

ESTTA Tracking number: **ESTTA1152329**

Filing date: **08/10/2021**

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	Friedrich Air Conditioning, LLC
Granted to Date of previous extension	08/11/2021
Address	10001 REUNION PLACE SUITE 500 SAN ANTONIO, TX 78216 UNITED STATES
Attorney information	MIGUEL VILLARREAL, JR. GUNN, LEE & CAVE, P.C. 8023 VANTAGE DRIVE SUITE 1500 SAN ANTONIO, TX 78230 UNITED STATES Primary Email: mvillarreal@gunn-lee.com Secondary Email(s): rmaldonado@gunn-lee.com, bcook@gunn-lee.com 210-886-9500
Docket Number	G-766.143

Applicant Information

Application No.	90215697	Publication date	04/13/2021
Opposition Filing Date	08/10/2021	Opposition Period Ends	08/11/2021
Applicant	NetworkRV LLC SUITE 202, 203 5411 UNIVERSITY DRIVE CORAL SPRINGS, FL 33067 UNITED STATES		


Goods/Services Affected by Opposition

Class 007. First Use: 2020/09/28 First Use In Commerce: 2020/09/28
All goods and services in the class are opposed, namely: soft starters for motors, including soft starters for air conditioning units and soft starters for recreational vehicle(RV) air conditioners

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
The mark is merely descriptive	Trademark Act Section 2(e)(1)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	88895769	Application Date	04/30/2020
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SOFT-START TECHNOLOGY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 2015/10/15 First Use In Commerce: 2015/10/15 air conditioners and replacement parts therefor		

Attachments	88895769#TMSN.png(bytes) NOTICE OF OPPOSITION.pdf(154694 bytes)
-------------	---

Signature	/mvillarreal/
Name	MIGUEL VILLARREAL, JR.
Date	08/10/2021

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

In re Matter of:

U.S. Trademark Application Serial No. 90/215,697

For: SoftStartRV

Filed: September 28, 2020

Date of Publication in *Official Gazette*: April 13, 2021

Friedrich Air Conditioning, LLC,

Opposer,

v.

NetworkRV LLC,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Opposer Friedrich Air Conditioning, LLC (“Friedrich” or “Opposer”), a limited liability company with its principal place of business in San Antonio, Texas, believes it will be damaged by registration of the trademark SoftStartRV (“Applicant’s Mark”) subject of NetworkRV LLC’s (“NetworkRV” or “Applicant”) Application Serial No. 90/215,697 for “soft starters for motors, including soft starters for air conditioning units and soft starters for recreational vehicle (RV) air conditioners” (“Applicant’s Application”).

As grounds for opposition, Opposer alleges as follows:

1. Opposer uses the trademark SOFT-START TECHNOLOGY in connection with the sale of air conditioners and replacement parts therefor. (“Opposer’s Mark”).

2. Opposer has used Opposer's Mark in U.S. commerce to sell air conditioners and replacement parts therefor since at least as early as 2015.

3. Opposer filed U.S. Trademark Application Serial No. 88/895,769 on April 30, 2020 for SOFT-START TECHNOLOGY in class 11 for "air conditioners and replacement parts therefor." ("Opposer's Application").

Priority

4. Opposer has used Opposer's Mark in U.S. commerce since at least as early as October 15, 2015.

5. Based on the date of first use asserted in Applicant's Application, Applicant has used Applicant's Mark in commerce since September 28, 2020.

6. Opposer has priority because it used its SOFT-START TECHNOLOGY Mark in commerce before Applicant started using its SoftStartRV Mark in commerce.

7. Opposer filed Opposer's Application for SOFT-START TECHNOLOGY on April 30, 2020, approximately 5 months before Applicant filed Applicant's Application for SoftStartRV on September 28, 2020.

8. Opposer also has priority because the filing date of Opposer's Application predates the filing date of Applicant's Application.

Standing

9. Opposer has standing to bring this Opposition because Applicant's SoftStartRV mark is confusingly similar to Opposer's SOFT-START TECHNOLOGY mark, and as a result, Opposer will be damaged by registration of Applicant's Mark.

Likelihood of Confusion

10. Applicant's Mark and Opposer's Mark are similar in appearance, sound,

connotation, and commercial impression because the dominant portion of each party's mark is SOFT-START/SoftStart.

11. The dominant portion of the parties' marks are essentially identical.
12. The dominant portion of the parties' marks sound the same, look the same, and have the same meaning.
13. The parties' goods are related.
14. Opposer uses Opposer's Mark in connection with air conditioners and parts for air conditioners.
15. Applicant uses Applicant's Mark in connection with soft starters for air conditioning units.
16. Air conditioners and replacement parts for air conditioners are sufficiently related to soft starters for air conditioning units that consumers are likely to be confused as to whether the parties' goods emanate from the same source.
17. Products bearing Opposer's Mark are sold nationwide via a network of independent retailers and independent contractors.
18. Products bearing Opposer's Mark can be purchased via major online retailers such as amazon.com.
19. Opposer's products can be installed in recreational vehicles ("RV").
20. Products bearing Applicant's Mark are sold via Applicant's ecommerce website, <https://www.softstartrv.com/>, and a network of independent retailers.
21. Products bearing Applicant's Mark can be purchased via major online retailers such as amazon.com.
22. The parties' marks are used in overlapping trade channels.

Count I – Likelihood of Confusion under 15 U.S.C. § 1052(d)

23. The allegations set forth in the preceding paragraphs are incorporated by reference herein.

24. Opposer is the senior user because its date of first use and filing date predate Applicant's date of first use and filing date.

25. Opposer's SOFT-START TECHNOLOGY Mark and Applicant's SoftStartRV Mark are nearly identical in sound, appearance, and commercial impression.

26. Opposer and Applicant sell related goods that normally emanate from the same source.

27. Opposer and Applicant use their respective marks in overlapping trade channels.

28. Consumers are likely to be confused as to an affiliation between Opposer's air conditioners and replacement parts thereto provided using the SOFT-START TECHNOLOGY Mark and Applicant's soft starters for air conditioners provided using the SoftStartRV Mark.

Alternative Count II – Merely Descriptive under 15 USC § 1052(e)

29. The allegations set forth in the preceding paragraphs are incorporated by reference herein.

30. Applicant's Mark is merely descriptive without acquired distinctiveness.

31. Applicant is attempting to register SoftStartRV for "soft starters for motors, including soft starters for air conditioning units and soft starters for recreational vehicle (RV) air conditioners." (emphasis added).

32. Applicant's SoftStartRV mark combines the words "Soft," "Start" and "RV."

33. Applicant's Mark combines the key terms from the description of Applicant's goods.

34. Applicant's goods include soft starters for RV air conditioners.

35. Applicant's SoftStartRV mark describes to consumers that the corresponding products are soft starters for RV air conditioners. Applicant's SoftStartRV Mark, therefore, describes a quality, characteristic, function, feature, purpose, and/or use of Applicant's goods.

36. Consumers encountering Applicant's Mark are not likely to perceive Applicant's Mark as an indicator of source.

37. Consumers encountering Applicant's Mark will immediately understand Applicant is selling soft starters.

38. Applicant's mark has not acquired distinctiveness.

39. Applicant has only been purportedly using its mark for seven months. Applicant's use is not extensive enough to acquire distinctiveness in the otherwise merely descriptive SoftStartRV Mark.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Opposer prays that Applicant's Application be rejected, and that registration of Applicant's Mark be refused. This notice of opposition is being filed electronically and the filing fee of \$600.00 required by 37 C.F.R. § 2.6(a)(17) is being submitted via credit card payment. Should there be any deficient fees concerning this matter, the Commissioner is authorized to draw upon the Deposit Account of Gunn, Lee & Cave, P.C., Account No. 500808, without further or more specific authorization.

Date: August 10, 2021

Respectfully submitted,

By: /s/Miguel Villarreal, Jr.
Miguel Villarreal, Jr.
Regis. No. 55,700
Miguel.Villarreal@gunn-lee.com
Brandon T. Cook
Regis. No. 76,041

bcook@gunn-lee.com
GUNN, LEE & CAVE, P.C.
8023 Vantage Dr., Suite 1500
San Antonio, Texas 78230
210-886-9500
210-886-9883 Facsimile

ATTORNEYS FOR OPPOSER