

ESTTA Tracking number: **ESTTA729161**

Filing date: **02/24/2016**

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	Rock River Arms, Inc.
Granted to Date of previous extension	02/24/2016
Address	1042 Cleveland Road Colona, IL 61241 UNITED STATES

Attorney information	Scott A. Burow Banner & Witcoff, Ltd. 10 South Wacker Drive Suite 3000 Chicago, IL 60606 UNITED STATES sburow@bannerwitcoff.com, aking@bannerwitcoff.com, mhouston@bannerwitcoff.com, bwptotm@bannerwitcoff.com, bwlitdock-et@bannerwitcoff.com Phone:312-463-5000
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Applicant Information

Application No	86687061	Publication date	10/27/2015
Opposition Filing Date	02/24/2016	Opposition Period Ends	02/24/2016
Applicant	Infrared Systems Group, LLC 305 Petty Road Lawrenceville, GA 30043 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Thermal imaging cameras
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4710702	Application Date	02/27/2014
Registration Date	03/31/2015	Foreign Priority Date	NONE
Word Mark	X-SERIES		

Design Mark	<h1>X-SERIES</h1>		
Description of Mark	NONE		
Goods/Services	Class 013. First use: First Use: 2013/10/00 First Use In Commerce: 2013/10/00 firearms, namely, rifles and spare parts and replacement parts for rifles		

U.S. Application No.	86694415	Application Date	07/15/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	X-SERIES 2		
Design Mark	<h1>X-SERIES 2</h1>		
Description of Mark	NONE		
Goods/Services	Class 013. First use: First Use: 0 First Use In Commerce: 0 firearms, namely, rifles and spare parts and replacement parts for rifles		

U.S. Application No.	86694418	Application Date	07/15/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	X-SERIES 3		
Design Mark	<h1>X-SERIES 3</h1>		

Description of Mark	NONE
Goods/Services	Class 013. First use: First Use: 0 First Use In Commerce: 0 firearms, namely, rifles and spare parts and replacement parts for rifles

Attachments	86206543#TMSN.png(bytes) 86694415#TMSN.png(bytes) 86694418#TMSN.png(bytes) 006163.00255 Notice of Opposition.pdf(109014 bytes) 006163.00255 Exhibit A.pdf(143194 bytes) 006163.00255 Exhibit B.pdf(71098 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	/Anna King/
Name	Anna L. King
Date	02/24/2016

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

In the Matter of Trademark Applicant)	
Infrared Systems Group, LLC)	
Mark: X-SERIES)	
Serial No.: 86/687061)	
Filed: July 8, 2015)	
Published in the Official Gazette on October 27, 2015)	
<hr/>		
ROCK RIVER ARMS, INC.,)	
Opposer,)	Opposition No. _____
vs.)	
INFRARED SYSTEMS GROUP, LLC,)	
Applicant.)	
<hr/>		

NOTICE OF OPPOSITION

Rock River Arms, Inc., an Illinois corporation, having a principal place of business at 1042 Cleveland Road, Colona, Illinois 61241 (“Opposer”), believes that it will be damaged by registration of the above-identified mark (hereinafter “Applicant’s Mark”), applied for on the Principal Register by Infrared Systems Group, LLC, a limited liability company of Georgia, having a principal place of business at 305 Petty Road, Lawrenceville, Georgia 30043 (“Applicant”), and hereby opposes registration of the same.

The grounds for the opposition are as follows:

1. Opposer is a leading provider of firearms, firearm accessories and replacement parts, and related products.

2. Opposer is the owner of rights granted via a federal registration and common law rights for the mark “X-SERIES” (“X-SERIES’ Mark”).

3. Opposer has continuously used the “X-SERIES” Mark in interstate commerce since at least as early as October 2013, in connection with firearms and related products and in promoting and marketing Opposer’s firearms and related products.

4. Opposer is the owner of U.S. Trademark Registration No. 4,710,702, filed on February 27, 2014, and registered on March 31, 2015, for “X-SERIES” for “firearms, namely, rifles and spare parts and replacement parts for rifles” in International Class 13. A copy of the registration for “X-SERIES,” including the USPTO TSDR record showing current status and title, is attached as Exhibit A.

