

ESTTA Tracking number: **ESTTA539168**

Filing date: **05/21/2013**

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	Board of Trustees of the University of Arkansas
Granted to Date of previous extension	05/22/2013
Address	2404 North University Avenue Little Rock, AR 72207 UNITED STATES

Attorney information	Harold J. Evans Williams & Anderson PLC 111 Center Street, 22nd Floor Little Rock, AR 72201 UNITED STATES hevans@williamsanderson.com Phone:501-396-8461
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**Applicant Information**

Application No	85704048	Publication date	01/22/2013
Opposition Filing Date	05/21/2013	Opposition Period Ends	05/22/2013
Applicant	ArmorWorks Enterprises, LLC 305 N. 54th Street Chandler, AZ 85226 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 012. All goods and services in the class are opposed, namely: Tactical all-terrain vehicles for military use
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**Grounds for Opposition**

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	1590197	Application Date	08/22/1988
Registration Date	04/03/1990	Foreign Priority Date	NONE
Word Mark	RAZORBACKS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1909/12/02 First Use In Commerce: 1909/12/02 EDUCATIONAL SERVICES - NAMELY, PROVIDING COURSES OF INSTRUCTION AT THE COLLEGE LEVEL AND ENTERTAINMENT SERVICES - NAMELY, ORGANIZING AND PROMOTING SPORTS EVENTS AND PROVIDING MUSICAL PERFORMANCES AND CONCERTS

U.S. Registration No.	3077039	Application Date	03/12/2002
Registration Date	04/04/2006	Foreign Priority Date	NONE
Word Mark	RAZORBACKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 024. First use: First Use: 2001/11/30 First Use In Commerce: 2001/11/30 Potholders and oven mitts		

U.S. Registration No.	3077040	Application Date	03/12/2002
Registration Date	04/04/2006	Foreign Priority Date	NONE
Word Mark	ARKANSAS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2001/12/31 First Use In Commerce: 2001/12/31 Refrigerator magnets Class 024. First use: First Use: 2001/11/30 First Use In Commerce: 2001/11/30 Potholders and oven mitts		

U.S. Registration No.	2947823	Application Date	11/12/2003
Registration Date	05/10/2005	Foreign Priority Date	NONE
Word Mark	RAZORBACK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2003/09/02 First Use In Commerce: 2003/09/02 sporting and hunting goods, namely, tree stands		

U.S. Registration No.	2949381	Application Date	03/12/2002
Registration Date	05/10/2005	Foreign Priority Date	NONE
Word Mark	ARKANSAS		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 021. First use: First Use: 2001/09/00 First Use In Commerce: 2001/09/00 wastebaskets [, soap dishes, drinking glasses, mugs, drinking steins, cups, insulated foam beverage holders, coffee services not of precious metal, glass and ceramic creamers, plates and coasters not of paper or table linen ]

U.S. Registration No.	2949380	Application Date	03/12/2002
Registration Date	05/10/2005	Foreign Priority Date	NONE
Word Mark	RAZORBACKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2001/09/00 First Use In Commerce: 2001/09/00 [ Refrigerator magnets ] Class 021. First use: First Use: 2001/09/00 First Use In Commerce: 2001/09/00 [ Wastebaskets, soap dishes, ] drinking glasses, mugs, drinking steins, cups [, insulated foam beverage holders, coffee services not of precious metal, glass and ceramic creamers, plates and coasters not of paper or table linen ]		

U.S. Registration No.	2931190	Application Date	03/12/2002
Registration Date	03/08/2005	Foreign Priority Date	NONE
Word Mark	ARKANSAS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2001/09/00 First Use In Commerce: 2001/09/00 decals, [ bumper stickers, paper flags, pens, pencils, paper napkins, paper coasters, stationary, envelopes, postcards, wrapping paper, book covers, folders, notebooks, binders, writing pads, writing tablets, calendars, desk calendars, planning and appointment books, file folders, stationary folders; and publications, namely, catalogues, programs, brochures, pamphlets, directories, classified directories, academic monographs, printed reports and papers, all relating to educational services and entertainment services offered at the university undergraduate and graduate levels; advertising directories and yearbooks ]		

