

ESTTA Tracking number: **ESTTA709569**

Filing date: **11/19/2015**

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

|                        |   |
|------------------------|---|
| Proceeding             | 91213584  |
| Party                  | Plaintiff<br>Jaguar Land Rover Limited  |
| Correspondence Address | DORNE J MCKINNON RYBICKI<br>BROOKS KUSHMAN PC<br>1000 TOWN CENTER, 22ND FLOOR<br>SOUTHFIELD, MI 48075<br>UNITED STATES<br>gdavis@brookskushman.com, drybicki@brookskushman.com,<br>mfangileri@brookskushman.com, jziegler@brookskushman.com, rcant-<br>or@brookskushman.com |
| Submission             | Motion to Amend Pleading/Amended Pleading   |
| Filer's Name           | Jennifer K. Ziegler   |
| Filer's e-mail         | jziegler@brookskushman.com,gdavis@brookskushman.com   |
| Signature              | /jennifer ziegler/  |
| Date                   | 11/19/2015  |
| Attachments            | Amended Notice of Opposition CLOUD ROVER.pdf(56730 bytes )  |

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

In re Trademark Application

Serial No.: 85867803

Filed: March 5, 2013

Trademark: CLOUD ROVER

Atty. Docket No.: LAND 7344 OC

Published in the Official Gazette on July 23, 2013 on page TM 870

|                            |   |                         |
|----------------------------|---|-------------------------|
| Jaguar Land Rover Limited, | ) |                         |
|                            | ) |                         |
| Opposer,                   | ) |                         |
|                            | ) |                         |
| v.                         | ) | Opposition No. 91213584 |
|                            | ) |                         |
| Toys Tekk Corporation,     | ) |                         |
|                            | ) |                         |
| Applicant.                 | ) |                         |

**AMENDED NOTICE OF OPPOSITION**

Opposer, Jaguar Land Rover Limited, a United Kingdom private company limited by shares, having a principal place of business at Abbey Road, Whitley, Coventry CV3 4LF, United Kingdom (“Opposer”), believes that it would be damaged by the registration of the word mark “CLOUD ROVER” in the name of Toys Tekk Corporation (“Applicant”) shown in U.S. Trademark Application Serial No. 85867803, and hereby opposes the same.

A request for an extension of time to oppose was filed on August 21, 2013 and was granted, extending the time to file to November 20, 2013.

As grounds of opposition, Opposer alleges that:

1. Opposer and its predecessors have manufactured and sold vehicles, vehicle parts and accessories, and a wide variety of related automotive and collateral goods and services, including toy model vehicles, and replica and scale model vehicles, worldwide for over 60 years.

2. Opposer is the owner of the famous LAND ROVER and RANGE ROVER trademarks in the United States and throughout the world. Opposer owns, among others, the following valid and subsisting trademark registrations for LAND ROVER, LAND ROVER EXPERIENCE, and RANGE ROVER (collectively, “Opposer’s Marks”):

| MARK                  | REGISTRATION NUMBER & REGISTRATION DATE      | GOODS/SERVICES  |
|-----------------------|--|---|
| LAND ROVER            | Reg. No.: 2860099<br>Issued: July 6, 2004    | IC 028: Toys, game and playthings, namely toy model vehicles, replica and scale model vehicles, hobby kits for the construction of toy model and scale model vehicles   |
| LAND ROVER EXPERIENCE | Reg. No.: 2380434<br>Issued: August 29, 2000 | IC 009: Pre-recorded video, audio, and audio-visual tapes and discs in the field of motor land vehicles<br>IC025: Clothing, namely, head wear, articles of outer clothing, namely, wind-resistant jackets, T-shirts, and polo-shirts<br>IC 028: Scale model and toy model vehicles<br>IC 041: Off-road driving instruction services and educational services, namely, providing courses of instruction and education in four-wheel driving techniques, vehicle mechanics, map reading, driving safety and environmental responsibility as concerns land vehicles; educational services, namely, |

|   |   |  |
|---|---|--|
|   |   | providing an academy for training drivers  |
| RANGE ROVER   | Reg. No.: 2100825<br>Issued: September 30, 1997 | IC 028: Toys, namely, toy automobiles, toy station wagons, and toy sport utility vehicles; games, namely, board games and computer game software; scale models, namely, miniature automobiles, miniature station wagons, and miniature sport utility vehicles sold complete or in kit form |
| LAND ROVER  | Reg. No.: 2767628<br>Issued: September 23, 2003 | IC 012: Motor vehicles, namely automobiles, sport-utility vehicles, and structural parts and engines therefor; bicycles  |
| LAND ROVER  | Reg. No.: 541722<br>Issued: May 1, 1951         | IC 012: Motor cars, namely, estate wagons  |
|  | Reg. No.: 3485024<br>Issued: August 12, 2008    | IC 012: Sports utility vehicles  |
| RANGE ROVER   | Reg. No.: 929034<br>Issued: February 15, 1972   | IC 012: Road and cross-country motor car of the station-wagon type and structural parts thereof  |

3. The foregoing registrations are valid and subsisting, uncancelled and unrevoked, and all have been made incontestable.

