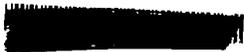


**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

TBC BRANDS, LLC	)	OPPOSITION NO. <u>91158172</u>
	)	IN THE MATTER OF APPLICATION
Opposer,	)	SERIAL NO. <u>76/416,504</u>
	)	
- versus -	)	
	)	<b><u>ANSWER TO THE NOTICE OF</u></b>
	)	<b><u>OPPOSITION</u></b>
KUMHO INDUSTRIAL CO., LTD.	)	
	)	
Applicant.	)	
_____	)	

Commissioner of Trademarks  
BOX TTAB NO FEE  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

  
**11-26-2003**  
U.S. Patent & TMO/TM Mail Rcpt Dt. #22

SIR:

Applicant, Kumho Industrial Co., Ltd. ("Applicant"), answers the Notice of Application of Opposition ("Notice") filed by TBC Brands, LLC ("Opposer") as follows:

1. Applicant is without sufficient information or belief to admit or deny the allegations contained in the first and second sentences of Paragraph 1 of the Notice of Opposition and upon that basis denies each and every allegation contained therein.

2. Applicant is without sufficient information or belief to admit or deny the allegations contained in the first and second sentences of Paragraph 2 of the Notice of Opposition and upon that basis denies each and every allegation contained therein.

3. Applicant admits the existence of Registrations Nos. 981,104 and 1.478,574 and that those registrations appear to be owned by Opposer, according to the records of the U.S. Patent and Trademark Office. Otherwise Applicant denies each and every allegation of Paragraph 3 of the Notice of Opposition.

4. Applicant is without sufficient information or belief to admit or deny the allegations contained in the first and second sentences of Paragraph 4 of the Notice of Opposition and upon that basis denies each and every allegation contained therein.

5. Applicant admits the allegations contained in Paragraph 5 of the Notice of Opposition.

6. Applicant denies the allegations contained in Paragraph 6 of the Notice of Opposition.

7. Applicant is without sufficient information or belief to admit or deny the allegations contained in Paragraph 7 of the Notice of Opposition and upon that basis denies each and every allegation contained therein.

8. Applicant is without sufficient information or belief to admit or deny the allegations contained in Paragraph 8 of the Notice of Opposition and upon that basis denies each and every allegation contained therein.

9. Applicant is without sufficient information or belief to admit or deny the allegations contained in Paragraph 9 of the Notice of Opposition and upon that basis denies each and every allegation contained therein.

10. Applicant denies each and every allegation contained in Paragraph 10 of the Notice of Opposition.

11. Applicant denies each and every allegation contained in Paragraph 11 of the Notice of Opposition.

12. Applicant denies each and every allegation contained in Paragraph 12 of the Notice of Opposition.

#### AFFIRMATIVE DEFENSES

1. There is no likelihood of conflict or confusion between Applicant's mark MATRAC and Opposer's marks MATRIX and MULTI-TRAC. The marks are so different that the consuming public will not be deceived into buying Applicant's goods believing that they are sponsored by or originating from, directly or indirectly, Opposer.

2. Opposer has no exclusive rights in the syllables MA or TRAC as applied to tires for automobiles and trucks in class 12 as is shown by the many uses and registrations of marks

containing or comprising, in whole or in part, the words MA or TRAC. These marks and/or registrations include:

<b>MA-TRIX</b>	(Serial No. 76/137,588)
<b>MA-TECH</b>	(Reg. No. 2,099,798)
<b>TORC-TRAC</b>	(Reg. No. 2,446,438)
<b>TRAC – 4</b>	(Reg. No. 2,247,147)
<b>X- TRAC</b>	(Reg. No. 2,595,712)

3. In addition to the foregoing, there are many other uses of tires for automobiles including and comprising the syllables MA and TRAC more similar to Opposer's marks than Applicant's mark, therefore, there is no likelihood of conflict or confusion between Opposer's marks and Application's mark.

