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

Proceeding	91200832
Party	Plaintiff Briggs & Stratton Corporation and Kohler Co.
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Date	10/12/2015
Attachments	Opposers' Eighth NOR (Public Version).pdf(76840 bytes)

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

BRIGGS & STRATTON CORPORATION)	
)	
Opposer,)	Opposition No. 91200832 (Parent)
vs.)	
)	
HONDA GIKEN KOGYO KABUSHIKI KAISHA,)	
)	
Applicant.)	
)	
KOHLER CO.)	
)	
Opposer,)	Opposition No. 91200146
vs.)	
)	
HONDA GIKEN KOGYO KABUSHIKI KAISHA,)	
)	
Applicant.)	
)	

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

OPPOSERS' EIGHTH NOTICE OF RELIANCE
(REDACTED – PUBLIC VERSION)

Pursuant to 37 C.F.R. §§ 2.120 and 2.122 and TBMP § 704.09, Opposers Briggs & Stratton Corporation (“Briggs”) and Kohler Co. (“Kohler”) (collectively, “Opposers”), by and through their attorneys, hereby submit their Eighth Notice of Reliance. Opposers’ Eighth Notice of Reliance includes the following attached materials:

1. Excerpts from the August 23, 2007, Deposition of Kevin L. Hoag in *American Honda Motor Co., Inc. v. The Pep Boys*, 2:05-cv-08879-WDK-VBK (C.D. Cal. Nov. 13, 2007), included as **Exhibit OO as pages:**

- Page 32, Lines 18-20
- Page 145, Line 24 to Page 146, Line 2
- Page 171, Line 28 to Page 172, Line 6
- Page 176, Line 2 to Page 177, Line 28
- Page 191, Lines 20-28
- Page 195, Lines 10-18
- Page 197, Lines 22-28
- Page 204, Lines 6-12
- Page 210, Lines 8-22
- Page 214, Lines 14-18
- Page 470, Line 14 to Page 471, Line 6 (all filed under seal)

Opposers filed excerpts from the discovery deposition of Mr. Hoag (Opposers' Second Notice of Reliance, Ex. I; Docket No. 118). Applicant then filed additional excerpts in its case. (Applicant's Tenth Notice of Reliance, Ex. P; Docket No. 143). The deposition excerpts designated by Opposers in this Notice of Reliance in their rebuttal case should in fairness be considered so as to make not misleading the excerpts offered by Applicant. The designations and exhibits are relevant to the issues of functionality and lack of secondary meaning of the Applicant's trademark.

The attached exhibits are marked with sequential page numbers in the upper right corner in the form of [Exhibit Letter – Page Number]. For example, the first page of Exhibit OO is "OO-1" and so forth. Where the upper right corner of a document does not allow for such marking, page numbers will be located along the right hand margin of the document. For briefing purposes, material within this Notice of Reliance will be identified as "O8NOR" (an acronym for Opposers' Eighth Notice of Reliance). For example, a reference to the first page of Exhibit OO in the trial brief would be O8NOR OO-1.

Opposers intend to rely upon and hereby make of record the attached exhibits. Certain of the attached exhibits contain information that Applicant considers confidential pursuant to the Stipulated Protective Order entered into by the parties and approved by the Board. Accordingly,

Opposers are simultaneously filing and serving an unredacted copy. Redactions are based on input from Applicant, and are not necessarily considered worthy of redaction by Opposers.

Respectfully Submitted,

Dated: October 12, 2015

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Dated: October 12, 2015

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing OPPOSERS' EIGHTH NOTICE OF RELIANCE (Redacted – Public Version) was served via first class mail, postage prepaid, this 12th day of October, 2015 upon:

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CONFIDENTIAL

ATTORNEYS' EYES ONLY

EXHIBIT

FILED UNDER SEAL