

TTAB

16488-0067

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

In the Matter of Trademark Application Serial No. 76/299,250

Mark: WOODCRAFT COLLECTIBLES

Filed: August 14, 2001

Published: September 3, 2002



10-01-2002

U.S. Patent & TMOfo/TM Mail Rcp1Dt. #77

WOODCRAFT SUPPLY CORP.,		)
	Opposer	)
v.		)
SHERWOOD BRANDS, LLC		)
	Applicant	)

10/16/2002 ZCARRITH 00000038 76299250  
01 FC:6402 300.00 OP

02 OCT 31 AM 9:49  
TRADEMARK TRIAL AND APPEAL BOARD

Assistant Commissioner for Trademarks  
Box TTAB  
2900 Crystal Drive  
Arlington, VA 22202-3513  
October 1, 2002

**NOTICE OF OPPOSITION**

Woodcraft Supply Corp., a corporation organized and existing under the laws of the State of West Virginia, and having a principal place of business at 5300 Briscoe Road, P.O. Box 1686, Parkersburg, West Virginia, 26102-1686 (hereinafter "Opposer"), believes that it will be damaged by registration of the mark WOODCRAFT COLLECTIBLES, for decorative model trains, planes and ships, as set forth in application Serial No. 76/299,250, filed by Sherwood Brands, LLC, a limited liability company of the State of Maryland, 1803 Research Boulevard – Suite 201, Rockville,

Maryland 20850, (hereinafter "Applicant"). Opposer therefore opposes such registration.

As grounds for this opposition, it is alleged that:

1. Opposer is now, and together with its predecessors in title, has continuously since at least 1928 been, engaged in the sale of hand tools, wood, wood supplies, hardware and related products and materials useful in working with, and/or making articles of, wood.

2. Opposer currently operates in commerce through a chain of retail store outlets, a mail order catalog service, and an on-line or internet order catalog service. Opposer's mail order catalog services are rendered to customers throughout the United States as well as numerous foreign countries. Opposer currently has 16 retail store outlets in 12 states across the United States. Opposer's internet order catalog services are available worldwide on-line at the web page address "www.woodcraft.com".

3. Since at least 1928, Opposer has used the term WOODCRAFT as part of its company name and as a trade name in its business.

4. Since at least 1928, Opposer has used the term WOODCRAFT, alone and in conjunction with design components, as a trademark for its hand tools, wood, wood supplies, hardware and related products, including without limitation, a variety of wood products that can be characterized as "collectibles".

5. Since at least 1962, Opposer has used the term WOODCRAFT, alone and in conjunction with design components, as a service mark for its retail store services, and its mail order catalog services through which customers have purchased its hand tools, wood, wood supplies, hardware and related products including, without limitation, a variety of wood products that can be characterized as "collectibles".

6. As a result of the above uses, and because of substantial amounts of time, effort and money expended in the advertising, promotion and sale of its products and the rendering of its services, Opposer has developed substantial common law rights in the term WOODCRAFT, and has built up extensive and valuable reputation, goodwill and consumer recognition in the term WOODCRAFT.

7. In addition to the above, Opposer has been issued the following registrations on the Principal Register:

<u>Reg. No.</u>	<u>Issued</u>
1,127,711	December 11, 1979
1,335,451	May 14, 1985
1,367,546	October 29, 1985
2,173,162	July 16, 1998
2,225,326	February 23, 1999
2,299,858	December 14, 1999
2,299,859	December 14, 1999

8. The first three registrations listed in paragraph 7 above are valid, subsisting and incontestable. All listed registrations evidence Opposer's exclusive right to use the marks identified therein in interstate commerce on the goods and services specified in said registrations.

9. Applicant's application Serial No. 76/299,250 is for the mark WOODCRAFT COLLECTIBLES for decorative model trains, planes and ships, in International Class 28. It alleges a date of first use in August 2000.

10. On information and belief, Applicant's goods are made of wood, and Applicant advertises, offers for sale, sells and distributes its goods in the United States, including areas where Opposer also advertises, offers for sale, sells and distributes its products and renders its services.

11. The goods recited in application Serial No. 76/299,250, and the goods and services with which Opposer has used and continues to use the term WOODCRAFT, are the same, substantially the same, or closely related, and are made available by Applicant and Opposer to the same class of purchasers through the same or substantially the same trade channels.

12. Applicant's alleged mark, when applied to the goods recited in application Serial No. 76/299,250, so resembles Opposer's company name, trade name and marks, as applied to Opposer's goods and services, as to be likely to cause the public to believe that the goods of Applicant originate with Opposer, or vice versa, or that Applicant is owned

or controlled by or in some manner associated or affiliated with Opposer, or vice versa, and is otherwise likely to cause confusion, to cause mistake or to deceive.

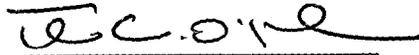
13. By virtue of this confusing similarity of marks, Opposer will be damaged by registration of the mark WOODCRAFT COLLECTIBLES by Applicant for decorative model trains, planes and ships, as set forth in application Serial No. 76/299,250.

WHEREFORE, Opposer requests that this opposition be sustained, and that application Serial No. 76/299,250 be refused registration.

Triplicate copies of this Notice of Opposition, together with the requisite fee of \$300.00 are enclosed herewith.

Please charge any other fee occasioned by this paper to our Deposit Account No. 03-1237.

Respectfully submitted,



Thomas C. O'Konski  
Reg. No. 26,320  
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**EXPRESS-MAIL DEPOSIT**

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The following paper is being deposited with the United States Postal Service “Express Mail Post Office to Addressee” service pursuant to 37 C.F.R. §1.10:

- X   Notice of Opposition (in triplicate) w/  
copies of registrations
- X   Check No. 25185 for \$300