

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

In the matter of trademark application **Serial No. 78/164,297**  
For the mark **WAVE**  
Published in the Trademark *Official Gazette* on May 6, 2003

NEW  
OPP

Giocar America, Inc., doing business as  
Galfer, Galfer USA and Galfer Braking  
Systems,

Opposer,

v.

Braking Italia S.R.L.,

Applicant.

Opposition No.

**REQUEST FOR DETERMINATION OF  
TIMELY FILED NOTICE OF OPPOSITION  
UNDER 37 CFR 1.8(b) and TBMP 110.06**

Giocar America, Inc., doing business as Galfer, Galfer USA and Galfer Braking Systems (hereafter "Opposer"), hereby requests to have the Notice of Opposition filed by Opposer on May 13, 2003 to be deemed by the Trademark Trial and Appeal Board (hereafter "TTAB") as being timely filed. Accordingly, Opposer requests that the Registration of the above-referenced WAVE mark be withdrawn and Opposition proceedings be initiated in accordance with Opposer's Notice of Opposition.

**STATEMENT**

I, Stephen D. Burbach, attest based on my personal knowledge as follows:

1. The above-referenced WAVE mark was Published for Opposition on May 6, 2003.
2. I am the attorney who submitted the Notice of Opposition attached hereto as

Exhibit A.

3. On May 13, 2003, at my direction, my secretary, Deanna Fintz, caused the Notice of Opposition of Exhibit A to be mailed to the TTAB via first class U.S. mail. Both the Notice of Opposition Transmittal and the Notice of Opposition papers in Exhibit A include a Certificate of Mailing under 37 C.F.R. § 1.8(a) signed by Deanna Fintz.

4. The Notice of Opposition of Exhibit A was timely filed because it was filed with the TTAB prior to the June 5, 2003 deadline for Opposing the above-referenced WAVE mark.

5. On or about September 12, 2003, I discovered that the above-referenced MARK had been assigned a registration date of July 29, 2003.

6. I subsequently conducted an investigation and discovered the following: 1) Christie, Parker & Hale had not received a return postcard from the TTAB indicating that the TTAB had received the Notice of Opposition; 2) check number 012719 submitted with the Notice of Opposition had not cleared Christie, Parker & Hale's bank; and 3) postage for the May 13, 2003 mailing had been recorded, indicating that the Notice of Opposition had been processed and mailed according to standard Christie, Parker & Hale procedures.

In view of the above, and in accordance with 37 C.F.R. § 1.8(b) and TBMP § 110.06 Opposer submits as follows:

1. Opposer has timely informed the TTAB of the previous mailing of the Notice of Opposition promptly after becoming aware that the TTAB has not received the Notice of Opposition.

2. Opposer is submitting in Exhibit A an additional copy of the previously mailed Notice of Opposition, including the Certificate of Mailing under 37 C.F.R. § 1.8(b).

3. Opposer has included a statement which attests on a personal knowledge basis that the previously submitted Notice of Opposition was timely mailed.

Enclosed herewith is a check for \$300 for the Opposition fee. Opposer submitted check number 012719 for the \$300 Opposition fee with the Notice of Opposition filed on May 13,

**Docket No. 110.2\*1/SDB/G480**

2003. In the event the TTAB eventually receives check No. 012719, Opposer requests that this \$300 fee be credited to Deposit Account No. 03-1728. The Commissioner is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required by or to give effect to this paper to Deposit Account No. 03-1728. Please show our docket number with any charge or credit to our Deposit Account.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

Date

9/19/03

By

  
Stephen D. Burbach  
Attorneys for Opposer  
P.O. Box 7068  
Pasadena, California 91109-7068  
626/795-9900

SDB/df

Enclosures:

Copies of Originally Filed Notice of Opposition and Notice of Opposition Transmittal

SDB PASS26916.1-\* -09/18/03 3:30 PM

**A**

TRADEMARK  
Docket No. 110.2\*1/SDB/G480

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF OPPOSITION TRANSMITTAL**

*I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514 on May 13, 2003.*

Signature

May 13, 2003

Box TTAB  
FEE  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3514

Commissioner:

Enclosed for filing are the following:

1. Notice of Opposition (original and copy) filed by Giocar America, Inc., doing business as Galfer, Galfer USA and Galfer Braking Systems, relating to the following registration application:

**Mark** : WAVE  
**Serial No.** : 78/164,297  
**Filed** : September 16, 2002  
**Class(es)** : International Class 12  
**Applicant** : Braking Italia S.R.L.

