

ESTTA Tracking number: **ESTTA1028128**

Filing date: **01/10/2020**

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	ERCO GMBH		
Entity	limited liability company	Citizenship	Germany
Address	Brockhauser Weg 80-82 Ludenscheid, 0 GERMANY		

Attorney information	Jonathan Myers LUCAS & MERCANTI LLP 30 BROAD STREET 21st floor NEW YORK, NY 10004 UNITED STATES info@lmiplaw.com, lberrios@lmiplaw.com, JMmail@lmiplaw.com 2126618000		
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**Applicant Information**

Application No	88561510	Publication date	12/17/2019
Opposition Filing Date	01/10/2020	Opposition Period Ends	01/16/2020
Applicant	Jiang Ernan TianWen Rd, NanAn Dist ChongQing, 400000 CHINA		

**Goods/Services Affected by Opposition**


Class 011. First Use: 2018/12/15 First Use In Commerce: 2018/12/15 All goods and services in the class are opposed, namely: Lighting apparatus for vehicles; Lighting devices for showcases; Lighting fixtures; Electric lighting fixtures; Flat panel lighting apparatus
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**Grounds for Opposition**


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

U.S. Registration No.	3202354	Application Date	07/19/2005
Registration Date	01/23/2007	Foreign Priority Date	NONE
Word Mark	ERCO		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 006. First use: First Use: 0 First Use In Commerce: 0 [ METAL LOUVERED CEILING PANELS AND SIGNBOARDS OF METAL ]</p> <p>Class 009. First use: First Use: 0 First Use In Commerce: 0 SOFTWARE FOR LIGHTING ENGINEERING APPARATUS AND INSTALLATIONS; LIGHT-CONTROL PANELS [, LUMINOUS SIGNS ]</p> <p>Class 011. First use: First Use: 0 First Use In Commerce: 0 ELECTRIC LIGHTING FIXTURES AND REPLACEMENT PARTS THEREFOR AND LIGHTING TRACKS</p> <p>Class 019. First use: First Use: 0 First Use In Commerce: 0 [ NON-LUMINOUS, NON-MECHANICAL SIGNS NOT OF METAL ]</p> <p>Class 037. First use: First Use: 0 First Use In Commerce: 0 [ CONSTRUCTION SUPERVISION AND MAINTENANCE OF LIGHTING ENGINEERING APPARATUS AND INSTALLATIONS; BUILDING OF LIGHTING ENGINEERING INSTALLATIONS ]</p> <p>Class 042. First use: First Use: 0 First Use In Commerce: 0 PLANNING OF LIGHTING ENGINEERING INSTALLATIONS, NAMELY, CUSTOM DESIGNING AND PLANNING OF LIGHTING INSTALLATIONS, ARCHITECTURAL LIGHTING, LIGHTING DESIGN; CONDUCTING OF LIGHT CALCULATIONS, SIMULATION OF LIGHTING SITUATIONS, DESIGN OF LIGHTING ENGINEERING INSTALLATIONS, CREATING SOFTWARE FOR DATA PROCESSING IN THE FIELD OF LIGHTING ENGINEERING</p>

U.S. Registration No.	3202318	Application Date	07/19/2005
Registration Date	01/23/2007	Foreign Priority Date	NONE

Word Mark	ERCO
Design Mark	

Description of Mark	NONE
Goods/Services	<p>Class 006. First use: First Use: 0 First Use In Commerce: 0 [ METAL LOUVERED CEILING PANELS AND SIGNBOARDS OF METAL ]</p> <p>Class 009. First use: First Use: 0 First Use In Commerce: 0 SOFTWARE FOR LIGHTING ENGINEERING APPARATUS AND INSTALLATIONS; LIGHT-CONTROL PANELS [, LUMINOUS SIGNS ]</p> <p>Class 011. First use: First Use: 0 First Use In Commerce: 0 ELECTRIC LIGHTING FIXTURES AND REPLACEMENT PARTS THEREFOR AND LIGHTING TRACKS</p> <p>Class 019. First use: First Use: 0 First Use In Commerce: 0 [ NON-LUMINOUS, NON-MECHANICAL SIGNS NOT OF METAL ]</p> <p>Class 037. First use: First Use: 0 First Use In Commerce: 0 [ MAINTENANCE OF LIGHTING ENGINEERING APPARATUS AND INSTALLATIONS ]</p> <p>Class 042. First use: First Use: 0 First Use In Commerce: 0 PLANNING OF LIGHTING ENGINEERING INSTALLATIONS, NAMELY, CUSTOM DESIGNING AND PLANNING OF LIGHTING INSTALLATIONS, ARCHITECTURAL LIGHTING, LIGHTING DESIGN; CONDUCTING OF LIGHT CALCULATIONS, SIMULATION OF LIGHTING SITUATIONS, DESIGN OF LIGHTING ENGINEERING INSTALLATIONS, CREATING SOFTWARE FOR DATA PROCESSING IN THE FIELD OF LIGHTING ENGINEERING</p>

U.S. Registration No.	2450767	Application Date	11/02/1999
Registration Date	05/15/2001	Foreign Priority Date	NONE

Word Mark	ERCO
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Description of Mark	NONE
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Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 CONTROLLERS FOR ELECTRIC LIGHTING SYSTEMS, NAMELY STROBOSCOPES, ELECTRICAL CONTROLLERS FOR THE CONVERSION OF LOW-FREQUENCY VIBRATIONS INTO LIGHT EFFECTS, AND ELECTRICAL CONTROLLERS FOR PRODUCING LIGHT VIBRATIONS, ILLUMINATED SIGNS MADE OF PLASTIC AND METAL, NAMELY DIRECTIONAL SIGNS AND STREET SIGNS, AND REMOTE CONTROLS FOR ELECTRIC LIGHTING SYSTEMS</p> <p>Class 011. First use: First Use: 0 First Use In Commerce: 0 ELECTRIC LIGHTING FIXTURES AND PARTS THEREOF, NAMELY, PICKUP RAILS</p>
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U.S. Registration No.	1041518	Application Date	08/22/1973
Registration Date	06/15/1976	Foreign Priority Date	NONE
Word Mark	ERCO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 0 First Use In Commerce: 0 ELECTRICAL LIGHTING FIXTURES-NAMELY, ROOM LIGHTING UNITS		

Attachments	79017016#TMSN.png( bytes ) 79015119#TMSN.png( bytes ) 75865746#TMSN.png( bytes ) Notice of Opposition.pdf(121468 bytes )
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Signature	/jonathan myers/
Name	Jonathan Myers
Date	01/10/2020

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

In the matter of application serial no. 88/561510

For the trademark EWCO

Published in the Official Gazette on 17 December 2019

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ERCO GMBH,

Opposer

v.

Opp. No.

JIANG ERNAN,

Applicant  
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NOTICE OF OPPOSITION

Opposer ERCO GMBH, a limited liability company organized under German law, having its principal place of business at Brockhauser Weg 80-82, Ludenscheid, Germany, believes that it will be damaged by the issuance of a registration for the mark EWCO (Applicant's Mark) as applied for in Application Serial No. 88/561510 and files this Notice of Opposition pursuant to 37 CFR § 2.101(b), on the following grounds:

1. Opposer Erco GmbH is an established and recognized company that sells electric lighting fixtures and replacement parts therefor and lighting tracks; software for lighting engineering apparatus and installations; light-control panels, all in International Class 11.
2. Opposer owns US Trademark Registrations 3,202,354; 3,202,318; 2,450,767; and 1,041,518 for the mark ERCO (Opposer's Mark), covering electric lighting fixtures and replacement parts therefor and lighting tracks; software for lighting engineering apparatus and installations; light-control panels, all in International Class 11.

3. Since at least as early as 15 June 1979, year after year up to the present time, Opposer has used the ERCO mark in international commerce with the United States and/or in interstate commerce in the United States on electric lighting fixtures and replacement parts therefor;
4. Over the years Opposer's Mark ERCO has developed substantial good will in the United States market so that the ERCO trademark has become associated in the minds of the relevant public with Opposer as a source or origin of Opposer's goods;
5. Opposer's US Trademark Registrations 3,202,354; 3,202,318; 2,450,767; and 1,041,518 through substantially exclusive and continuous use in US commerce have become incontestable;
6. On 2 August 2019 Applicant filed application serial no. 88/561510 for the EWCO trademark for lighting apparatus for vehicles; lighting devices for showcases; lighting fixtures; electric lighting fixtures; flat panel lighting apparatus. The mark was published in the Official Gazette on 17 December 2019.
7. The Applicant's mark EWCO and the Opposer's Mark ERCO are highly similar in sight, sound and commercial impression.
8. Applicant's goods identified under the EWCO trademark fall within the scope of the goods identified in Opposer's 3,202,354; 3,202,318; 2,450,767; and 1,041,518 and are either identical to Opposer's goods or are closely related to Opposer's goods. Applicant's goods are offered through the same channels of commerce as Opposer's goods.
9. There is no issue as to priority of use. Applicant filed its application for the EWCO mark on 2 August 2019 long after Opposer obtained its incontestable US Trademark Registrations 3,202,354; 3,202,318; 2,450,767; and 1,041,518. Opposer began to use its ERCO trademark as set forth in these registrations at least as early as 15 June 1979 in international commerce with the United States and/or in interstate commerce with the United States.
10. Applicant's trademark is likely, when used in connection with the sale of goods described in the opposed application, to cause confusion, or cause mistake, or will deceive purchasers erroneously into the belief that Applicant's goods are the goods of Opposer, or are authorized and/or sponsored by, or are otherwise connected with the business of the Opposer. Applicant's trademark EWCO therefore would appropriate to Applicant substantial amounts of goodwill and resources which Opposer has established and invested for the ERCO mark and will substantially damage Opposer in the conduct of its business.
11. Wherefore, Opposer prays that this opposition be sustained, and that Application Serial No. 88/561510 be denied and refused.

Opposer submits the required filing fee of \$400 by means of the credit card of the undersigned law firm. Any additional fee due from Opposer toward advancing the opposition may be charged to Opposer's attorneys' deposit account 02-2275. Please address all correspondence regarding this matter to Jonathan Myers, Lucas & Mercanti, LLP, 30 Broad Street, 21<sup>st</sup> Floor, New York, NY 10004 and by email to [JMmail@lmiplaw.com](mailto:JMmail@lmiplaw.com) and [info@lmiplaw.com](mailto:info@lmiplaw.com).

Lucas & Mercanti, LLP,

Date: 1/16/2020

Signed: 

Jonathan Myers  
Attorney for Opposer  
Lucas & Mercanti, LLP  
30 Broad Street  
21<sup>st</sup> Floor  
New York, NY 10004  
Phone: 212-661-8000  
Fax: 212-661-8002

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the NOTICE OF OPPOSITION has been served on the Applicant via first class mail, postage prepaid, this 10th day of January 2020 at the following address:

Jiang Ernan  
TianWen Road, NanAn District  
Chongqing, China 400000



Jonathan Myers