

I, Sonja Faller, do hereby certify that this Notice of Opposition is being deposited in triplicate with the United States Postal Service, Express Mail no. EV 483 620 218 US in an envelope addressed to the TTAB, Commissioner for Trademarks, PO Box 1451, Arlington, Virginia, 22313 on this 23 day of November, 2005.

Sonja Faller
Sonja Faller
For The Gates Corporation

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

THE GATES CORPORATION,)	
)	
Opposer,)	
)	Opposition Number _____
v.)	
)	
BRAND X-TREME, INC.)	Serial Number 78/278,455
)	BRAND X-TREME PRODUCTS
)	(Stylized)
Applicant.)	

NOTICE OF OPPOSITION

Attn: TTAB
Commissioner for Trademarks
PO Box 1451
Arlington, Virginia 22313-1451

11/29/2005 6TNDHNS2 00000013 070475 78278455
01 FC:6402 300.00 DA

Dear Sir:

THE GATES CORPORATION, a corporation organized under the laws of the state of Delaware, U.S.A., having a principal place of business at 1551 Wewatta Street, Denver, Colorado, 80202, U.S.A., believes it will be damaged by the registration of the mark shown in application Serial Number 78/278,455 for the mark BRAND X-TREME PRODUCTS as applied to "land vehicles, namely, snowmobiles; land vehicle parts", which application was filed on July 24, 2003 and published in the Official Gazette at TM 185 on September 27, 2005, and hereby opposes this application under the provisions of Section 13 of the Trademark Act of 1946 (15 U.S.C. § 1063).

Opposer timely applied on October 26, 2005 for an extension request to grant a current deadline to oppose of November 27, 2005.

The grounds for opposition are as follows:

nlc-opp1.doc



1. Opposer is, and has been, engaged in promotion and sale in the United States of power transmission belts used in land vehicles, namely, variable speed belts for use in snowmobiles under the trademark XTREME®. In connection with said sales of its belts, Opposer has used in interstate commerce the trademark XTREME® since prior to Applicant's date of application of the trademark BRAND X-TREME PRODUCTS.

2. As evidence of the use referred to in Paragraph 1, above, and of its ownership rights in the mark, Opposer has applied for and received registration of its mark XTREME®, for its belts in IC 012 under Registration Number 2115330 dated November 25, 1997, well prior to Applicant's filing date. An example of use in commerce is set forth in Exhibit A. Exhibit A comprises a sleeve used as packaging for the belts.

3. Opposer's products bearing its trademark XTREME® have been continuously offered to the public through various channels of trade and advertised and promoted throughout the United States. By reason of such advertising, promotion and distribution of Opposer's products, the public has come to recognize XTREME® as signifying Opposer and its products, and Opposer has built up extensive goodwill from the sale of its products under the trademark XTREME®.

4. Notwithstanding Opposer's prior rights in and to said trademark, Applicant on July 24, 2003 filed an application for registration of the trademark BRAND XTREME PRODUCTS. No use was alleged; rather, Applicant's trademark application was made on an "intent to use" basis, Section 1(b). Said application was given Serial Number 78/278,455 and the mark was published for opposition in the Official Gazette of September 27, 2005.

5. Applicant's products are capable of sale to the same customers and distribution to the same trade and through the same channels as that of Opposer's.

6. Opposer believes its customers and perhaps others would, upon seeing

BRAND X-TREME PRODUCTS on Applicant's goods, associate those goods or otherwise ascribe an affiliation therewith to Opposer, The Gates Corporation, all to its damage.

7. The Applicant's trademark BRAND X-TREME PRODUCTS is virtually identical to Opposer's trademark XTREME® and is intended to be used on goods confusingly similar to Opposer's. Applicant's registration of the trademark BRAND X-TREME PRODUCTS for its goods is likely to cause confusion, deception or mistake with Opposer's trademark XTREME®. Applicant's intended use of said mark interferes with Opposer's prior use of the mark XTREME®, and use or registration of the mark BRAND X-TREME PRODUCTS by Applicant will seriously damage Opposer and the goodwill it has built up in said mark.

WHEREFORE, Opposer believes it will be damaged by said registration and prays it be denied.

FEES

The fee to institute this opposition proceeding is to be charged to Opposer's Deposit Account Number 07-0475.

Respectfully submitted,

THE GATES CORPORATION

Date: Nov. 23, 2005

By



Jeffrey Thurnau

Assistant Secretary of and
Attorney for Opposer
c/o The Gates Corporation
1551 Wewatta Street
Mail Stop 10-A3
Denver, Colorado 80202
Telephone: 303/744-4743

EXHIBIT A