U.S. Registration No.	2916717	Application Date	01/06/2003
Registration Date	01/04/2005	Foreign Priority Date	NONE
Word Mark	RAZORBACK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 007. First use: First Use: 2003/12/01 First Use In Commerce: 2003/12/01 Hammermill particle size reduction machines		

U.S. Registration No.	2172446	Application Date	01/03/1997
Registration Date	07/14/1998	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 006. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 metal license plates		

U.S. Registration No.	2172445	Application Date	01/03/1997
Registration Date	07/14/1998	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 billfolds, wallets, tote bags, duffel bags, umbrellas and travelling bags		

U.S. Registration No.	2172444	Application Date	01/03/1997
Registration Date	07/14/1998	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 advertising directories, yearbooks, decals, bumper stickers, paper flags, pens, pencils, paper napkins, paper coasters, stationery, postcards, wrapping paper, playing cards, book covers, folders and notebooks		

U.S. Registration No.	2172443	Application Date	01/03/1997
Registration Date	07/14/1998	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1967/01/00 First Use In Commerce: 1991/06/00 clothing, namely, T-shirts, sport shirts, sweatshirts, sweat pants, shorts, jackets, sweaters, jerseys, sun visors, caps, hats, neckties, scarves, shoes, socks, cloth baby bibs, wrist bands head bands, rain ponchos, non-leather belts, non-leather suspenders		

U.S. Registration No.	2172442	Application Date	01/03/1997
Registration Date	07/14/1998	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 1991/02/00 First Use In Commerce: 1991/02/00 mugs, coasters, cups, drinking glasses, plates, and canned drink insulator sleeves		

U.S. Registration No.	1586817	Application Date	08/18/1988
Registration Date	03/13/1990	Foreign Priority Date	NONE
Word Mark	RAZORBACKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 1935/00/00 First Use In Commerce: 1935/00/00 WASTEBASKETS, DRINKING GLASSES, MUGS, PLATES AND COASTERS		

U.S. Registration No.	1579111	Application Date	08/22/1988
Registration Date	01/23/1990	Foreign Priority Date	NONE
Word Mark	ARKANSAS RAZORBACKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 025. First use: First Use: 1935/00/00 First Use In Commerce: 1935/00/00 CLOTHING, NAMELY, NECKWEAR, JERSEYS, T-SHIRTS, SWEATSHIRTS, JACKETS, SOCKS, SWEATERS, SPORT SHIRTS, SHORT, SWEATSUITS AND RAIN PONCHOS</p> <p>Class 041. First use: First Use: 1909/11/18 First Use In Commerce: 1909/11/18 EDUCATIONAL SERVICES - NAMELY, PROVIDING COURSES OF INSTRUCTION AT THE COLLEGE LEVEL AND ENTERTAINMENT SERVICES - NAMELY, ORGANIZING AND PROMOTING SPORTS EVENTS</p>		

U.S. Registration No.	1572385	Application Date	04/10/1989
Registration Date	12/19/1989	Foreign Priority Date	NONE
Word Mark	RAZORBUCK\$		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1989/01/11 First Use In Commerce: 1989/01/11 DEBIT CARD SERVICES		

U.S. Registration No.	1566056	Application Date	08/22/1988
Registration Date	11/14/1989	Foreign Priority Date	NONE
Word Mark	RAZORBACKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1935/00/00 First Use In Commerce: 1935/00/00 CLOTHING, NAMELY, NECKWEAR, JERSEYS, T-SHIRTS, SWEATSHIRTS, JACKETS, SOCKS, SWEATERS, SPORTSHIRTS, SHORTS, SWEATSUITS AND PONCHOS		

U.S. Registration No.	1566028	Application Date	08/18/1988
Registration Date	11/14/1989	Foreign Priority Date	NONE
Word Mark	RAZORBACKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 024. First use: First Use: 1935/00/00 First Use In Commerce: 1935/00/00 TOWELS, BANNERS AND FLAGS		

U.S. Registration No.	1565862	Application Date	08/18/1988
Registration Date	11/14/1989	Foreign Priority Date	NONE
Word Mark	RAZORBACK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1916/00/00 First Use In Commerce: 1916/00/00 ADVERTISING DIRECTORIES AND YEARBOOKS		

U.S. Registration No.	3644934	Application Date	03/17/2005
Registration Date	06/23/2009	Foreign Priority Date	NONE
Word Mark	RAZORBACK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 015. First use: First Use: 2005/02/01 First Use In Commerce: 2005/02/01 Guitars		