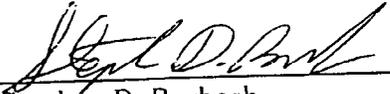
2. Our check for \$300.00 for the opposition filing fee.

The Commissioner is authorized upon filing or during prosecution of this opposition to charge any additional fees which may be required or credit any overpayment of fees to Deposit Account No. 03-1728. Please show our docket number with any Deposit Account transaction. **A copy of this letter is enclosed.**

Please address all correspondence to **CHRISTIE, PARKER & HALE, LLP, P.O. Box 7068, Pasadena, California 91109-7068.**

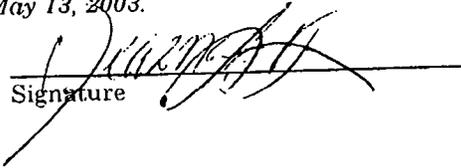
Respectfully submitted,  
CHRISTIE, PARKER & HALE, LLP

By

  
Stephen D. Burbach  
626/795-9900

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

*I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514 on May 13, 2003.*

Signature 

In the matter of trademark application Serial No. 78/164,297  
For the mark WAVE  
Published in the Trademark *Official Gazette* on May 6, 2003

Giocar America, Inc., doing business as  
Galfer, Galfer USA and Galfer Braking  
Systems,

Opposer,

v.

Braking Italia S.R.L.,

Applicant.

Opposition No.

NOTICE OF OPPOSITION

Giocar America, Inc., doing business as Galfer, Galfer USA and Galfer Braking Systems, a corporation having its principal place of business at 57 W. McFarlane Street, Ventura, California 93001, believes that it will be damaged by registration of the mark shown in application Serial No. 78/164,297 in International Class 12 and hereby opposes its registration.

As grounds for opposition, Opposer alleges that:

1. Applicant Braking Italia S.R.L., seeks to register WAVE as a trademark for brake discs for land vehicles, in International Class 12, claiming first use as of October 31, 2000, as evidenced by the publication of said mark in the *Official Gazette* on page TM 222 of the May 6, 2003 issue.

2. For many years, Opposer has been engaged in the manufacture and sale of brake products for vehicles.

3. Prior to applicant's priority date, Opposer has continuously used in commerce a WAVE mark, alone and in combination with other terms and designs (hereinafter the "WAVE mark"), in connection with the manufacture and sale of brake products for vehicles.

4. Through the widespread use and promotion of its WAVE mark over a long period of time and by virtue of the quality of goods sold under the marks, Opposer has built up a valuable goodwill and reputation in connection with said marks which would be jeopardized by applicant's use and registration of its mark.

5. The goods for which applicant seeks to register its mark in International Class 12, namely, brake disks for land vehicles, are identical in nature to Opposer's goods previously sold under the WAVE mark.

6. Applicant's mark so resembles Opposer's WAVE mark, previously used in commerce as to be likely, when applied to the goods of application Serial No. 76/303,289, to cause confusion, or to cause mistake or to deceive.

7. Opposer is informed and believes that applicant did not make use of its mark of Serial No. 78/164,297 for the goods therein prior to its alleged use date of October 31, 2000.

8. Opposer would be damaged by the issuance to applicant of a registration of the mark of Serial No. 78/164,297 for the goods therein.

---

---

Docket No. 110.2\*1/SDB/G480

---

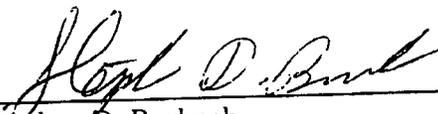
---

WHEREFORE, Opposer prays that application Serial No. 78/164,297 be rejected, and that the mark therein sought for the goods herein specified in International Class 12 be refused registration.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

Date 5/13/03

By   
Stephen D. Burbach  
Attorneys for Opposer  
P.O. Box 7068  
Pasadena, California 91109-7068  
626/795-9900

