

TMAP

Hog Cream Enterprises, Inc  
5907 Woodpoint Terrace  
Pt Orange FL 32128



04-17-2003

U.S. Patent & TMOfo/TM Mail Ropt. Dt. #40

RE: Opposition No. 91151927 / 2998

4/12/2003

**Response to Opposer's First Set of Interrogatories**

- 1.) Researched Florida Business website, USPTO website, and Register.com for any conflicts with an idea for a new and different sunscreen product. No conflicts found, proceeded with Incorporating, finding a manufacturer and bringing product to market.
- 2.) Tammy Gray-Elczyn, President and CEO of Hog Cream Enterprises, INC. Sole proprietor. 5907 Woodpoint Terrace, Pt Orange Florida, 386-788-8770.
- 3.) Tammy Gray-Elczyn being the only employee I wear all the hats.
- 4.) Tammy Gray-Elczyn being the only employee I wear all the hats.
- 5.) Tammy Gray-Elczyn being the only employee I wear all the hats.
- 6.) Tammy Gray-Elczyn being the only employee I wear all the hats.
- 7.) Tammy Gray-Elczyn being the only employee I wear all the hats.
- 8.) Hog Cream currently is seeking a trademark in class 3 for suntan lotion. Sunscreen should be use by everyone in every market niche. Hog Cream SPF 15 is the only product at the moment, however company intends as other companies do, to advertise it's brand thru other products via T-shirts, caps, etc.... that bear the HOG CREAM logo.
- 9.) July 2000 to present
- 10.) To date I'm \$10,000 in the red.
- 11.) No one
- 12.) None.
- 13.) The following stores/shops purchased and sold Hog Cream suntan lotion.  
Harley-Davidson New Smyrna Beach Florida  
Bull-Dog Leathers Daytona Beach Florida  
Tombstone Cycles Daytona Beach and New Smyrna Beach Florida  
Highlanders Daytona Beach Florida
- 14.) No advertising funds available.
- 15.) \$0.00
- 16.) None
- 17.) None
- 18.) Non-applicable
- 19.) See attached.
- 20.) Other companies use of the word HOG. Several companies market products and services to motorcycle enthusiasts.
- 21.) Tammy Gray-Elczyn, President and CEO would be the appropriate person, however, no consumers have written.
- 22a.) None
- 22b.) None
- 22c.) None
- 23.) None
- 24.) Harley Davidson opposition # 91152998
- 25.) Aware of Harley Davidson motorcycles and Harley Owners Group use of the acronym H.O.G.
- 26.) Opposition # 91152998 paperwork received September 2002.
- 27.) USPTO trial and appeal board legal assistant. Mr Blakley. 703-308-4357 Asked him questions on how to answer opposition.
- 28.) USPTO website only. My understanding is that they do a search when you apply and inform you when/if your application is approved and trademark granted. I received letter stating that there was no apparent conflict in 2002,

APR 20 11 59 AM '03

then received notice that Harley Davidson expressed opposition to application in September 2002.

29a.) Tammy Gray-Elczyn

29b.) Florida

29c.) see attached

29d.) Tammy Gray-Elczyn

30.) Tammy Gray-Elczyn

31.) Tammy Gray-Elczyn website development

32.) Tammy Gray-Elczyn

33.) Tammy Gray-Elczyn. Register.com allows you 3 non-hosted web pages when you register your domain name with them. Fill in their templates, upload your pictures and you have a website.

34.) None

35.) Tammy Gray-Elczyn

36.) see attached.



Tammy Gray-Elczyn

President and CEO

Hog Cream Enterprises, INC

5907 Woodpoint Terrace

PT Orange FL 32128

386-788-8770



UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Electronic Search System (TESS)

TESS was last updated on Fri Mar 28 04:09:13 EST 2003

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(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)



#19  
#36

**Word Mark** HOG HARLEY OWNERS GROUP  
**Goods and Services** IC 014. US 002 027 028 050. G & S: JEWELRY. FIRST USE: 19880000. FIRST USE IN COMMERCE: 19880000  
**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS  
**Design Search Code** 031501 031519 150725 240907  
**Serial Number** 75560389  
**Filing Date** September 28, 1998  
**Published for Opposition** October 12, 1999  
**Registration Number** 2305867  
**Registration Date** January 4, 2000  
**Owner** (REGISTRANT) H-D Michigan, Inc. CORPORATION MICHIGAN 315 W. Huron St. Suite 400 Ann Arbor MICHIGAN 48103  
**Attorney of Record** JOHN R TROLL  
**Prior Registrations** 1455826;1710653;1716992;AND OTHERS  
**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OWNERS GROUP" APART FROM

THE MARK AS SHOWN

**Description of Mark** The mark includes a design of the word "HOG" in large letters, with the "O" being formed by a motorcycle wheel. Perched atop the "O" is an eagle with spread wings. The lining is a feature of the mark and does not indicate color.

