

ESTTA Tracking number: **ESTTA1083538**

Filing date: **09/22/2020**

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	Top Tobacco, L.P.		
Entity	Limited Partnership	Citizenship	Delaware
Address	2301 RAVINE WAY GLENVIEW, IL 60025 UNITED STATES		
Attorney information	ANTONY J. MCSHANE NEAL, GERBER & EISENBERG LLP 2 N. LASALLE STREET, SUITE 1700 CHICAGO, IL 60602 UNITED STATES Primary Email: ecfdocket@nge.com Secondary Email(s): amcshane@nge.com , aflores@nge.com , temanuelson@nge.com , acrawford@nge.com , ecfdocket@nge.com 312.269.8000		
Docket Number	16471-6072		

Applicant Information

Application No.	88917699	Publication date	09/22/2020
Opposition Filing Date	09/22/2020	Opposition Period Ends	10/22/2020
Applicant	Potomac Tobacco Company Limited P.O. BOX 3085, MILL MALL, SUITE 6 WICKHAMS CAY, ROAD TOWN TORTOLA BR. VIRGIN ISLANDS		

Goods/Services Affected by Opposition

Class 034. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: CIGARS; CIGARETTES

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.	5722157	Application Date	09/06/2018
Registration Date	04/09/2019	Foreign Priority Date	NONE

Word Mark	SUPERMATIC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 034. First use: First Use: 2007/01/00 First Use In Commerce: 2007/01/00 Cigarette tubes		

U.S. Registration No.	5898590	Application Date	09/06/2018
Registration Date	10/29/2019	Foreign Priority Date	NONE
Word Mark	SUPERMATIC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 034. First use: First Use: 2019/06/00 First Use In Commerce: 2019/06/00 hand-held machines for injecting tobacco into cigarette tubes; machines allowing smokers to make cigarettes by themselves		

U.S. Registration No.	5898589	Application Date	09/06/2018
Registration Date	10/29/2019	Foreign Priority Date	NONE
Word Mark	SUPERMATIC		
Design Mark			
Description of Mark	The mark consists of the stylized word "SUPERMATIC".		
Goods/Services	Class 034. First use: First Use: 2019/06/00 First Use In Commerce: 2019/06/00 hand-held machines for injecting tobacco into cigarette tubes; machines allowing smokers to make cigarettes by themselves		

U.S. Registration No.	5722158	Application Date	09/06/2018
Registration Date	04/09/2019	Foreign Priority Date	NONE
Word Mark	SUPERMATIC		
Design Mark			
Description of Mark	The mark consists of the stylized word "SUPERMATIC".		
Goods/Services	Class 034. First use: First Use: 2007/01/00 First Use In Commerce: 2007/01/00 Cigarette tubes		

U.S. Registration No.	3022409	Application Date	07/16/2003
Registration Date	12/06/2005	Foreign Priority Date	NONE
Word Mark	SUPERMATIC		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 034. First use: First Use: 0 First Use In Commerce: 0 [Tobacco products, namely, tobacco, cigarettes, cigars, pipe tobacco,] hand-held machines and parts therefor for rolling cigarettes and for filling cigarettes paper tubes with tobacco; [cigarette paper tubes, cigarette filter tubes, cigarette filters, cigarette papers, cigarette paper booklets; cigarette cases not of precious metals, cigarette holders not of precious metals, cigarette lighters not of precious metals, ash trays, matches, flints, pipe reamers, pipe cleaners and tobacco jars not of precious metal]
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Attachments	Notice of Opposition - SUPERMATCH.pdf(121922 bytes) EXHIBIT A.pdf(608989 bytes)
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Signature	/Antony J. McShane/
Name	Antony J. McShane
Date	09/22/2020

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

In the Matter of Application Serial No.
88/917,699 for SUPERMATCH

TOP TOBACCO, L.P.,

Opposer,

v.

POTOMAC TOBACCO COMPANY LIMITED,

Applicant.

NOTICE OF OPPOSITION

This Notice of Opposition is submitted in the matter of Application Serial No. 88/917,699 for registration by Potomac Tobacco Company Limited (“Applicant”) of the SUPERMATCH mark for use in connection with “cigars; cigarettes” in Class 34. The application was published for opposition in the Official Gazette on September 22, 2020. Top Tobacco, L.P., a Delaware limited partnership, having a place of business at 2301 Ravine Way, Glenview, Illinois 60025, believes that it would be damaged by the registration and therefore opposes the same.