U.S. Registration No.	3432544	Application Date	01/30/2004
Registration Date	05/20/2008	Foreign Priority	NONE

		Date	
Word Mark	RAZORBACK		
Design Mark			
Description of Mark	The mark consists of the word "RAZORBACK" and the depiction of a stylized hog.		
Goods/Services	Class 007. First use: First Use: 2003/12/01 First Use In Commerce: 2003/12/01 Hammermill particle size reduction machines		

U.S. Registration No.	3392913	Application Date	05/10/2005
Registration Date	03/04/2008	Foreign Priority Date	NONE
Word Mark	RAZORBACK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 006. First use: First Use: 2005/07/12 First Use In Commerce: 2005/07/12 Metal threaded screws and fasteners		

Attachments	ArmorWorks Notice of Opposition.pdf(404721 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/harold j. evans/
Name	Harold J. Evans
Date	05/21/2013

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

**In the Matter of Trademark Application Serial No. 85704048**

**Mark: RAZORBACK**

BOARD OF TRUSTEES OF THE  
UNIVERSITY OF ARKANSAS

Opposer,

Opposition No. \_\_\_\_\_

v.

ARMORWORKS ENTERPRISES, LLC

Applicant.

**NOTICE OF OPPOSITION**

BOARD OF TRUSTEES OF THE UNIVERSITY OF ARKANSAS, a public institution of higher education and an instrumentality of the State of Arkansas, having its principal place of business at 2404 North University Avenue, Little Rock, Arkansas 72207 (“Opposer”), believes that it will be damaged by registration of the mark RAZORBACK, as shown in Application Serial No. 85704048 for “tactical all-terrain vehicles for military use” filed by ArmorWorks Enterprises, LLC (“Applicant”) on August 15, 2012 and published in the Official Gazette on January 22, 2013. Applicant is an Arizona corporation having offices at 305 N. 54th Street, Chandler, Arizona 85226. Pursuant to 15 U.S.C. §§ 1052, 1063, and 1125(c), Opposer, by and through its attorneys, hereby opposes Application Serial No. 85704048.

As grounds for the Opposition, Opposer alleges:

1. Opposer, a public institution of higher education and an instrumentality of the State of Arkansas, owns all legal rights, title and interest to the trademarks and service marks of the University of Arkansas (the “University”).

2. The University adopted and has used continuously the mark RAZORBACKS, Registration No. 1,590,197, since at least as early as 1909 and has been using the mark in interstate commerce since at least as early as 1909. The University uses the mark, *inter alia*, to promote and advertise the athletic events in which the University’s teams participate, the educational services the University offers, and the musical performances and concerts the University provides. The mark is valid, subsisting, and incontestable under Sections 8 and 15 of the Lanham Act, 15 U.S.C. §§ 1058 and 1065.

3. Opposer also owns the following registrations on the Principal Register in the United States Patent and Trademark Office. All of the registrations identified in the chart below are valid, subsisting, and incontestable under Sections 8 and 15 of the Lanham Act, 15 U.S.C. §§ 1058 and 1065. The marks shown in these registrations, the mark shown in Registration No. 1,590,197 and identified in paragraph 2 above and paragraph 4 below, shall be referred to collectively herein as “the University’s RAZORBACK marks.”

<b>TRADEMARK</b>	<b>REG. NO.</b>	<b>REG. DATE</b>	<b>GOODS/SERVICES</b>
RAZORBACKS and Design (snorting pig)	3,077,039	04/04/06	Potholders and oven mitts
ARKANSAS and Design (snorting pig)	3,077,040	04/04/06	Refrigerator magnets
RAZORBACK	2,947,823	05/10/05	Sporting and hunting goods, namely, tree stands
ARKANSAS and Design (snorting pig)	2,949,381	05/10/05	Wastebaskets
RAZORBACKS and Design (snorting pig)	2,949,380	05/10/05	Drinking glasses, mugs, drinking steins, and cups

ARKANSAS and Design (snorting pig)	2,931,190	03/08/05	Decals
RAZORBACK	2,916,717	01/04/05	Hammermill particle size reduction machines
<b>TRADEMARK</b>	<b>REG. NO.</b>	<b>REG. DATE</b>	<b>GOODS/SERVICES</b>
MISCELLANEOUS DESIGN (Helmet Hog)	2,172,446	7/14/98	Metal license plates
MISCELLANEOUS DESIGN (Helmet Hog)	2,172,445	7/14/98	Billfolds, wallets, tote bags, duffel bags, umbrellas and traveling bags
MISCELLANEOUS DESIGN (Helmet Hog)	2,172,444	7/14/98	Advertising directories, yearbooks, decals, bumper stickers, paper flags, pens, pencils, paper napkins, paper coasters, stationery, postcards, wrapping paper, playing cards, book covers, folders and notebooks
MISCELLANEOUS DESIGN (Helmet Hog)	2,172,443	7/14/98	Clothing, namely, T-shirts, sports shirts, sweatshirts, sweat pants, shorts, jackets, sweaters, jerseys, sun visors, caps, hats, neckties, scarves, shoes, socks, cloth baby bibs, wrist bands, head bands, rain ponchos, non-leather belts, non-leather suspenders

<b>TRADEMARK</b>	<b>REG. NO.</b>	<b>REG. DATE</b>	<b>GOODS/SERVICES</b>
MISCELLANEOUS DESIGN	2,172,442	7/14/98	Mugs, coasters, cups, drinking glasses, plates, and canned drink insulator sleeves
RAZORBACKS	1,590,197	04/03/90	Educational services, namely, providing courses of instruction at the college level and entertainment services, namely, organizing and promoting sports events and providing musical performances and concerts
RAZORBACKS	1,586,817	3/13/90	Wastebaskets, drinking glasses, mugs, plates and coasters
ARKANSAS RAZORBACKS	1,579,111	1/23/90	Clothing, namely, neckwear, jerseys, T-shirts, sweatshirts, jackets, socks, sweaters, sport shirts, shorts, sweatsuits and rain ponchos; Educational services, namely, providing courses of instruction at the college level and

			entertainment services, namely, organizing and promoting sports events
RAZORBUCK\$	1,572,385	12/19/89	Debit card services
RAZORBACKS	1,566,056	11/14/89	Clothing, namely, neckwear, jerseys, T-shirts, sweatshirts, jackets, socks, sweaters, sport shirts, shorts, sweatsuits and Ponchos
RAZORBACKS	1,566,028	11/14/89	Towels, banners and flags
RAZORBACK	1,565,862	11/14/89	Advertising directories and yearbooks

4. In addition to the registrations listed in Paragraphs 2 and 3, above, the University owns the following registrations on the Principal Register in the United States Patent and Trademark Office which issued since 2007:

<b>TRADEMARK</b>	<b>REG. NO.</b>	<b>REG. DATE</b>	<b>GOODS/SERVICES</b>
RAZORBACK	3,644,934	06/23/09	Guitars
RAZORBACK and design (hog)	3,432,544	05/20/08	Hammermill particle size reduction machines
RAZORBACK and design (Z shape)	3,392,913	03/04/08	Metal threaded screws and fasteners

5. The University's athletic teams, called RAZORBACKS and ARKANSAS RAZORBACKS, have competed in athletic events throughout the United States. "Calling the HOGS" has become a favorite pastime of attendees at such events. Nationwide television broadcasts of the events have been shown in states where the teams have not appeared or directly competed.

6. As a result of the extensive public exposure of the University's RAZORBACK teams, and the University's long and continuous use of its RAZORBACK marks in connection with a wide variety of other services and goods, the public has, since long before 2012, come to associate the term RAZORBACK uniquely with the University as the source of services and goods provided under the mark.

7. The University has used and continues to use its RAZORBACK marks in connection with various services and goods. Authorized licensees of the University manufacture and sell numerous motor vehicle related products that bear the RAZORBACK marks. The University operates a public transportation system under the name RAZORBACK TRANSIT and custom designed a Volkswagen beetle called the Razorbug that promotes the educational and athletic achievements of the University around the country. Also, the University patented a cable steering system for all-terrain four-wheeled vehicles which it licensed to a start-up company.

8. The University's RAZORBACK marks are symbolic of the extensive and valuable good will and customer recognition built up through substantial amounts of effort and advertising and promotional expenditures. By virtue of these efforts and expenditures and the excellence of its products and services, the RAZORBACK marks have become very strong and famous.