4. Opposer's marks MATRIX and MULTI-TRAC create their own commercial impression in the market, and therefore, the purchasing public will readily distinguish Applicant's mark from Opposer's marks. Applicant's mark will not create confusion in the relevant consumer group or induce the members of that group to believe that Opposer is the source or sponsor of Applicant's goods.

5. The syllables MA and TRAC are not capable of exclusive appropriation by Opposer in that they are already used in whole or in part by many others. Applicant's mark is totally different from Opposer's in appearance, connotation and commercial impression so that

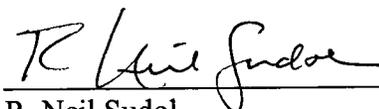
there is no conflict or confusion and therefore Opposer cannot be damaged in any way by Registration or use of the Opposed mark by Applicant.

WHEREFORE, Applicant requests that the Notice of Opposition be denied and dismissed, and that a formal notice of allowance be issued so that a verified statement of use may be filed and Applicant's application thereafter passed on to registration.

Respectfully submitted,

COLEMAN SUDOL SAPONE, P.C.

Date: November 26, 2003



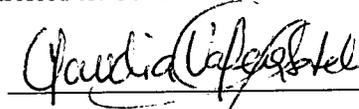
R. Neil Sudol  
Attorney for Applicant  
Kumho Tire Co., Inc.

COLEMAN SUDOL SAPONE, PC  
714 Colorado Avenue  
Bridgeport, CT 06605-1601  
(203) 366-3560

RNS/cvs

**EXPRESS MAIL NO. EL 890530669 US**  
**Deposited: November 26, 2003**

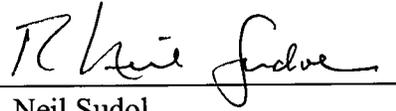
I hereby certify that this correspondence is being deposited with the United States Postal Service Express mail under 37 C.F.R. 1.10 on the date indicated above and its addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.



Claudia S. Valera

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the above and foregoing "Answer to the Notice of Opposition" was served upon Plaintiff, by and through its attorney of record, Marsha G. Gentner, Jacobson Holman PLLC, 400 Seventh Street, N.W., Washington, D.C. 20004, via "Express Mail Post Office to Addressee" No. EL 890541176 US, postage prepaid thereon, on November 26, 2003.



R. Neil Sudol  
Reg. No. 31,669

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

TBC BRANDS, LLC,

Opposer,

v.

KUMHO INDUSTRIAL CO., LTD.,

Applicant.

}  
}  
}  
}  
}  
}  
}  
}

Opposition No. 91158172

**STIPULATED MOTION TO JOIN  
A PARTY**

11-26-2003

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

Sir:

Applicant moves to join KUMHO TIRES CO., INC. as a party defendant in the opposition proceeding.

Applicant executed an assignment of the mark and application, which is the subject matter of the present proceeding, to KUMHO TIRES CO., INC. Said assignment was executed on September 30, 2003, prior to the filing of the opposition, i.e., October 15, 2003. The assignment was duly recorded in the United States Patent and Trademark Office on 10/08/2003, and the record is located on Reel/Frame Number 002728/0360 of the microfilm records of the U.S. Patent and Trademark Office. Enclosed herewith are copies of a Notice of Recordation and Assignment.

As successor applicant of the subject mark, KUMHO TIRES CO., INC. is an interested party and an appropriate co-defendant in this opposition action.

**BRIEF ON MOTION**

Applicant assigned the mark MATRAC and the application for registration of said mark to KUMHO TIRES CO., INC. on September 30, 2003, prior to the filing of the

present opposition, i.e., October 15, 2003. The assignment was duly recorded on Reel/Frame Number 002728/0360 of the microfilm records of the U.S. Patent and Trademark office on 10/08/2003.

By virtue of said assignment, KUMHO TIRES CO., INC. is the current applicant for the subject mark and owner of the underlying application.

