

TTAB



09-26-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #77

Express Mail No. EV109514558US

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

In re the application of:

Go America, L.L.C.
Serial No. 76/278,162
Filed: June 29, 2001
Published July 2, 2002 at TM 854
Mark: **GO AMERICA & Design**
Int. Class 35

September 26, 2002

NOTICE OF OPPOSITION

Speedway SuperAmerica LLC, a limited liability company of Delaware, and located at 500 Speedway Drive, Enon, Ohio 45323, believes that it will be damaged by registration of the mark shown in Serial No. 76/278,162, and hereby opposes the same.

1. As grounds of opposition, it is alleged that Opposer is the owner of the following U.S. trademark application and registrations:

U.S. Registration No. 2,615,552 for **Design** (four parallel lines) for vehicle service station services and retail convenience store services;

U.S. Registration No. 1,528,740 for **S & Design** for automobile and truck service station services;

U.S. Registration No. 1,574,261 for **S & Design** for gasoline;

U.S. Registration No. 1,530,103 for **SPEEDWAY & Design** for automobile and truck service station services;

U.S. Registration No. 2,092,359 for GASAMERICA for automotive service station services;

U.S. Registration No. 2,092,362 for GASAMERICA for fuel and motor oil;

U.S. Registration No. 1,527,706 for S SPEEDWAY & Design for gasoline;

U.S. Registration No. 1,329,129 for SUPERAMERICA for gasoline, vehicle service station services and retail convenience store services;

U.S. Registration No. 1,922,447 for SUPERAMERICA for car wash services;

U.S. Registration No. 1,972,743 for SUPERAMERICA for pens, pencils, plastic key rings, coffee cups, mugs, and portable coolers;

U.S. Registration No. 770,570 for SA SUPERAMERICA & Design for anti-freeze;

U.S. Registration No. 770,620 for SA SUPERAMERICA & Design for lubricating oils and greases;

U.S. Registration No. 1,360,039 for SA & Design for industrial oils, greases and fuels and vehicle service station services;

U.S. Registration No. 1,360,038 for SUPERAMERICA & Design for industrial oils, greases and fuels and vehicle service station services; and

U.S. Registration No. 2,013,616 for SA SUPERAMERICA & Design for vehicle service station services and retail convenience store services.

1. Speedway SuperAmerica has been and is now using the above marks on the listed goods and in connection with the listed services.

2. Speedway SuperAmerica's use of all of the above marks is prior to the first use date and filing date of Applicant's mark.

3. Said registered marks of Opposer are valid and subsisting and are prima facie evidence of Opposer's exclusive right to use said mark in commerce on the goods and services specified in said registrations.

4. In view of the similarity of the mark of Applicant and the marks of Speedway SuperAmerica, as well as the similarity of the goods and services of the respective parties, it is alleged that Applicant's mark so resembles Opposer's registered marks, as to be likely to cause confusion, or to cause mistake, or to deceive.

5. Copies of said registrations are attached. A Notice of Reliance under 2.122(d)(2) will be filed during the testimony period along with a copy of each of the above-identified registrations showing both their current status and current title.

6. Opposer has been and is now using the design mark shown in Registration No. 2,615,552 since as early as 1983, in connection with retail convenience store services and vehicle service station services.

7. Opposer has been and is now using the mark **SUPERAMERICA** since January 6, 1960, in connection with vehicle service station services.

8. Opposer has been and is now using the mark **SUPERAMERICA** since January, 1966, in connection with retail convenience store services.

9. Said uses have been valid and continuous since said dates of first use and have not been abandoned.

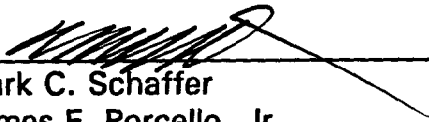
10. Said marks of Opposer are symbolic of extensive good will and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion. In view of the similarity of the respective marks and the related nature of the goods and services of the respective parties, it is alleged that Applicant's mark so resembles Opposer's marks previously used in the United States, and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive.

11. In addition, Opposer offers retail services through its website at www.speedway.com at its **ESTORE** page, **SPEEDWAY.COM**.