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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## UNITED STATES PATENT AND TRADEMARK OFFICE

## Trademark Electronic Search System (TESS)

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#19

**Word Mark** HOG WAX POLISH CLEANER

**Goods and Services** IC 003. US 004. G & S: Vehicle Wax. FIRST USE: 19810626. FIRST USE IN COMMERCE: 19810626

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search Code** 031701 240501 261121 261302 261313

**Serial Number** 73331621

**Filing Date** October 8, 1981

**Published for Opposition** May 24, 1983

**Registration Number** 1248091

**Registration Date** August 16, 1983

**Owner** (REGISTRANT) Philmark, Inc. CORPORATION INDIANA 140 N. Range Line Rd. Camel INDIANA 46032

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** JOHN V. MORIARTY

**Disclaimer** No claim is made to the exclusive right to use the words "Hog Wax" and "Polish Cleaner", apart from the mark as shown.

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR).

**Live/Dead Indicator** LIVE



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## Trademark Electronic Search System (TESS)

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## Typed Drawing

<b>Word Mark</b>	HOG WAX
<b>Goods and Services</b>	IC 003. US 004. G & S: Vehicle Wax. FIRST USE: 19810626. FIRST USE IN COMMERCE: 19810626
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	73331605
<b>Filing Date</b>	October 8, 1981
<b>Published for Opposition</b>	March 20, 1984
<b>Supplemental Register Date</b>	September 12, 1983
<b>Registration Number</b>	1271236
<b>Registration Date</b>	March 20, 1984
<b>Owner</b>	(REGISTRANT) Philmark, Inc. CORPORATION INDIANA 140 N. Range Line Rd. Carmel INDIANA 46032
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	JOHN V. MORIARTY
<b>Disclaimer</b>	No claim is made to the exclusive right to use the word "Wax", apart from the mark as shown.
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	SUPPLEMENTAL
<b>Affidavit Text</b>	SECT 8 (6-YR).
<b>Live/Dead Indicator</b>	LIVE

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## UNITED STATES PATENT AND TRADEMARK OFFICE

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## Typed Drawing

**Word Mark** HOG WILD

**Goods and Services** IC 020. US 002 013 022 025 032 050. G & S: novelty items, namely, novelty drinking cups and drink mixers, novelty self-tying shoe laces, and novelty propeller blades with suction cups. FIRST USE: 19950308. FIRST USE IN COMMERCE: 19951115

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 75186689

**Filing Date** October 24, 1996

**Published for Opposition** May 11, 1999

**Registration Number** 2284355

**Registration Date** October 12, 1999

**Owner** (REGISTRANT) Hog Wild Inc. DBA Hog Wild CORPORATION OREGON 107 Southeast Washington Street Portland OREGON 97214

**Attorney of Record** CHRISTOPHER J BISCHOFF

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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UNITED STATES PATENT AND TRADEMARK OFFICE

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List  OR  to record:  **Record 284 out of 699**

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**Typed Drawing**

**Word Mark** HOG  
**Goods and Services** IC 009. US 021 023 026 036 038. G & S: amplifiers and audio speakers for use with musical instruments or public address systems. FIRST USE: 19950101. FIRST USE IN COMMERCE: 19950101  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 75094271  
**Filing Date** April 25, 1996  
**Published for Opposition** July 22, 1997  
**Registration Number** 2131788  
**Registration Date** January 27, 1998  
**Owner** (REGISTRANT) CHATT, HOWARD DBA PIGNOSE INDUSTRIES INDIVIDUAL UNITED STATES 400 W. Alondra Boulevard Gardena CALIFORNIA 90248  
**Attorney of Record** RICHARD L MYERS  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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## UNITED STATES PATENT AND TRADEMARK OFFICE

## Trademark Electronic Search System (TESS)

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**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** HOG  
**Goods and Services** IC 009. US 021 023 026 036 038. G & S: Automated lighting control console and/or peripherals for automated lighting control consoles. FIRST USE: 19990900. FIRST USE IN COMMERCE: 19990900  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 76110173  
**Filing Date** August 10, 2000  
**Published for Opposition** March 12, 2002  
**Registration Number** 2575447  
**Registration Date** June 4, 2002  
**Owner** (REGISTRANT) High End Systems Europe Ltd CORPORATION UNITED KINGDOM 53 Northfield Road London W13 9SY ENGLAND  
**Attorney of Record** Heinz D. Grether  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**Typed Drawing**

