the term "400 SERIES" and similar terms in a common descriptive or generic manner to refer to the same broad class of bearing products.

12. Opposer believes it would be damaged by registration of Applicant's Mark on the Principal Register of the United States Patent and Trademark Office, since by virtue of said registration, Applicant would be in a position to raise doubts as to the right of Opposer, as well as others, to use "400 SERIES" and like terms for bearing products, and would grant to Applicant the ostensible right to use and exclude others from using the same.

IMPROPER SPECIMEN

13. Applicant's mark is not registerable since the specimen filed in the United States Patent and Trademark Office on which Applicant bases its claim for registration does not show that Applicant's Mark constitutes a trademark or was used or displayed in a trademark sense.

WHEREFORE, Opposer prays that registration of Applicant's Mark, as set forth in the above-identified trademark application, be denied and refused, and that this opposition be sustained.

Respectfully submitted,

KAYDON CORPORATION

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