

ESTTA Tracking number: **ESTTA827007**

Filing date: **06/14/2017**

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	Daniel Measurement and Control, Inc.
Granted to Date of previous extension	07/05/2017
Address	11100 Brittmoore Park Drive Houston, TX 77041 UNITED STATES

Attorney information	GREGORY L MAAG CONLEY ROSE PC PO BOX 3267 HOUSTON, TX 77253-3267 UNITED STATES tmhou@conleyrose.com Phone:7132388000
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Applicant Information

Application No	86969947	Publication date	03/07/2017
Opposition Filing Date	06/14/2017	Opposition Period Ends	07/05/2017
Applicant	ADALET/SCOTT FETZER COMPANY 4801 West 150th Street Cleveland, OH 44135 UNITED STATES		

Goods/Services Affected by Opposition


Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Software for use in calibrating, configuring, updating, and maintaining fluid measuring instrumentation and gauges; software for use in analyzing and transmitting data relating to fluid flow, fluid temperature, and fluid pressure in measuring instrumentation and gauges
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Dilution by tarnishment	Trademark Act Sections 2 and 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3978721	Application Date	07/30/2009
Registration Date	06/14/2011	Foreign Priority	NONE

		Date	
Word Mark	METERLINK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2011/04/25 First Use In Commerce: 2011/04/25 Computer software, namely, user interface computer software used in the oil and gas industry to monitor and collect real-time and historical measurement data from flow meters, to configure upper and lower operational limits of flow meters, to log diagnostic information about the performance of flow meters, to perform historical analysis of flow meters, and to support communications regarding such information to host computers</p>		

Attachments	77792994#TMSN.png(bytes) Notice_of_Opposition_MERILINK.pdf(22575 bytes)
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Signature	/gregory l. maag/
Name	GREGORY L MAAG
Date	06/14/2017

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

In re U.S. Trademark Application Serial No. 86/969,947 for the mark MERILINK, filed on April 9, 2016, published on March 7, 2017, and having the current owner of record Adalet/Scott Fetzer Company.

Daniel Measurement and Control, Inc.	§	
	§	
Opposer,	§	
	§	
vs.	§	Opposition No. _____
	§	
Adalet/Scott Fetzer Company,	§	
	§	
Applicant.	§	

NOTICE OF OPPOSITION

Commissioner:

Daniel Measurement and Control, Inc. (“Opposer”), a corporation organized under the laws of the state of Delaware and having a principal place of business at 11100 Brittmoore Park Drive, Houston, Texas 77041, United States, believes that it will be damaged by Adalet/Scott Fetzer Company’s registration of the mark MERILINK in International Class 009 as shown in U.S. Trademark Application Serial No. 86/969,947. Accordingly, Opposer hereby opposes the same under the provisions of the Trademark Act of 1946, § 1063 of Title 15 of the United States Code.

Opposer alleges the following as standing to oppose the application and as grounds for the opposition:

1. The Opposed U.S. Trademark Application Serial No. 86/969,947 for the mark MERILINK (the “Opposed Application”) was filed on April 9, 2016 by Adalet/Scott Fetzer Company (“Applicant”).

2. The Opposed Application seeks registration of the mark MERILINK for the following goods: US 021 023 026 036 038. G & S: “Software for use in calibrating, configuring, updating, and maintaining fluid measuring instrumentation and gauges; software for use in analyzing and transmitting data relating to fluid flow, fluid temperature, and fluid pressure in measuring instrumentation and gauges.” The Opposed Application is based on Applicant’s stated intent to use the mark.

3. The Opposed Application published on March 7, 2017. The U.S. Trademark Trial and Appeal Board granted Opposer one or more extensions of time to file this opposition through July 5, 2017.

4. Pursuant to the U.S. Trademark Office records, the current owner of the Opposed Application is Adalet/Scott Fetzer Company of 4801 West 150th Street, Cleveland, Ohio 44135.

5. Opposer is the owner of the trademark METERLINK, a mark that is used by Opposer in connection with goods that include: computer software, namely, user interface computer software used in the oil and gas industry to monitor and collect real-time and historical measurement data from flow meters, to configure upper and lower operational limits of flow meters, to log diagnostic information about the performance of flow meters, to perform historical analysis of flow meters, and to support communications regarding such information to host

computers. METERLINK is registered under U.S. Trademark Registration No. 3,978,721 and issued on the Principal Register on June 14, 2011.

6. Opposer's use of its METERLINK mark began at least as early as April 25, 2011 in interstate commerce on, or in connection with, the above-identified goods, and such use has been continuous and continues to date.

7. Opposer's rights with respect to the METERLINK mark predate any rights Applicant can claim to the mark MERILINK which is the subject of Applicant's Opposed Application.

