

ESTTA Tracking number: **ESTTA980534**

Filing date: **06/13/2019**

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	Energy North Incorporated
Granted to Date of previous extension	06/16/2019
Address	Two International Way Lawrence, MA 01843 UNITED STATES
Party who filed Extension of time to oppose	HEG Inc.
Relationship to party who filed Extension of time to oppose	Merger recorded January 8, 2019 at reel/frame 6569/0514

Correspondence information	Brian L. Michaelis Seyfarth Shaw LLP Two Seaport Lane Suite 300 Boston, MA 02210-2028 UNITED STATES bosippto@seyfarth.com, laxttabdocket@seyfarth.com 617-946-4830
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**Applicant Information**

Application No	79216868	Publication date	12/18/2018
Opposition Filing Date	06/13/2019	Opposition Period Ends	06/16/2019
International Registration No.	1366012	International Registration Date	05/26/2017
Applicant	HAFFNER ENERGY 2 place de la Gare F-51300 VITRY LE FRANCOIS FRANCE		

**Goods/Services Affected by Opposition**

Class 004. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Biofuels; fuels; electrical energy; fuel gas; oil-gas, namely, compressed petroleum gas; solidified fuel gas
Class 007. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Machines, namely, feeding apparatus for-

biomass boilers; machines, namely, scale collectors for biomass boilers; mechanical smoke condensing installations; high energy chargers being parts of gas production machines; steam condensers as parts of machines; steam/oil separators; heat exchangers being parts of machines; filters being parts of machines, motors and engines for filtering gases; electricity generators; mechanical smoke condensing installations; dust exhausting installations for cleaning purposes; suction machines for industrial use; pressure regulators being parts of machines; separators, namely, dust separators; blowing machines for the compression, exhaustion and transport of gases; superheaters in the nature of steam engine boilers; high energy chargers being parts of gas production machines

Class 011. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Pressure regulators for water and gas installations; heat accumulators; steam accumulators; heating apparatus for solid, liquid or gaseous fuels; gas scrubbing apparatus; heating installations, namely, biomass burners, biomass boilers and biomass heaters; biomass heating apparatus; refining towers for distillation; heat exchangers not being parts of machines; heating boilers and oil and gas burners for the chemical treatment of biomass through heating; heating equipment, namely, biomass heaters; evaporators to separate vapor from dry matter; biomass ovens, other than for laboratory use; heating boiler hearths; steam heating boilers other than machine parts; incinerators; automatic ash conveyor installations in the nature of conveyor belts designed to remove ash automatically from the boiler; hot water heating installations; industrial treatment installations, namely, heating installations for the treatment of biomass; gas scrubbers as parts of gas installations; refining towers for distillation

Class 037. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Construction consultation; factory construction; industrial installations, namely, construction of plants and installations for electricity and gas; burner maintenance and repair; maintenance and repair of solid, liquid or gaseous combustion heating apparatus; maintenance and repair of industrial heating equipment; construction information; information relating to the repair of installations for electricity and gas; heating equipment installation and repair; furnace installation and repair; irrigation devices installation and repair; installation and repair of devices for production, collection and distribution of gas; installation and repair of refrigerating apparatus for industrial purposes; cleaning and repair of industrial boilers; building construction supervision

Class 040. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Rental of boilers; destruction of waste and trash; production of energy; rental of generators; biomass gas refining services; recycling of trash and waste; waste processing, namely, waste treatment and sorting of waste and of recoverable raw materials; recycling of waste

Class 042. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Architectural services; architectural consultancy; energy auditing; scientific information and advice to reduce energy consumption; technological consulting services in the field of energy production; quality control; surveying, namely, engineering work; scientific information and advice on carbon offsetting; engineering; construction drafting services; research and development of new products for others; technical research in the field of biomass processing and energy production; physics research; mechanical research; biological research services; environmental protection-related research

## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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## Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4859458	Application Date	04/22/2015
Registration Date	11/24/2015	Foreign Priority Date	NONE
Word Mark	HAFFNER'S		

