

ESTTA Tracking number: **ESTTA31217**

Filing date: **04/22/2005**

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

### Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

#### Opposer Information

<b>Name</b>	Rolex Watch U.S.A., Inc.
<b>Granted to Date of previous extension</b>	04/24/2005
<b>Address</b>	665 Fifth Avenue New York, NY 10022 UNITED STATES

<b>Attorney information</b>	Brian W. Brokate Gibney, Anthony & Flaherty, LLP 665 Fifth Avenue New York, NY 10022 UNITED STATES bwbrokate@gibney.com Phone:212 688 5151
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#### Applicant Information

<b>Application No</b>	78316818	<b>Publication date</b>	10/26/2004
<b>Opposition Filing Date</b>	04/22/2005	<b>Opposition Period Ends</b>	04/24/2005
<b>Applicant</b>	Bugallo, Fernando 9479 Boca River Circle Boca Raton, FL 33434		

UNITED STATES
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**Goods/Services Affected by Opposition**

Class 012.

All goods and services in the class are opposed, namely: AUTOMOTIVE PARTS AND ACCESSORIES, NAMELY, SHORT GEAR SHIFTERS, PULLEYS, DRIVE GEARS, BILLET ALUMINUM PARTS FOR VEHICLES, NAMELY, AUTOMOTIVE EXTERIOR AND INTERIOR ALUMINUM DECORATIVE AND PROTECTIVE TRIM FOR RACING AND DECORATIVE PURPOSES

<b>Attachments</b>	roll-x-speed.pdf ( 3 pages )
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<b>Signature</b>	/Brian W. Brokate/
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<b>Name</b>	Brian W. Brokate
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<b>Date</b>	04/22/2005
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Serial No. **78-316, 818**

For the mark **ROLL-X SPEED**

Published in the Official Gazette on October 26, 2004

**ROLEX WATCH U.S.A., INC.**

v.

**FERNANDO BUGALLO**

**NOTICE OF OPPOSITION**

Rolex Watch U.S.A., Inc., a corporation duly organized and existing under the laws of the State of New York, having an office and principal place of business at 665 Fifth Avenue, New York, New York 10022 (hereinafter "Rolex" or "Opposer"), believing that it will be damaged by the registration of the mark shown in the above-identified application, hereby opposes Application Serial No. 78-316,818.

The grounds for opposition are as follows:

1. The Opposer is a corporation duly organized and existing under the laws of the State New York, having an office and principal place of business at 665 Fifth Avenue, New York, New York 10022.
2. Commencing long prior to Applicant's filing date, Opposer has been responsible for assembling, finishing, marketing and selling in interstate commerce high quality Rolex watches, watch bracelets and related products for men and women under the mark ROLEX.
3. Opposer is the exclusive distributor and warrantor in the United States of Rolex watches, all of which are identified by the trade name and trademark ROLEX.
4. Opposer is the owner of, and will rely herein, upon the following federal trademark registration in the U.S. Patent and Trademark Office:

<u>Trademark</u>	<u>Registration No.</u>	<u>Issued</u>
ROLEX	101,819	1/12/15

5. Opposer's Registration No. 101,819 identifies the goods as watches, clocks, parts of watches and clocks, and their cases. Registration No. 101,819 is incontestable pursuant to 15 U.S.C. § 1065. A copy of Registration No. 101,819 is attached hereto, as Opposer's Exhibit 1. Said registered mark of Opposer is valid and subsisting and is conclusive evidence of Opposer's exclusive right to use Opposer's mark in commerce on the good specified in Registration No. 101,819.
6. Opposer will also rely on its common law trademark rights resulting from its use of the ROLEX mark on a variety of goods, including watches, watch bracelets and related products.
7. Rolex has used the ROLEX trademark for many years on and in connection with Rolex watches and related products. The ROLEX trademark identifies high quality products originating with Rolex.
8. Since its initial use of the ROLEX mark, Opposer has made a substantial investment in advertising and promoting its goods under the ROLEX trademark. Based upon Opposer's extensive use, advertisement, promotion and sales of its goods bearing the ROLEX trademark to the public through various channels of trade in commerce, the ROLEX trademark has acquired secondary meaning so that any product and advertisement bearing such marks is immediately associated by consumers, the public and the trade as being a product and affiliate of Rolex.
9. Rolex has gone to great lengths to protect its name and enforce the ROLEX trademark.
10. The ROLEX trademark is a fanciful mark that is entitled to the highest level of protection afforded by law.
11. The ROLEX trademark is famous and distinctive and became such prior to the Applicant's filing for the mark ROLL-X SPEED.
12. Upon information and belief, notwithstanding Opposer's rights in and to the ROLEX trademark, on October 22, 2003, Applicant filed an intent to use application for registration of the alleged ROLL-X SPEED trademark for "automotive parts and accessories, namely, short gear shifters, pulleys, drive gears, billet aluminum parts for vehicles, namely, automotive exterior and interior aluminum decorative and protective trim for racing and decorative purposes." Said application was assigned Serial No. 78-316,818, and was published for Opposition in the *Official Gazette* on October 26, 2004.
13. Opposer, upon information and belief, avers that its customers, and the public in general, are likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicants proposed goods to be marketed under Applicant's alleged ROLL-X SPEED trademark and misled into believing that such goods are produced

by, emanate from , or are in some way directly or indirectly associated with Opposer, to the damage and detriment of Opposer and its reputation.

14. Opposer, upon information and belief, avers that it will be damaged by the registration by Applicant of the alleged ROLL-X SPEED trademark, as set forth in Applicant's Trademark Application Serial No.78-316,818, in that the mark is substantially similar to Opposer's trademark and common law rights and will dilute Opposer's mark.

WHEREFORE, the Opposer, Rolex, believes that it is being and will continue to be damaged by the registration of the ROLL-X SPEED trademark as aforesaid, and prays that said Application Serial No. 78-316,818 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

Opposer has appointed Brian W. Brokate, a member of the law firm of Gibney, Anthony & Flaherty, LLP to prosecute this opposition proceeding and to transact all business in and before the United States Trademark Office in connection herewith. Please address all correspondence to:

Gibney, Anthony & Flaherty, LLP  
665 5<sup>th</sup> Avenue  
New York, New York 10022

The filing fee for this opposition in the amount of \$ 300 is enclosed herewith.

Respectfully Submitted,

Dated: April 22, 2005

By: 

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Attorneys for Opposer