

ESTTA Tracking number: **ESTTA1036520**

Filing date: **02/18/2020**

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

Proceeding	91240198
Party	Defendant Fabryka Obrabiarek RAFAMET SpÅ³lka Akcyjna
Correspondence Address	SZYMON M GURDA CHERSKOV FLAYNIK & GURDA LLC 123 W MADISON STREET, SUITE 400 CHICAGO, IL 60602 UNITED STATES mail@cherskov.com, sgurda@cherskov.com 312-621-1330
Submission	Defendant's Notice of Reliance
Filer's Name	Szymon M. Gurda
Filer's email	sgurda@cherskov.com
Signature	/Szymon M. Gurda/
Date	02/18/2020
Attachments	Notice of Reliance Statement of Use.pdf(117490 bytes) 01 Statement of Use from File Wrapper.pdf(1119438 bytes)

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

Poreba Machine Tool Company LLC)	Serial No.	: 79/196,339
)	Date of Filing	: July 27, 2016
Petitioner,)		
)		
)	Opposition No.	: 91240198
v.)		
)		
)	Mark	:POREBA 1798
)		and design
Fabryka Obrabiarek RAFAMET S.A.)		
)		
Applicant Respondent.)		

DEFENDANT’S FIRST NOTICE OF RELIANCE

Pursuant to TBMP Sec. 704.02, Applicant Rafamet hereby makes of record the attached Statement of Use filed by Petitioner in its now-expired registration. The Statement of Use is available publicly in the file wrapper.

This evidence is relevant to show statements made by Petitioner regarding the relationship between Petitioner and Applicant, at least as of the date of the statement of use, September 27, 2004. Petitioner has referenced the Registration, 1,864,529 in the declaration of Mr. Frank Turi, paragraph 7. The statement of use comprises letterhead, including the statement that “We are trademarking the name “Poreba” as exclusive distributors of their products in North America.” The materials relate to the ultimate issue of the case – the ownership of the mark either by the manufacturer of the goods (Applicant Rafamet) or an ex-distributor (petitioner). Applicant submits this document only for the purpose of the statement made on record on

Petitioner's asserted expired registration, and not for the purpose of establishing the exact date of the termination of the distributor agreement between the parties.

February 18, 2020
Date

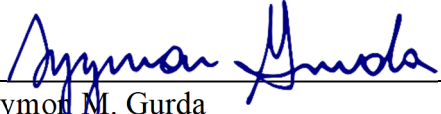
/Szymon M. Gurda/
Szymon M. Gurda, Esq.
CHERSKOV FLAYNIK & GURDA, LLC
123 West Madison Street
Suite 400
Chicago, IL 60602
(Tel) 312-621-1330

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing DEFENDANT'S FIRST NOTICE OF RELIANCE has been served on attorney for Petitioner Poreba Machine Tool Company LLC by forwarding said copy to:

MR. NICK MARSICO
MR. ERIC MALNAR
HUCK BOUMA PC
1755 S NAPERVILLE ROAD #200
WHEATON, IL 60189
UNITED STATES

via e-mail to emalnar@huckbouma.com on February 18, 2020.


Szymon M. Gurda
CHERSKOV FLAYNIK &
GURDA, LLC
123 W. Madison St.
Suite 400
Chicago, Illinois 60602
Counsel for Applicant
Reg. No. 58451

#5

Incoming Correspondence Routing Sheet

Work Location: Post Registration (PRU)

Word Mark: POREBA

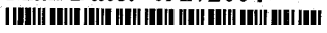
Reg. No.: 1864529



Serial No: 74444980



Mail Date: 09272004





Doc. Type: Combined Section 8 and 9



Examiner: 69987 - TAYLOR, JYLL S.

Fee

RAM Mail Date: 092704



spec not for the current spec

5

LAW OFFICES OF

Kal and Koepfel

725 EAST IRVING PARK ROAD
SUITE "D"
ROSELLE, ILLINOIS 60172
FACSIMILE (630) 894-2213
WRITER'S DIRECT LINE
(630) 893-1800

CHICAGO LOOP OFFICE

BY APPOINTMENT

JOSEPH P. KAL (1857-1917)
CHARLES P. KAL (1898-1987)
DARWIN P. KAL
CALVIN E. KOEPEL

September 23, 2004

CHRISTOPHER D. GALLOWAY

Commissioner of Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

Re: Trademark Renewal
POREBA

Gentlemen:

This is a request for renewal of a current trademark. Enclosed please find the following in support of the application:

- 1) A completed form entitled "Combined Declaration of Use in Commerce/Application for Renewal of Registration of Mark under Sec. 8 & 9 (15 U.S.C. Sec. 1058 & 1059)";
- 2) Check #77178 in the amount of \$500.00 payable to the Commissioner of Patents and Trademarks dated September 23, 2004;
- 3) Copy of correspondence from your office confirming the assignment of the captioned name together with a copy of the trademark assignment form; and
- 4) A stamped return post card addressed to the undersigned.

Please advise if there is anything more needed to renew the POREBA trademark for a ten (10) year period. Your assistance in this matter is appreciated.

Sincerely yours,



Darwin P. Kal

dpk/pwp
Enclosures (4)

**COMBINED DECLARATION OF USE IN COMMERCE/APPLICATION FOR
RENEWAL OF REGISTRATION OF MARK UNDER §§ 8 & 9 (15 U.S.C. §§ 1058 & 1059)~**

~To the Commissioner for Trademarks~

<TRADEMARK/SERVICE MARK INFORMATION>

<Mark> POREBA

<Registration Number> 1864529

<Registration Date> Assigned August 23, 2004

<OWNER INFORMATION>

<Name> Poreba North America, LLC

<Street> 35 Pinelawn Road

<City> Melville

<State> New York

<Country> USA

<Zip/Postal Code> 11747

<DOMESTIC REPRESENTATIVE>~Required ONLY if the owner's address is outside the United States.~<Name> ~is hereby appointed the owner's
representative upon whom notice or process in the proceedings affecting the mark may be served ~

<Street>

<City>

<State>

<Zip Code>

<GOODS AND/OR SERVICES INFORMATION><All Goods and/or Services in Existing Registration>~The owner is using mark in commerce on or in connection with
all goods and/or services listed in the existing registration. If not, list in the next section the goods and/or services to be deleted.~<Goods and/or Services Not in Use to be Deleted>~In the following space, list only those goods and/or services (or
entire class(es)) appearing in the registration for which the owner is **no longer** using the mark in commerce. **LEAVE THIS
SPACE BLANK IF THE OWNER IS USING THE MARK ON OR IN CONNECTION WITH ALL GOODS AND/OR SER-
VICES LISTED IN THE REGISTRATION).**~

10/08/2004 THCCANTS 00000010 1864529

01 FC:6205 100.00 OP
02 FC:6201 400.00 OP**<FEE INFORMATION>**

~Combined §§ 8 & 9 Filing Fee~

\$500.00 x <Number of Classes> 1 = <Filing Fee Due> \$500.00

~Grace Period Fee: If filing during the six-month grace period, enter Combined §§ 8 & 9 Grace Period Fee.~

\$200.00 x <Number of Classes> = <Grace Fee Due>

~Filing Fee Due + Grace Period Fee Due~ = <Total Fees Paid> \$500.00

<SPECIMEN AND SIGNATURE INFORMATION>

~Section 8: Declaration of Use in Commerce

The owner is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as currently used in commerce.

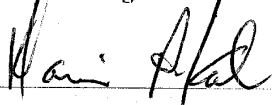
(You MUST ATTACH A SPECIMEN showing the mark as currently used in commerce for at least one product or service in each international class covered.)

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Section 9: Application for Renewal

The registrant requests that the registration be renewed for the goods and/or services identified above.

~Signature~



<Date Signed> September 23, 2004

<Name> Darwin P. Kal

<Title> Attorney - Representative

<CONTACT INFORMATION>

<Name> Darwin P. Kal

<Company/Firm Name> Kal and Koepfel

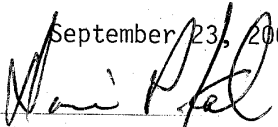
<Street> 725-D East Irving Park Road

69

<City> Roselle,
 <State> Illinois
 <Country> USA
 <Zip/Postal Code> 60172
 <Telephone Number> (630) 893-1800
 <Fax Number> (630) 894-2213
 <e-Mail Address>

<CERTIFICATE OF MAILING> ~Recommended to avoid lateness due to mail delay~

~I certify that the foregoing is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514, on~

<Date of Deposit> September 23, 2004
 ~Signature~ 
 <Name> Darwin P. Kal

The information collected on this form allows the PTO to determine whether a mark for which a registration was issued is still in use in commerce in connection with some or all of the goods identified in the registration. Responses to the request for information are required in order to retain the benefit of a registration on the Principal or Supplemental Register. 15 U.S.C. § 1051 et seq. and 37 C.F.R. Part 2. All information collected will be made public. Gathering and providing the information will require an estimated eleven minutes. Please direct comments on the time needed to complete this form, and/or suggestions for reducing this burden to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington D.C. 20231. Please note that the PTO may not conduct or sponsor a collection of information using a form that does not display a valid OMB control number. (See bottom left side of this form).

Received from <USPTO> at 7/22/03 8:29:14 AM [Eastern Daylight Time]

Euro Machine Tool Co., Inc.

800 Busse Road
Elk Grove Village, IL 60007

Phone: 847-290-0600
Fax: 847-290-0606
Email:
sales@euromachinetool.com

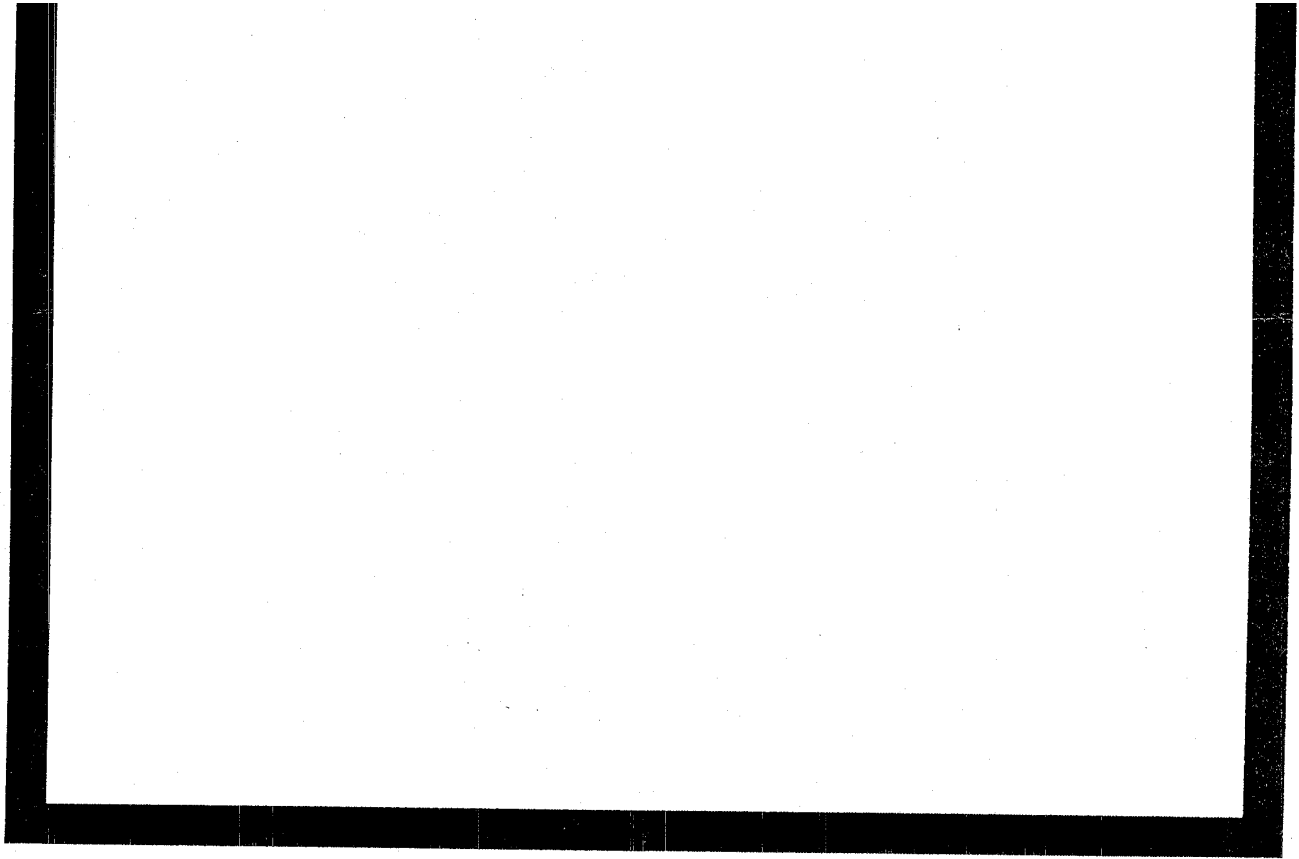


Fax Transmittal Form

EXAMPLE (Sample)

POREBA is a Polish company that has been in business since 1798 and is currently manufacturing various types of heavy equipment and machines. It is located in the town of "Poreba" in Poland.

We are trademarking the name "Poreba" as exclusive distributors of their products in North America.



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8/23/04 7:30 PAGE 002/004 Fax Server



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231



900011953A

AUGUST 23, 2004

PTAS

BARB VILLANDRY, PARALEGAL
CITYPLACE 1
HARTFORD, CT 06103-3499

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 08/23/2004

REEL/FRAME: 002921/0422
NUMBER OF PAGES: 2

BRIEF: ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL
DOCKET NUMBER: 309185-00140

ASSIGNOR:
TOOLMEX CORPORATION

DOC DATE: 06/22/2004
CITIZENSHIP: MASSACHUSETTS
ENTITY: CORPORATION

ASSIGNEE:
POREBA NORTH AMERICA, LLC
35 PINELAWN ROAD
MELVILLE, NEW YORK 11747

CITIZENSHIP: NEW YORK
ENTITY: LIMITED LIABILITY COMPANY

APPLICATION NUMBER: 74444980
REGISTRATION NUMBER: 1864529

FILING DATE: 10/07/1993
ISSUE DATE: 11/29/1994

MARK: POREBA
DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM

COPY

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8/23/04 7:30

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002921/0422 PAGE 2

THERESA FREDERICK, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

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PAGE 004/004

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TRADEMARK ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

08/23/2004
900011953

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Toolmex Corporation		06/22/2004	CORPORATION: MASSACHUSETTS
RECEIVING PARTY DATA			
Name:	Poreba North America, LLC		
Street Address:	35 Pinelawn Road		
City:	Melville		
State/Country:	NEW YORK		
Postal Code:	11747		
Entity Type:	Limited Liability Company: NEW YORK		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	1864529	POREBA	
CORRESPONDENCE DATA			
Fax Number:	(860)275-0343		
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>			
Phone:	860-275-0589		
Email:	ptomall@dbh.com		
Correspondent Name:	Barb Villandry, Paralegal		
Address Line 1:	CityPlace 1		
Address Line 4:	Hartford, CONNECTICUT 06103-3499		
ATTORNEY DOCKET NUMBER:	309185-00140		
NAME OF SUBMITTER:	Barb Villandry, Paralegal		
Total Attachments: 1 source=Poreba#page1.tif			

CH 1864529 \$40.00

alc@u.arizona.edu

Subject: From Newfoundland

Subject: new invention

This just in from Newfoundland:

A scientist from Memorial University in St. John's has invented a bra that keeps women's breasts from jiggling and prevents the nipples from pushing through the fabric when cold weather sets in.

At a news conference announcing the invention, the scientist was taken outside by a large group of men, who kicked the shit out of him.

9/23/2004

Incoming Correspondence Routing Sheet

Physical Location: **FILE REPOSITORY (FRANCONIA)**

Word Mark: **POREBA**

Reg. No.: 1864529



Serial No: 74444980



Mail Date: 09272004





Doc. Type: Combined Section 8 and 9



Examiner: 69987 - TAYLOR, JYLL S.

Fee

RAM Mail Date: 092704