**Word Mark** **HOG CALL**

**Goods and Services** IC 003. US 001 004 006 050 051 052. G & S: soap, shampoo, shaving cream, after shave lotion, underarm deodorant, mouthwash, toothpaste. FIRST USE: 19961018. FIRST USE IN COMMERCE: 19961018

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 75026104

**Filing Date** November 27, 1995

**Filed ITU** FILED AS ITU

**Published for Opposition** March 11, 1997

**Registration Number** 2139490

**Registration Date** February 24, 1998

**Owner** (REGISTRANT) Sloan, Mark A. INDIVIDUAL UNITED STATES 2552 E. Alameda Avenue Unit 118 Denver COLORADO 80209

**Attorney of Record** Jack C. Sloan

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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## UNITED STATES PATENT AND TRADEMARK OFFICE

## Trademark Electronic Search System (TESS)

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### Typed Drawing

**Word Mark** HOG TAIL

**Goods and Services** IC 028. US 022 023 038 050. G & S: bodyboard accessories. FIRST USE: 19960321. FIRST USE IN COMMERCE: 19960321

**Mark Drawing Code** (1) TYPED DRAWING

**Serial Number** 74706982

**Filing Date** July 27, 1995

**Filed ITU** FILED AS ITU

**Published for Opposition** March 12, 1996

**Registration Number** 2072509

**Registration Date** June 17, 1997

**Owner** (REGISTRANT) MATTEL, INC. CORPORATION DELAWARE 333 Continental Boulevard El Segundo CALIFORNIA 902455012

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** Michele L. McShane

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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**Hog Cream Enterprises, Inc**  
**5907 Woodpoint Terrace**  
**Pt Orange FL 32128**

RE: Opposition No. 91151927 / 1998

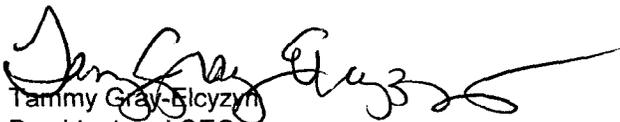
4/12/2003

**Responses to Opposer's First Set of Requests for Admission**

- 1.) Agree
- 2.) Agree
- 3.) Agree
- 4.) Agree
- 5.) Agree to the use of Harley Davidson of the unique design of the word "Hog" by Harley Owners Group. Also agree that many other companies use the word "Hog". Please see attachments.
- 6.) Agree to the unique design of H-D's use of the word "Hog" have not compared it to all of the other 1200+ USPTO listings with the word Hog during my research.
- 7.) Agree to the unique use of the word Hog by Harley-Davidson
- 8.) Agree
- 9.) Agree to Harley-Davidson and Harley Owners Group pre-dates Hog Cream Enterprises, INC
- 10.) Agree
- 11.) Had heard of Harley-Davidson and Harley Owners Group, did not view any existing trademarks. When researching at the USPTO web site simply typed in the words Hog and Cream to see if it was in use already. It was not, so I proceeded with my application to use it.
- 12.) Unaware of any use by the word "Hog" on a Harley Davidson motorcycle, the only banner I've seen of Harley Owners Group was at the Daytona Beach Ocean Center March 2000 H.O.G. when I talked with a HD Corp rep "Beth" inquiring what was the best way to get my product into their dealerships.
- 13.) "Hog" is the first word of the product and company name.
- 14.) Agree, disclaimed rights to the word cream and SPF 15 when I received the letter from USPTO stating that there was no apparent conflict with any other trademark.
- 15.) Agree, generic term with several products including when used with suntan lotion.
- 16.) No, the most dominant element is the western style, pen and ink drawing with the figure of the African Wart-Hog.
- 17.) Agree, product name is in a larger font than the tag line.
- 18.) No, the use of every word for this product has many meanings and implications. In the case of the word RIDE, there are several outdoor activities that a person would be considered riding, i.e. riding a motorcycle, bicycle, and waves ( thats why incorporated into the design are racing walls and palm trees ). I am unaware of any instance of Harley Davidson having an association with not only Suntan Lotion but also the beach, or racing.
- 19.) No, with all due respect to Harley Davidson brand of motorcycles, the phrase is intentionally vague to appeal to as wide a market of potential customers as possible. Other manufacturers of motorcycles, bicycles, even surfboards and their clients might also make the claim that their product would be the "best" in a particular scenario.
- 20.) Agree, the figure of the African Wart-Hog is riding a motorcycle.
- 21.) No, just a generic older motorcycle. Please note the use of bones in body of motorcycle to give it a "Western" feel.
- 22.) No, elements of design intends to be different than any other brand of suntan lotion. Trying to capitalize on what I believe is a market that is not being sought after by other suntan lotion companies. With all due respect to other sunscreen companies, not everyone wants to smell like the beach. However, when outdoors men and women need protection from the sun and wind when enjoying outdoor activities. If the intention was to harm Harley Davidson Corporation, I would not have pitched it the their corporate representative first. If when researching the USPTO

web site there had been a conflict ( or if the USPTO correspondence would have said that there was a conflict ) I would not have continued investing time and money into the company. Here in Daytona we enjoy the radio station WHOG the Hog. It is not owned or affiliated with Harley Davidson Corporation. This company and others use of the word Hog is no different than Hog Cream Enterprises, use with its suntan lotion HOG CREAM.

- 23.) Agree
- 24.) As stated earlier, all words selected for several reasons. Lightly scented to entice those with wheels not wings" is used to differentiate HOG CREAM from other sunscreens with heavy scents, and to inform in a fun way that by using HOG CREAM there is a safety benefit. Heavy scents can attract bugs that sting and bite.
- 25.) Agree
- 26.) As stated earlier, all words selected for several reasons. Looking good in Leather not like Leather tag line is used to again state the obvious... without sunscreen protection, over time if you spend enough time outdoors without sunscreen you will appear older faster. Also a fun safety message, many people wear leather when enjoying motorcycle activities including motorcycle racing teams however, some people don't wear protective gear at all including helmets. (Which is now optional in Florida.)
- 27.) Agree, HD probably has a website. I don't recall visiting www.hog.com. Hog Cream is registered with Register.com. When researching at Register.com I searched for the availability of Hogcream.com.
- 28.) Agree. Currently not hosted by any search engines.
- 29.) Agree
- 30.) Disagree, I bought, rode, enjoyed a Harley Davidson motorcycle years ago. I did sell it. Again, this information is shared for several reasons, one of which is that Hog Cream is different than other suntan companies in that I share some of the same interests as people who ride motorcycles including Harley Davidson brand and I have a product that hopefully fulfills a void in this market. Again, with all due respect to Harley Davidson Corporation, it doesn't have a monopoly on the motorcycle enthusiasts market. If Harley Davidson opposes the statement that I bought its product ( which endorses their product ) I can remove that statement from the website.
- 31.) Agree
- 32.) Agree
- 33.) Agree
- 34.) Agree
- 35.) Agree
- 36.) Agree
- 37.) Some of the channels will be the same. Plans are to get product in every store that will carry it.
- 38.) No, when funds are available African WartHog figure would be shown in a variety of scenarios (i.e. holding surfboard.)
- 39.) Disagree, I see no likeness in Harley Davidsons logos to the HOG CREAM label.



Tammy Gray-Eliczyn  
President and CEO  
Hog Cream Enterprises, INC  
5907 Woodpoint Terrace  
PT Orange FL 32128  
386-788-8770

Hog Cream Enterprises, Inc  
5907 Woodpoint Terrace  
Pt Orange FL 32128

RE: Opposition No. 91152998 / 1927

4-12-03

**Responses to Opposer's First Set of Production of Documents**

- 1 Only document is at the USPTO on file-the application
- 2 Only document is at the USPTO on file-the application
- 3 Only document is at the USPTO on file-the application
- 4 United States of America, no document available
- 5 No document available response is: to all channels that will sell product
- 6 No document available
- 7 No document available response all consumers of sunscreen products
- 8 No document available - no advertising has been done
- 9 No document available - no research needed to be done common sense is all that's needed for sunscreen use
- 10 No document available - standard packaging used
- 11 On file at USPTO
- 12 No document available - no advertising has been done
- 13 No document available - no advertising has been done
- 14 No document available - no advertising has been done
- 15 Attached and answered in the Interrogatories and Requests for Admission
- 16 Only document is at the USPTO
- 17 No documents besides Opposer's requests
- 18 No documents to the fact
- 19 No documents to the fact
- 20 Attached and answered in the Interrogatories and Requests for Admission
- 21 No documents available. Annual sales addressed in the Opposer's First Set of Interrogatories
- 22 Not applicable No documents
- 23 Not applicable No documents
- 24 Not applicable No documents
- 25 Only documents of file at USPTO
- 26 No documents available. Registering domain name is done on the computer.
- 27 Web page is non-hosted and are free templates provided by Register.com. There are no documents.
- 28 Web page created and maintained by TG Elcyszyn. No documents
- 29 Attached to Interrogatories



Tammy Gray-Elcyszyn  
President and CEO  
Hog Cream Enterprises, Inc  
5907 Woodpoint Terrace  
Pt Orange FL 32128  
386-788-8770