

ESTTA Tracking number: **ESTTA73062**

Filing date: **03/28/2006**

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

Proceeding	91169229
Party	Defendant Rocky Mountain Comouflage Rocky Mountain Comouflage 4692 Nebo Drive West Jordan, UT 84088
Correspondence Address	ROCKY MOUNTAIN COMOUFLAGE 4692 NEBO DR WEST JORDAN, UT 84088-7817
Submission	Answer
Filer's Name	James D. Ericksen
Filer's e-mail	jamesericksen@yahoo.com
Signature	/James D. Ericksen/
Date	03/28/2006
Attachments	answer to opposition 03-27-06[1].pdf ( 2 pages )

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

In the matter of trademark application Serial No. 78560342  
For the mark "Hide in Plain Sight"  
Published in the Official Gazette on 1/24/2006

Haas Outdoors, Inc.  
v.  
Rocky Mountain Camouflage

ANSWER TO NOTICE OF OPPOSITION

**Opposer Information**

Name	Haas Outdoors, Inc.		
Entity	Corporation	Citizenship	Mississippi
Address	200 East Main Street West Point, MS 39202 UNITED STATES		
Attorney Information	W. Whitaker Rayner Watkins Ludlam Winter & Stennis, P.A. 633 N. State Street Jackson, MS 39202 UNITED STATES		

**Applicant Information**

Application No.	78560342	Publication date	01/24/2006
Opposition filing date	02/15/2006	Opposition Period Ends	2/23/2006
Applicant	Rocky Mountain Camouflage 4692 Nebo Drive West Jordan, UT 84088		

**Goods/Services Affected by Opposition**

Class 016. First Use: 1999/08/01 First use in commerce: 2000/10/01 Camouflage Patterns for Clothing	
Attachments	answer to Haas opposition.pdf
Signature	/James D. Ericksen/
Name/Date	James D. Ericksen, partner Date: March 27, 2006

1. Contrary to the allegations of Haas Outdoors, Inc., (“HOI”) the mark sought is not “merely descriptive” and, considering the context for which its use is proposed, it is not so generic as to preclude its registration for use by the applicant/defendant, Rocky Mountain Camouflage (“RMC”). Although the objection that a logo is “merely descriptive” could be applied to most marks that imply the purpose of a product, the particular reason for the choice of logo in the current instance makes the logo unique and defeats that objection by HOI.

2. Unlike other camouflage designs, which have traditionally been intended to depict or help one blend into forested or grassy areas, the innovative camouflage patterns designed and marketed by RMC, and on which it has used the mark “Hide in Plain Sight,” are uniquely developed to assist hunters sit undetected among, and traverse less conspicuously through, the more open sage brush plains and aspen foothills of the western United States. In light of this particular focus on hiding in open areas, the mark at issue is particularly suited for Rocky Mountain Camouflage’s product and has taken on more meaning than just describing generally that camouflage helps disguise one’s outline and features to reduce the likelihood of being seen.

3. Prior to RMC’s implementation of the mark “Hide in Plain Sight” in 1999 (with it first appearing in ads in 2000), the phrase had not been used as the term of art that it has become since its application to RMC’s products. Although the concept of hiding in plain sight has been described in various industries and articles, RMC has not found use of that specific term as a logo or mark for the promotion and marketing of camouflage clothing and accessories prior to its use by RMC as set forth in the trademark application.

4. Further, HOI has not asserted, nor is it believed that it can show, that it was using the phrase “Hide in Plain Sight” in its marketing of camouflage until RMC applied that phrase to its own products. Only after RMC began using the claimed mark on its products did it first see that HOI was using the mark, which RMC believes to be a usurpation of its rights to the mark. Rather than approval of RMC’s application causing damage to HOI, the denial of registration would cause RMC harm in that it has invested considerable advertising and other marketing costs in that claimed mark and consumers have come to relate the “Hide in Plain Sight” logo with RMC’s products. Any claimed interest by HOI in the “Hide in Plain Sight” phrase is likely the interest of thwarting a competitor’s marketing strategies or one it contrived after RMC began using the specific phrase “Hide in Plain Sight” on its innovative camouflage patterns and goods. Consequently, the opposition to the mark should be dismissed or denied.