

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

BFS BRANDS, L.L.C *
and *
BRIDGESTONE/FIRESTONE *
NORTH AMERICAN TIRE, L.L.C. *
Opposers * Opposition No.: 154,661
v. * Application Ser. No.: 76/369,339
Mark: MILESTONE ROAMER *
ORTECK INTERNATIONAL, INC. *
Applicant *
* * * * *

APPLICANT'S ANSWER TO OPPOSER'S AMENDED NOTICE OF OPPOSITION

TO Assistant Commissioner of Trademarks
2900 Crystal Drive
Arlington, VA. 22202
BOX TTAB-No Fee

cc. Peter G. Mack
Geoffrey M. McNutt
Foley & Larder
3000 K Street, N.W.
Suite 500
Washington, D.C. 20007
(Attorneys for Opposers)

08-04-2004
U.S. Patent & TMO for TM Mail Rcpt Dt. #22

Sir:

Orteck International, Inc., having a business address at 7917 G&H Cessna Avenue,
and Applicant in the above-captioned proceeding, pleads as follows in Answer to the
Amended Notice of Opposition as served by BFS Brands, L.L.C. and Bridgestone/Firestone
North American Tire, L.L.C.

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Opposition, and therefore denies the same.

2. Admitted.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3 of the Opposition, and therefore denies the same.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 of the Opposition, and therefore denies the same.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 of the Opposition, and therefore denies the same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6 of the Opposition, and therefore denies the same.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 of the Opposition, and therefore denies the same.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the Opposition, and therefore denies the same.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the Opposition, and therefore denies the same.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 of the Opposition, and therefore denies the same.

11. Denied.

12. Applicant denies that Applicant's "tires for vehicle wheels" identified by Applicants "MILESTONE ROAMER" and the "rubber tires" identified by Opposer's FIRESTONE marks and names and by the Bridgestone/Firestone name are identical. Applicant is without sufficient information to either admit or deny the remaining averments in paragraph 12 and therefore deny the same.

13. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 of the Opposition, and therefore denies the same.

14. Denied.

15. Denied.

16. Applicant denies that its MILESTONE ROAMER mark causes and will cause dilution of the distinctive quality of Opposer's famous FIRESTONE mark and name and of the Bridgestone/Firestone name, all to further damage of Opposers. Applicant is without

sufficient information to either admit or deny the remaining averments in paragraph 16 and therefore deny the same.

17. Admitted.

18. Denied.

19. Denied.

20. Denied

21. The term “unrelated” is vague and ambiguous. Thus, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 21 of the Opposition, and therefore denies the same.

22. Admitted.

23. Applicant admits that its customers are tire wholesales and/or tire distributors located in the United States. Applicant also admits that it receives orders for tires from its customers. Applicant denies that it passes the orders on to its Chinese supplier.

24. Applicant admits that tires are shipped directly from the Chinese supplier to Applicant’s customers.

25. Denied.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

30. Denied. At the time Applicant filed its application, it had, and continues to have, a bona fide intent to use, and is in fact using, the mark MILESTONE ROAMER, in U.S. commerce in the manner of a trademark, within the meaning of Section 1 and 45 of the Lanham Act, 15 U.S.C. §§ 1051, 1127.

AFFIRMATIVE DEFENSE

As separate affirmative defenses to the Notice of Opposition, Applicant pleads as follows:

31. Opposer is barred by the doctrine(s) of laches and/or estoppel.

32. Opposer lacks standing to maintain this Opposition proceeding.

RESERVATION

Applicant expressly reserves the right to allege any additional affirmative defenses and/or counterclaims as may be appropriate based on further pleading or discovery.

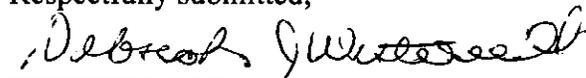
Wherefore, Applicant prays:

1. That all requested relief by Opposer be denied.
2. That Application Serial No. 76/369,339 for the Mark: MILSETONE ROAMER be registered in due course.
3. That Applicant has such other and further relief as the board determines is appropriate under the circumstances.

* * * * *

DATED this 4th day of August, 2004.

Respectfully submitted,



Deborah J. Westervelt

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10 North Calvert Street

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Baltimore, Maryland 21202

Telephone: (410)385-2383

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Applicant's Answer to Opposer's Amended Notice of Opposition was sent by First Class Mail postage pre-paid, on August 4, 2004, upon the following Attorneys for Opposer:

Peter G. Mack
Geoffrey M. McNutt
Foley & Larder
3000 K Street, N.W.
Suite 500
Washington, D.C. 20007

Date: August 4, 2004

Deborah J. Westervelt
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TTAB

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VIA EXPRESS MAIL NO.: **EV534880660US**
To The Assistant Commissioner
of Trademarks
Box TTAB-NO FEE
2900 Crystal Drive
Arlington, VA 22202-3513

In re: Opposition No. 154,661 - Application No. 76/369,339 for Mark: MILESTONE
ROAMER; BFS Brands, L.L.C. and Bridgestone/Firestone North American Tire,
L.L.C. (Opposers) v. Orteck International, Inc. (Applicant)..

LAW
BUSINESS
TECHNOLOGY Dear Sir:

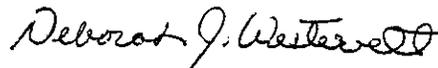
Enclosed please find the following:

1. Answer to Amended Notice of Opposition
2. Answer to Amended Notice of Opposition (Black-Lined Version)
3. Our post card. Please date stamp and return

Please charge any unanticipated fees to our Deposit Account No. 03-3565 (a duplicate copy of this charge authorization is attached.)

Thank you for your cooperation and assistance.

Respectfully submitted,



Deborah J. Westervelt

I HEREBY CERTIFY that on August 4, 2004, one copy of the above-referenced documents were deposited with the United States Postal Service for delivery by Express Mail to the United States Patent and Trademark Office.



08-04-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22