Design Mark	<b>HAFFNER'S</b>
Description of Mark	NONE
Goods/Services	Class 037. First use: First Use: 1925/00/00 First Use In Commerce: 1995/00/00 Automobile service station services; Car washing; Vehicle fueling services; Vehicle service stations Class 039. First use: First Use: 1925/00/00 First Use In Commerce: 1995/00/00 Fuel delivery services

Attachments	86606294#TMSN.png( bytes ) HAFFNER_ENERGY_OPPOSITION.pdf(18249 bytes )
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Signature	/Brian L. Michaelis/
Name	Brian L. Michaelis
Date	06/13/2019

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

In the Matter of Application Serial No. 79216868  
Published in the Official Gazette of December 18, 2018  
Mark: HAFFNER ENERGY

Energy North Incorporated,  
Opposer,

v.

Haffner Energy Societe Par Actions  
Simplifiece,  
Applicant.

Opposition No.

**NOTICE OF OPPOSITION**

Opposer Energy North Incorporated ("Opposer") believes that it will be damaged by registration of the mark shown in Application Serial No. 79/216868, and hereby opposes the same. As grounds for opposition, Opposer alleges as follows:

1. Opposer, is a Massachusetts company with offices in Lawrence, Massachusetts, and the owner of U.S. Trademark Reg. No. 4859458 for the mark HAFFNER'S.
2. Upon information and belief, applicant, Haffner Energy Societe Par Actions Simplifiece ("Applicant") is a French company with offices in Vitry Le Francois, France.
3. On May 26, 2017, Applicant filed Application Serial No. 79/216868 (the "Opposed Application") to register the mark "HAFFNER ENERGY" on the Principal Register. The Opposed Application has been amended through prosecution to recite goods/services in classes:  
  
IC 004. US 001 006 015. G & S: Biofuels; fuels; electrical energy; fuel gas; oil-gas, namely, compressed petroleum gas; solidified fuel gas

IC 007. US 013 019 021 023 031 034 035. G & S: Machines, namely, feeding apparatus for biomass boilers; machines, namely, scale collectors for biomass boilers; mechanical smoke condensing installations; high energy chargers being parts of gas production machines; steam condensers as parts of machines; steam/oil separators; heat exchangers being parts of machines; filters being parts of machines, motors and engines for filtering gases; electricity generators; mechanical smoke condensing installations; dust exhausting installations for cleaning purposes; suction machines for industrial use; pressure regulators being parts of machines; separators, namely, dust separators; blowing machines for the compression, exhaustion and transport of gases; superheaters in the nature of steam engine boilers; high energy chargers being parts of gas production machines

IC 011. US 013 021 023 031 034. G & S: Pressure regulators for water and gas installations; heat accumulators; steam accumulators; heating apparatus for solid, liquid or gaseous fuels; gas scrubbing apparatus; heating installations, namely, biomass burners, biomass boilers and biomass heaters; biomass heating apparatus; refining towers for distillation; heat exchangers not being parts of machines; heating boilers and oil and gas burners for the chemical treatment of biomass through heating; heating equipment, namely, biomass heaters; evaporators to separate vapor from dry matter; biomass ovens, other than for laboratory use; heating boiler hearths; steam heating boilers other than machine parts; incinerators; automatic ash conveyor installations in the nature of conveyor belts designed to remove ash automatically from the boiler; hot water heating installations; industrial treatment installations, namely, heating installations for the treatment of biomass; gas scrubbers as parts of gas installations; refining towers for distillation

IC 037. US 100 103 106. G & S: Construction consultation; factory construction; industrial installations, namely, construction of plants and installations for electricity and gas; burner maintenance and repair; maintenance and repair of solid, liquid or gaseous combustion heating apparatus; maintenance and repair of industrial heating equipment; construction information; information relating to the repair of installations for electricity and gas; heating equipment installation and repair; furnace installation and repair; irrigation devices installation and repair; installation and repair of devices for production, collection and distribution of gas; installation and repair of refrigerating apparatus for industrial purposes; cleaning and repair of industrial boilers; building construction supervision

IC 040. US 100 103 106. G & S: Rental of boilers; destruction of waste and trash; production of energy; rental of generators; biomass gas refining services; recycling of trash and waste; waste processing, namely, waste treatment and sorting of waste and of recoverable raw materials; recycling of waste

IC 042. US 100 101. G & S: Architectural services; architectural consultancy; energy auditing; scientific information and advice to reduce energy consumption; technological consulting services in the field of energy production; quality control; surveying, namely, engineering work; scientific information and advice on carbon offsetting; engineering; construction drafting services; research and development of new products for others; technical research in the field of biomass processing and energy production; physics research; mechanical research; biological research services; environmental protection-related research

4. During prosecution of the Opposed Application, Applicant disclaimed the exclusive right to use "ENERGY" apart from the mark as shown.

