

TAB

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

In the matter of Trademark Serial No. 76400991

For the Mark "420"

Published for Opposition on 05-06-03

07-14-2003

U.S. Patent & TMO/ TM Mail Rcpt Dt. #58

John Marvin Rowland

V.

Trans-High Corporation, Inc.

NOTICE OF OPPOSITION

John Marvin Rowland d.b.a. 420 inc., d.b.a. 420 Eyewear, d.b.a. 420 Boards,
a California Corporation, mailing address 1442 E. Lincoln Ave. # 194, Orange,
California 92865.

The above-identified opposer, John Marvin Rowland believes that he / and
the 420 inc. Corporation will be damaged by the registration of the mark shown
in the above-identified application, and hereby oppose the same.

07/25/2003 TSMITH 00000163 76400991

01 FC:6402

300.00 OP

The grounds for opposition are as follows:

1. The Opposer is the Federal Registration holder for the Mark 420, for Class 09 (U.S. Reg. No. 2,102,893), and for Class 25 (U.S. Reg. No. 2,105,217) for words, letters and/or numbers in stylized form. The Opposer has been using the 420 Mark in commerce since 1993 for his 420 Branded Merchandise.
2. The Respondent has previously attempted to register the Mark "420" in several classes including 25 with the USPTO, which was refused by the USPTO and their examining attorney on the basis of the likelihood of confusion with the opposer's registered Mark "420".
3. The Opposer has filed a petition with the National Arbitration Forum to have the domain name 420.com transferred from the Respondent to the Opposer.
4. The Respondent has also been served on by counsel for the Opposer, a cease and desist letter regarding the sale of 420 branded merchandise on the Respondent's domain 420.com which were in class 25.

5. The Respondent's usage of the site 420.com is not what is stated in the Respondent's application for registration with the USPTO. In the Respondent's application for a trademark for the Mark "420.com", the Respondent clearly states that the services provided within this domain would be Electronic mail services, not for the sale of merchandise in the class 25 which bear the Opposer's registered Mark "420".

6. The Respondent, on the domain 420.com has repeatedly discredited and tarnished the Opposer's reputation by making claims that the Opposer and it's Corporation are "Trademark scam artists", and asked visitors of the site leave feedback or e-mail the article to a friend. The Respondent's use of the domain name in this matter tarnishes the goodwill that the Opposer has cultivated in his mark. Tarnishment occurs where the defendant creates unfavorable associations with the mark in the minds of the consumer by using the mark in an unwholesome or unsavory context.

7. The application for this domain name should be considered as trying to register and being used in bad faith for the reasons articulated in the ICANN Policy. Respondent has offered to sell merchandise and banner advertisement under this domain and has intentionally attempted to attract, for commercial gain, Internet users to Respondent's web site by creating the likelihood of confusion with the Opposer's mark as to the location of the Opposer's services on the Internet.

Dated: Orange, California
June, 2 2003

420, Inc.

By: 

John M. Rowland
President and CEO

To: Cowan, Liebowitz & Latman, P.C.
Kieran G. Doyle
Attorney for the Respondent Trans-High Corporation
1133 Avenue of the Americas
New York, NY 10036-6799



UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Electronic Search System (TESS)

TESS was last updated on Tue May 27 04:16:56 EDT 2003

PTO HOME TRADEMARK TESS HOME NEW USER STRUCTURED FREE FORM BROWSE LIST BOTTOM HELP
 CURR LIST NEXT LIST FIRST DOC PREV DOC NEXT DOC LAST DOC

Logout

Please logout when you are done to release system resources allocated for you.

Start

List At:

OR

Jump

to record:

Record 6 out of 52

Check Status

(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

Word Mark 420.COM

Goods and Services IC 038. US 100 101 104. G & S: ELECTRONIC MAIL SERVICES, NAMELY DISTRIBUTION OF CORRESPONDENCE, PROVIDING ACCESS TO ELECTRONIC MAIL MESSAGES AND PROVIDING ELECTRONIC MAIL FORWARDING SERVICES, DISTRIBUTION, FILTRATION AND CONSOLIDATION OF ELECTRONIC MAIL MESSAGES. FIRST USE: 20021120. FIRST USE IN COMMERCE: 20021120

Mark

Drawing Code (1) TYPED DRAWING

Serial Number 76400991

Filing Date April 26, 2002

Filed ITU FILED AS ITU

Published for May 6, 2003

Opposition

Owner (APPLICANT) Trans-High Corporation, Inc CORPORATION NEW YORK 419 Park Avenue South 16th Floor New York NEW YORK 10016

Attorney of Record Kieran G. Doyle

Type of Mark SERVICE MARK

Register PRINCIPAL

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2003-05-27 18:11:56 ET

Serial Number: 76400991

Registration Number: (NOT AVAILABLE)

Mark (words only): 420.COM

Current Status: Application has been published for opposition.

