

TTAB

CERTIFICATE OF EXPRESS MAIL  
Express Mail No. ER 426401545 US  
Date: August 26, 2003

I hereby certify that this correspondence is being deposited with the U.S. Postal Service by Express Mail on the date indicated above and is addressed to: Assistant Commissioner for Trademarks, Box TTAB/FEE, 2900 Crystal Drive, Arlington, VA 22202-3513. *Stacey C. Friends* Stacey C. Friends

08-28-2003

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

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

Rhino Linings USA, Inc.  
Opposer

OPPOSITION NO.

v.

Fetovu Pty Ltd.  
Applicant

**NOTICE OF OPPOSITION**

Rhino Linings USA, Inc., ("Opposer"), a California corporation, located and doing business at 9151 Rehco Road, San Diego, California, 92121, believes that it will be damaged by registration of the mark described below and hereby opposes the same.

Description of the Application:

Serial No.: 78038482  
Mark: RHINO-RACK  
Filed: December 8, 2000  
International Class: 012  
Goods: Metal and plastic ladder racks for use on vehicles.  
Published in the *Official Gazette* on July 29, 2003

09/02/2003 TSMITH 00000045 78038482

01 FC:6402

300.00 OP

The grounds for opposition are as follows:

1. Opposer is the owner of the trademark "Rhino Linings," used in connection with the application of protective polyurethane linings to horse trailers, van floors and truck beds; sprayable polyurethane coating for application on a wide range of commercial, industrial and consumer products; and spray guns for use in the application of polyurethane coatings to horse trailers, van floors and truck beds. Opposer has used this mark since at least as early as May 31, 1988, has used this mark in interstate commerce since at least as early as May 31, 1988, and is

the owner of U.S. Registration Nos. 1910469 and 2682202 for this trademark. Opposer has, since 1988, continuously marketed its goods and services under the mark "Rhino Linings."

2. Fetovu Pty Ltd. ("Applicant") has filed an application based on use in commerce claiming a date of first use of May 25, 1993 and a date of first use in commerce of October, 1996, establishing Opposer as the senior user in this matter.

3. Since 1999, Opposer has devoted millions of dollars to the marketing and sales of its services and goods, and in protecting its intellectual property rights in its marks. Opposer purchases thousands of television and print advertisements annually.

4. Opposer is the owner of trademark applications for its marks in over one hundred countries, about seventy-percent of which have received certificates of registration.

5. Opposer distributes its goods and services through over 600 independent dealerships in the United States.

6. Upon information and belief, Applicant's goods include metal and plastic ladder racks for use on vehicles, including roof racks. Opposer's goods are coatings which are applied to vehicles, including roof racks for vehicles. Therefore, upon information and belief, Applicant and Opposer both sell related goods to the exact same industries and consumers.

7. Based on the foregoing and upon information and belief, Opposer will be damaged by the registration of Applicant's "RHINO-RACK," as the similarities between the marks and the goods they designate are likely to cause confusion, mistake and deception among consumers, with consequent damage to the business and good will of Opposer. Applicant's mark, "RHINO-RACK," is very similar to Opposer's mark, "RHINO LININGS." Both are two-

syllable compound marks that begin with the protectable word "RHINO" and contain a second syllable that describes the product. Applicant's product is a coating that is often applied to roof racks for vehicles, and Opposer's goods are the roof racks themselves. Applicant's goods are designed to be marketed and sold to the automotive industry and to consumers purchasing vehicles or accessories for their vehicles, and Opposer's goods are marketed and sold to the same industries and consumers. It is therefore likely that consumers will believe that Applicant's goods are affiliated with Opposer's goods, or confused consumers may seek out Opposer's goods and find Applicant's goods instead, all to the detriment and damage of Opposer.

WHEREFORE, Opposer requests that this Opposition be sustained and that Application Serial No. 78038482 be disallowed and registration of "RHINO-RACK" be refused.

A duplicate copy of this Notice of Opposition is enclosed herewith, along with a check payable to "Commissioner of Patents and Trademarks" in the amount of \$300.

RHINO LININGS USA, INC.

By its attorney,



Stacey C. Friends  
Stacey Friends & Associates  
150 Lincoln St., Suite 6A  
Boston, MA 02110  
617-542-2877  
sfriends@staceypass.com

Date: August 26, 2003

Express Mail No. ER 426401545 US

Stacey Friends  
& Associates

Intellectual Property &  
Entertainment Law

August 26, 2003

Via Express Mail No. ER 426401545 US

08-28-2003

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

Assistant Commissioner for Trademarks  
Box TTAB/FEE  
2900 Crystal Drive  
Arlington, VA 22202-3513

Re: Opposition to Application Serial No. 78038482, "RHINO-RACK"

Dear Sir/Madam:

Enclosed for filing on behalf of Rhino Linings USA, Inc. please find the following items:

1. Notice of Opposition to Application Serial No. 78038482 (two copies), including a Certificate of Express mailing;
2. Check for \$300.00 payable to the order of the Commissioner of Patents and Trademarks; and
3. Stamped, self-addressed postcard.

Please date stamp the postcard and return it to this office. Thank you.

Sincerely,



Stacey C. Friends

Enclosures

cc: Sharon Jackson