9. Applicant filed Application Serial No. 85704048 on or about August 15, 2012 for "tactical all-terrain vehicles for military use" in International Class 12 as an intent-to-use application under Lanham Act Section 1(b).

10. The University's RAZORBACK marks became famous long prior to the filing date of Applicant's Application Serial No. 85704048.

11. The University's RAZORBACK marks listed in paragraphs 2 and 3 of this Opposition registered on the United States Patent and Trademark Office's Principal Register prior to the August 15, 2012 filing use date of Applicant's Application Serial No. 85704048.

12. The University's dates of first use and dates of first use in commerce for its RAZORBACK marks listed in paragraphs 2 and 3 of this Opposition are long prior to Applicant's application filing date. The University's RAZORBACK marks and registrations

listed in Paragraphs 2 and 3 are valid and subsisting, and those registrations are incontestable. The University's legal rights are, therefore, paramount and superior to Applicant's.

13. Applicant's mark, as shown in Application Serial No. 85704048, solely consists of the word "RAZORBACK".

14. A likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d) exists between the University's RAZORBACK marks and Applicant's mark because the dominant feature of the respective marks is identical.

15. A likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), exists between the University's RAZORBACK marks and Applicant's mark because the University's marks are used on a broad range of goods and in connection with a wide range of services such that a consumer would be likely to believe that the University is the source of Applicant's goods.

16. On information and belief, consumers who are likely to buy the University's goods and participate in and be familiar with the University's services are substantially the same or overlap significantly with the consumers who are likely to buy Applicant's goods.

17. Persons familiar with the University's RAZORBACK marks would be likely to buy Applicant's goods believing them to originate with or be endorsed or sponsored by the University. Any defect, objection or fault found with the goods offered under Applicant's mark would necessarily reflect upon and seriously injure the reputation of the University's goods and services.

18. Applicant's commercial use of its mark causes a likelihood of confusion and a presumption or false suggestion that the University has endorsed or approves of the goods

bearing Applicant's mark, or that the University and Applicant are affiliated or associated, all to the considerable detriment of the University.

19. Registration of Applicant's mark would seriously impair the uniqueness of the University's famous RAZORBACK marks and would dilute the strength of those marks in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

20. Applicant's mark is identical to the "RAZORBACK" name and marks used by another institution, the University. The University has used the "RAZORBACK" name and marks for decades prior to Applicant's filing date. Consumers are likely to recognize that the name and mark "RAZORBACK" points uniquely and unmistakably to the University, given the fame and renown of the University and its athletic programs. The University is not connected or affiliated with the Applicant, the Applicant's activities, or the Applicant's mark. As set forth above, the University's RAZORBACK marks and identity are famous and renowned such that consumers would presume a connection between the Applicant and the University when they encounter Applicant's application for and/or alleged use of "RAZORBACK" in connection with its products. Thus, Applicant's mark falsely suggests a connection with the University and its RAZORBACK marks in violation of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), and is not entitled to registration.

21. If the Applicant were granted the registration herein opposed, it would thereby obtain at least a prima facie exclusive right to the use of its mark. Such registration would be a source of damage and injury to the University.

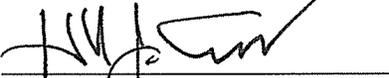
22. For all the foregoing reasons, registration of Applicant's mark will result in damage to Opposer, and registration should be refused.

WHEREFORE, Opposer requests respectfully that the Opposition be sustained and Application Serial No. 85704048 be refused registration.

Respectfully submitted,

BOARD OF TRUSTEES OF THE  
UNIVERSITY OF ARKANSAS

Dated: May 21, 2013

By:   
Harold J. Evans

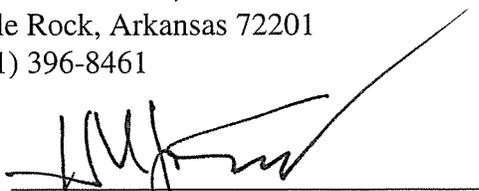
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CERTIFICATE OF SERVICE

I, the undersigned, certify that a true and correct copy of this Notice of Opposition was served by United States first-class mail, postage prepaid, this 21<sup>st</sup> day of May, 2013 on Registrant at the following address:

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By:   
Harold J. Evans (AR #78214)  
Attorney for Petitioner