Date of Status: 2003-05-06

Filing Date: 2002-04-26

The Information will be/was published in the Official Gazette on 2003-05-06

Registration Date: (DATE NOT AVAILABLE)

Law Office Assigned: TMEG Law Office 103

Attorney Assigned:
MCBRIDE THEODORE M Employee Location

Current Location: 650 -Publication And Issue Section

Date In Location: 2003-03-27

CURRENT APPLICANT(S)/OWNER(S)

1. Trans-High Corporation, Inc

Address:

Trans-High Corporation, Inc
419 Park Avenue South 16th Floor
New York, NY 10016
United States

State or Country of Incorporation: New York

Legal Entity Type: Corporation

GOODS AND/OR SERVICES

ELECTRONIC MAIL SERVICES, NAMELY DISTRIBUTION OF CORRESPONDENCE,
PROVIDING ACCESS TO ELECTRONIC MAIL MESSAGES AND PROVIDING ELECTRONIC
MAIL FORWARDING SERVICES, DISTRIBUTION, FILTRATION AND CONSOLIDATION OF
ELECTRONIC MAIL MESSAGES

international Class: 038

First Use Date: 2002-11-20

First Use in Commerce Date: 2002-11-20

Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-05-06 - Published for opposition

2003-04-16 - Notice of publication

2003-03-11 - Approved for Pub - Principal Register (Initial exam)

2003-03-11 - Amendment to Use approved

2003-03-11 - Case file assigned to examining attorney

2003-03-10 - Case file assigned to examining attorney

2003-03-10 - Case file assigned to examining attorney

2003-03-10 - Case file assigned to examining attorney

2003-02-26 - Amendment to use processing complete

2003-01-27 - Amendment to Use filed

2003-01-27 - Communication received from applicant

2003-01-27 - PAPER RECEIVED

2002-08-22 - Non-final action mailed

2002-08-19 - Case file assigned to examining attorney

CONTACT INFORMATION

Correspondent (Owner)

Kieran G. Doyle (Attorney of record)

KIERAN G. DOYLE
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-6799
United States



United Parcel Service

DELIVERY NOTIFICATION

Dear Customer,

This is in response to your request for delivery information concerning the shipment listed below.

Tracking Number: 1Z E68 W98 13 4022 254 8
Service Type: NEXT DAY AIR SAVER
Shipped or Billed on: Jun 4, 2003
Delivered on: Jun 5, 2003 9:40 A.M.
Delivered to: ARLINGTON, VA, US,
Signed by: MARBURY
Location: RECEIVER

Thank you for giving us this opportunity to serve you.

Sincerely,
United Parcel Service

Tracking results provided by UPS: Jul 8, 2003 2:13 P.M. Eastern Time
(USA)



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Tracking

- [Track by Tracking Number](#)
- [Track by Reference Number](#)
- [Import Tracking Numbers](#)
- [Track by E-mail](#)
- [Get Quantum View Files](#)
- [Request Quantum View Notify](#)
- [Void a Shipment](#)
- [Help](#)

Welcome, John Rowland | [Logout](#)

[My UPS](#) [Address](#)

 **Track by Tracking Number**

View Details

To view Proof of Delivery, please select the link.

Status: Delivered [Proof of Delivery](#)

Delivered on: Jun 5, 2003 9:40 A.M.
Signed by: MARBURY
Location: RECEIVER
Delivered to: ARLINGTON, VA, US
Shipped or Billed on: Jun 4, 2003

Tracking Number: 1Z E68 W98 13 4022 254 8
Service Type: NEXT DAY AIR SAVER

Information and services provided to My UPS users.

Have problems or questions about your package?
 If you have questions about one of your packages, you can find more information with this special UPS service.
 → [Request More Information](#)

Package Progress:

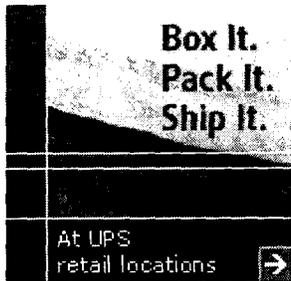
Date	Time	Location	Activity
Jun 5, 2003	9:40 A.M.	ALEXANDRIA, VA, US	DELIVERY
	9:06 A.M.	ALEXANDRIA, VA, US	OUT FOR DELIVERY
	8:50 A.M.	ALEXANDRIA, VA, US	ARRIVAL SCAN
	7:47 A.M.	CHANTILLY, VA, US	DEPARTURE SCAN
	7:22 A.M.	CHANTILLY, VA, US	ARRIVAL SCAN
	6:30 A.M.	CHANTILLY, VA, US	FLIGHT DELAY FOR MECHANICAL REASONS
Jun 5, 2003	6:09 A.M.	LOUISVILLE, KY, US	DEPARTURE SCAN
	6:00 A.M.	LOUISVILLE, KY, US	FLIGHT DELAY FOR MECHANICAL REASONS
Jun 4, 2003	1:53 A.M.	LOUISVILLE, KY, US	ARRIVAL SCAN
	7:28 P.M.		DEPARTURE SCAN
	7:00 P.M.		ARRIVAL SCAN
	6:43 P.M.	ANAHEIM, CA, US	DEPARTURE SCAN
	6:27 P.M.	ANAHEIM, CA, US	ORIGIN SCAN
	4:57 P.M.	ANAHEIM, CA, US	PICKUP SCAN
	4:42 P.M.	US	BILLING INFORMATION RECEIVED
	3:39 P.M.	ANAHEIM, CA, US	PICKUP SCAN

Tracking results provided by UPS: Jul 8, 2003 2:12 P.M. Eastern Time (USA)

NOTICE: UPS authorizes you to use UPS tracking systems solely to track shipments tendered by or for you to delivery and for no other purpose. Any other use of UPS tracking systems and information is strictly prohibited.

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↑ [Back to Top](#)



420 inc.
DAILY SHIPMENT DETAIL REPORT
07/11/03 01:42 PM

UPS Account No.: E68W98
Sorted By: Order of Shipment

Pickup Date: 07/11/03
Pickup Record No.: 6851342 72 4

Name/Address	Shipment Detail	Options	Reference Rate
Ship To: commissioner for trademarks U.S. Patent and Trademark Office 2900 Crystal Drive ARLINGTON VA 22202-3514 Ship From: 420 inc. 2430-E N. GLASSELL ST ORANGE CA 92865-2755	Service Type: UPS NEXT DAY AIR SAVER Shipment Service Charge: \$ 15.50 Total Packages: 1 Hundredweight: No Billable Wt.: LTR Billing Option: Prepaid	Package No.: 1ZE68W981340579922 Package Service Charge: \$ 15.50 Shipper Amt: \$ 15.50 UPS Letter \$ 15.50 UPS Total Charge: \$ 15.50	

Summary Totals:

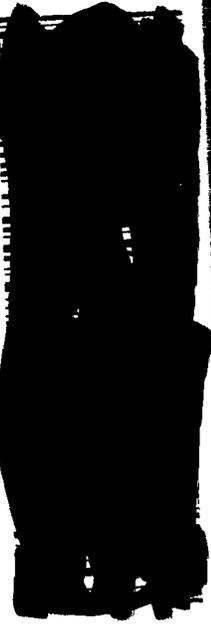
Shipment Option	Shpts	Pkgs	Ref Charges
Shipment Option	1	1	\$ 15.50
Package Option			\$ 15.50

Billing Option Shpts Pkgs Ref Charges
 Prepaid 1 \$ 15.50
 TOTAL CHARGES 1 \$ 15.50
 1 Shipment(s)
 1 Package(s)

PICKUP SUMMARY BARCODE REPORT
 SHIP DATE: JUL 11, 2003
 SHIPPING RECORD: 6851 3427 24
 ACCOUNT NUMBER: E68-1198

CUSTOMER
 420 INC.
 RM/STE E
 2430 N GLASSELL ST
 ORANGE CA 92865-2755

91 E68 1198 6851 34272 00001 1



DRIVER SUMMARY

TOTAL NUMBER OF PACKAGES = 1

	1DA	2DA	3DS	INT'L	CODS	pkgs	/	shpts
	1	0	0			0		0

SHIPMENTS SUBJECT TO TERMS OF AGREEMENT ON FILE

Received By: _____ Pkgs: _____
 Pickup Time: _____
 UOH 5.0.31 UPS TRM1101 2.22 DA 04/2003

International Shipping Note - Certain countries may not be eligible for this service. See the International Shipping Guide for details. © 2003 UPS. All rights reserved. UPS, the UPS logo, and the UPS brandmark are trademarks of United Parcel Service of America, Inc. (UPS). Other trademarks are the property of their respective owners.

RESUBMITTED 7/10/03
Attn: Sandra Thompson

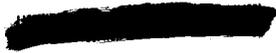
Certificate of Mailing

I hereby certify that on the 4th day of June, 2003, I served a true and correct copy of the foregoing "Notice of Opposition," by means of the United Parcel Service -Next Day Air Saver- Tracking # 1ZE68W981340222548 on the following:

Trademarks Trial and Appeal Board
2900 Crystal Drive
Arlington Virginia 22202-3514

420, Inc.

By: 
Michelle Renee Rowland
Vice President


07-14-2003

U.S. Patent & TMOfo/TM Mail Ropt.Dt. #58

Tuesday, July 08, 2003

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

On June 4th, 2003 we mailed via United Parcel Service cancellation to a trademark. Our attorneys followed up with your offices week ending July 4th, 2003 and we were notified that we need to show proof of delivery for this package, as the TTAB has not record of it. We were also told if this information was provided that the appeal for cancellation on the trademark in question would be accepted.

Thank you,

Michelle Rowland

July 8th, 2003
Orange, California

