ESTTA Tracking number: **ESTTA115221**
Filing date: **12/18/2006**

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

Proceeding	91174000
Party	Defendant Heartland Recreational Vehicles, LLC Heartland Recreational Vehicles, LLC 28868 Paul Drive Elkhart, IN 46514
Correspondence Address	MELISSA A. VALLONE BARNES & THORNBURG LLP PO BOX 2786 CHICAGO, IL 60690-2786
Submission	Answer
Filer's Name	Melissa A. Vallone
Filer's e-mail	mvallone@btlaw.com
Signature	/mvallone/
Date	12/18/2006
Attachments	answer.pdf (5 pages)(111450 bytes)

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

WRIGHT TOOL COMPANY,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No.: 91174000
	)	
HEARTLAND RECREATIONAL VEHICLES, LLC,	)	Serial No.: 78/677103
	)	
Applicant.	)	

ANSWER TO NOTICE OF OPPOSITION

Applicant, Heartland Recreational Vehicles, LLC ("Applicant") answers the Notice of Opposition filed by Wright Tool Company ("Opposer") as follows:

Applicant denies that Opposer will be damaged by registration of Applicant's mark, Serial No. 78/677103 for the mark ROAD WARRIOR as claimed in the preamble of the Notice of Opposition.

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.

ANSWER: Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 1 of the Notice of Opposition and therefore denies the same.

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.

ANSWER: Applicant admits that Applicant's application is an intent-to-use application. Applicant is without sufficient knowledge or information to form a belief as to the truth of the

remaining allegations contained in Paragraph 2 of the Notice of Opposition, and therefore denies the same.

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.

ANSWER: Applicant admits that the United States Patent and Trademark Office records show that Opposer is the owner of Registration No. 2,840,694 and the registration was granted on May 11, 2004 for the mark ROAD WARRIOR in International Class 6 for 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. Applicant is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 3 of the Notice of Opposition, and therefore denies the same.

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.

ANSWER: Applicant denies that its filing of its application, Serial No. 78/677103, would have effect or any impact upon Opposer's rights. Applicant admits the remaining allegations contained in Paragraph 4 of the Notice of Opposition.

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.

ANSWER: Applicant denies the allegations contained in Paragraph 5 of the Notice of Opposition.

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 provided 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.

ANSWER: Applicant denies the allegations contained in Paragraph 6 of the Notice of Opposition.

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.

ANSWER: Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 7 of the Notice of Opposition, and therefore denies the same.

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 its "ROAD WARRIOR" mark and the 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 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.

ANSWER: Applicant denies the allegations contained in Paragraph 8 of the Notice of Opposition.

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.

ANSWER: Applicant denies the allegations contained in Paragraph 9 of the Notice of Opposition.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed and that its application be approved for registration.

Dated: December 18, 2006

Respectfully submitted,

Heartland Recreational Vehicles, LLC

By: _____
One of its Attorneys

Melissa A. Vallone
BARNES & THORNBURG LLP
P.O. Box 2786
Chicago, IL 60690-2786
(312) 357-1313
CHDS01 MAV 370762

CERTIFICATE OF TRANSMITTAL

I hereby certify that this correspondence is being electronically transmitted, in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trial and Appeals (ESTTA) on December 18, 2006.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer to Notice of Opposition has been served on counsel for Opposer, Wright Tool Company, by mailing said copy on December 18, 2006, via first class mail, postage prepaid to:

D. Peter Hochberg
D. Peter Hocherg Co., L.P.A.
1940 East 6th Street
Cleveland, OH 44114-2294

CHDS01 MAV 370762