The grounds for Opposition herein are as follows:

1. For many years, and long before the acts of Applicant alleged herein, Top Tobacco, L.P., including its predecessors and affiliates (“Top Tobacco”), has been engaged in, *inter alia*, the manufacture, distribution and sale of smokers’ articles, including tobacco, cigarette papers, cigarette filters, cigarette tubes, and cigarette rolling, injector, and making machines, all of which are distributed throughout the United States through tobacco shops, drugstores, tobacco outlets, convenience and other retail stores.

2. For many years, Top Tobacco has devoted substantial resources, time and effort to marketing and distributing its products under and in connection with a number of well-known and

industry-leading brands, including the mark SUPERMATIC, under which Top Tobacco offers and sells cigarette tubes, hand-held machines for injecting tobacco into cigarette tubes, and machines allowing smokers to make cigarettes by themselves, which are sold alongside various smokers' articles, including cigars and cigarettes in tobacco stores and various retail outlets throughout the country.

3. As a result of Top Tobacco's consistent efforts to promote and protect its SUPERMATIC mark, Top Tobacco has developed considerable consumer recognition and goodwill in the marks, which are now among Top Tobacco's most valuable assets. To protect its rights in the mark, Top Tobacco has obtained the following federal registrations for the SUPERMATIC mark:

Mark	Goods	Registration No.	Registration Date
SUPERMATIC	Cigarette tubes	5,722,157	April 9, 2019
SUPERMATIC	hand-held machines for injecting tobacco into cigarette tubes; machines allowing smokers to make cigarettes by themselves	5,898,590	October 29, 2019
SUPERMATIC (stylized)	hand-held machines for injecting tobacco into cigarette tubes; machines allowing smokers to make cigarettes by themselves	5,898,589	October 29, 2019
SUPERMATIC (stylized)	Cigarette tubes	5,722,158	April 9, 2019
SUPERMATIC	hand-held machines and parts therefor for rolling cigarettes and for filling cigarettes paper tubes with tobacco	3,022,409	December 6, 2005

Printouts from the U.S. Patent and Trademark Office website showing the current status and owner of these registrations is attached hereto as Exhibit A.

4. On May 15, 2020, long after Top Tobacco began use of its SUPERMATIC mark, Applicant filed the instant application to register the mark SUPERMATCH based upon its use of the mark with cigars and cigarettes in International Class 34.

5. Applicant seeks to register its mark for goods that are closely related to those with which Top Tobacco uses and has registered its SUPERMATIC mark. Indeed, these types of goods are often sold in the same tobacco and retail stores as Top Tobacco's smokers' articles.

6. Applicant's mark is likely to cause confusion with Top Tobacco's SUPERMATIC mark. More specifically, as a result of, *inter alia*, the strength of Top Tobacco's SUPERMATIC mark, the similarity of the parties' marks, the similarity of the associated goods, and the overlap in the parties' channels of trade, Applicant's use and registration of the SUPERMATCH mark is likely to cause confusion or mistake, or to deceive purchasers, in that purchasers would be likely to believe that Applicant's goods are Top Tobacco's goods, or are in some way affiliated, connected, or associated with Top Tobacco in violation of 15 U.S.C. §§ 1052(d) and 1114.

7. Based on the foregoing, Top Tobacco believes that it would be damaged by registration of the SUPERMATCH mark for use in connection with the applied-for goods, and on that basis, Top Tobacco opposes registration of the mark by Applicant.

WHEREFORE, Top Tobacco requests that the registration sought by Applicant be refused and that this Notice of Opposition be sustained.

Date: September 22, 2020

Respectfully submitted,

By: /Antony J. McShane/
One of the Attorneys for Opposer,
Top Tobacco, L.P.
Antony J. McShane
Abigail E. Flores
Neal, Gerber & Eisenberg LLP
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EXHIBIT A



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SUPERMATIC

Word Mark	SUPERMATIC
Goods and Services	IC 034. US 002 008 009 017. G & S: Cigarette tubes. FIRST USE: 20070100. FIRST USE IN COMMERCE: 20070100
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	88107425
Filing Date	September 6, 2018
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	January 22, 2019
Registration Number	5722157
Registration Date	April 9, 2019
Owner	(REGISTRANT) Top Tobacco L.P. Top Tobacco Management Corp., an Illinois Corporation LIMITED PARTNERSHIP DELAWARE 2301 Ravine Way Glenview ILLINOIS 60025
Attorney of Record	Antony J. McShane
Prior Registrations	0771689;3022409;3736998
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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SUPERMATIC

