

ESTTA Tracking number: **ESTTA776375**

Filing date: **10/12/2016**

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	XRP, Inc.
Granted to Date of previous extension	10/12/2016
Address	5630 Imperial Highway South Gate, CA 90280 UNITED STATES

Correspondence information	Kenya L. Williams, Esq. Fulwider Patton LLP 6100 Center Drive, Suite 1200 Los Angeles, CA 90045 UNITED STATES docketla@fulpat.com, kwilliams@fulpat.com, jpaul@fulpat.com, crose@fulpat.com Phone:310-824-5555
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Applicant Information

Application No	85840901	Publication date	06/14/2016
Opposition Filing Date	10/12/2016	Opposition Period Ends	10/12/2016
Applicant	GATES CORPORATION 1551 WEWATTA STREET DENVER, CO 80202 UNITED STATES		

Goods/Services Affected by Opposition

Class 017. First Use: 2006/02/08 First Use In Commerce: 2006/02/08
All goods and services in the class are opposed, namely: Hydraulic hoses made of rubber for use in medium and high pressure hydraulic applications

Grounds for Opposition

Other	Likelihood of Confusion under Trademark Act Section 2(d).
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Attachments	Notice of Opposition XRP-96520 XTREME 901 Appl.pdf(86776 bytes) Exh A Xtreme Racing Products Reg Certs.pdf(114770 bytes) Exh B XRP Secs 8 15 and 8 9.pdf(22973 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	/james paul/
Name	James W. Paul
Date	10/12/2016

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

In the Matter of:
Serial No.: 85/840,901
Filed: February 5, 2013

Mark: **XTREME**
Published: June 14, 2016
Applicant: Gates Corporation

XRP, INC.,

Opposer,

v.

GATES CORPORATION,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

XRP, Inc., a corporation organized and existing under the laws of the State of California, and having its principal place of business at 5630 Imperial Highway, South Gate, California 90280 ("Opposer"), believes that it will be damaged by the registration of the trademark shown in Application Serial No. 85/840,901, and hereby opposes same.

As grounds for this Notice, it is alleged, upon information and belief that:

1. Opposer has used the trademark XTREME RACING PRODUCTS[®] to market, advertise, distribute and sell high performance airplane, boat and land vehicle parts in commerce, since at least as early as 1997. Opposer owns the following U.S. Registrations for the mark XTREME RACING PRODUCTS[®]:

Mark	Reg. No. Reg. Date	Goods
XTREME RACING PRODUCTS	2,885,547 Sept. 21, 2004	<p>IC 006. high performance airplane, boat and land vehicle parts, namely, metal hoses, metal hose ends, metal hose fittings, metal adaptor fittings, metal gaskets, and metal pipe fittings.</p> <p>IC 007. high performance airplane, boat and land vehicle engine parts, namely, fuel injection pumps, fuel filters, oil pumps, oil filters, check valves, shut-off valves, valve covers, pistons, fuel injection manifolds, carburetors, carburetor fluid adapters, oil coolers, cylinder heads, cylinder sleeves, radiators, radiator connecting hoses, coolant hoses, air conditioning hose ends and adapters fittings, engine connecting rods, timing gear drives, intake manifolds, crank shafts, engine bearings, engine blocks, valve train components, namely, valve springs, retainer valve springs, valves, intake and exhaust valves, valve spring retainer keepers and locks, valve lash caps, rocker arms, push rods, rocker arm shafts, camshaft lifters, camshafts, and fluid transfer hose systems, namely, oil lines, engine lubrication hoses, fuel system lines, and vacuum lines.</p> <p>IC 012. high performance airplane, boat and land vehicle parts, namely, drive trains, and brake hardware, namely, calipers, brake rotors, brake shoes, brake pads, brake adapter fittings, and fitted and/or pre-formed brake hoses and brake line hoses.</p> <p>IC 017. high performance airplane, boat and land vehicle parts, namely, non-metal gaskets, rubber hoses, nonmetal hoses and hydraulic hoses of nonmetallic material with or without metal sheaths.</p>
	2,859,235 July 6, 2004	<p>IC 006. high performance airplane, boat and land vehicle parts, namely, metal hoses, metal hose ends, metal hose fittings, metal adaptor fittings, metal gaskets, and metal pipe fittings.</p> <p>IC 007. high performance airplane, boat and land vehicle engine parts, namely, fuel injection pumps, fuel filters, oil pumps, oil filters, check valves, shut-off valves, valve covers, pistons, fuel injection manifolds, carburetors, carburetor fluid adapters, oil coolers, cylinder heads, cylinder sleeves, radiators, radiator connecting hoses, coolant hoses, air conditioning hose ends and adapters fittings, engine connecting rods, timing gear drives, intake manifolds, crank shafts, engine bearings, engine blocks, valve train components, namely, valve springs, retainer valve springs, valves, intake and exhaust valves, valve spring retainer keepers and locks, valve lash caps, rocker arms, push rods, rocker arm shafts, camshaft lifters, camshafts, and fluid transfer hose systems, namely, oil lines, engine lubrication hoses, fuel system lines, and vacuum lines.</p> <p>IC 012. high performance airplane, boat and land vehicle parts, namely, drive trains, and brake hardware, namely, calipers, brake rotors, brake shoes, brake pads, brake adapter fittings, and fitted and/or pre-formed brake hoses and brake line hoses.</p> <p>IC 017. high performance airplane, boat and land vehicle parts, namely, non-metal gaskets, rubber hoses, nonmetal hoses and hydraulic hoses of nonmetallic material with or without metal sheaths.</p>