8. By virtue of Opposer's long and exclusive use of the METERLINK mark and the substantial advertising, marketing, sales and quality control exercised over the years, the METERLINK mark has become well known and recognized as an indication of high-quality products that emanate from a single source. As such, Opposer has built up and thereby acquired valuable and significant goodwill symbolized by its METERLINK mark, and the METERLINK mark has become an important asset of substantial value as a symbol of Opposer's identity and its longstanding business activities. The relevant consumers and purchasers have come to know the METERLINK mark as an indicator of products that originate solely from Opposer.

9. The goodwill embodied in the METERLINK trademark, and consequently Opposer's valuable reputation and credibility in the oil and gas industry, and in the other industries in which Opposer markets and sells, depends on the integrity and distinctiveness of the METERLINK trademark as an identifier that is used exclusively by Opposer, and not used by others.

10. Applicant's opposed MERILINK mark is highly similar to that of Opposer's registered mark METERLINK, including in both sound and in appearance. The goods and

services with which Applicant intends to use the MERILINK mark, include “software for use in calibrating, configuring, updating, and maintaining fluid measuring instrumentation and gauges; software for use in analyzing and transmitting data relating to fluid flow, fluid temperature, and fluid pressure in measuring instrumentation and gauges.” These goods are highly similar to, and overlap extensively with, the goods with which Opposer has long used its METERLINK mark, such goods including computer software, namely, user interface computer software used in the oil and gas industry to monitor and collect real-time and historical measurement data from flow meters, to configure upper and lower operational limits of flow meters, to log diagnostic information about the performance of flow meters, to perform historical analysis of flow meters, and to support communications regarding such information to host computers. Pursuant to §2(d), 15 U.S.C. § 1052(d), Opposer asserts, and intends to prove at trial, that Applicant’s mark, as applied to goods or services set forth in the Opposed Application for the mark MERILINK, so resembles Opposer’s previously used and previously registered mark METERLINK as to be likely to cause confusion, mistake, or deception.

11. Applicant’s opposed MERILINK mark so resembles Opposer’s METERLINK mark, a mark that was previously used in the United States by Opposer and not abandoned, as to be likely, when applied to Applicant’s goods or services, to cause confusion, to cause mistake or to deceive with respect to Opposer’s METERLINK mark, and Opposer will be damaged by the registration sought by Applicant.

12. Additionally, Applicant’s opposed MERILINK mark so resembles Opposer’s METERLINK mark as to be likely, when applied to Applicant’s goods or services, to dilute Opposer’s METERLINK mark, and Opposer will be damaged by the registration sought by Applicant.

WHEREFORE, Opposer prays that registration of the mark shown in U.S. Trademark Application Serial No. 86/969,947 be refused, and that the Opposition of this Notice be sustained in favor of Opposer.

Authorization is hereby granted to the U.S. Patent and Trademark Office to deduct the filing fee for the present opposition in the amount of \$300.00 from Conley Rose Deposit Account No. 501515. Should any additional fees be due, please also charge them to Deposit Account No. 501515.

Respectfully submitted,

Dated: June 14, 2017

By: /Gregory L. Maag/
Gregory L. Maag
USPTO Registration No. 32,363
CONLEY ROSE, P.C.
575 N. Dairy Ashford Rd.
Suite 1102
Houston, Texas 77079
Telephone (713) 238-8000
Facsimile (713) 238-8008
E-mail tmhou@conleyrose.com

ATTORNEY FOR OPPOSER

CERTIFICATE OF TRANSMISSION UNDER TBMP 110

I HEREBY CERTIFY that a true and correct copy of this document, *Notice of Opposition*, opposing registration of U.S. Trademark Application Serial No. 86/969,947 for the mark MERILINK, is being filed electronically through <http://esta.uspto.gov> via the Trademark Trial and Appeal Board Electronic Filing System.

On the 14th day of June, 2017.

/Melissa Kirchhoff/

Melissa Kirchhoff

CERTIFICATE OF SERVICE UNDER TBMP 113

I HEREBY CERTIFY that a true and correct copy of the foregoing *Notice of Opposition*, opposing registration of U.S. Trademark Application Serial No. 86/969,947 for the mark MERILINK, is being sent by First Class U.S. Mail, postage prepaid, to counsel for Applicant, Adalet/Scott Fetzer Company, as follows:

John A. Yirga
Tarolli, Sundheim, Covell & Tummino LLP
1300 East Ninth Street
Suite 1700
CLEVELAND, OHIO 44114
United States

On the 15th day of June, 2017.

/Juliya Schuck/

Juliya Schuck