Word Mark	SUPERMATIC
Goods and Services	IC 034. US 002 008 009 017. G & S: hand-held machines for injecting tobacco into cigarette tubes; machines allowing smokers to make cigarettes by themselves. FIRST USE: 20190600. FIRST USE IN COMMERCE: 20190600
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	88107434
Filing Date	September 6, 2018
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	January 29, 2019
Registration Number	5898590
Registration Date	October 29, 2019
Owner	(REGISTRANT) Top Tobacco L.P. Top Tobacco Management Corp., an Illinois Corporation LIMITED PARTNERSHIP DELAWARE 2301 Ravine Way Glenview ILLINOIS 60025
Attorney of Record	Antony J. McShane
Prior Registrations	0771689;3022409;3736998;AND OTHERS
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead	LIVE



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Word Mark SUPERMATIC

Goods and Services IC 034. US 002 008 009 017. G & S: hand-held machines for injecting tobacco into cigarette tubes; machines allowing smokers to make cigarettes by themselves. FIRST USE: 20190600. FIRST USE IN COMMERCE: 20190600

Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Serial Number 88107426

Filing Date September 6, 2018

Current Basis 1A

Original Filing Basis 1B

Published for Opposition January 29, 2019

Registration Number 5898589

Registration Date October 29, 2019

Owner (REGISTRANT) Top Tobacco L.P. Top Tobacco Management Corp., an Illinois Corporation LIMITED PARTNERSHIP DELAWARE 2301 Ravine Way Glenview ILLINOIS 60025

Attorney of Record Antony J. McShane

Prior Registrations 0771689;3022409;3736998;AND OTHERS

Description of Mark Color is not claimed as a feature of the mark. The mark consists of the stylized word "SUPERMATIC".

Type of Mark TRADEMARK

Register PRINCIPAL
Live/Dead
Indicator LIVE

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TSDR | ASSIGN Status | TTAB Status (Use the "Back" button of the Internet Browser to return to TESS)



Word Mark	SUPERMATIC
Goods and Services	IC 034. US 002 008 009 017. G & S: Cigarette tubes. FIRST USE: 20070100. FIRST USE IN COMMERCE: 20070100
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	88107429
Filing Date	September 6, 2018
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	January 22, 2019
Registration Number	5722158
Registration Date	April 9, 2019
Owner	(REGISTRANT) Top Tobacco L.P. Top Tobacco Management Corp., an Illinois Corporation LIMITED PARTNERSHIP DELAWARE 2301 Ravine Way Glenview ILLINOIS 60025
Attorney of Record	Antony J. McShane
Prior Registrations	0771689;3022409;3736998;AND OTHERS
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the stylized word "SUPERMATIC".
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE



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SUPERMATIC

Word Mark SUPERMATIC

Goods and Services IC 034. US 002 008 009 017. G & S: [Tobacco products, namely, tobacco, cigarettes, cigars, pipe tobacco,] hand-held machines and parts therefor for rolling cigarettes and for filling cigarettes paper tubes with tobacco; [cigarette paper tubes, cigarette filter tubes, cigarette filters, cigarette papers, cigarette paper booklets; cigarette cases not of precious metals, cigarette holders not of precious metals, cigarette lighters not of precious metals, ash trays, matches, flints, pipe reamers, pipe cleaners and tobacco jars not of precious metal]

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 76529877

Filing Date July 16, 2003

Current Basis 44E

Original Filing Basis 1B;44E

Published for Opposition September 13, 2005

Registration Number 3022409

Registration Date December 6, 2005

Owner (REGISTRANT) EFKA CANADA LIMITED CORPORATION CANADA 147 HELLER ROAD WOODSTOCK, KEN BRUNSWICK CANADA E7M 1X4

(LAST LISTED OWNER) TOP TOBACCO L.P. LIMITED PARTNERSHIP DELAWARE 2301 RAVINE WAY GLENVIEW

ILLINOIS 60025

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Antony J. McShane

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20160425.

Renewal 1ST RENEWAL 20160425

Live/Dead Indicator LIVE

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