WHEREFORE, Opposer prays that said application Serial No. 76/278,162 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Mark C. Schaffer declares that he is an attorney for Opposer, Speedway
SuperAmerica LLC.

Respectfully submitted,

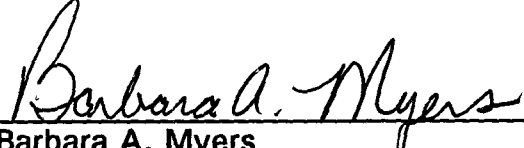


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Enclosures
MCS/BAM

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 as United States Express Mail No. EV109514558US on the date indicated below, in an envelope addressed to: **BOX TTAB, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.**



Barbara A. Myers

Date: 9/26/02

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This page was generated by the TARR system on 09/24/2002 14:18:02 ET

Serial Number: 78084626

Registration Number: 2615552

Mark



Current Status: Registered.

Date of Status: 2002-09-03

Filing Date: 2001-09-19

Registration Date: 2002-09-03

Law Office Assigned: TMEG Law Office 102

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -Warehouse (Newington)

Date In Location: 2002-09-16

CURRENT APPLICANT(S)/OWNER(S)

1. Speedway SuperAmerica LLC

Address:

Speedway SuperAmerica LLC

500 Speedway Drive

Enon, OH 453231056

United States

State or Country Where Organized: Delaware

Legal Entity Type: Other

GOODS AND/OR SERVICES

Vehicle service station services

International Class: 037

First Use Date: 19831001

First Use in Commerce Date: 19831001

Basis: 1(a)

Retail convenience store services
International Class: 042
First Use Date: 19831001
First Use in Commerce Date: 19831001

Basis: 1(a)

ADDITIONAL INFORMATION

Description of Mark: The mark consists of four red parallel lines.

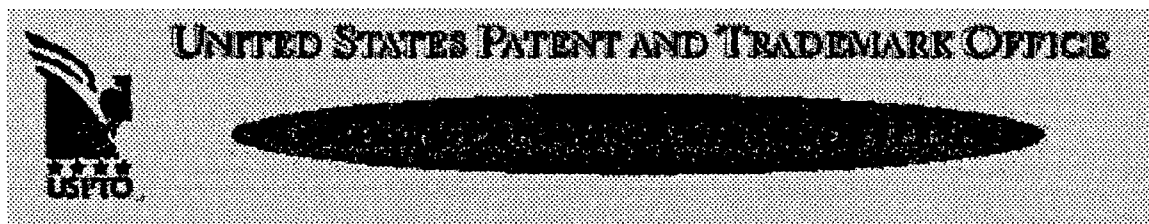
PROSECUTION HISTORY

2002-09-03 - Registered - Principal Register
2002-06-11 - Published for opposition
2002-05-22 - Notice of publication
2002-02-21 - Approved for Pub - Principal Register (Initial exam)
2001-12-28 - Communication received from applicant
2001-11-30 - Non-final action mailed
2001-11-26 - Case file assigned to examining attorney

CONTACT INFORMATION

Correspondent (Owner)
Michael J. Mlotkowski (Attorney of record)

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Record 1 out of 1

Check Status

(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)

Goods and Services	IC 042. US 100 101. G & S: Retail convenience store services. FIRST USE: 19831001. FIRST USE IN COMMERCE: 19831001
	IC 037. US 100 103 106. G & S: Vehicle service station services. FIRST USE: 19831001. FIRST USE IN COMMERCE: 19831001
Mark Drawing Code	(2) DESIGN ONLY
Design Search Code	261701 261705 261713
Serial Number	78084626
Filing Date	September 19, 2001
Published for Opposition	June 11, 2002
Registration Number	2615552
Registration Date	September 3, 2002
Owner	(REGISTRANT) Speedway SuperAmerica LLC LIMITED LIABILITY COMPANY DELAWARE 500 Speedway Drive Enon OHIO 453231056
Attorney of Record	Michael J. Mlotkowski
Description of Mark	The mark consists of four red parallel lines.
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead	LIVE