5. Since 1925, long prior to Applicant's adoption of the term HAFFNER ENERGY, Opposer was engaged in commerce in the United States using its mark HAFFNER'S in the business of "automobile service station services; car washing; vehicle fueling services; vehicle service stations." Opposer has used its mark extensively, since at least as early as 1925, in association with "fuel delivery services" and aspects of commerce associated with fuel delivery and servicing of fuel burning and heating equipment. Opposer has used and advertised and promoted its services extensively.

6. Opposer's services using the HAFFNER'S Mark include uses in interstate commerce in association with and/or in relation to, among other things, fuels; fuel gas; oil-gas; and compressed petroleum gas; heating boilers and oil and gas burner services; burner maintenance and repair; maintenance and repair of combustion heating apparatus; maintenance and repair of heating equipment; heating equipment installation and repair; furnace installation and repair; cleaning and repair of boilers; energy auditing; consulting services and advice to reduce energy consumption; and technological consulting services in the field of energy production and consumption.

7. By reason of longstanding and extensive marketing, advertising and promotion of the services in connection with the HAFFNER'S Mark, and the high quality of those services, the HAFFNER'S Mark has developed extremely valuable goodwill, and has a reputation associated and identified with Opposer long before the Applicant can assert any claim in the Applicant's HAFFNER ENERGY mark.

8. Applicant's adoption and use of the Applicant's HAFFNER ENERGY mark has been without the consent or permission of the Opposer.

9. The services specified in the Applicant's application for the Applicant's HAFFNER ENERGY mark are similar to the services provided by Opposer under the HAFFNER'S Mark in current use.

10. On information and belief, the Applicant's use of the HAFFNER ENERGY mark in connection with the specified services are or will be promoted in the same channels of trade, to the same potential purchasers, and use the same advertising media and channels as those in connection with Opposer's HAFFNER'S Mark.

**CLAIM FOR RELIEF**  
**Likelihood of Confusion**

11. The mark shown in the Opposed Application so resembles Opposer's registered HAFFNER'S Mark as to be likely, when used on or in connection with the goods and services identified in the Opposed Application, to cause confusion, to cause mistake, or to deceive, and Applicant's HAFFNER ENERGY mark is thus unregistrable under § 2(d) of the United States Trademark Act, 15 U.S.C. § 1052(d).

12. Opposer will be damaged by registration of the mark shown in the Opposed Application because registration will give Applicant prima facie evidence of ownership of, and exclusive right to use in commerce, a mark that is confusingly similar to Opposer's registered HAFFNER'S Mark.

13. If the Applicant is granted registration of its HAFFNER ENERGY mark as shown in Application No. 79/216868, the Applicant will thereby obtain the right to use the HAFFNER

ENERGY mark, and such registration of the HAFFNER ENERGY mark will damage Opposer's goodwill and rights in its registered HAFFNER'S Mark causing further injury to Opposer.

14. Applicant's HAFFNER ENERGY mark is likely to cause confusion, mistake, or deception that Applicant's services are those of Opposer or are otherwise endorsed, sponsored, or approved by Opposer, resulting in damage to the Opposer.

**PRAYER FOR RELIEF**

WHEREFORE, Opposer prays that this Opposition be sustained and that registration of the Opposed Application for the HAFFNER ENERGY mark as shown therein be refused.

Please charge the filing fees for this Opposition to Deposit Account No. 191351 and direct all correspondence and communication in this Opposition to the undersigned.

SEYFARTH SHAW LLP

Dated: June 13, 2019

By: /Brian L. Michaelis/  
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