

ESTTA Tracking number: **ESTTA1095602**

Filing date: **11/16/2020**

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	Exxon Mobil Corporation
Granted to Date of previous extension	11/15/2020
Address	5959 LAS COLINAS BOULEVARD IRVING, TX 75039 UNITED STATES
Attorney information	STEPHEN P. MELEEN PIRKEY BARBER PLLC 1801 EAST 6TH STREET, SUITE 300 AUSTIN, TX 78702 UNITED STATES Primary Email: smeleen@pirkeybarber.com Secondary Email(s): eolson@pirkeybarber.com, tmcentral@pirkeybarber.com, tsmith@pirkeybarber.com 512.322.5200
Docket Number	

Applicant Information

Application No.	88762763	Publication date	05/19/2020
Opposition Filing Date	11/16/2020	Opposition Period Ends	11/15/2020
Applicant	Shenzhen Geekvape Technology Co., LIMITED A03,Å FLOORÅ 7,Å XINGYEÅ ROAD,Å YONGFENG COMMUNITY,XIXIANGÅ STREET,BAO'ANÅ DISTRICT SHENZHEN,Å GUANGDONG, 518000 CHINA		

Goods/Services Affected by Opposition

Class 009. First Use: 2019/12/09 First Use In Commerce: 2019/12/09 All goods and services in the class are opposed, namely: Batteries for electronic cigarettes; Batteries for lighting; Chargers for electronic cigarettes; Computers; Electric control panels; Electric transformers; Personal digital assistants (PDA); Rechargeable batteries; Switches, electric; Wearable computers in the nature of smartwatches
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Applicant Information

Application No.	88762764	Publication date	05/19/2020
Opposition Filing Date	11/16/2020	Opposition Period Ends	

Applicant	Shenzhen Geekvape Technology Co., LIMITED A03, FLOOR 7, XINGYE ROAD, YONGFENG COMMUNITY, XIXIANG STREET, BAO'AN DISTRICT SHENZHEN, GUANGDONG, 518000 CHINA
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Goods/Services Affected by Opposition

Class 034. First Use: 2019/12/09 First Use In Commerce: 2019/12/09 All goods and services in the class are opposed, namely: Cigarettes; Devices for heating tobacco for the purpose of inhalation; Electronic cigarette cases; Electronic cigarettes; Electronic cigarettes for use as an alternative to traditional cigarettes; Filter-tipped cigarettes; Flavourings, other than essential oils, for use in electronic cigarettes; Lighters for smokers; Liquid nicotine solutions for use in electronic cigarettes; Oral vaporizers for smokers

Applicant Information

Application No.	88762744	Publication date	05/19/2020
Opposition Filing Date	11/16/2020	Opposition Period Ends	
Applicant	Shenzhen Geekvape Technology Co., LIMITED A03, FLOOR 7, XINGYE ROAD, YONGFENG COMMUNITY, XIXIANG STREET, BAO'AN DISTRICT SHENZHEN, GUANGDONG, 518000 CHINA		

Goods/Services Affected by Opposition

Class 034. First Use: 2019/12/09 First Use In Commerce: 2019/12/09 All goods and services in the class are opposed, namely: Cigarettes; Devices for heating tobacco for the purpose of inhalation; Electronic cigarette cases; Electronic cigarettes; Electronic cigarettes for use as an alternative to traditional cigarettes; Filter-tipped cigarettes; Flavourings, other than essential oils, for use in electronic cigarettes; Lighters for smokers; Liquid nicotine solutions for use in electronic cigarettes; Oral vaporizers for smokers

Applicant Information

Application No.	88762742	Publication date	05/19/2020
Opposition Filing Date	11/16/2020	Opposition Period Ends	
Applicant	Shenzhen Geekvape Technology Co., LIMITED A03, FLOOR 7, XINGYE ROAD, YONGFENG COMMUNITY, XIXIANG STREET, BAO'AN DISTRICT SHENZHEN, GUANGDONG, 518000 CHINA		