2. Opposer is the owner of all goodwill associated with the XTREME RACING PRODUCTS[®] marks identified in the table in paragraph 1 above and whose U.S. Certificates of Registration are attached as Exhibit A. Opposer also claims common law trademark rights in the XTREME RACING PRODUCTS[®] marks with respect to Opposer's goods identified in paragraph 1 above. Opposer's registered and common law trademarks identified herein are collectively referred to as "Opposer's Marks".

3. Opposer's Marks have neither been canceled nor abandoned, have been used continuously since adoption, and are valid and currently in full force and effect. The U.S. Patent and Trademark Office's Notices of Acceptance of Opposer's Sections 8 & 15 and Section 8 & 9 Affidavits, in connection with Opposer's Marks, are attached hereto as Exhibit B.

4. Opposer has developed an exceedingly valuable goodwill with respect to Opposer's Marks. Opposer's Marks have become favorably known throughout the United States as identifying and distinguishing Opposer as the source and origin of the goods identified in paragraph 1 that bear Opposer's Marks. These marks are very valuable to Opposer and any registration by Applicant of the mark claimed in the above captioned trademark application for use in connection with the goods in Class 17 will cause immediate and irreparable harm to Opposer, because it is likely to cause consumer confusion, and it falsely suggests an affiliation of Applicant with or sponsorship of Applicant by Opposer.

5. Opposer has expended great effort and considerable expense in advertising, promoting, offering for sale and selling its goods under the XTREME RACING PRODUCTS[®] marks in the United States.

6. Opposer is informed and believe, and on that ground avers that Applicant, Gates Corporation, is a company organized under the laws of the State of Delaware, with its principal place of business at 1551 Wewatta Street, Denver, Colorado 80202.

7. Applicant seeks to register the mark XTREME and has filed a trademark application (Serial No. 85/840,901) on February 5, 2013 to register the mark for use in connection with *Hydraulic hoses made of rubber for use in medium and high pressure hydraulic applications*, in Class 17.

8. Upon information and belief, the Class 17 goods specified in Applicant's application for the mark XTREME would be distributed through similar, if not identical, channels of trade, and to the same or a similar class of purchasers, as the products marketed by Opposer under Opposer's Marks.

9. If Applicant is permitted to use and register its XTREME mark for the Class 17 goods identified in the application herein opposed, industry and consumer confusion is likely to occur. Applicant's XTREME mark so resembles Opposer's XTREME RACING PRODUCTS[®] marks, long used in the United States prior to the filing date of the instant application and not abandoned, as to be likely to cause confusion, mistake or deception, thus resulting in damage and injury to Opposer.

10. Persons familiar with Opposer's XTREME RACING PRODUCTS[®] marks would be likely to buy Applicant's Class 17 goods mistakenly assuming them to be goods offered and sold by Opposer and/or would incorrectly assume Applicant's goods are affiliated with or sponsored by Opposer. Any defect, objection or fault found with Applicant's Class 17 goods marketed and sold under the XTREME mark would necessarily injure Opposer's reputation under Opposer's Marks.

11. If Applicant is granted the registration of the application herein opposed, Applicant would thereby obtain at least a *prima facie* exclusive right to use the XTREME mark in connection with its Class 17 goods. Such registration would be a source of damage and injury to Opposer, including, but not limited to, placing a cloud upon Opposer's registrations and the right of Opposer to naturally expand use of its Marks or other trademarks and service marks, to any other related goods or services not specifically defined within the above-identified and attached federal registrations, including those goods identified in Applicant's trademark application Serial No. 85/840,901.

12. By reason of the foregoing allegations, Opposer has the right to use and register trademarks and service marks which are believed to be confusingly similar to the XTREME mark sought to be registered by Applicant, and Opposer believes it will be damaged by registration of the mark shown in the opposed application.

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WHEREFORE, Opposer prays that registration of the mark shown in Application Serial No. 85/840,901 published on June 14, 2016 in the Official Gazette, for the International Class 17 goods specified therein, be refused and denied, and that this opposition be sustained.

Opposer hereby gives notice, under Rule 2.122(d) of the Rules of Practice, that at any hearing and any appeal on this opposition proceeding, it will rely on its respective registrations, which are annexed as exhibits to this Notice of Opposition, as evidence in support of this Notice of Opposition, as well as its common law rights in its XTREME RACING PRODUCTS® marks.

Respectfully submitted,

FULWIDER PATTON LLP

Dated: October 12, 2016

By: /james w. paul/
James W. Paul
Kenya L. Williams
Attorneys for Opposer

Howard Hughes Center
6100 Center Drive, Suite 1200
Los Angeles, California 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing NOTICE OF OPPOSITION upon Applicant's attorney of record, who is designated on the U.S. Patent and Trademark Office TSDR database to receive correspondence on behalf of Applicant, by depositing one copy thereof in the United States Mail with First Class postage affixed thereon on October 12, 2016, addressed as follows:

Jeffrey A. Thurnau, Esq.
THE GATES CORPORATION
1551 Wewatta Street
Denver, Colorado 80202-6173

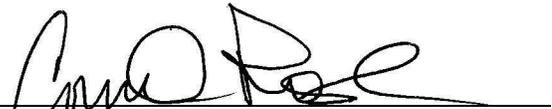

Carrie Rose

EXHIBIT A

Int. Cls.: 6, 7, 12 and 17

Prior U.S. Cls.: 1, 2, 5, 12, 13, 14, 19, 21, 23, 25, 31, 34, 35, 44 and 50

Reg. No. 2,885,547

United States Patent and Trademark Office

Registered Sep. 21, 2004

**TRADEMARK
PRINCIPAL REGISTER**

XTREME RACING PRODUCTS

XRP, INC. (CALIFORNIA CORPORATION)
5630 IMPERIAL HIGHWAY
SOUTH GATE, CA 90280

FOR: HIGH PERFORMANCE AIRPLANE, BOAT AND LAND VEHICLE PARTS, NAMELY, METAL HOSES, METAL HOSE ENDS, METAL HOSE FITTINGS, METAL ADAPTOR FITTINGS, METAL GASKETS, AND METAL PIPE FITTINGS, IN CLASS 6 (U.S. CLS. 2, 12, 13, 14, 23, 25 AND 50).

FIRST USE 11-4-1997; IN COMMERCE 11-4-1997.

FOR: HIGH PERFORMANCE AIRPLANE, BOAT AND LAND VEHICLE ENGINE PARTS, NAMELY, FUEL INJECTION PUMPS, FUEL FILTERS, OIL PUMPS, OIL FILTERS, CHECK VALVES, SHUT-OFF VALVES, VALVE COVERS, PISTONS, FUEL INJECTION MANIFOLDS, CARBURETORS, CARBURETOR FLUID ADAPTERS, OIL COOLERS, CYLINDER HEADS, CYLINDER SLEEVES, RADIATORS, RADIATOR CONNECTING HOSES, COOLANT HOSES, AIR CONDITIONING HOSE ENDS AND ADAPTERS FITTINGS, ENGINE CONNECTING RODS, TIMING GEAR DRIVES, INTAKE MANIFOLDS, CRANK SHAFTS, ENGINE BEARINGS, ENGINE BLOCKS, VALVE TRAIN COMPONENTS, NAMELY, VALVE SPRINGS, RETAINER VALVE SPRINGS, VALVES, INTAKE AND EXHAUST VALVES, VALVE SPRING RETAINER KEEPERS AND LOCKS, VALVE LASH CAPS, ROCKER ARMS, PUSH RODS, ROCKER ARM SHAFTS, CAM-SHAFT LIFTERS, CAMSHAFTS, AND FLUID TRANSFER HOSE SYSTEMS, NAMELY, OIL LINES,

ENGINE LUBRICATION HOSES, FUEL SYSTEM LINES, AND VACUUM LINES, IN CLASS 7 (U.S. CLS. 13, 19, 21, 23, 31, 34 AND 35).

FIRST USE 11-4-1997; IN COMMERCE 11-4-1997.

FOR: HIGH PERFORMANCE AIRPLANE, BOAT AND LAND VEHICLE PARTS, NAMELY, DRIVE TRAINS, AND BRAKE HARDWARE, NAMELY, CALIPERS, BRAKE ROTORS, BRAKE SHOES, BRAKE PADS, BRAKE ADAPTER FITTINGS, AND FITTED AND/OR PRE-FORMED BRAKE HOSES AND BRAKE LINE HOSES, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

FIRST USE 11-4-1997; IN COMMERCE 11-4-1997.

FOR: HIGH PERFORMANCE AIRPLANE, BOAT AND LAND VEHICLE PARTS, NAMELY, NON-METAL GASKETS, RUBBER HOSES, NONMETAL HOSES AND HYDRAULIC HOSES OF NONMETALLIC MATERIAL WITH OR WITHOUT METAL SHEATHS, IN CLASS 17 (U.S. CLS. 1, 5, 12, 13, 35 AND 50).

FIRST USE 11-4-1997; IN COMMERCE 11-4-1997.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "RACING PRODUCTS", APART FROM THE MARK AS SHOWN.

SER. NO. 76-142,289, FILED 10-10-2000.

RICHARD A. STRASER, EXAMINING ATTORNEY

Int. Cls.: 6, 7, 12 and 17

Prior U.S. Cls.: 1, 2, 5, 12, 13, 14, 19, 21, 23, 25, 31, 34,
35, 44 and 50

Reg. No. 2,859,235

United States Patent and Trademark Office

Registered July 6, 2004

TRADEMARK
PRINCIPAL REGISTER



XRP, INC. (CALIFORNIA CORPORATION)
5630 IMPERIAL HIGHWAY
SOUTH GATE, CA 90280

FOR: HIGH PERFORMANCE AIRPLANE, BOAT AND LAND VEHICLE PARTS, NAMELY, METAL HOSES, METAL HOSE ENDS, METAL HOSE FITTINGS, METAL ADAPTOR FITTINGS, METAL GASKETS, AND METAL PIPE FITTINGS, IN CLASS 6 (U.S. CLS. 2, 12, 13, 14, 23, 25 AND 50).

FIRST USE 11-4-1997; IN COMMERCE 11-4-1997.

FOR: HIGH PERFORMANCE AIRPLANE, BOAT AND LAND VEHICLE ENGINE PARTS, NAMELY, FUEL INJECTION PUMPS, FUEL FILTERS, OIL PUMPS, OIL FILTERS, CHECK VALVES, SHUT-OFF VALVES, VALVE COVERS, PISTONS, FUEL INJECTION MANIFOLDS, CARBURETORS, CARBURETOR FLUID ADAPTERS, OIL COOLERS, CYLINDER HEADS, CYLINDER SLEEVES, RADIATORS, RADIATOR CONNECTING HOSES, COOLANT HOSES, AIR CONDITIONING HOSE ENDS AND ADAPTERS FITTINGS, ENGINE CONNECTING RODS, TIMING GEAR DRIVES, INTAKE MANIFOLDS, CRANK SHAFTS, ENGINE BEARINGS, ENGINE BLOCKS, VALVE TRAIN COMPONENTS, NAMELY, VALVE SPRINGS, RETAINER VALVE SPRINGS, VALVES, INTAKE AND EXHAUST VALVES, VALVE SPRING RETAINER KEEPERS AND LOCKS, VALVE LASH CAPS, ROCKER ARMS, PUSH RODS, ROCKER ARM SHAFTS, CAM-SHAFT LIFTERS, CAMSHAFTS, AND FLUID TRANSFER HOSE SYSTEMS, NAMELY, OIL LINES, ENGINE LUBRICATION HOSES, FUEL SYSTEM

LINES, AND VACUUM LINES, IN CLASS 7 (U.S. CLS. 13, 19, 21, 23, 31, 34 AND 35).

FIRST USE 11-4-1997; IN COMMERCE 11-4-1997.

FOR: HIGH PERFORMANCE AIRPLANE, BOAT AND LAND VEHICLE PARTS, NAMELY, DRIVE TRAINS, AND BRAKE HARDWARE, NAMELY, CALIPERS, BRAKE ROTARS, BRAKE SHOES, BRAKE PADS, BRAKE ADAPTER FITTINGS, AND FITTED AND/OR PRE-FORMED BRAKE HOSES AND BRAKE LINE HOSES, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

FIRST USE 11-4-1997; IN COMMERCE 11-4-1997.

FOR: HIGH PERFORMANCE AIRPLANE, BOAT AND LAND VEHICLE PARTS, NAMELY, NON-METAL GASKETS, RUBBER HOSES, NONMETAL HOSES AND HYDRAULIC HOSES OF NONMETALLIC MATERIAL WITH OR WITHOUT METAL SHEATHS, IN CLASS 17 (U.S. CLS. 1, 5, 12, 13, 35 AND 50).

FIRST USE 11-4-1997; IN COMMERCE 11-4-1997.

OWNER OF U.S. REG. NOS. 2,393,120 AND 2,427,203.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "RACING PRODUCTS", APART FROM THE MARK AS SHOWN.

SER. NO. 76-142,288, FILED 10-10-2000.

RICHARD A. STRASER, EXAMINING ATTORNEY

EXHIBIT B

Side - 1



**NOTICE OF ACCEPTANCE AND
ACKNOWLEDGEMENT OF §§8 & 15
DECLARATION
MAILING DATE: Jul 26, 2010**

The combined declaration of use and incontestability filed in connection with the registration identified below meets the requirements of Sections 8 and 15 of the Trademark Act, 15 U.S.C. §1058 and 1065. The combined declaration is accepted and acknowledged. The registration remains in force.

For further information about this notice, visit our website at: <http://www.uspto.gov>. To review information regarding the referenced registration, go to <http://tarr.uspto.gov>.

REG NUMBER: 2885547
MARK: XTREME RACING PRODUCTS
OWNER: XRP, Inc.

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS MAIL
U.S POSTAGE
PAID

James W. Paul
Fulwider Patton LLP
6060 Center Drive, Tenth Floor
LOS ANGELES, CA 90045

Side - 1



**NOTICE OF ACCEPTANCE OF §8
DECLARATION AND §9 RENEWAL
MAILING DATE: Jul 17, 2014**

The declaration and renewal application filed in connection with the registration identified below meets the requirements of Sections 8 and 9 of the Trademark Act, 15 U.S.C. §§1058 and 1059. The declaration is accepted and renewal is granted. The registration remains in force.

For further information about this notice, visit our website at: <http://www.uspto.gov>. To review information regarding the referenced registration, go to <http://tarr.uspto.gov>.

REG NUMBER: 2885547
MARK: XTREME RACING PRODUCTS
OWNER: XRP, Inc.

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS MAIL
U.S. POSTAGE
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James W. Paul
Fulwider Patton LLP
6060 Center Drive, Tenth Floor
LOS ANGELES, CA 90045

Side - 1



**NOTICE OF ACCEPTANCE AND
ACKNOWLEDGEMENT OF §§8 & 15
DECLARATION
MAILING DATE: Jul 27, 2010**

The combined declaration of use and incontestability filed in connection with the registration identified below meets the requirements of Sections 8 and 15 of the Trademark Act, 15 U.S.C. §1058 and 1065. The combined declaration is accepted and acknowledged. The registration remains in force.

For further information about this notice, visit our website at: <http://www.uspto.gov>. To review information regarding the referenced registration, go to <http://tarr.uspto.gov>.

REG NUMBER: 2859235
MARK: XTREME RACING PRODUCTS XRP AND DESIGN
OWNER: XRP, Inc.

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
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Side - 1



**NOTICE OF ACCEPTANCE OF §8
DECLARATION AND §9 RENEWAL
MAILING DATE: Jul 17, 2014**

The declaration and renewal application filed in connection with the registration identified below meets the requirements of Sections 8 and 9 of the Trademark Act, 15 U.S.C. §§1058 and 1059. The declaration is accepted and renewal is granted. The registration remains in force.

For further information about this notice, visit our website at: <http://www.uspto.gov>. To review information regarding the referenced registration, go to <http://tarr.uspto.gov>.

REG NUMBER: 2859235
MARK: XTREME RACING PRODUCTS XRP(STYLIZED/DESIGN)
OWNER: XRP, Inc.

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
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