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

Proceeding	91177156
Party	Plaintiff H-D Michigan, Inc.
Correspondence Address	LINDA K. MCLEOD FINNEGAN, HENDERSON, FARABOW GARRETT & DUNNER LLP, 901 NEW YORK AVENUE NW WASHINGTON, DC 20001-4413 UNITED STATES
Submission	Plaintiff's Notice of Reliance
Filer's Name	Linda K. McLeod
Filer's e-mail	docketing@finnegan.com, linda.mcleod@finnegan.com, susannah.klank@finnegan.com
Signature	/Linda K. McLeod/
Date	06/26/2008
Attachments	Signed Not of Rel. No. 3 with Exhibits.pdf ( 19 pages )(278861 bytes )

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

<p>H-D MICHIGAN, INC.,</p> <p style="text-align: center;">Opposer</p> <p style="text-align: center;">v.</p> <p>BRYAN BROEHM,</p> <p style="text-align: center;">Applicant.</p>	<p>Opposition No.: 91177156</p> <div style="text-align: center;"></div> <p>Mark: Serial No.: 78896325 Filed: May 30, 2006</p>
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**OPPOSER'S NOTICE OF RELIANCE NO. 3**  
**UNDER 37 CFR §§ 2.120(j)(3)(i) & (j)(8)**

H-D Michigan, Inc. ("Opposer") submits of record in connection with this opposition proceeding a copy of certain of Opposer's First Set of Requests for Admissions (attached as Exhibit A) and certain of Bryan Broehm's ("Applicant's") Responses to Opposer's First Set of Requests for Admissions (attached as Exhibit B). Specifically, Opposer submits and relies on Applicant's Responses to Requests for Admission Nos. 1-9, 11-15, 17, 19-23, and 35-38, and signature after the responses.

This evidence is relevant to the Board's likelihood-of-confusion and likelihood-of-dilution analyses. Among other things, it shows Applicant's actual knowledge of Opposer and its HARLEY-DAVIDSON and HARLEY names and marks and its BAR & SHIELD Logo marks at the time Applicant selected, adopted, and applied to register his mark; Applicant's admission of the public recognition and fame of Opposer's marks; the similarity between the parties' respective marks, including similarities in appearance between Opposer's BAR & SHIELD Logo marks and

Applicant's mark; the fact that Opposer's marks served as an "inspiration" for Applicant's logo design; the nature of Applicant's goods offered or intended to be offered under his mark; and the similarity in the parties' goods and services offered in connection with their respective marks.

Dated: June 26, 2008

Respectfully submitted,



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David M. Kelly  
Linda K. McLeod  
Jonathan M. Gelchinsky

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.  
901 New York Avenue N.W.  
Washington, DC 20001  
(202) 408-4000

**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing OPPOSER'S NOTICE OF RELIANCE NO. 3 UNDER 37 CFR § 2.120(j)(3)(i) & (j)(8) was served by first class mail, postage prepaid, on this 26th day of June 2008, upon Bryan Broehm at the following address:

Bryan Broehm  
331 Gazetta Way  
West Palm Beach, FL 33413-1053

  
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U.S. Trademark Opposition No. 91177156  
H-D Michigan, Inc. v. Bryan Broehm  
Serial No. 78896325

Mark: 

Exhibit A

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

<p>H-D MICHIGAN, INC.,  Opposer  v.  BRYAN BROEHM,  Applicant.</p>	<p>Opposition No.: 91177156    Mark: Serial No.: 78896325 Filed: May 30, 2006</p>
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**OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSIONS**

Pursuant to Rule 36 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Head Technology GmbH ("Opposer") serves this First Set of Requests for Admissions on Bryan Broehm ("Applicant"), and requests that Applicant respond to these requests within thirty days (30) days of service.

**DEFINITIONS AND INSTRUCTIONS**

Opposer incorporates by reference the definitions and instructions set forth in Opposer's First Set of Interrogatories to Applicant.

**REQUEST FOR ADMISSIONS**

1. Each document Applicant has produced in response to Opposer's First Set of Requests for the Production of Documents and Things and Opposer's First Set of Interrogatories is authentic for purposes of admission into evidence during the testimony period in this opposition proceeding.

2. Applicant was aware of Opposer's Marks before selecting the



mark shown in Application Serial No. 78896325.

3. Applicant was aware of Opposer Marks before filing the application

seeking registration of the  mark shown in Application Serial No. 78896325.

4. Opposer's HARLEY-DAVIDSON mark is famous in connection with motorcycles.

5. Opposer's HARLEY mark is famous in connection with motorcycles.

6. Opposer's  mark is famous in connection with motorcycles.

7. Opposer's  mark is famous in connection with motorcycles.

8. Opposer's  mark is famous in connection with motorcycles.

9. Opposer's HARLEY-DAVIDSON mark is well-known to the general public in connection with motorcycles.

**REDACTED**

11. Applicant's Mark is similar in appearance to Opposer's HARLEY-DAVIDSON mark.

12. Applicant's Mark is similar in appearance to Opposer's  mark.

13. Applicant's Mark is similar in appearance to Opposer's  mark.



- 14. Applicant's Mark is similar in appearance to Opposer's mark.
- 15. Applicant has used Applicant's Mark in connection with one or more of Opposer's Products and Services.

**REDACTED**

- 17. Applicant has displayed Applicant's Mark in connection with one or more of Opposer's Products and Services.

**REDACTED**

- 19. Applicant selected his mark because it is similar in appearance to Opposer's HARLEY mark.

- 20. Applicant selected his mark because it is similar in appearance to Opposer's HARLEY-DAVIDSON mark.

- 21. Applicant selected his mark because it is similar in appearance to Opposer's  mark.

- 22. Applicant selected his mark because it is similar in appearance to Opposer's  mark.

23. Applicant selected his mark because it is similar in appearance to



**REDACTED**

35. Applicant owns a Harley-Davidson motorcycle.
36. Applicant has owned a Harley-Davidson motorcycle.
37. Applicant is a member of a Harley Owners Group (H.O.G.).
38. Applicant has been a member of a Harley Owners Group (H.O.G.).

Dated: October 11, 2007

Respectfully submitted,



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David M. Kelly  
Linda K. McLeod  
Jonathan M. Gelchinsky  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.  
901 New York Avenue N.W.  
Washington, DC 20001  
(202) 408-4000

**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing OPPOSER'S FIRST SET OF REQUESTS ADMISSIONS was served via U.S. Mail, postage prepaid on the 11th day of October, upon Bryan Broehm at the following address:

Bryan Broehm  
331 Gazetta Way  
West Palm Beach, FL 33413-1053



A handwritten signature, appearing to read "A. David", is written over a horizontal line.

U.S. Trademark Opposition No. 91177156  
H-D Michigan, Inc. v. Bryan Broehm  
Serial No. 78896325

Mark: 

**Exhibit B**

**IN THE UNITED STATE PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**H-D MICHIGAN, INC., OPPOSER, V. BRYAN BROEHM, APPLICANT  
OPPOSITION NO. 91177156**

**RESPONSE TO OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSIONS**

1. Each document Applicant has produced in response to Opposer's First Set of Requests for the Production of Documents and Things and Opposer's First Set of Interrogatories is authentic for purposes of admission into evidence during the testimony in this opposition proceeding.

**RESPONSE:**

**Admit**

2. Applicant was aware of Opposer's Marks before selecting the mark shown in Application Serial No. 78896325.

**RESPONSE:**

**Admit**

3. Applicant was aware of Opposer's Marks before filing the application seeking registration of the mark shown in Application Serial No. 78896325.

**RESPONSE:**

**Admit**

4. Opposer's HARLEY-DAVIDSON mark is famous in connection with motorcycles.

**RESPONSE:**

**Admit**

5. Opposer's HARLEY mark is famous in connection with motorcycles.

**RESPONSE:**

**Admit**

6. Opposer's mark is famous in connection with motorcycles.

**RESPONSE:**

**Admit**

7. Opposer's mark is famous in connection with motorcycles.

**RESPONSE:**

**Admit**

8. Opposer's mark is famous in connection with motorcycles.

**RESPONSE:**

**Admit**

9. Opposer's HARLEY-DAVIDSON mark is well-known to the general public in connection with motorcycles.

**RESPONSE:**

**Admit**

**REDACTED**

11. Applicant's Mark is similar in appearance to Opposer's HARLEY-DAVIDSON mark.

**RESPONSE:**

**Deny. The marks may share geometric aspects, but they are clearly distinct from one another.**

12. Applicant's Mark is similar in appearance to Opposer's HARLEY-DAVIDSON mark.

**RESPONSE:**

**Deny. The marks may share geometric aspects, but they are clearly distinct from one another.**

13. Applicant's Mark is similar in appearance to Opposer's HARLEY-DAVIDSON mark.

**RESPONSE:**

**Deny. The marks may share geometric aspects, but they are clearly distinct from one another.**

14. Applicant's Mark is similar in appearance to Opposer's HARLEY-DAVIDSON mark.

**RESPONSE:**

**Deny. The marks may share geometric aspects, but they are clearly distinct from one another.**

15. Applicant has used Applicant's Mark in connection with one or more of Opposer's Products and Services.

**RESPONSE:**

**Other than the decal of my mark on my non Harley-Davidson helmet which I wear when I am riding my Harley-Davidson motorcycle: DENY.**

**REDACTED**

17. Applicant has displayed Applicant's Mark in connection with one or more of Opposer's Products and Services.

**RESPONSE:**

**Other than the decal of my mark on my non Harley-Davidson helmet which I wear when I am riding my Harley-Davidson motorcycle: DENY.**

**REDACTED**

19. Applicant selected his mark because it is similar in appearance to Opposer's HARLEY mark.

**RESPONSE:**

**DENY.** The Harley-Davidson bar and shield logo were used as inspiration for my design; however, I made deliberate efforts to make my cross and banner design its own, and clearly distinguishable from the other.

20. Applicant selected his mark because it is similar in appearance to Opposer's HARLEY-DAVIDSON mark.

**RESPONSE:**

**DENY.** The Harley-Davidson bar and shield logo were used as inspiration for my design; however, I made deliberate efforts to make my cross and banner design its own, and clearly distinguishable from the other.

21. Applicant selected his mark because it is similar in appearance to Opposer's mark.

**RESPONSE:**

**DENY.** The Harley-Davidson bar and shield logo were used as inspiration for my design; however, I made deliberate efforts to make my cross and banner design its own, and clearly distinguishable from the other.

22. Applicant selected his mark because it is similar in appearance to Opposer's mark.

**RESPONSE:**

**DENY.** The Harley-Davidson bar and shield logo were used as inspiration for my design; however, I made deliberate efforts to make my cross and banner design its own, and clearly distinguishable from the other.

23. Applicant selected his mark because it is similar in appearance to Opposer's mark.

**RESPONSE:**

**DENY.** The Harley-Davidson bar and shield logo were used as inspiration for my design; however, I made deliberate efforts to make my cross and banner design its own, and clearly distinguishable from the other.

**REDACTED**

**REDACTED**

**REDACTED**

**REDACTED**

**REDACTED**

**REDACTED**

35. Applicant owns a Harley-Davidson motorcycle.

**RESPONSE:**

**ADMIT.**

36. Applicant has owned a Harley-Davidson motorcycle.

**RESPONSE:**

**ADMIT.**

37. Applicant is a member of a Harley Owners Group (H.O.G.)

**RESPONSE:**

**ADMIT.**

38. Applicant has been a member of a Harley Owners Group (H.O.G.)

**RESPONSE:**

**ADMIT.**

*W. J. C. Smith*  
11.11.07

Respectfully Submitted,

*Bryan C. Broehm*

Bryan C. Broehm