

ESTTA Tracking number: **ESTTA110173**

Filing date: **11/17/2006**

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

Name	Wright Tool Company		
Entity	Corporation	Citizenship	Ohio
Address	One Wright Drive P.O. Box 512 Barberton, OH 44203 UNITED STATES		

Attorney information	D. Peter Hochberg D. Peter Hochberg Co., L.P.A. 1940 East 6th Street - 6th Floor Cleveland, OH 44114 UNITED STATES dphdocket@aol.com Phone:216-771-3800		
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Applicant Information

Application No	78677103	Publication date	10/24/2006
Opposition Filing Date	11/17/2006	Opposition Period Ends	11/23/2006
Applicant	Heartland Recreational Vehicles, LLC 28868 Paul Drive Elkhart, IN 46514 UNITED STATES		

Goods/Services Affected by Opposition

Class 012. All goods and services in the class are opposed, namely: recreational vehicles, namely fifth wheel trailers and travel trailers

Attachments	WT-14 - Notice of Opposition.txt (2 pages)(5789 bytes)
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Signature	/D. Peter Hochberg/
Name	D. Peter Hochberg
Date	11/17/2006

NOTICE OF OPPOSITION

Dear Sir:

Opposer, Wright Tool Company, a corporation organized and existing under the laws of the State of Ohio, located and doing business at One Wright Drive, P.O. Box 512, Barberton, Ohio 44203, (hereinafter referred to as "Wright Tool" or "Opposer") believes that it will be damaged by the registration of the mark "ROAD WARRIOR" shown in the above-identified application in International Class 12, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer, Wright Tool is now and has for over many years been involved in the business of manufacturing and marketing tools, accessories for tools, and tool boxes, including tool boxes for trucks.
2. Opposer has become widely known nationally as a manufacturer and marketer of items of tools, accessories for tools, and tool boxes, including tool boxes for trucks, those items having good quality, and Opposer has acquired a favorable reputation through large segments of the tool industry and automotive/vehicle industry for its above-described goods sold and provided under, and in association with, the mark "ROAD WARRIOR." Conversely, the term "ROAD WARRIOR" of the Applicant is the subject of merely an intent-to-use application by the Applicant.
3. Opposer is the owner of U.S. Trademark Registration No. 2,840,694 granted May 11, 2004 for the mark "ROAD WARRIOR" in International Class 6 for the goods of "tool boxes, namely, metal tool boxes for trucks, excluding tool boxes designed to hold tools for computers, computer accessories or mobile technology products and accessories." This mark has been in use and in use in commerce for the goods set forth in the registration since at least as early as November 8, 2002. A copy of the registration is attached hereto, and made part hereof, as Opposer's Exhibit A.
4. Notwithstanding Opposer's prior rights in and to said mark, Applicant, on July 25, 2005, filed an application for registration of the trademark "ROAD WARRIOR" in International Class 12 for "recreational vehicles, namely fifth wheel trailers and travel trailers." Said application was given Serial No. 78/677,103 and the mark was published for Opposition in the Official Gazette on October 24, 2006 at page TM 525, International Class 12 and is an intent-to-use application.
5. The goods for which Applicant seeks to register its "ROAD WARRIOR" term are identical to, substantially similar to or of the same general type of goods as goods sold in connection with the goods of Opposer under its "ROAD WARRIOR" mark.
6. Since long prior to July 25, 2005, Opposer has become extensively associated with the manufacturing and sales of tools, accessories for tools, and tool boxes for trucks by virtue of its high quality products. Opposer's customers include purchasers of such goods, and are likely to include the same people before whom Applicant is using or intending to use the "ROAD WARRIOR" trademark. Applicant's customers or prospective customers are very possibly customers of Opposer, and would unwittingly believe that Opposer was directly or

indirectly involved with the goods provides by Applicant. Users of Opposer's products are likely to believe, to be confused or deceived into thinking that Applicant's goods originate with, or in some way are associated with, connected with, sponsored, endorsed or authorized by Opposer. By reason of the identical identity, appearance and sound of Applicant's alleged mark "ROAD WARRIOR" and Opposer's mark "ROAD WARRIOR" and the likely overlapping of the class of customers and channels of trade, Applicant's alleged mark, when applied to its goods is likely to cause confusion or mistake, or to deceive, all to the injury or threatened injury of Opposer.

7. Opposer has developed an exceedingly valuable amount of goodwill with respect to its mark "ROAD WARRIOR." By virtue of its efforts, and the expenditure of considerable sums of promotional activities and by virtue of the excellence of its products, Opposer has gained for its "ROAD WARRIOR" mark a most valuable reputation.

8. If Applicant is permitted to register "ROAD WARRIOR" as specified in the application herein opposed, confusion in the trade resulting in damage and injury to Opposer would be caused and would result by reason of the perception of a relationship between goods bearing the mark and name "ROAD WARRIOR" of Applicant and Opposer's goods bearing its "ROAD WARRIOR" mark and name. In this respect, consumers may have the impression that goods and/or services of Opposer bearing the "ROAD WARRIOR" mark and name, and the goods of the Applicant having the "ROAD WARRIOR" mark are being marketed, endorsed, approved or sponsored by Opposer. Persons familiar with the mark and name "ROAD WARRIOR" of Opposer would likely buy Applicant's goods as goods marketed, endorsed, approved or sponsored by Opposer. Any such confusion in the trade inevitably would result in dilution of the goodwill created by Opposer. Furthermore, any defect, objection or fault found with Applicant's goods marketed under the "ROAD WARRIOR" mark would unnecessarily reflect upon and seriously injure the reputation which Opposer has established with respect to its goods associated with its "ROAD WARRIOR" mark and name.

9. Based upon the foregoing, the registration of the mark depicted in Application Serial No. 78/677,103 filed July 25, 2005 on the Principal Register of the United States Patent and Trademark Office would cause injury and damage to Opposer.

WHEREFORE, Opposer requests that registration of Applicant's mark "ROAD WARRIOR", Application Serial No. 78/677,103, in International Class 12, be denied and this opposition be sustained.