THEREFORE, Applicant's motion to join KUMHO TIRES CO., INC. as a co-defendant in this opposition action should be granted.

Dated: November 26, 2003

Coleman Sudol Sapone, P.C.  
714 Colorado Avenue  
Bridgeport, CT 06605-1601  
(203) 366-3560  
Fax: (203) 335-6899

  
\_\_\_\_\_  
R. Neil Sudol  
Attorney for Applicant

Attorney Docket No. Y06-147

### PROOF OF SERVICE

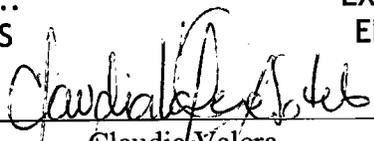
I hereby certify that on November 26, 2003, which also is the date of execution of this declaration, this STIPULATED MOTION TO JOIN A PARTY is being deposited with the United States Postal Service, "Express Mail Post Office to Addressee" service under 37 CFR § 1.10, postage prepaid, in an envelope addressed to:

Box TTAB NO FEE  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

Marsha G. Gentner, Esq.  
JACOBSON HOLMAN PLLC  
400 Seventh St., N.W.  
Washington, D.C. 20004

EXPRESS MAIL No.:  
EL 890530669 US

EXPRESS MAIL No.:  
EL 890541176 US

  
\_\_\_\_\_  
Claudia Valera



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

OCTOBER 09, 2003

PTAS

COLEMAN SUDOL SAPONE P.C.  
R. NEIL SUDOL  
714 COLORADO AVENUE  
BRIDGEPORT, CONNECTICUT 06605-1601

\*700047438A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 10/08/2003

REEL/FRAME: 002728/0360

NUMBER OF PAGES: 4

BRIEF: ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL

ASSIGNOR:

KUMHO INDUSTRIAL CO., LTD.

DOC DATE: 09/30/2003

CITIZENSHIP:

ENTITY: CORPORATION

ASSIGNEE:

KUMHO TIRE CO., INC.  
57, 1-GA, SINMUNLO, JONGLO-GU  
SEOUL, REPUBLIC OF KOREA

CITIZENSHIP:

ENTITY: CORPORATION

APPLICATION NUMBER: 76416504

FILING DATE: 06/03/2002

REGISTRATION NUMBER:

ISSUE DATE:

MARK: MATRAC

DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM

002728/0360 PAGE 2

ALLYSON PURNELL, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

## ASSIGNMENT

WHEREAS, Kumho Industrial Co., Ltd., a corporation of the Republic of Korea, having an address at 49-1, Kwangcheon-Dong, Seo-ku, Kwangju City, Republic of Korea ("Assignor"), is the applicant and trademark owner in Trademark Application No. 76/416,504 filed on June 3, 2002 to register the mark MATRAC.

WHEREAS, Kumho Tire Co., Inc., a corporation of the Republic of Korea, having a business address at 57, 1-ga, Sinmunlo, Jonglo-Gu, Seoul, Republic of Korea is desirous of acquiring the entire right, title and interest in and to said trademark and goodwill of business symbolized by said mark:

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, Kumho Industrial Co., Ltd. does hereby assign unto Kumho Tire Co., Inc. all right, title and interest in and to said application and said mark, together with that portion of its ongoing and existing business to which said mark pertains.

IN TESTIMONY WHEREOF, I have hereto set my hand and seal this 30th day of September, 2003.

Kumho Industrial Co., Ltd.

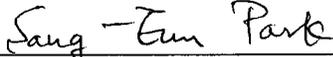
By:

Signature: 

Name: Hyung-In, SHIN

Title: Representative

WITNESSED BY:

First witness' signature: 

First witness' name: Sang-Eun Park

First witness' address: 715-157 Bongchun-1-dong, Kwanark-gu, Seoul, Korea

second witness' signature: 

Second witness' name: Eun-Jung Lee

Second witness' address: 354-106 Jugong Apt., Banpo-dong, Seocho-gu, Seoul, Korea