5. Opposer also is the owner of pending U.S. Trademark Application Serial No. 86/694,415 for “X-SERIES 2” and U.S. Trademark Application Serial No. 86/694,418 for “X-SERIES 3” both covering “firearms, namely, rifles and spare parts and replacement parts for rifles” in International Class 13. Copies of the USPTO TSDR records for the pending applications, showing current status and title, are attached as Exhibit B.

6. Opposer also has common law rights in the “X-SERIES” Mark for use in connection with, *inter alia*, firearms, rifles, spare and replacement parts for rifles, and related products.

7. As a result of prior use and registration of the “X-SERIES” Mark, Opposer has developed substantial goodwill in the mark, and the public has come to associate the “X-SERIES” mark with the goods of Opposer.

8. Applicant filed its application for Applicant's Mark on July 8, 2015, stating its intention to use the mark in connection with "thermal imaging cameras" in International Class 9.

9. If Applicant is permitted to register its mark, the registration will give Applicant a *prima facie* exclusive right to the use of Applicant's Mark for the goods set forth in the application. Such registration would damage and injure Opposer.

COUNT I

LIKELIHOOD OF CONFUSION

10. Opposer repeats and realleges paragraphs 1-9 as paragraph 10 of this Count I.

11. Opposer's use and registration of its "X-SERIES" Mark is long prior to the filing date of the opposed Application.

12. On information and belief, Applicant was aware of Opposer's "X-SERIES" mark at the time that it filed its application.

13. Applicant's "X-SERIES" mark is confusingly similar to Opposer's "X-SERIES" Mark.

14. Applicant's use and registration of its mark will inevitably lead to confusion, mistake, or deception of the public within the meaning of Section 2(d) of the Lanham Act, 15 USC §1052(d), all to Opposer's irreparable damage and injury.

15. Registration of Applicant's Mark should be denied based on a likelihood of confusion with Opposer's prior "X-SERIES" mark, in violation of Section 2(d) of the Lanham Act, 15 USC §1052(d).

CLAIM FOR RELIEF/DAMAGE

16. By reason of the foregoing, Applicant's registration of the mark herein opposed will cause injury and damage to Opposer's rights to its registered "X-SERIES" Mark and to its use thereof described above.

WHEREFORE, Opposer respectfully prays that the present opposition be sustained and that the registration sought by the Applicant be refused.

DEPOSIT ACCOUNT AUTHORIZATION

Please charge the statutory fee of \$300 to our firm's deposit account, No. 19-0733. Please also charge any additional fees, or credit any overpayments, to our firm's deposit account, No. 19-0733.

Respectfully submitted,
BANNER & WITCOFF, LTD.
Attorneys for Opposer

Date: February 24, 2016

By: /Anna King/
Scott A. Burow
Anna L. King
10 South Wacker Drive, Suite 3000
Chicago, Illinois 60606
Telephone: (312) 463-5000
Email: bwptotm@bannerwitcoff.com

Enclosures:

Exhibit A

Copy of Reg. No. 4,710,702 and TSDR Record Showing Current Status and Title
Exhibit B

Copy of USPTO TSDR records for Application Nos. 86/694,415 and 86/694,418
Showing Current Status and Title

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Opposition was served on Applicant, at the correspondence address of record, by first class mail, addressed as follows:

Colette A. Durst
Tyco International
6600 Congress Ave
Boca Raton, Florida 33487-1213

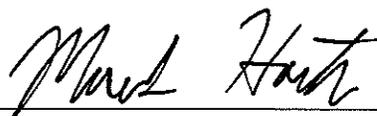


Exhibit A

Generated on:

This page was generated by TSDR on 2016-02-24 13:01:28 EST

Mark: X-SERIES

X-SERIES

US Serial Number: 86206543

Application Filing Date:

Feb. 27, 2014

US Registration Number: 4710702

Registration Date:

Mar. 31, 2015

Register:

Principal

Mark Type:

Trademark

Status:

Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date:

Mar. 31, 2015

Publication Date: Jan. 13, 2015

Mark Information

Mark Literal Elements:

X-SERIES

Standard Character Claim:

Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type:

4 - STANDARD CHARACTER MARK

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For:

firearms, namely, rifles and spare parts and replacement parts for rifles

International Class(es): 013 - Primary Class

U.S Class(es):

002, 009

Class Status:

ACTIVE

Basis:

1(a)

First Use: Oct. 2013

Use in Commerce:

Oct. 2013

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name:

Rock River Arms, Inc.

Owner Address:1042 Cleveland Road
Colona, ILLINOIS 61241
UNITED STATES**Legal Entity Type:** CORPORATION**State or Country Where
Organized:**

ILLINOIS

Attorney/Correspondence Information

Attorney of Record**Attorney Name:** Scott A. Burow**Docket Number:**

006163.00204

**Attorney Primary Email
Address:** bwptotm@bannerwitcoff.com**Attorney Email
Authorized:**

Yes

Correspondent**Correspondent
Name/Address:**SCOTT A. BUROW
BANNER & WITCOFF, LTD.
10 S WACKER DR STE 3000
CHICAGO, ILLINOIS 60606-7437
UNITED STATES**Phone:** 3124635000**Correspondent e-mail:** bwptotm@bannerwitcoff.com sburow@bannerwitcoff.com aking@bannerwitcoff.com lmatsie@bannerwitcoff.com**Correspondent e-mail
Authorized:**

Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Mar. 31, 2015	REGISTERED-PRINCIPAL REGISTER	
Jan. 13, 2015	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jan. 13, 2015	PUBLISHED FOR OPPOSITION	
Dec. 24, 2014	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Dec. 07, 2014	LAW OFFICE PUBLICATION REVIEW COMPLETED	77312
Dec. 06, 2014	ASSIGNED TO LIE	77312
Nov. 21, 2014	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 08, 2014	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Nov. 07, 2014	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Nov. 07, 2014	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jun. 05, 2014	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jun. 05, 2014	NON-FINAL ACTION E-MAILED	6325
Jun. 05, 2014	NON-FINAL ACTION WRITTEN	90294
Jun. 04, 2014	ASSIGNED TO EXAMINER	90294
Mar. 12, 2014	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Mar. 03, 2014	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None**File Location****Current Location:** PUBLICATION AND ISSUE SECTION**Date in Location:**

Mar. 31, 2015

United States of America
United States Patent and Trademark Office

X-SERIES

Reg. No. 4,710,702

ROCK RIVER ARMS, INC. (ILLINOIS CORPORATION)
1042 CLEVELAND ROAD
COLONA, IL 61241

Registered Mar. 31, 2015

Int. Cl.: 13

FOR: FIREARMS, NAMELY, RIFLES AND SPARE PARTS AND REPLACEMENT PARTS
FOR RIFLES, IN CLASS 13 (U.S. CLS. 2 AND 9).

TRADEMARK

FIRST USE 10-0-2013; IN COMMERCE 10-0-2013.

PRINCIPAL REGISTER

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 86-206,543, FILED 2-27-2014.

ALISON POLLACK, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

Exhibit B

Generated on:

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Mark: X-SERIES 2

X-SERIES 2

US Serial Number: 86694415

Application Filing Date:

Jul. 15, 2015

Filed as TEAS RF: Yes

Currently TEAS RF:

Yes

Register:

Principal

Mark Type:

Trademark

Status:

Application has been published for opposition. The opposition period begins on the date of publication.

Status Date:

Feb. 02, 2016

Publication Date: Feb. 02, 2016

Mark Information

Mark Literal Elements:

X-SERIES 2

Standard Character Claim:

Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type:

4 - STANDARD CHARACTER MARK

Disclaimer:

"2"

Related Properties Information

Claimed Ownership of US Registrations:

4710702

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For:

firearms, namely, rifles and spare parts and replacement parts for rifles

International Class(es): 013 - Primary Class

U.S Class(es):

002, 009

Class Status:

ACTIVE

Basis:

1(b)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Amended Use: No

Filed ITU: Yes

Currently ITU: Yes

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No
Filed 66A: No
Filed No Basis: No

Currently 44E: No
Currently 66A: No
Currently No Basis: No

Amended 44E: No

Current Owner(s) Information

Owner Name:

Rock River Arms, Inc.

Owner Address:

1042 Cleveland Road
Colona, ILLINOIS 61241
UNITED STATES

Legal Entity Type: CORPORATION

**State or Country Where
Organized:**

ILLINOIS

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Scott A. Burow

Docket Number:

006163.00252

**Attorney Primary Email
Address:** bwptotm@bannerwitcoff.com

**Attorney Email
Authorized:**

Yes

Correspondent

**Correspondent
Name/Address:**

SCOTT A. BUROW
Banner-Witcoff
10 S Wacker Dr Ste 3000
Chicago, ILLINOIS 60606-7437
UNITED STATES

Phone: (312) 463-5000

Fax:

(312) 463-5001

Correspondent e-mail: bwptotm@bannerwitcoff.com sburow@bannerwitcoff.com

**Correspondent e-mail
Authorized:**

Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 02, 2016	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Feb. 02, 2016	PUBLISHED FOR OPPOSITION	
Jan. 13, 2016	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Nov. 02, 2015	APPROVED FOR PUB - PRINCIPAL REGISTER	
Oct. 26, 2015	EXAMINER'S AMENDMENT ENTERED	88888
Oct. 26, 2015	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Oct. 26, 2015	EXAMINERS AMENDMENT E-MAILED	6328
Oct. 26, 2015	EXAMINERS AMENDMENT -WRITTEN	76419
Oct. 25, 2015	ASSIGNED TO EXAMINER	76419
Jul. 22, 2015	NOTICE OF PSEUDO MARK E-MAILED	
Jul. 21, 2015	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jul. 18, 2015	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: FRENCH, CURTIS W

Law Office Assigned:

LAW OFFICE 115

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location:

Dec. 28, 2015

Generated on:

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Mark: X-SERIES 3

X-SERIES 3

US Serial Number: 86694418

Application Filing Date:

Jul. 15, 2015

Filed as TEAS RF: Yes

Currently TEAS RF:

Yes

Register:

Principal

Mark Type:

Trademark

Status:

Application has been published for opposition. The opposition period begins on the date of publication.

Status Date:

Feb. 02, 2016

Publication Date: Feb. 02, 2016

Mark Information

Mark Literal Elements:

X-SERIES 3

Standard Character Claim:

Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type:

4 - STANDARD CHARACTER MARK

Disclaimer:

"3"

Related Properties Information

Claimed Ownership of US Registrations:

4710702

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
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For:

firearms, namely, rifles and spare parts and replacement parts for rifles

International Class(es): 013 - Primary Class

U.S Class(es):

002, 009

Class Status:

ACTIVE

Basis:

1(b)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Amended Use: No

Filed ITU: Yes

Currently ITU: Yes

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No
Filed 66A: No
Filed No Basis: No

Currently 44E: No
Currently 66A: No
Currently No Basis: No

Amended 44E: No

Current Owner(s) Information

Owner Name:

Rock River Arms, Inc.

Owner Address:

1042 Cleveland Road
Colona, ILLINOIS 61241
UNITED STATES

Legal Entity Type: CORPORATION

**State or Country Where
Organized:**

ILLINOIS

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Scott A. Burow

Docket Number:

006163.00253

**Attorney Primary Email
Address:** bwptotm@bannerwitcoff.com

**Attorney Email
Authorized:**

Yes

Correspondent

**Correspondent
Name/Address:**

SCOTT A. BUROW
Banner-Witcoff
10 S Wacker Dr Ste 3000
Chicago, ILLINOIS 60606-7437
UNITED STATES

Phone: (312) 463-5000

Fax:

(312) 463-5001

Correspondent e-mail: bwptotm@bannerwitcoff.com sburow@bannerwitcoff.com

**Correspondent e-mail
Authorized:**

Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
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Oct. 26, 2015	EXAMINERS AMENDMENT E-MAILED	6328
Oct. 26, 2015	EXAMINERS AMENDMENT -WRITTEN	76419
Oct. 25, 2015	ASSIGNED TO EXAMINER	76419
Jul. 22, 2015	NOTICE OF PSEUDO MARK E-MAILED	
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Jul. 18, 2015	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: FRENCH, CURTIS W

Law Office Assigned:

LAW OFFICE 115

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location:

Dec. 28, 2015