4. Opposer has used Opposer's Marks in connection with toy and replica motor vehicles since at least 1980.

5. Opposer has expended considerable time, effort, and expense in advertising and promoting Opposer's Marks and the goods and services associated with them throughout the

United States, with the result that the purchasing public has come to know and recognize products of Opposer by Opposer's Marks. Opposer has exceedingly valuable goodwill established in Opposer's Marks.

6. Applicant filed a trademark application for the word mark CLOUD ROVER on March 5, 2013, claiming use of the mark since January 15, 2013. As published, the application covered "Radio controlled toy vehicles; Remote control toys, namely, remote control car, remote control vehicle" in Class 28 ("Applicant's goods").

7. Upon information and belief, Applicant's application for CLOUD ROVER has been assigned Serial No. 85867803.

8. There is no issue as to priority. Opposer used, filed, and registered Opposer's Marks in connection with its goods long prior to Applicant's March 15, 2013 filing date and the date of first use alleged by Applicant.

9. The ROVER component of Applicant's mark is identical to the ROVER component in each mark of Opposer's Marks.

10. Applicant's goods are identical and/or closely related to the goods and services advertised, promoted, offered, and/or sold by Opposer in connection with Opposer's Marks.

11. Applicant's CLOUD ROVER mark in Application No. 85867803 so resembles Opposer's Marks and the goods identified are so closely related to the goods of Opposer as to be likely, when used in connection with Applicant's goods, to cause confusion, or to cause mistake, or to deceive in violation of Section 2(d) of the Lanham Act, 15 USC 1052(d).

12. Applicant's CLOUD ROVER mark is a close approximation of Opposer's Marks.

13. Because the purchasing public has come to recognize and associate the products of Opposer with Opposer's Marks, Applicant's proposed CLOUD ROVER mark would be recognized as uniquely and unmistakably identifying or suggesting a connection to Opposer.

14. Opposer is not connected with the goods that are sold or will be sold, or other activities performed, by Applicant under the CLOUD ROVER mark.

15. The fame and reputation of Opposer is such that, when the CLOUD ROVER mark is used with Applicant's goods, a connection with Opposer will be presumed.

16. Through Opposer's extensive use and promotion of Opposer's Marks, these marks have become distinctive and famous as defined under Section 43(c)(1) of the Lanham Act, as amended, 15 USC 1125(c)(1).

17. Opposer's Marks became famous prior to the filing date of the application for the CLOUD ROVER mark on March 5, 2013 and the date of first use alleged by Applicant.

18. Applicant's use and/or registration of a "ROVER" component mark is likely to cause, and will cause, dilution of the distinctive value of Opposer's LAND ROVER and RANGE ROVER marks under Section 43(c) of the Lanham Act, 15 USC 1125(c).

19. For the foregoing reasons, Opposer will be damaged by the registration of the CLOUD ROVER mark filed by Applicant.

20. If the Applicant were granted the registration herein opposed, it would obtain at least a *prima facie* exclusive right to use of CLOUD ROVER in connection with the designated goods. Such registration would be a source of injury and damage to Opposer's prior and established rights in Opposer's Marks.

WHEREFORE, Opposer respectfully requests that registration of the CLOUD ROVER mark, Application Serial No. 85867803, be refused and this amended opposition be sustained.

The fee required under 37 C.F.R. § 2.6(a)(17) was paid electronically concurrently with the filing of the Notice of Opposition.

Respectfully submitted,

By:   
Jennifer K. Ziegler  
Chanille Carswell  
Rebecca J. Cantor

*Attorneys/Agents for Opposer*

Date: November 19, 2015

**BROOKS KUSHMAN P.C.**  
1000 Town Center, 22nd Floor  
Southfield, MI 48075  
Phone: 248-358-4400  
Fax: 248-358-3351

**CERTIFICATE OF SERVICE**

I certify that I served:

**AMENDED NOTICE OF OPPOSITION**

On November 19, 2015 by First Class Mail to:

Shun C. Chen  
LAW OFFICES OF SHUN C. CHEN  
4521 Campus Drive # 324  
Irvine, CA 92612-2621

Courtesy copy via email to: shunchen@att.net

*Correspondent for Applicant*

By:   
Jennifer K. Ziegler