

ESTTA Tracking number: **ESTTA434743**

Filing date: **10/10/2011**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Sheltered Wings, Inc.		
Entity	Corporation	Citizenship	Wisconsin
Address	2120 W. Greenview Drive, Suite 4 Middleton, WI 53562 UNITED STATES		

Attorney information	Jennifer L. Gregor Godfrey & Kahn, S.C. One East Main Street, Suite 500 Madison, WI 53703 UNITED STATES jgregor@gklaw.com, jpeterson@gklaw.com, apeterson@gklaw.com, docketing@gklaw.com Phone:608-257-3911		
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Registration Subject to Cancellation

Registration No	3904929	Registration date	01/11/2011
Registrant	Wohali Outdoors, LLC 1300 N. Industrial Blvd. Claremore, OK 74017 UNITED STATES		

Goods/Services Subject to Cancellation

Class 009. First Use: 2009/10/21 First Use In Commerce: 2009/10/21 All goods and services in the class are cancelled, namely: Magnifying optical equipment, namely, rifle scopes and binoculars
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Grounds for Cancellation

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

U.S. Registration No.	3787739	Application Date	12/08/2006
Registration Date	05/11/2010	Foreign Priority Date	NONE
Word Mark	GOLDEN EAGLE		

Design Mark	GOLDEN EAGLE		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2010/02/00 First Use In Commerce: 2010/02/00 Binoculars		

U.S. Registration No.	3726431	Application Date	09/16/2008
Registration Date	12/15/2009	Foreign Priority Date	NONE
Word Mark	STRIKE EAGLE		
Design Mark	STRIKE EAGLE		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2009/02/01 First Use In Commerce: 2009/02/01 Binoculars; Rifle scopes		

U.S. Registration No.	3794245	Application Date	12/30/2008
Registration Date	05/25/2010	Foreign Priority Date	NONE
Word Mark	EAGLE OPTICS		

Design Mark	EAGLE OPTICS
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2010/03/01 First Use In Commerce: 2010/03/01 Riflescopes

U.S. Registration No.	2886199	Application Date	10/05/2000
Registration Date	09/21/2004	Foreign Priority Date	NONE
Word Mark	EAGLE OPTICS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1996/01/01 First Use In Commerce: 1996/04/01 Binoculars, spotting scopes, and telescopes, all for use in bird watching, and storage cases therefore		

U.S. Registration No.	3192083	Application Date	08/24/2005
Registration Date	01/02/2007	Foreign Priority Date	NONE
Word Mark	EAGLE OPTICS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2001/05/00 First Use In Commerce: 2001/12/00 Binoculars, spotting scopes, telescopes, and storage cases therefor, all for use in birdwatching Class 035. First use: First Use: 1987/00/00 First Use In Commerce: 1987/00/00 Retail store, mail order and online retail store services featuring binoculars,		

	spotting scopes, telescopes, and storage cases therefor, all for use in birdwatching
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Attachments	77060299#TMSN.jpeg (1 page)(bytes) 77571568#TMSN.jpeg (1 page)(bytes) 77641594#TMSN.jpeg (1 page)(bytes) 78699411#TMSN.jpeg (1 page)(bytes) Petition to Cancel STEEL EAGLE.pdf (5 pages)(25591 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	/Jennifer L. Gregor/
Name	Jennifer L. Gregor
Date	10/10/2011

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

In re Registration No. 3,904,929)	
)	
SHELTERED WINGS, INC.)	
Petitioner,)	Cancellation No. _____
)	
v.)	
)	
WOHALI OUTDOORS, LLC)	
)	
Respondent.)	

PETITION FOR CANCELLATION

Petitioner, Sheltered Wings, Inc., (“Sheltered Wings”), a Wisconsin corporation, located and doing business at 2120 W. Greenview Drive, Suite 4, Middleton, Wisconsin 53562, believes that it is being damaged and will continue to be damaged by Registration No. 3,904,929 for the mark STEEL EAGLE (the “STEEL EAGLE Registration”) and accordingly petitions to cancel this registration.

As grounds for cancellation, Sheltered Wings alleges:

1. For years, Sheltered Wings has been engaged in the business of providing optics products, including binoculars, spotting scopes, monoculars, and related equipment, among other things.
2. Since at least as early as 1987, Sheltered Wings has continuously used the term EAGLE in its trademarks for its optics products.
3. Sheltered Wings is the owner of the following United States trademark registrations for its trademarks including the term EAGLE:

Mark/Reg. No.	Application and Registration Dates	Goods and Services	First Use in Commerce in Registration
GOLDEN EAGLE Reg. No. 3,787,739	App: Dec. 8, 2006 Reg: May 11, 2010	Class 9: Binoculars	February 2010
STRIKE EAGLE Reg. No. 3,726,431	App: Sept. 16, 2008 Reg: Dec. 15, 2009	Class 9: Binoculars; Rifle scopes	February 1, 2009
EAGLE OPTICS Reg. No. 3,794,245	App: Dec. 30, 2008 Reg: May 25, 2010	Class 9: Riflescopes	March 1, 2010
EAGLE OPTICS Reg. No. 2,886,199	App: Oct. 5, 2000 Reg: Sept. 21, 2004	Class 9: Binoculars, spotting scopes, and telescopes, all for use in bird watching, and storage cases therefore	April 1, 1996
 Reg. No. 3,192,083	App: Aug. 24, 2005 Reg: Jan. 2, 2007	Class 9: Binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching Class 35: Retail store, mail order and online retail store services featuring binoculars, spotting scopes, telescopes, and storage cases therefore, all for use in birdwatching	December 2001 1987

The registrations for the marks listed above (the “EAGLE Marks”) are valid and subsisting.

Additionally, Registration No. 2,886,199 is incontestable in accordance with the provisions of Sections 8 and 15 of the United States Trademark Act. (15 U.S.C. §§ 1058 and 1065).

4. Sheltered Wings long has owned valuable goodwill represented by its EAGLE Marks.

5. By virtue of Sheltered Wings' extensive use, advertising, and promotion of its EAGLE Marks, and long before the filing date of the STEEL EAGLE Registration, the EAGLE Marks became extremely well known and acquired a strong secondary meaning signifying Sheltered Wings.

6. Upon information and belief, respondent, Wohali Outdoors, LLC ("Wohali"), an Oklahoma limited liability company located at 1300 N. Industrial Blvd., Claremore, Oklahoma, 74017 is engaged in the business of providing outdoor gear including rain wear, fishing rods, binoculars, and spotting scopes.

7. Wohali owns Registration No. 3, 904,929 for the trademark STEEL EAGLE for "Magnifying optical equipment, namely, rifle scopes and binoculars," in Class 9 (the "STEEL EAGLE Registration"), which registration was granted on January 11, 2011, based on an intent-to-use application filed on March 12, 2009.

8. Wohali did not use the trademark STEEL EAGLE in the United States for any goods or services prior to October 21, 2009, the date of first use identified in the STEEL EAGLE Registration.

9. Use by Wohali of the trademark STEEL EAGLE for the goods identified in its registration is likely to confuse the purchasing public as to the source of Wohali's goods or to cause mistake or to deceive as to an affiliation, connection, or association with Sheltered Wings in violation of Section 2(d) of the United States Trademark Act (15 U.S.C. § 1052(d)).

10. Sheltered Wings is also being damaged by Wohali's STEEL EAGLE Registration because the United States Trademark Office has refused registration of Sheltered Wings' pending application Serial No. 85/095,903 for the mark EAGLE for binoculars, riflescopes, spotting scopes, and telescopes in Class 9 in view of the STEEL EAGLE Registration.

WHEREFORE, Sheltered Wings believes that it is being damaged and will continue to be damaged by the STEEL EAGLE Registration and petitions to cancel that registration.

Please deduct the requisite filing fee and any other fees associated with this proceeding from the deposit account of Godfrey & Kahn, S.C., Account No. 07-1509.

Respectfully submitted,

SHELTERED WINGS, INC.

Date: October 10, 2011

By: /Jennifer L. Gregor/
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Petition for Cancellation was served by First Class Mail, postage prepaid, this 10th day of October 2011 upon the following:

Wohali Outdoors, LLC
1300 N. Industrial Blvd.
Claremore, OK 74017

/Jennifer L. Gregor/
Jennifer L. Gregor