

The report shows that automobile owners (including owners of vans and sports utility vehicles) who have used an automobile anti-theft device do not distinguish between UNBREAKABLE and UNBRAKEABLE.

In addition, the report shows that consumers recognize the automobile anti-theft device regardless of whether UNBREAKABLE or UNBRAKEABLE is used when asked to identify the automobile anti-theft device based on three commonly used measures including brand awareness, advertising awareness, and product usage.

Even though the goods of the application are not for automobile anti-theft devices, the report shows that consumers do not distinguish between UNBREAKABLE and UNBRAKEABLE for purposes of identifying anti-theft devices because the devices are identical and originate from the same source.

Thus, based on the objective evidence of the report, it is clear that consumers understand that the trademark UNBREAKABLE and the trademark UNBRAKEABLE are for all intents and purposes the same and identify the same product.

Applicant submits that it has submitted sufficient documentation in support of its claim of acquired distinctiveness pursuant to Section 2(f) of the Trademark Act. In light of the foregoing considerations, Applicant requests that the application be accepted for publication.

Date: _____

11/7/03

Respectfully submitted,


ROBERTA JACOBS-MEADWAY

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ATTORNEY FOR APPLICANT

EXHIBIT A

**Consumer Survey Regarding
Automobile Anti-Theft Devices**

Conducted for:

Ballard, Spahr & Andrews & Ingersall

October 2003

**BRUNO and RIDGWAY Research Associates, Inc.
#6858**

Background

This report is issued by Joseph M. Ridgway. I am President of Bruno and Ridgway Research Associates located in Lawrenceville, New Jersey. I have been asked by Ms. Roberta Jacobs-Meadway of Ballard, Spahr, & Andrews & Ingersall, LLP to conduct a consumer survey regarding the trademarks UnBRAKEable and UnBREAKable.

It is my understanding that the name UnBRAKEable has been used for the past five years as the trademark for a mechanical anti-theft device for automobiles.

This survey was conducted to determine whether relevant consumers view the name UnBREAKable, when used to describe an automobile auto lock, to be the same product that has been marketed for the past five years.

To measure the above objective, two independent samples of consumers were interviewed. One group of consumers were shown a list with the names of five anti-theft products including UnBRAKEable Auto Lock. A second group of consumers were shown the same list but with the name UnBREAKable Auto Lock.

Eligible respondents were:

- Owners of an automobile, van or SUV
- Users of automobile anti-theft devices

The two independent consumer groups were similarly composed in terms of gender and age.

Interviews were conducted from October 24-27, 2003.

- 97 consumers saw the UnBRAKEable name
- 103 consumers saw the UnBREAKable name

Interviews were conducted in the following ten markets:

Akron, OH	New York, NY
Boston, MA	Orlando, FL
Chicago, IL	Philadelphia, PA
Edison, NJ	San Francisco, CA
Milwaukee, WI	Washington, DC

A copy of the questionnaire, the trademark lists that were shown to consumers, a list of cases in which I have testified and my C.V. are appended. I have not been published in the past 10 years.

Conclusions

This research indicates that automobile owners (including owners of vans or SUVs) who have used an automobile anti-theft device believe the trademarks UnBRAKEable and UnBREAKable identify the same product.

On three commonly used measures including brand awareness, advertising awareness and product usage, similar proportions of consumers indicated recognition of the product regardless of which spelling of the name was used.

	<u>Have Seen or Heard of the Product</u>	<u>Have Seen Advertising for the Product</u>	<u>Product Has Been Used by Someone in Household</u>
	%	%	%
UnBRAKEable	11	7	1
UnBREAKable	8	5	4

Note: The differences in proportions indicating recognition of the respective trademarks are not statistically significant.

Awareness of Anti-Theft Devices

	<u>Those Who Saw UnBRAKEable</u> (97) %	<u>Those Who Saw UnBREAKable</u> (103) %
Base: Total Respondents		
UnBRAKEable	11	NA
UnBREAKable	NA	8
The Club	94	95
Viper	63	56
Master Lock	52	52
Gorilla Grip	19	17
Don't know	-	1

Advertising Awareness of Anti-Theft Devices

	Those Who Saw <u>UnBRAKEable</u> (97) %	Those Who Saw <u>UnBREAKable</u> (103) %
Base: Total Respondents		
UnBRAKEable	7	NA
UnBREAKable	NA	5
The Club	65	70
Viper	38	35
Master Lock	22	26
Gorilla Grip	11	7
Don't know	1	4
None of the above	20	10

Anti-Theft Devices Used to Protect Family's Vehicles

	Those Who Saw <u>UnBRAKEable</u> (97) %	Those Who Saw <u>UnBREAKable</u> (103) %
Base: Total Respondents		
UnBRAKEable	1	NA
UnBREAKable	NA	4
The Club	71	71
Master Lock	13	11
Viper	11	15
Gorilla Grip	2	6
Don't know	1	2
None of the above	12	11

Appendix

AUTOMOBILE ANTI-THEFT STUDY

1() Male
2() Female

RESPONDENT'S NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

PHONE #:(AREA CODE) _____ (NUMBER) _____

DATE OF INTERVIEW: _____

TIME START: _____ TIME END: _____ TOTAL LENGTH OF INTERVIEW: _____ MINS.

INTERVIEWER'S NAME: _____

MARKETS:

- | | |
|--------------------|------------------------|
| 1() Akron, OH | 6() New York, NY |
| 2() Boston, MA | 7() Orlando, FL |
| 3() Chicago, IL | 8() Philadelphia, PA |
| 4() Edison, NJ | 9() San Francisco, CA |
| 5() Milwaukee, WI | 10() Washington, DC |

INTRODUCTION

We're doing a very brief opinion survey. It will only take a moment of your time. I think you will find it interesting.

1. Do you own an automobile, van or SUV?

- 1() Yes - (CONTINUE) 2() No - (TERMINATE & TALLY)

1 2 3 4 5 6 7 8 9 0 X Y

2. Our survey today is about automobile anti-theft devices. Have you, or anyone in your household, ever used an automobile anti-theft device? We're not talking about the type of alarm systems that are original equipment in vehicles.

- 1() Yes - (CONTINUE) 2() No - (TERMINATE & TALLY)

1 2 3 4 5 6 7 8 9 0 X Y

(HAND RESPONDENT CARD A)

We're interviewing people in all age groups. Into which of these age groups do you fall?

- 1() A. 18-34 2() B. 35-49 3() C. 50+ 4() Refused/over quota
(TERMINATE)

(CHECK QUOTA SHEET TO DETERMINE WHICH PRODUCT LIST TO SHOW RESPONDENT)

Record Sheet Code: 1() Sheet M (Master Lock is first name)
 2() Sheet G (Gorilla Grip is first name)

(HAND RESPONDENT PRODUCT LIST)

4. Which of these anti-theft devices, if any, have you ever used to protect your family's vehicles? (PROBE:) Any others? (RECORD BELOW)
5. Have you seen or heard of any of the (other) anti-theft devices shown on this sheet? PROBE: Any others? RECORD BELOW
6. Have you seen or heard advertising for any of the products shown on this sheet? (PROBE:) Any others? (RECORD BELOW)

	<u>Q.4</u> <u>Ever Used</u>	<u>Q.5</u> <u>Seen or Heard</u>	<u>Q.6</u> <u>Seen Advertised</u>
Gorilla Grip	1()	1()	1()
Master Lock.....	2()	2()	2()
The Club	3()	3()	3()
The unBR ___ able Auto Lock	4()	4()	4()
Viper.....	5()	5()	5()
Don't' know	6()	6()	6()
No/None of the above.....	7()	7()	7()

7. Please tell me the name that you see at the top of the product list.

1() Master Lock

2() Gorilla Grip

Thank you for your cooperation. Your opinion counts.

INTERVIEWER: THIS RESPONDENT MAY BE RECONTACTED DIRECTLY BY BRUNO AND RIDGWAY RESEARCH AS PART OF THEIR NORMAL VERIFICATION PROCEDURES.

INTERVIEWER'S SIGNATURE: _____

**GORILLA GRIP III STEERING
WHEEL LOCK WITH ALARM**



Master Lock 

***FE* CLUB[®]**
We've Got the Lock on Security

**The UnBRAKEable
AutoLock PRO[®]**

VIPER[®]

Master Lock



**GORILLA GRIP III STEERING
WHEEL LOCK WITH ALARM**



***FE* CLUB[®]**
We've Got the Lock on Security

**The UnBREAKable
AutoLock PRO[®]**

VIPER[®]

JOSEPH M. RIDGWAY
President
Bruno and Ridgway Research Associates, Inc.

Professional History

Mr. Ridgway is the President of Bruno and Ridgway Research Associates, a full-service survey research organization with over forty employees and research revenues of five- six million dollars. The firm conducts over 200 opinion surveys in a typical year of which 10-15% are in the area of advertising or label comprehension, trademark issues and claim substantiation, including cases involving litigation.

Mr. Ridgway has 40 years of survey research experience. After graduating with a bachelor's degree in marketing, he began his research career in 1963 with Armbruster, Moore & Mc Kerell, a research company specializing in hospital purchase audits of medical/ surgical products.

In 1967, Mr. Ridgway joined Benson & Benson as a statistician and project manager. He was elected a Vice-President in 1969 with responsibility in directing the firm's client relations and new client development. In 1972, Mr. Ridgway was appointed Senior Vice President.

In 1974, Mr. Ridgway joined Spencer Bruno Research Associates as Executive Vice President and partner. In 1981, the firm's name was changed to Bruno & Ridgway Research Associates. Mr. Ridgway has been President of the firm since early 1989.

Mr. Ridgway has been directly involved in the design and implementation of thousands of research studies employing a full spectrum of research methodologies to serve a wide variety of marketing information needs.

Cases In Which Joseph M. Ridgway Has Testified

**Keystone Consolidated Industries, Inc. v.
Blain Supply, Inc. and Freeport Farm & Fleet, Inc. for the Plaintiff
(farm fencing) - trademark**

**Agnes b v. Arden B for the defendant
(women's apparel) - Trademark**

**McNeil-PPC Inc. v. Granutec, Inc. for the plaintiff
(analgesics) – trade dress**

**Church & Dwight v. S.C. Johnson for the plaintiff
(carpet deodorizer) – false advertising**

**GTE v. AT&T for the plaintiff
(long-distance services) – false advertising**

**Forsythe v. Body Shop for the defendant
(cosmetics) - trademark**

**Breuer Elec. Mfg. v. The Hoover Co. for the defendant
(vacuum cleaners) – trademark**

**Imperial Toy Corp. v. Ty, Inc. for the plaintiff
(beanbag animals) – trademark**

**Polo Ralph Lauren v. Westchester Media Co. for the plaintiff
(magazines) – trademark**

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November 7, 2003

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

Dear Sir or Madam:

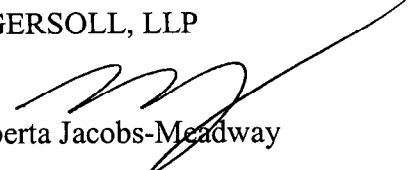
We are enclosing herewith the following documents set forth below, which are to be filed in the Patent and Trademark Office.

Please charge all government filing fees with respect to the enclosed documents to our Miscellaneous Deposit Account 02-0755.

Please charge any additional fees or credit overpayment to Miscellaneous Deposit Account 02-0755.

Respectfully submitted,


BALLARD SPAHR ANDREWS &
INGERSOLL, LLP


Roberta Jacobs-Meadway

Enclosure: Copy of Second Request for Reconsideration dated November 7, 2003
Mark: UNBREAKABLE FORT KNOX
Serial No.: 76/359,197
International Class: 6
Attorney Docket No.: 890643
BOX RESPONSES – NO FEE

Enclosures

cc: IP Docketing (w/enc.)


11-10-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #58