

92051201

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
---	--

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
 filed in the U.S. District Court SD/TX P O Box 61010 Houston on the following ☐ Patents or ☐ Trademarks:

DOCKET NO. H-10-0109	DATE FILED 1/12/2010	U.S. DISTRICT COURT SD/TX P O Box 61010 Houston, TX 77208
PLAINTIFF LeToumeau Technologies Drilling Systems		DEFENDANT Oilfield Electric Marine Inc
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 3,008,509		Copy of Complaint mailed to Trademark Office
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
2			
3			
4			
5			

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT		
CLERK David J. Bradley, Acting Clerk	(BY) DEPUTY CLERK Mary Mapps	DATE 1/13/2010

Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LETOURNEAU TECHNOLOGIES
DRILLING SYSTEMS, INC.,

Plaintiff,

v.

OILFIELD ELECTRIC MARINE INC,

Defendant.

§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. _____
JURY TRIAL REQUESTED

COMPLAINT

Plaintiff LeTourneau Technologies Drilling Systems, Inc. ("LeTourneau") complains against Defendant Oilfield Electric Marine Inc ("Oilfield Electric Marine"), as follows:

PRELIMINARY STATEMENT

1. This is an action to reinstate U.S. Registration No. 3,008,509 for the mark OEM in accordance with Section 21 (b) of the Lanham Act. Specifically, the OEM registration was wrongly cancelled by the United States Trademark Trial and Appeal Board ("TTAB") in a default judgment issued in a cancellation proceeding initiated by Oilfield Electric Marine. This is also an action for trademark infringement of LeTourneau's OEM mark. Upon information and belief, Oilfield Electric Marine is using the OEM mark and such use is unlawful and without authorization. Such tortious conduct constitutes, among other things, (1) false designation of origin under § 43(a) of the Lanham Act; (2) injury to business reputation under § 16.29 of the Texas Business and Commerce Code; and (3) unfair competition and unjust enrichment under Texas Common Law.

THE PARTIES

2. Plaintiff LeTourneau is a Texas corporation having its principal place of business at 6401 W. Sam Houston Parkway North, Houston, Texas 77041.

3. Upon information and belief, Defendant Oilfield Electric Marine is a Texas corporation having an address at P.O. Box 1359, Cypress, Texas 77410-1359. Oilfield Electric Marine may be served by serving its registered agent for service of process at 11111 McCracken Circle, Unit C, Cypress, Texas 77429 Attn: Kevin R. Williams.

JURISDICTION AND VENUE

4. This action arises under the Lanham Act, 15 U.S.C. § 1114, *et seq.* Consequently, subject matter jurisdiction exists under 28 U.S.C. § 1331.

5. This Court has personal jurisdiction over Oilfield Electric Marine because Oilfield Electric Marine has minimum contacts with this forum. Upon information and belief, this Court has general jurisdiction over Oilfield Electric Marine due to its continuous and systematic activities within this forum. In addition, this Court has specific jurisdiction over Oilfield Electric Marine because this action arises from, and is directly related to, Oilfield Electric Marine's actions purposefully directed to this forum. This Court's exercise of jurisdiction over Oilfield Electric Marine will not violate due process because, *inter alia*, Oilfield Electric Marine has sufficient contacts with this forum, and maintenance of this action will not offend traditional notions of fair play and substantial justice.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b), because defendant Oilfield Electric Marine resides in the district.

7. Venue is also proper in this judicial district pursuant to 28 U.S.C. § 1391(b), because a substantial part of the events or omissions giving rise to this claim occurred, and a substantial part of the property at issue is situated, in this judicial district.

FACTUAL BACKGROUND

8. LeTourneau is a Texas corporation in the business of providing oilfield-related goods/services. A predecessor in interest to LeTourneau, Rowan Electric, Inc., registered the mark OEM on the Principal Register, U.S. Registration No. 3,008,509, in connection with “electrical distribution and control systems for AC and DC motors used in the oil and gas, marine boat and barge, mining, dredging and petrochemical industries; namely, switchgear, variable frequency drives, SCR-DC motor controllers, AC motor starters, unit substations, AC motors, control rooms and enclosures” in International Class 009, “custom fabrication services namely, fabrication of AC and DC motors and associated controllers, starters, and drives” in International Class 040 and “engineering and design of AC and DC motors and associated controllers, starters, and drives” in International Class 042. LeTourneau continues to use the OEM mark on the goods/services listed in the Registration.

9. On July 6, 2009, Oilfield Electric Marine initiated a cancellation proceeding before the TTAB seeking cancellation of LeTourneau’s OEM mark on the basis of abandonment.

10. Oilfield Electric Marine is a Texas corporation that was formed on October 15, 2008. The Director and registered agent for Oilfield Electric Marine is Kevin R. Williams (“Mr. Williams”). Mr. Williams was employed by LeTourneau and was the President of Rowan Electric, Inc., the entity that registered the OEM mark.

11. Mr. Williams' employment with LeTourneau's predecessor in interest was terminated on April 29, 2005. During the course of his employment, Mr. Williams officed at LeTourneau's current location at 6401 W. Sam Houston Parkway North, Houston, Texas 77041.

12. In the Petition for Cancellation filed by Oilfield Electric Marine, the address provided for Rowan Electric, Inc. was an old address on Pinemont ("Pinemont Address") and is no longer current. Mr. Williams was well aware that the old address was not current. Specifically, Mr. Williams moved to the current address from the old Pinemont Address which was actually owned by Mr. Williams and his parents.

13. LeTourneau never received the Petition for Cancellation since Oilfield Electric Marine did not provide the TTAB with LeTourneau's current address. On September 2, 2009, the TTAB issued a Notice of Default Judgment that was mailed to the Pinemont Address then returned as "undeliverable". On November 12, 2009, the TTAB cancelled the OEM registration.

14. Upon information and belief, and according to pending application to register the OEM mark, Oilfield Electric Marine is using and intends to use the OEM mark on the same oilfield-related goods as offered by LeTourneau. Such use is unlawful and unauthorized by LeTourneau.

COUNT I

WRONGFUL CANCELLATION OF TRADEMARK REGISTRATION

15. The foregoing Paragraphs are incorporated herein by reference.
16. This count arises under § 21(b) of the Lanham Act, 15 U.S.C. § 1701(b).
17. Oilfield Electric Marine's intentional failure to provide the TTAB with a current address for LeTourneau to the best of Oilfield Electric Marine's knowledge, as required by 37 C.F.R. 2.112(a), resulted in the TTAB wrongly cancelling LeTourneau's registration for the OEM mark by default judgment.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.