



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

Atty. Ref. No.: 016756/0248

BFS BRANDS, LLC

and

BRIDGESTONE/FIRESTONE, INC.
NORTH AMERICAN TIRE, LLC
Opposers,

v.

Opposition No. _____

RUBBER KING TYRES INDIA PVT. LTD.
Applicant.

Application No.: 78/347,864

TRANSMITTAL LETTER

The Honorable Commissioner of
Patents and Trademarks

Sir/Madam:

Please find attached hereto the following items:

1. Notice of Opposition (in duplicate)
2. Check (\$600.00) Covering Filing Fee

Please charge any additional fees due to Deposit Account No. 19-0741.

Respectfully submitted,

January 5, 2005

By: _____

Peter G. Mack
Geoffrey M. McNutt
Counsel for Opposers

FOLEY & LARDNER LLP
3000 K Street N.W. Ste. 500
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01-05-2005

U.S. Patent & TMO/TM Mail Rcpt Dt. #72

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BFS Brands, LLC :
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 And :
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 Bridgestone/Firestone :
 North American Tire, LLC :
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 Opposers, :
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 v. :
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 Rubber King Tyres India Pvt. Ltd. :
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 Applicant. :

Opposition No. _____

Application Serial No. 78/347864

NOTICE OF OPPOSITION

This is in the matter of an application for registration of the expression RUBBER KING (and Design) for "inner tube and flaps for vehicle tires; mud flaps for vehicles," Serial No. 78/347864 filed January 5, 2004 by Rubber King Tyres India Pvt. Ltd., having a business address at 103, Naindhara Apartment Nr. GNFC Info Tower, Ahmedabad, INDIA 380054 (hereinafter called "Rubber King Tyres" or "Applicant"), and published for opposition in the Official Gazette of November 23, 2004.

BFS Brands, LLC, a Delaware limited liability company, having a business address at

535 Marriott Drive, Nashville, Tennessee 37214, and Bridgestone/Firestone North American

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Tire, LLC, a Delaware limited liability company, having a business address at 535 Marriott Drive, Nashville, Tennessee 37214, believe that they would be damaged by registration of the mark in the foregoing application and hereby oppose the same.

The grounds for the opposition are as follows:

1. BFS Brands, LLC, and Bridgestone/Firestone North American Tire, LLC, (hereinafter referred to collectively as "Opposers") are wholly owned subsidiaries of Bridgestone Americas Holding, Inc. Bridgestone/Firestone North American Tire, LLC traces its ultimate origin to The Firestone Tire & Rubber Company, and BFS Brands, LLC is the successor in title to the trademarks of The Firestone Tire & Rubber Company.

2. By the application herein opposed, Applicant Rubber King Tyres seeks to register RUBBER KING as a trademark for "inner tube and flaps for vehicle tires; mud flaps for vehicles," basing such application for United States federal registration on a claim of use of the mark in commerce. The subject application contains a disclaimer of exclusive rights to the term "RUBBER" apart from the mark as shown.

3. Opposers use and own the trademark "ROAD KING" for a line of products including vehicle tires and other related goods. The ROAD KING mark has been in continuous use for over thirty years by Opposers and their predecessors-in-interest in connection with the advertisement, promotion, sale and offering of such tires and other such related goods throughout the United States, and the mark is still in use by Opposers. As used herein, the

expression "ROAD KING mark" and expressions to the same effect encompass the aforesaid "ROAD KING" mark and other related marks owned and used by Opposers.

4. The ROAD KING mark is of significant value to Opposers as identifications of source in connection with the promotion, sale, and offering of the goods of Opposers and their affiliates, and such marks distinguish such goods from those of others.

5. The ROAD KING mark has been in use by Opposers and their predecessors-in-interest in connection with their goods since prior to any date on which Applicant may rely in this proceeding, and in particular, have been in use prior to the filing date of application herein opposed and prior to the dates of first use alleged in the application.

6. The ROAD KING mark for tires and for other goods, on the one hand, and the RUBBER KING mark as sought to be registered by Applicant for "inner tube and flaps for vehicle tires; mud flaps for vehicles," on the other hand, are similar in sound, appearance and connotation. Thus, the RUBBER KING mark sought to be registered by Applicant so resembles the Opposers' ROAD KING mark, as to be likely to cause confusion, or to cause mistake, or to deceive.

7. The "inner tube and flaps for vehicle tires; mud flaps for vehicles" identified by the Applicant's designation RUBBER KING and the tires and other goods identified by Opposers' ROAD KING marks are similar in nature and kind. Applicant's goods and Opposers' goods are closely related kinds of goods and are typically offered and provided to the same classes of purchasers through the same channels of trade.

8. Through use and promotion by Opposers and their affiliates of Opposers' ROAD KING mark for Opposers' goods, purchasers and prospective purchasers of such goods and/or goods of the same general kind, associate such marks with the goods and business of Opposers.

9. Purchasers and prospective purchasers familiar with Opposers' goods identified by the ROAD KING marks are likely to be misled into believing, contrary to fact, that Applicant's goods sold under the mark opposed herein emanate from or are in some way sponsored by Opposers or their affiliates, all to Opposers' irreparable damage through loss and/or dilution of their good will as symbolized by Opposers' marks and names.

10. Granting of a registration as sought by Applicant through the application herein opposed would inhibit Opposers in their free use of their ROAD KING mark in selling their products and conducting their business, which would work manifest damage upon Opposers. Further, such registration would constitute *prima facie* evidence of an exclusive right to use the designation RUBBER KING for the goods designated in the application herein opposed and for all confusingly similar uses, thereby enabling Applicant to occupy a position in the trade which would further compound confusion on the part of the purchasing public, all to the damage of Opposers.

11. For at least the above reasons, registration of Rubber King Tyres' application Serial No. 78/347,864 is herein opposed on the grounds that Applicant's proposed RUBBER KING mark so resembles Opposers' ROAD KING marks as to be likely to cause confusion, to

cause mistake, or to deceive under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and under state statutory law and common law.

WHEREFORE, Opposers request that this opposition be sustained and the subject application Serial No. 78/347864 to register the mark RUBBER KING (& Design) be refused registration.

A check in the amount of \$600.00 is attached to cover the statutory filing fee.

Respectfully submitted,

BFS Brands, LLC, and

Bridgestone/Firestone North
American Tire, LLC

Date: January 5, 2005

By:



Peter G. Mack
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Counsel for Opposers

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