

ESTTA Tracking number: **ESTTA914346**

Filing date: **08/08/2018**

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	Gary Dannar
Granted to Date of previous extension	08/15/2018
Address	323 South Walnut Street Muncie, IN 47305 UNITED STATES

Attorney information	Natalma M. McKnew/Thomas W. Epting Smith Moore Leatherwood LLP 2 West Washington Street, Suite 1100 Greenville, SC 29601 UNITED STATES Email: tami.mcknew@smithmoorelaw.com, tom.epting@smithmoorelaw.com, barbara.ballew@smithmoorelaw.com Phone: 864-751-7600
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Applicant Information

Application No	87680147	Publication date	04/17/2018
Opposition Filing Date	08/08/2018	Opposition Period Ends	08/15/2018
Applicant	Ecoflow Technology Limited Flat/Rm 01 11F, CRE Centre 889 Cheung Sha Wan Road, Lai Chi Kok Hong Kong, N/A CHINA		

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: Batteries, electric, for vehicles; Battery boxes; Charging appliances for rechargeable equipment; Electric accumulators; Lithium ion batteries; Photovoltaic cells; Rechargeable batteries; Rechargers for electric accumulators; Solar batteries; Solar panels for the production of electricity
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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)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4946418	Application Date	04/11/2012
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Registration Date	04/26/2016	Foreign Priority Date	NONE
Word Mark	MOBILE POWER STATION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2013/12/17 First Use In Commerce: 2015/11/13 TRACTORS TO WHICH THE FOLLOWING IMPLEMENTS MAY BE ATTACHED--MOWERS, SNOW BLOWERS, SWEEPERS, GRAPPLE BUCKETS AND BLADES FOR MOVING EARTH AND LOOSE OBJECTS, EARTH AUGERS, HYDRAULIC BUCKETS, CHAIN SAWS, CRIMPERS, SHEARS, IMPACT WRENCHES, WATER PUMPS, ASPHALT PLANERS, TREE STUMP GRINDERS, COMPACTORS, BEACH RAKES, HERBICIDE SPRAYERS, CULTIVATORS, PLOWS, TRENCHERS, EARTH BORERS, PRUNERS, AND CLIPPERS		

U.S. Registration No.	5099081	Application Date	03/04/2016
Registration Date	12/13/2016	Foreign Priority Date	NONE
Word Mark	MPS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2015/11/00 First Use In Commerce: 2016/01/00 Tractors to which the following implements may be attached, electric power generators, mowers, snow blowers, sweepers, grapple buckets and blades, equipment for moving earth and loose objects, earth augers, hydraulic buckets, chain saws, crimpers, shears, impact wrenches, water pumps, asphalt planers, tree stump grinders, compactors, beach rakes, herbicide sprayers, cultivators, plows, trenchers, earth borers, pruners, and clippers		

Attachments	85594875#TMSN.png(bytes) 86929322#TMSN.png(bytes) Notice of Opposition-87680147.pdf(30466 bytes)
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Signature	/Natalma M. McKnew/
Name	Natalma M. McKnew
Date	08/08/2018

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

In the Matter of Application No. 87/680,147

For the Mark: RIVER BANK MOBILE POWER STATION (and Design)

Published in the Official Gazette on April 17, 2018

Gary Dannar,)	
)	Opposition No. _____
Opposer,)	
)	
v.)	
)	
Ecoflow Technology Limited,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer Gary Dannar (“Dannar” or “Opposer”), an individual resident of the State of Indiana, will be damaged by registration of the mark recited in the application referenced above, and hereby opposes same.

As grounds for its opposition, Dannar alleges that:

1. Opposer is the owner of U.S. Registration No. 4,946,418, registered on April 26, 2016, for the mark, “MOBILE POWER STATION®;” and U.S. Registration No. 5,099,081, registered on December 13, 2016 for the mark, “MPS®” (collectively, “Opposer’s Registrations”).

2. Since at least as early as 2015, well prior to the November 10, 2017 filing date of Applicant’s application No. 87/680,147 (“Applicant’s Application”), Opposer adopted and has continuously used and/or licensed others to use thereafter, without abandonment, his “MOBILE POWER STATION” and “MPS” marks (collectively “Opposer’s Marks”) in connection with

goods, including, but not limited to, tractors to which the following implements may be attached-
-mowers, snow blowers, sweepers, grapple buckets and blades for moving earth and loose
objects, earth augers, hydraulic buckets, chain saws, crimpers, shears, impact wrenches, water
pumps, asphalt planers, tree stump grinders, compactors, beach rakes, herbicide sprayers,
cultivators, plows, trenchers, earth borers, pruners, and clippers, in International class 12
(collectively, “Opposer’s Goods”).

3. Opposer’s Registrations are valid and uncancelled, in full force and effect and are
prima facie evidence of Opposer’s exclusive right to use Opposer’s Marks in commerce in
connection with Opposer’s Goods.

4. Opposer’s continuous public use and promotion of Opposer’s Marks has been of
such nature and extent as to create, in the mind of the relevant purchasing public, an association
of Opposer’s MOBILE POWER STATION® and MPS® marks with a single source of
Opposer’s Goods.

5. Opposer’s Marks are of great value, identify goods and services originating with
Opposer, and distinguish the goods and services of the Opposer from all similar goods and
services of others. Opposer has built up a large and considerably valuable business and goodwill
in said Marks.

6. On information and belief, Applicant, Ecoflow Technology Limited is a
corporation formed pursuant to the laws of China, with an address of Flat/Rm 01 11F, CRE
Centre, 889 Cheung Sha Wan Road, Lai Chi Kok, Hong Kong, China.

7. Applicant’s Application was filed on November 10, 2017 for use in connection
with the following goods in International Class 009 (collectively “Applicant’s Goods”): batteries,
electric, for vehicles; battery boxes; charging appliances for rechargeable equipment; electric

accumulators; lithium ion batteries; photovoltaic cells; rechargeable batteries; rechargers for electric accumulators; solar batteries; solar panels for the production of electricity.

8. Applicant's alleged Mark, RIVER BANK MOBILE POWER STATION, is so similar to Opposer's Marks, and in particular, Opposer's MOBILE POWER STATION® mark that confusion will result between the use of Opposer's Marks in connection with Opposer's Goods, on the one hand, and the conflicting use by Applicant of Applicant's Mark in connection with Applicant's Goods, on the other hand. Therefore, Opposer will be harmed by the registration of Applicant's Mark.

9. In view of Opposer's Mark and Opposer's Goods, use and registration by the Applicant of Applicant's Mark in connection with Applicant's Goods is likely to deceive purchasers into believing that Applicant's Goods emanate from Opposer, which in turn will cause great damage to Opposer. Opposer opposes registration of Applicant's Mark for all goods asserted by Applicant in International Class 009.

10. According rights of federal registration to Applicant's Mark would be inimical to the equal or superior right of Opposer to use Opposer's Marks and/or the same or similar term in connection with similar or commercially-related goods and services.

11. Through wide promotion and public dissemination, Opposer's Mark became famous at least as early as January 2017.

12. The registration of Applicant's Mark is likely to cause dilution pursuant to Trademark Act Section 43(c).

13. If there is any doubt as to the possibility of confusion among consumers, that doubt should be resolved in favor of the Opposer.

14. For the reasons set forth above, Opposer will be damaged by registration of Applicant's Mark.

WHEREFORE, Opposer prays that said Application No. 87/680,147 be refused registration and that this Opposition be sustained in favor of Opposer.

This Opposition is submitted together with the statutory filing fee of \$400. Should any additional fee be required, please charge the same to Deposit Account No. 502190.

Opposer appoints Thomas W. Epting and Natalma M. McKnew, along with the law firm of Smith Moore Leatherwood LLP, having as one of its offices located at 2 West Washington Street, Suite 1100, Greenville, South Carolina 29601, to transact all business on its behalf in connection with this Opposition.

CURRENT ADDRESS OF APPLICANT

To the best of Opposer's knowledge, the current address of the Applicant is Flat/Rm 01 11F, CRE Centre, 889 Cheung Sha Wan Road, Lai Chi Kok, Hong Kong, China.

Respectfully submitted,

By: /Natalma M. McKnew/
Natalma McKnew, Esq.
Thomas W. Epting, Esq.
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Attorneys for Opposer Gary Dannar

Dated: August 8, 2018

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

In the Matter of Application No. 87/680,147

For the Mark: RIVER BANK MOBILE POWER STATION (and Design)

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Opposer,)	
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Ecoflow Technology Limited,)	
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Applicant.)	

CERTIFICATE OF MAILING

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on the following parties by mailing said copy on August 8, 2018 via First Class Mail, postage prepaid to:

Ecoflow Technology Limited
Flat/Rm 01 11F, CRE Centre,
889 Cheung Sha Wan Road
Lai Chi Kok, Hong Kong
CHINA

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