

ESTTA Tracking number: **ESTTA137272**

Filing date: **04/25/2007**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	The Timken Company
Granted to Date of previous extension	04/25/2007
Address	1835 Dueber Avenue, S.W.P.O. Box 6930 Canton, OH 44706-0930 UNITED STATES

Attorney information	Katherine W. Schill Michael Best & Friedrich LLP 100 E. Wisconsin Avenue Suite 3300 Milwaukee, WI 53202 UNITED STATES mkeipdocket@michaelbest.com, lsmeddings@michaelbest.com, kghull@michaelbest.com, kwschill@michaelbest.com Phone:414-277-0656
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Applicant Information

Application No	78754811	Publication date	12/26/2006
Opposition Filing Date	04/25/2007	Opposition Period Ends	04/25/2007
Applicant	RBC Bearings Inc. One Tribology Center Oxford, CT 06478 UNITED STATES		

Goods/Services Affected by Opposition

Class 007. First Use: 1918/08/00 First Use In Commerce: 1918/08/00
All goods and services in the class are opposed, namely: Ball bearings for machines, motors, engines, and tools

Applicant Information

Application No	78745178	Publication date	12/26/2006
Opposition Filing Date	04/25/2007	Opposition Period Ends	
Applicant	RBC Bearings Inc. One Tribology Center Oxford, CT 06478 UNITED STATES		

Goods/Services Affected by Opposition

Class 007. First Use: 1946/00/00 First Use In Commerce: 1946/00/00

All goods and services in the class are opposed, namely: Ball bearings for machines, motors, engines, and tools

Applicant Information

Application No	78745182	Publication date	12/26/2006
Opposition Filing Date	04/25/2007	Opposition Period Ends	
Applicant	RBC Bearings Inc. One Tribology Center Oxford, CT 06478 UNITED STATES		

Goods/Services Affected by Opposition

Class 007. First Use: 1946/00/00 First Use In Commerce: 1946/00/00
All goods and services in the class are opposed, namely: Ball bearings for machines, motors, engines, and tools

Applicant Information

Application No	78745159	Publication date	12/26/2006
Opposition Filing Date	04/25/2007	Opposition Period Ends	
Applicant	RBC Bearings Inc. One Tribology Center Oxford, CT 06478 UNITED STATES		

Goods/Services Affected by Opposition

Class 007. First Use: 1946/00/00 First Use In Commerce: 1946/00/00
All goods and services in the class are opposed, namely: Ball bearings for machines, motors, engines, and tools

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
The mark comprises matter that, as a whole, is functional	Trademark Act section 2(e)(5)

Attachments	A2066867.PDF (4 pages)(16118 bytes)
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Signature	/Katrina G. Hull/
Name	Katrina G. Hull
Date	04/25/2007

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

THE TIMKEN COMPANY,

Opposer,

Opposition No. _____

v.

Serial Nos.: 78/754,811
78/745,178
78/745,182 and
78/745,159

ROLLER BEARING COMPANY
OF AMERICA, INC.

Applicant.

NOTICE OF OPPOSITION

In the matter of the trademark applications Serial Nos. 78/754,811; 78/745,178; 78/745,182; and 78/745,159; for the marks 500 SERIES; 600 SERIES; 3000 SERIES; and 400 SERIES, respectively, in International Class 7 for “Ball bearings for machines, motors, engines and tools”, published in the Official Gazette on December 26, 2006, Opposer, The Timken Company (“Timken” or “Opposer”), believes it will be damaged by registration of the marks shown in the above-identified applications, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer, The Timken Company, is a corporation organized and existing under the laws of the State of Iowa with its headquarters located in Canton, OH.
2. Timken is a global leader in the manufacture of bearings. Henry Timken patented the tapered roller bearing in 1898, and founded The Timken Company one year later.
3. Timken sells its bearing products throughout the United States in competition with several companies, including but not limited to Applicant Roller Bearing Company of America, Inc. (“Applicant” or “RBC”).
4. Upon information and belief, the numbers 400, 500, 600, and 3000 denote a particular series of bearing product, and each number describes specific type and size

characteristics of bearings within each series.

5. Upon information and belief, the numbers 400, 500, 600, and 3000 have been used by many companies for decades as size and type indicators for particular bearing products.

6. The terms in question, *i.e.*, 400 SERIES, 500 SERIES, 600 SERIES, and 3000 SERIES, are not registrable on the Principal Register under 15 U.S.C. §1052(e) because they are merely descriptive of the products sold under the designations.

7. Upon information and belief, the terms have not acquired, and are incapable of acquiring, secondary meaning or distinctiveness.

8. Upon further information and belief, the applications at issue seek to register designations that function as size and type indicators, not as trademarks.

9. Upon further information and belief, the terms in question are not registrable on the Principal Register under 15 U.S.C. § 1052(e) because they are functional.

10. Registration of the terms 400 SERIES, 500 SERIES, 600 SERIES, and 3000 SERIES by Applicant would deprive Opposer of the ability to use these designations as size and type indicators, thereby damaging Opposer. Registration would confer upon Applicant an unfair exclusive advantage to use descriptive, generic, and/or functional terms in connection with its bearing products, to the damage of Opposer, who has an interest in using the terms in their descriptive sense, as well as others with the same or a similar interest.

WHEREFORE, Timken requests that this opposition be sustained and the registrations sought by Applicant be refused. Please charge the required fee of \$1,200.00 to Deposit Account No. 13-3080.

Dated this 25th day of April, 2007.

MICHAEL BEST & FRIEDRICH LLP
Attorneys for Opposer
The Timken Company

By: /Katrina G. Hull/
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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that the original of said document was filed on the same day with the U.S.P.T.O. by electronically filing through the Electronic System for Trademark Trials and Appeals at <http://esta.uspto.gov>.

On the 25th day of April 2007.

/Katrina G. Hull/
Katrina G. Hull