

ITAB

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

BIG O TIRES, INC.,)	OPPOSITION No:	91163791
)		
Opposer,)	SERIAL No:	78/264,260
)		
v.)		
)		
WHEEL SPECIALTIES, LTD.)		
)		
Applicant.)		

ANSWER TO NOTICE OF OPPOSITION

Applicant, Wheel Specialties, Ltd., hereby answers the Notice of Opposition of Opposer, Big O Tires, Inc., as follows:

ANSWER

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Notice of Opposition.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Notice of Opposition.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Notice of Opposition.
4. Applicant admits the allegations in paragraph 4 of the Notice of Opposition.



02-22-2005

5. Applicant denies the allegations in paragraph 5 of the Notice of Opposition.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Notice of Opposition.

7. Applicant denies the allegations in paragraph 7 of the Notice of Opposition.

8. With regard to the allegations contained in paragraph 8 of the Notice of Opposition, Applicant incorporates by reference the allegations contained in paragraphs 1-7 above as if fully set forth herein.

9. Applicant denies the allegations in paragraph 9 of the Notice of Opposition.

10. Applicant denies the allegations in paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations in paragraph 11 of the Notice of Opposition.

12. Applicant denies the allegations in paragraph 12 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

13. Applicant's BIGG WHEELS mark as used on or in connection with Applicant's goods is not likely to be confused with any of Opposer's marks

identified in paragraph 3 of the Notice of Opposition (hereafter Opposer's Pledged Marks).

14. Applicants BIGG WHEELS mark is sufficiently different from all of the Opposer's Pledged Marks in sound, appearance and meaning to avoid any likelihood of confusion, mistake, and/or deception. Under the anti-dissection rule, it is improper to disregard part of a mark in order to find confusion with the remainder of the mark.

15. Due to the differences in the applicant's BIGG WHEELS mark and the Opposer's Pledged Marks, Opposer will not be damaged by the registration of Applicant's mark.

16. On information and belief, numerous third parties have registered and used composite marks including the term BIG for related goods/services and therefore Opposer's Pledged Marks must be limited to the particular forms of the marks which are sufficiently different from Applicant's mark to avoid any likelihood of confusion.

17. On information and belief, Opposer's BIG O and BIG FOOT Marks are not famous.

18. Applicant's BIGG WHEELS mark is sufficiently different from Opposer's BIG O and BIG FOOT Marks in sound, appearance and meaning so as not to cause dilution of Opposer's alleged distinctive quality of Opposer's BIG O and BIG FOOT Marks.

WHEREFORE, Applicant requests that the Opposition be dismissed and that registration of Applicant's BIGG WHEELS mark be granted.

The Commissioner is hereby authorized to charge any fees that may be required to be paid by Applicant to our Deposit Account № 18-0988.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

Date: February 17, 2005

By



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CERTIFICATE OF MAILING

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

this 17th day of February, 2005.


Donald L. Otto

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served on the following attorney of record for Opposer by depositing same in the United States mail, postage prepaid, this 17th day of February, 2005.

Marsha G. Gentner
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Donald L. Otto

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