

ESTTA Tracking number: **ESTTA72248**

Filing date: **03/22/2006**

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 | FORD MOTOR COMPANY |
| Granted to Date of previous extension | 04/15/2006 |
| Address | One American Road Dearborn, MI 48126 UNITED STATES |
| Attorney information | ELIZABETH F. JANDA BROOKS KUSHMAN, P.C. 1000 TOWN CENTERSUITE 2200 SOUTHFIELD, MI 48075 UNITED STATES ejanda@brookskushman.com, smgibbons@brookskushman.com Phone:248-358-4400 |

Applicant Information

| | | | |
|------------------------|--|------------------------|------------|
| Application No | 76624041 | Publication date | 02/14/2006 |
| Opposition Filing Date | 03/22/2006 | Opposition Period Ends | 04/15/2006 |
| Applicant | Horton, Inc. 2565 Walnut Street Roseville, MN 55113 UNITED STATES | | |

Goods/Services Affected by Opposition

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|---|
| Class 012. All goods and services in the class are opposed, namely: clutches for land vehicles |
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| | |
|-------------|--------------------------|
| Attachments | Horton_I.pdf (4 pages) |
|-------------|--------------------------|

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|-----------|---------------------|
| Signature | /elizabeth f janda/ |
| Name | ELIZABETH F. JANDA |
| Date | 03/22/2006 |

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

In re Trademark Application Serial No. 76/624,041

Filed: December 13, 2004

Trademark: DRIVEMASTER SUPERDUTY

Published in the *Official Gazette* at TM 382 on February 14, 2006

| | | |
|--------------------|---|----------------------|
| FORD MOTOR COMPANY |) | |
| |) | |
| Opposer, |) | |
| |) | |
| v. |) | Opposition No. _____ |
| |) | |
| HORTON, INC. |) | |
| |) | |
| |) | |
| Applicant. |) | |

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Sir:

FORD MOTOR COMPANY ("FORD"), a Delaware corporation with a place of business at The American Road, Dearborn, Michigan 48121, believes that it is and will continue to be damaged by the Applicant's registration of the mark "DRIVEMASTER SUPERDUTY" for clutches for land vehicles in Class 12, and hereby opposes registration of this mark.

As grounds for opposition, the Opposer alleges as follows:

1. The Applicant, HORTON, INC., is seeking to register the mark "DRIVEMASTER SUPERDUTY" as a trademark for clutches for land vehicles in Class 12. This

is evidenced by the publication of the mark in the *Official Gazette* at Page TM 382 of the February 14, 2006 issue. This Intent-to-Use application was filed on December 13, 2004.

2. The Opposer, FORD, designs, develops, manufactures, services, repairs, and sells automobiles and parts therefor and related products and services.

3. The Opposer has used the mark "SUPER DUTY" from a date at least as early as 1987 in connection with its vehicles and related goods.

4. The Opposer is the owner of U.S. Trademark Registration No. 2,332,851 for the mark "SUPER DUTY" for its motor vehicles in Class 12. This Registration issued March 21, 2001, and is valid and subsisting, uncancelled and unrevoked.

5. The Opposer is the owner of U.S. Trademark Registration No. 2,319,301 for the mark "SUPER DUTY" for its toy vehicles in Class 28. This registration issued February 15, 2000, and is valid and subsisting, uncancelled and unrevoked.

6. Opposer is the owner of U.S. Trademark Registration No. 2,732,424 for the mark "SUPER DUTY" for use on metal goods, namely decorative boxes, non-luminous and non-mechanical signs, key tabs, banks, key tags, key chains, key fobs, key rings, money clips, license plates, tool boxes, tool racks and ornamental replicas of vehicles made of pewter or bronze in Class 6. This registration issued on July 1, 2003, and is valid and subsisting, uncancelled and unrevoked.

7. The Opposer has expended considerable effort and expense in promoting its "SUPER DUTY" mark and the goods associated with this mark, with the result that the purchasing public has come to know and recognize the products of the Opposer by this mark. The Opposer has an exceedingly valuable good will established in its "SUPER DUTY" marks.

8. There is no issue as to priority. The Opposer used the mark “SUPER DUTY” in connection with its goods long prior to the filing date of the intent-to-use Application Serial No. 76/624,041.

9. The mark for which the Applicant seeks registration, namely “DRIVEMASTER SUPERDUTY,” incorporates Opposer’s mark “SUPER DUTY” in its entirety, and both parties’ marks are designated for use on automotive goods in Class 12.

10. Since the mark and goods as described in the application are closely related to the Opposer's mark and goods/services, confusion and deception as to the origin of the Applicant's goods bearing the mark would occur, all to the damage and detriment of the Opposer. Such use would cause confusion in the trade resulting in damage and injury to the Opposer.

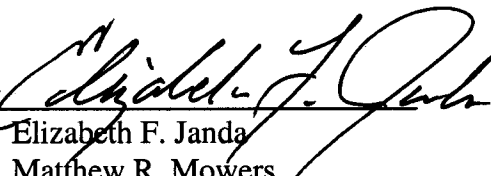
11. The Applicant's use or registration of the mark “DRIVEMASTER SUPERDUTY” in connection with its designated goods, is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of the Applicant with the Opposer, or as to the origin, sponsorship or approval of the Applicant's services by the Opposer.

12. If the Applicant were granted the registration herein opposed, it would obtain at least a *prima facie* exclusive right to use of the “DRIVEMASTER SUPERDUTY” mark in connection with the designated products and goods. Such registration would be a source of injury and damage to the Opposer.

WHEREFORE, the Opposer, FORD MOTOR COMPANY, prays that Application Serial No. 76/624,041 for the mark “DRIVEMASTER SUPERDUTY” be rejected, denied and refused.

The filing fee of \$300 and any additional fees as may be required under 37 C.F.R. § 2.6(a)(17), are to be charged to Ford Motor Company Account No. 06-1510.

Respectfully submitted,

By 
Elizabeth F. Janda
Matthew R. Mowers
Attorneys/Agents for Applicant

Date: March 22 2006

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Our File: FMCT 19326 OC