

ESTTA Tracking number: **ESTTA745470**

Filing date: **05/10/2016**

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	Traxxas LP
Granted to Date of previous extension	06/04/2016
Address	6250 Traxxas Way McKinney, TX 75070 UNITED STATES

Attorney information	Gregory W. Carr CARR Law Firm PLLC 6170 Research Road, Suite 111 Frisco, TX 75033 UNITED STATES gcarr@carrip.com, trademarks@carrip.com
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Applicant Information

Application No	86634354	Publication date	04/05/2016
Opposition Filing Date	05/10/2016	Opposition Period Ends	06/04/2016
Applicant	Textron Inc. 40 Westminster Street Providence, RI 02903 UNITED STATES		

Goods/Services Affected by Opposition

Class 012. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Off road vehicles, namely, all-terrain vehicles and utility terrain vehicles, excluding tires and wheels

Grounds for Opposition

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

U.S. Registration No.	2417720	Application Date	02/18/2000
Registration Date	01/02/2001	Foreign Priority Date	NONE
Word Mark	STAMPEDE		

Design Mark	STAMPEDE
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 1994/12/00 First Use In Commerce: 1994/12/00 radio-controlled model vehicles and parts therefor

Attachments	75923470#TMSN.png(bytes) STAMPEDE - Grounds for Opposition - 5-8-2016.pdf(157917 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	/Gregory W. Carr/
Name	Gregory W. Carr
Date	05/10/2016

As grounds for this Opposition, Opposer alleges:

1. Traxxas LP (“Opposer”) has, since at least December of 1994, used and continues to use the mark “STAMPEDE” (the “Opposer’s STAMPEDE mark”) to identify, advertise, and promote its radio-controlled model vehicles and parts therefor (the “Goods”).

2. Opposer registered its mark STAMPEDE on January 2, 2001 (Reg. No. 2,417,720) for the Goods after making an application for registration on February 18, 2000. Opposer’s right to use Opposer’s STAMPEDE mark has become incontestable.

3. Textron Inc. (“Applicant”) has applied for registration of the designation “STAMPEDE” (“Applicant’s STAMPEDE designation”), in the United States Patent and Trademark Office, as shown in U.S. Application Ser. No. 86/634,354 (the “Application”), having a filing date of May 19, 2015. Applicant’s Application seeks registration based on an alleged intent to use Applicant’s STAMPEDE designation in Class 12 for “[o]ff road vehicles, namely, all-terrain vehicles and utility terrain vehicles, excluding tires and wheels (“Applicant’s Goods”).

4. Applicant seeks to register Applicant’s STAMPEDE designation for Applicant’s Goods in International Class 012, as evidenced by the publication of the Application in the Official Gazette on April 5, 2016.

5. Applicant’s STAMPEDE designation is identical to Opposer’s STAMPEDE mark.

6. Applicant’s STAMPEDE designation is confusingly similar to Opposer’s STAMPEDE mark.

7. By virtue of Opposer’s prior and senior rights arising from both prior use and prior registration of Opposer’s STAMPEDE mark, Applicant is barred from obtaining a

registration of Applicant's STAMPEDE designation, because the intended use and attempt to register by Applicant of Applicant's STAMPEDE designation for the Applicant's Goods, without authorization by Opposer, creates a likelihood of confusion, under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), that there exists a common source, affiliation, and sponsorship with the Goods provided by Opposer in connection with Opposer's STAMPEDE mark.

8. If Applicant is permitted to obtain the registration sought, and thereby obtain a *prima facie* exclusive right to use Applicant's STAMPEDE designation in commerce for the Applicant's Goods, Opposer will be harmed in that a cloud will be placed on Opposer's title in and to Opposer's STAMPEDE mark and Opposer's right to enjoy the free and exclusive use thereof, and Opposer will be unfairly restricted in its rights to Opposer's STAMPEDE mark. Additionally, if Applicant is permitted to obtain a registration of Applicant's STAMPEDE designation, Opposer believes it will be harmed by the apparent and, indeed, actual dilution or diminution of both its right to oppose other applications to federally register marks confusingly similar to Opposer's STAMPEDE mark and its right to seek relief from infringement of Opposer's STAMPEDE mark. Further, the intended use and registration of Applicant's STAMPEDE designation, unauthorized by Opposer, misappropriates the goodwill of Opposer and unfairly gives Applicant's Goods a ready acceptance in the marketplace that is undeserved.