Goods/Services Affected by Opposition

Class 009. First Use: 2019/12/09 First Use In Commerce: 2019/12/09 All goods and services in the class are opposed, namely: Batteries for electronic cigarettes; Batteries for lighting; Chargers for electronic cigarettes; Computers; Electric control panels; Electric transformers; Personal digital assistants (PDA); Rechargeable batteries; Switches, electric; Wearable computers in the nature of smartwatches
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
No bona fide intent to use mark in commerce for	Trademark Act Section 1(b), 44(e) or 66(a)

identified goods or services	
Dilution by blurring	Trademark Act Sections 2 and 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	902044	Application Date	04/29/1968
Registration Date	11/10/1970	Foreign Priority Date	NONE
Word Mark	EXXON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 004. First use: First Use: 1967/12/05 First Use In Commerce: 1967/12/05 PETROLEUM AND PETROLEUM PRODUCTS-NAMELY, INDUSTRIAL OILS AND GREASES, [PETROLEUM AND MINERAL WAXES,] LUBRICANTS, HYDROCARBON FUELS, [PETROLEUM ILLUMINANTS AND CRUDE OIL]		

U.S. Registration No.	934738	Application Date	04/29/1968
Registration Date	05/30/1972	Foreign Priority Date	NONE
Word Mark	EXXON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 017. First use: First Use: 1967/10/05 First Use In Commerce: 1967/10/05 SYNTHETIC RUBBER AND RUBBER-LIKE MATERIALS FOR GENERAL USE IN THE INDUSTRIAL ARTS		

U.S. Registration No.	2513103	Application Date	02/18/1999
Registration Date	11/27/2001	Foreign Priority Date	NONE
Word Mark	EXXONMOBIL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1999/11/30 First Use In Commerce: 1999/11/30 Periodical publications, namely, reports, booklets, brochures, pamphlets and newsletters and all kinds of printed matters concerning items of interest about products, services, events and personnel of applicant and about the chemical and petroleum industry; company stationery, business cards and posters		

U.S. Registration No.	2605247	Application Date	08/09/1999
Registration Date	08/06/2002	Foreign Priority Date	NONE
Word Mark	EXXONMOBIL		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 017. First use: First Use: 2001/03/31 First Use In Commerce: 2001/03/31 polyolefin films made from polyethyleneand polypropylene polymer or derivatives for use in the packaging industry; polyolefin in [bars, blocks,] pellets, [rods, sheets and tubes] for use in the manufacture of packages and labels; synthetic rubber and rubber substitutes for use in the manufacture of tires, tubes, vehicle body sealing, belts, hoses, seals, glass run channels, pharmaceutical closures, mechanical goods, electrical cable jacketing, roof sheeting, garden hoses, materials for sound deadening, adhesives, bumpers, dashboard parts, computer housing, electronic components, ski boots, shoes, wax blends, chewing gum base and engineering thermoplastics

U.S. Registration No.	2791743	Application Date	11/29/1999
Registration Date	12/09/2003	Foreign Priority Date	NONE

Word Mark	EXXONMOBIL
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Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class 001. First use: First Use: 2000/06/30 First Use In Commerce: 2000/06/30 olefins, aromatic hydrocarbons, and solvents for use with paints, lacquers and similar products, for manufacture of inks and toners, for use in non-impact printing applications and for use in the industrial arts; solvents used as a component in adhesives,[pharmaceuticals], fragrances, metal working fluids, pesticides, sealants, lubricants; polymers for use in the manufacture of adhesives and in the plastic industry; hydrocarbon polymers, namely, resins, plastomers and elastomers in solid, semi-solid, liquid and[powdered] form for general use in the industrial arts in lieu of or in combination with natural or synthetic rubber and rubber-like materials</p> <p>Class 004. First use: First Use: 2002/00/00 First Use In Commerce: 2002/00/00 [aviation fuels, lubricating oils for marine, applications]</p> <p>Class 016. First use: First Use: 1999/12/00 First Use In Commerce: 1999/12/00 periodical publications, namely, reports, booklets, brochures, pamphlets and newsletters and all kinds of printed matters concerning items of interest about products, services, events and personnel of applicant and about the chemical and petroleum industry; company stationery, business cards and posters</p> <p>Class 017. First use: First Use: 2000/06/30 First Use In Commerce: 2000/06/30 polyolefin films made from polyethyleneand polypropylene polymer or derivatives for use in the packaging industry; polyolefin in bars, blocks pellets, rods, sheets and tubes for use in the manufacture of packages and labels; synthetic rubber and rubber substitutes for use in the industrial arts, for use in the manufacture of tires, tubes, vehicle body sealing; belts, hoses, seals, glass run channels, mechanical goods, electrical cablejacketing, roof sheeting, garden hoses,materials for sound deadening, adhesives, bumpers, dashboard parts, computer housing, electronic components, ski boots,was blends, chewing gum base and in engineering themoplastics</p>
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U.S. Registration No.	3736429	Application Date	05/29/2009
Registration Date	01/12/2010	Foreign Priority Date	NONE

Word Mark	EXXON
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Design Mark	
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Description of Mark	The mark consists of "EXXON" in stylized letters.
Goods/Services	Class 004. First use: First Use: 1972/00/00 First Use In Commerce: 1972/00/00 Motor fuels, namely, gasoline and diesel fuels

U.S. Registration No.	5551261	Application Date	11/11/2015
Registration Date	08/28/2018	Foreign Priority Date	NONE
Word Mark	EXXON		
Design Mark			
Description of Mark	The mark consists of "EXXON" in stylized letters.		
Goods/Services	<p>Class 004. First use: First Use: 2015/06/02 First Use In Commerce: 2015/06/02 Fuel for motor vehicles, namely, gasoline, and diesel</p> <p>Class 009. First use: First Use: 2017/02/28 First Use In Commerce: 2017/02/28 Downloadable software in the nature of a mobile application for providing information about retail service station locations and loyalty programs; Magnetically encoded credit cards; Magnetically encoded gift cards; Microchip cards</p> <p>Class 035. First use: First Use: 2015/06/02 First Use In Commerce: 2015/06/02 Retail store services featuring motor fuel; retail convenience stores; retail store services in the field of gasoline service stations, convenience stores and car washes featuring a frequent patron program for customers</p> <p>Class 036. First use: First Use: 2017/06/28 First Use In Commerce: 2017/06/28 Charge card and credit card transaction processing services</p> <p>Class 037. First use: First Use: 2017/04/30 First Use In Commerce: 2017/04/30 Car washing</p>		

Attachments	Consolidated Notice of Opposition.pdf(171745 bytes)
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Signature	/SPM/
Name	Stephen P. Meleen
Date	11/16/2020

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

In Re Serial Nos. 88/762,742, 88/762,744,	§	
88/762,763, and 88/762,764	§	
Filed: January 16, 2020	§	
Marks: EXON (Stylized)	§	
(Serial Nos. 88/762,742 and 88/762,744)	§	
GEEKVAPE EXON	§	
(Serial Nos. 88/762,763 and 88/762,764)	§	
Published: May 19, 2020	§	
	§	
EXXON MOBIL CORPORATION,	§	Opposition No. _____
	§	
Opposer,	§	
	§	
v.	§	
	§	
SHENZHEN GEEKVAPE TECHNOLOGY	§	
CO., LIMITED,	§	
	§	
Applicant.	§	

CONSOLIDATED NOTICE OF OPPOSITION

Exxon Mobil Corporation (“Opposer” or “ExxonMobil”), a New Jersey corporation having a principal place of business at 5959 Las Colinas Boulevard, Irving, Texas 75039, believes that it will be damaged by registration of the marks shown in U.S. Serial Nos. 88/762,742, 88/762,744, 88/762,763, and 88/762,764 and hereby opposes same under the provisions of 15 U.S.C. § 1063.

As grounds for opposition, Opposer asserts the following:

1. Since at least as early as 1967, ExxonMobil has continuously used the mark EXXON and various other marks incorporating the mark EXXON in commerce in connection with a wide variety of products and services. Opposer has also used “Exxon” as part of its company name since November 1, 1972.

2. In 1999 Exxon Corporation adopted the corporate name Exxon Mobil Corporation and the trade name and mark EXXONMOBIL, both of which incorporate the name and mark

EXXON. Opposer continues to use the mark EXXON extensively and has also come to offer some of its products and services under the mark EXXONMOBIL. Opposer's marks EXXON and EXXONMOBIL, including design forms of those marks, are hereinafter referred to collectively as its "EXXON Marks."

3. ExxonMobil has used its EXXON Marks in connection with the sale and promotion of gasoline, motor oil, other petroleum products, chemical products, and various related goods and services, including software, mobile applications, microchip cards, and materials used in electronics products and many other consumer products.

4. EXXON stations are among the most widespread and recognizable gasoline stations in the United States. There are thousands of EXXON branded retail stations in the United States with billions of dollars in annual sales. Many EXXON stations include fuel dispensers that prominently feature the EXXON Marks.

5. Over the years, ExxonMobil has invested significant effort and resources promoting its EXXON stations in the United States, and has spent many millions of dollars advertising them.

6. ExxonMobil has invested many millions of dollars for nearly five decades in advertising and promoting its EXXON Marks and the goods and services sold under those marks, with the result that the purchasing public in the United States has come to know, rely upon, and recognize the goods and services of ExxonMobil by those marks. ExxonMobil has established valuable goodwill in its EXXON Marks.

7. Through ExxonMobil's extensive use and promotion of its EXXON Marks, these marks have become famous and consumers in the United States have come to recognize the marks as such, and to associate the marks uniquely with ExxonMobil and its goods and services.

8. In addition to its extensive common law rights, ExxonMobil owns numerous valid and subsisting federal trademark registrations for its EXXON Marks, including the following by way of example only: U.S. Registration Nos. 902,044; 934,738; 2,513,103; 2,605,247; 2,791,743; 3,736,429; 5,551,261, and many others.

9. Applicant Shenzhen Geekvape Technology Co., LIMITED (“Applicant”) is a Chinese limited company (ltd.) with an address of A03, Floor 7, Xingye Road, Yongfeng Community, Xixiang Street, Bao'an District, Shenzhen, Guangdong CHINA 518000 .

10. On January 16, 2020, Applicant filed Application Serial Nos. 88/762,742 and 88/762,744 for the mark EXON (Stylized) under 15 U.S.C. § 1051(a) based on Applicant’s alleged use in United States commerce of the EXON (Stylized) Mark with all of the following goods in Class 9 and Class 34, respectively:

Class 9 - Batteries for electronic cigarettes; Batteries for lighting; Chargers for electronic cigarettes; Computers; Electric control panels; Electric transformers; Personal digital assistants (PDA); Rechargeable batteries; Switches, electric; Wearable computers in the nature of smartwatches

Class 34 - Cigarettes; Devices for heating tobacco for the purpose of inhalation; Electronic cigarette cases; Electronic cigarettes; Electronic cigarettes for use as an alternative to traditional cigarettes; Filter-tipped cigarettes; Flavourings, other than essential oils, for use in electronic cigarettes; Lighters for smokers; Liquid nicotine solutions for use in electronic cigarettes; Oral vaporizers for smokers

11. On January 16, 2020, Applicant filed Application Serial Nos. 88/762,763 and 88/762764 for the mark GEEKVAPE EXON under 15 U.S.C. § 1051(a) based on Applicant’s alleged use in United States commerce of the GEEKVAPE EXON Mark with all of the following goods in Class 9 and Class 34, respectively:

Class 9 - Batteries for electronic cigarettes; Batteries for lighting; Chargers for electronic cigarettes; Computers; Electric control panels; Electric transformers; Personal digital assistants (PDA); Rechargeable batteries; Switches, electric; Wearable computers in the nature of smartwatches

Class 34 - Cigarettes; Devices for heating tobacco for the purpose of inhalation; Electronic cigarette cases; Electronic cigarettes; Electronic cigarettes for use as an alternative to traditional cigarettes; Filter-tipped cigarettes; Flavourings, other than essential oils, for use in electronic cigarettes; Lighters for smokers; Liquid nicotine solutions for use in electronic cigarettes; Oral vaporizers for smokers

12. The Applications were published for opposition on May 19, 2020. Opposer has been granted an extension of time to oppose the Applications through November 15, 2020.

13. Opposer commenced use of its EXXON Marks in the United States decades prior to the filing dates of Application Serial Nos. 88/762,742, 88/762,744, 88/762,763, and 88/762,764 (collectively, the “Applications”) or the dates of first use of the EXON (Stylized) Marks and the GEEKVAPE EXON Marks (collectively, the “Applicant’s Marks”) in the United States claimed in the Applications, and Opposer’s use of the EXXON Marks has been continuous since it commenced use of the mark.

14. Opposer has priority based on its prior use of the EXXON Marks in the United States.

15. Applicant’s Marks are confusingly similar to Opposer’s EXXON Marks. Applicant’s Marks are similar in sight, sound, and commercial impression to Opposer’s EXXON Marks. In addition, Opposer’s EXXON Marks are of sufficient fame and reputation among consumers that when Applicant’s Marks are used for the goods identified in Applicant’s Applications, a connection with Opposer would be presumed by consumers.

16. Opposer has not given Applicant permission or approval to use or register Applicant’s Marks.

17. Applicant’s Marks so resembles Opposer’s EXXON Marks as to be likely, when used on or in connection with the identified goods of Applicant, to cause confusion, or to cause mistake, or to deceive. Purchasers and prospective purchasers are likely to mistakenly believe that

the products Applicant offers under Applicant's Marks are produced, sponsored, endorsed, or approved by Opposer, or are in some way affiliated, connected, or associated with Opposer or its goods and services. Registration therefore should be refused under 15 U.S.C. § 1052(d).

18. Opposer's EXXON Marks became famous within the United States prior to the filing dates of the Applications.

19. Opposer's EXXON Marks became famous within the United States prior to the dates of first use claimed in the Applications.

20. Applicant's Marks are likely to cause dilution by blurring of Opposer's famous EXXON Marks in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c). Thus, registration should also be refused under 15 U.S.C. § 1125(c).

21. On information and belief, there was no bona fide use of any of Applicant's Marks in commerce prior to the filing of the use-based Applications for registration under Trademark Act § 1(a), 15 U.S.C. § 1051(a).

22. Registration of Applicant's Marks on the Principal Register would be inconsistent with Opposer's rights under the aforementioned registrations and common law, and would be damaging to Opposer.

WHEREFORE, Opposer is or will be damaged by Application Serial Nos. 88/762,742, 88/762,744, 88/762,763, and 88/762,764, and prays that the Applications be rejected and registration of the mark therein be refused.

This Notice of Opposition is being filed electronically, along with the filing fee required by 37 C.F.R. § 2.6(a)(17). The Commissioner is authorized to draw on the Deposit Account of Pirkey Barber PLLC, Account No. 50-3924/EXCO403/SPM, if there is any problem with the processing of the electronically submitted fee.

Respectfully submitted,

Date: November 16, 2020

/Stephen P. Meleen/

Stephen P. Meleen

Tyson D. Smith

PIRKEY BARBER PLLC

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Austin, Texas 78702

(512) 322-5200

ATTORNEYS FOR OPPOSER