SDB/df

DLF PAS503864.1-5/13/03 9:23 AM

REMITTANCE ADVICE

PLEASE DETACH BEFORE DEPOSITING CHECK

CLIENT NAME	CASE NO. & ATTORNEY	CHECK APPROPRIATE ITEM TO BE CHARGED
GALFER USA G480	110.2*1 SDB/df	<input type="checkbox"/> ISSUE FEE <input type="checkbox"/> ADVANCE ORDER OF PATENT COPIES <input type="checkbox"/> FILING AND RECORDING FEE <input type="checkbox"/> FILING FEE <input type="checkbox"/> RECORDING FEE <input type="checkbox"/> FEE FOR ADDITIONAL CLAIMS <input type="checkbox"/> FEE FOR EXTENSION OF TIME <input type="checkbox"/> FILING FEE FOR SIXTH-YEAR DECLARATION <input type="checkbox"/> RENEWAL FEE <input type="checkbox"/> MAINTENANCE FEE <input checked="" type="checkbox"/> OTHER <u>Notice of Opposition Filing Fee \$300.00</u>

USE SEPARATE CHECK FOR EACH CLIENT AND CASE NUMBER

CASE NO. & ATTORNEY

**CHRISTIE, PARKER & HALE**  
P.O. BOX 7068  
PASADENA, CALIFORNIA 91109-7068

The Citibank Private Bank, Branch 395  
787 W. 5<sup>th</sup> St., 28<sup>th</sup> Floor  
Los Angeles, CA 90071  
90-7172  
3222

012719

PAY **\*\*300.00\*\***

NOT VALID IN EXCESS OF \$3,000.00

DATE AMOUNT  
May 13, 2003 \$300.00

TO THE ORDER OF



**COMMISSIONER OF PATENTS & TRADEMARKS**  
WASHINGTON, D.C. 20231

*Byron C. Heddon*

⑈012719⑈ ⑆322271724⑆ 200013092⑈

CHRISTIE, PARKER & HALE P.O. BOX 7068, PASADENA, CALIFORNIA 91109-7068

012719

ACCOUNTING COPY

PLEASE DETACH BEFORE DEPOSITING CHECK

CLIENT NAME	CASE NO. & ATTORNEY	CHECK APPROPRIATE ITEM TO BE CHARGED
GALFER USA G480	110.2*1 SDB/df	<input type="checkbox"/> ISSUE FEE <input type="checkbox"/> ADVANCE ORDER OF PATENT COPIES <input type="checkbox"/> FILING AND RECORDING FEE <input type="checkbox"/> FILING FEE <input type="checkbox"/> RECORDING FEE <input type="checkbox"/> FEE FOR ADDITIONAL CLAIMS <input type="checkbox"/> FEE FOR EXTENSION OF TIME <input type="checkbox"/> FILING FEE FOR SIXTH-YEAR DECLARATION <input type="checkbox"/> RENEWAL FEE <input type="checkbox"/> MAINTENANCE FEE <input checked="" type="checkbox"/> OTHER <u>Notice of Opposition Filing Fee \$300.00</u>

USE SEPARATE CHECK FOR EACH CLIENT AND CASE NUMBER



TTAB

TRADEMARK  
Docket No. 110.2\*1/SDB/G480

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF OPPOSITION TRANSMITTAL**

*I hereby certify that this correspondence is being deposited via Express Mail*  
EV 352446508 US

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3514

September 19, 2003

Commissioner:

Enclosed for filing are the following:

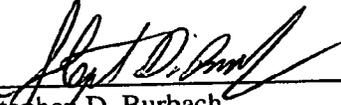
1. Request for Determination of Timely Filed Notice of Opposition Under 37 CFR 1.8(b) and TBMP 110.06 filed by Giocar America, Inc., doing business as Galfer, Galfer USA and Galfer Braking Systems, relating to the following registration application:

Mark	:	WAVE
Serial No.	:	78/164,297
Filed	:	May 13, 2003
Class(es)	:	12
Applicant	:	Braking Italia S.R.L.

Please address all correspondence to **CHRISTIE, PARKER & HALE, LLP, P.O. Box 7068, Pasadena, California 91109-7068.**

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By   
Stephen D. Burbach  
626/795-9900

SDB/df

09-22-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #75