

ESTTA Tracking number: **ESTTA302245**

Filing date: **08/21/2009**

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

Proceeding	91191020
Party	Defendant ROSENBAUER INTERNATIONAL AKTIENGESELLSCHAFT
Correspondence Address	STEWART J. BELLUS COLLARD & ROE, P.C. 1077 NORTHERN BLVD ROSLYN, NY 11576-1614 UNITED STATES
Submission	Answer
Filer's Name	Aimee L. Kaplan
Filer's e-mail	akaplan@collardroe.com, sbellus@collardroe.com
Signature	/alk/
Date	08/21/2009
Attachments	AR-M550N_20090821_094223.pdf ( 4 pages )(109096 bytes )

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

		-----X
HEROES, INC.	)	
	)	
	)	
v.	)	Opposition No: 91191020
	)	Application S.N. 77/390,949
ROSENBAUER INTERNATIONAL	)	
AKTIENGESELLSCHAFT	)	
	)	
Applicant.	)	
		-----X

**ANSWER TO NOTICE OF OPPOSITION**

In reply to the Notice of Opposition filed by Opposer HEROES, INC., Applicant ROSENBAUER INTERNATIONAL AKTIENGESELLSCHAFT states the following:

1. Applicant admits the allegations contained in paragraph 1 of the Notice of Opposition to the extent that it is an Austrian Aktiengesellschaft (AG) located at Paschinger Strasse 90, Leonding, Austria A-4060.
  
2. Applicant admits the allegations contained in paragraph 2 of the Notice of Opposition to the extent that on February 7, 2008, it filed Application Serial No. 77/390,949 for the HEROS mark for use on “fire extinguishing apparatus and equipment; protective helmets, in particular fire fighting helmets; protective clothing, in particular clothing for protection against heat and clothing for protection against hazardous substances for fire fighters.” The application was filed on an intent-to-use basis and was published for opposition on January 13, 2009. Applicant is without sufficient knowledge as to the truth of allegations contained in the rest of paragraph 2 of the Notice of Opposition, and hereby

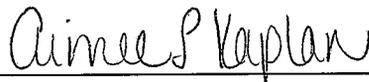
denies same.

3. Applicant is without sufficient knowledge as to the truth of allegations contained in paragraph 3 of the Notice of Opposition, and hereby denies same.
4. Applicant denies the allegations contained in paragraph 4 of the Notice of Opposition.
5. Applicant is without sufficient knowledge as to the truth of allegations contained in paragraph 5 of the Notice of Opposition, and hereby denies same.
6. Applicant is without sufficient knowledge as to the truth of allegations contained in paragraph 6 of the Notice of Opposition, and hereby denies same.
7. Applicant denies the allegations contained in paragraph 7 of the Notice of Opposition.
8. Applicant denies the allegations contained in paragraph 8 of the Notice of Opposition. Opposer's HEROES mark has a special meaning in the English language ("braver") whereas Applicant's HEROS mark derives from Greek mythology. Moreover, the goods and services of the parties are distinguishable.
9. Applicant denies the allegations contained in paragraph 9 of the Notice of Opposition.
10. Applicant denies the allegations contained in paragraph 10 of the Notice of Opposition.
11. Applicant denies the allegations contained in paragraph 11 of the Notice of Opposition.

12. Applicant denies the allegations contained in paragraph 12 of the Notice of Opposition.
13. Applicant denies the allegations contained in paragraph 13 of the Notice of Opposition.
14. Applicant denies the allegations contained in paragraph 14 of the Notice of Opposition.
15. Applicant denies the allegations contained in paragraph 15 of the Notice of Opposition.

WHEREFORE, Applicant respectfully requests that the Opposition be dismissed, and that Application No. 77/390,949 issue to registration.

ROSENBAUER INTERNATIONAL  
AKTIENGESELLSCHAFT,



---

Stewart J. Bellus  
Aimee L. Kaplan  
Frederick J. Dorchak  
COLLARD & ROE, P.C.  
1077 Northern Boulevard  
Roslyn, New York 11576  
Telephone: (516) 365-9802  
Facsimile: (516) 365-9805  
Email: [sbellus@collardroe.com](mailto:sbellus@collardroe.com)  
[akaplan@collardroe.com](mailto:akaplan@collardroe.com)

Attorneys for Applicant Rosenbauer International  
Aktiengesellschaft

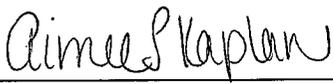
Date: \_\_\_\_\_

8-21-2009

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION has this 21<sup>st</sup> day of August 2009, been sent by prepaid First Class Mail to the following attorney for Opposer:

James L. Bikoff  
David K. Heasley  
Jenny R. Splitter  
Silverberg, Goldman & Bikoff, L.L.P.  
Georgetown Place, Suite 120  
1101 30<sup>th</sup> Street, NW  
Washington DC 20007

  
\_\_\_\_\_  
Aimee L. Kaplan