

ESTTA Tracking number: **ESTTA100324**

Filing date: **09/20/2006**

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                                  | WRIGHT & MCGILL CO.                                      |
| Granted to Date of previous extension | 09/20/2006   |
| Address                               | 4245 E. 46th Avenue<br>Denver, CO 80216<br>UNITED STATES |

|                            |   |
|----------------------------|---|
| Correspondence information | Sabrina Stavish<br>Sheridan Ross P.C.<br>1560 Broadway, Suite 1200<br>Denver, CO 80202<br>UNITED STATES<br>sstavish@sheridanross.com Phone:3038632972 |
|----------------------------|---|

### Applicant Information

|                        |  |                        |            |
|------------------------|--|------------------------|------------|
| Application No         | 78523961   | Publication date       | 05/23/2006 |
| Opposition Filing Date | 09/20/2006   | Opposition Period Ends | 09/20/2006 |
| Applicant              | Peter M. Baldwin<br>P.O. Box 4873<br>Columbia, SC 292404873<br>UNITED STATES |                        |            |

### Goods/Services Affected by Opposition

Class 028. First Use: 1990/00/00 First Use In Commerce: 1990/00/00  
All goods and services in the class are opposed, namely: fishing lure dye

|             |   |
|-------------|---|
| Attachments | NOTICE OF OPPOSITION.txt ( 4 pages )(8958 bytes ) |
|-------------|---|

|           |                   |
|-----------|-------------------|
| Signature | /Sabrina Stavish/ |
| Name      | Sabrina Stavish   |
| Date      | 09/20/2006        |

Wright & McGill Co.

Application Serial No.

78/523961

v.

Peter M. Baldwin composed of Peter Mr. Baldwin, USA SC LTD Partnership

NOTICE OF OPPOSITION

Opposer, Wright & McGill Co., ("Opposer") a corporation organized and existing under the laws of the state of Colorado, and having a place of business at 4245 E. 46th Avenue, Denver, Colorado 80216, believes that it will be damaged by registration of the "Design" mark for "fishing tackle" in Class 28 filed in the name of The Danielson Company, Inc. as shown in U.S. Trademark Application Serial No. 78/523961, and hereby opposes the same.

As grounds for this Opposition, Opposer alleges:

1. Opposer's filing of this Notice of Opposition is timely. Applicant's U.S. Trademark Application Serial No. 78/523961 for "Design" published for opposition in the May 23, 2006 Trademark Office's Official Gazette. Extensions of time to oppose have been filed by Opposer through the date of filing this Notice of Opposition on September 20, 2006.

2. Opposer is the owner of the following three incontestable trademark registrations for the "Wright & McGill Eagle Design With Raised Wings" trademarks (marks reproduced below, identified as "Wright & McGill Eagle Design with Raised Wings 1" and "Wright & McGill Eagle Design with Raised Wings 2"), three incontestable trademark registrations for word marks including the phrase "EAGLE CLAW" and one trademark registration for the word mark FLEXEAGLE, all covering fishing tackle products, as follows:

WRIGHT & MCGILL  
EAGLE DESIGN  
WITH RAISED WINGS 1

WRIGHT & MCGILL  
EAGLE DESIGN  
WITH RAISED WINGS 2

- a. U.S. Registration No. 568797 for "Wright & McGill Eagle Design with Raised Wings 1" for "bulk fish hooks, snelled fish hooks," in International Class 28.
  - b. U.S. Registration No. 1900783 for "Wright & McGill Eagle Design with Raised Wings 1" for "fishing tackle, namely, fishing rods," in International Class 28.
  - c. U.S. Registration No. 1894190 for "Wright & McGill Eagle Design with Raised Wings 2" for "fishing tackle, namely, fishing line, bobber stops, leaders, swivels, sinkers, stringers, fish weighing scales, fish scalers, nets, fishing rod cases, fishing rod racks, tackle boxes, minnow buckets, pole bells, fishing creels, fishing satchels, fishing vests, fisherman pliers, scissors and clippers, reel oil, fillet boards and gloves, trolling bucket boom and lures," in International Class 28.
  - d. U.S. Registration No. 1888631 for "EAGLE CLAW" for "fishing tackle, namely fishing line, bobber stops, leaders, swivels, sinkers, stringers, fish weighing scales, fish scalers, nets, fishing rod cases, fishing rod racks, tackle boxes, minnow buckets, pole bells, fishing creels, fishing satchels, fishing vests, fisherman pliers, scissors and clippers, reel oil, fillet boards and gloves, trolling bucket boom and lures," in International Class 28.
  - e. U.S. Registration No. 1888632 for "EAGLE CLAW" for "fish hooks, snelled fish hooks, fishing rods, fishing reels, bobbars, floats and rigs," in International Class 28.
  - f. U.S. Registration No. 505204 for "EAGLE CLAW HOOKS (Stylized)" for "fish hooks and artificial fish lures," in International Class 28.
  - g. U.S. Registration No. 2446958 for "FLEXEAGLE" for "fishing rods," in International Class 28.
3. Opposer has used the "Wright & McGill Eagle Design with Raised Wings 1" mark since at least as early as 1927 in connection with fishing related products.
  4. Opposer has used the "Wright & McGill Eagle Design with Raised Wings 2" mark since at least as early as 1990 in connection with fishing related products.
  5. Opposer has used the "EAGLE CLAW"/ "EAGLE CLAW HOOKS" mark

since at least as early as 1927 in connection with fishing related products.

6. Opposer has used the "FLEXEAGLE" mark since at least as early as October 1999 in connection with fishing related products.

7. Opposer has devoted substantial time, money and effort in establishing and maintaining a high standard of quality for all goods sold under and in connection with the "Wright & McGill Eagle Design with Raised Wings 1", "Wright & McGill Eagle Design with Raised Wings 2", "EAGLE CLAW", "EAGLE CLAW HOOKS" and "FLEXEAGLE" marks. As a consequence, Opposer's "Wright & McGill Eagle Design with Raised Wings 1", "Wright & McGill Eagle Design with Raised Wings 2", "EAGLE CLAW", "EAGLE CLAW HOOKS" and "FLEXEAGLE" marks have become widely and favorably known to the relevant public. By virtue of the public's recognition of Opposer's "Wright & McGill Eagle Design with Raised Wings 1", "Wright & McGill Eagle Design with Raised Wings 2", "EAGLE CLAW", "EAGLE CLAW HOOKS" and "FLEXEAGLE" marks, Opposer has developed substantial goodwill in the marks.

8. Upon information and belief, Peter M. Baldwin composed of Peter Mr. Baldwin, USA SC LTD Partnership ("Applicant") is the owner of U.S. Trademark Application Serial No. 78/523961 for "Design" for "fishing lure dye" in International Class 28, said application being filed on November 29, 2004. Upon information and belief, Applicant has been using the mark in U.S. Trademark Application Serial No. 78/523961 since 1990.

9. As a result of the public's association of the "Wright & McGill Eagle Design with Raised Wings 1", "Wright & McGill Eagle Design with Raised Wings 2", "EAGLE CLAW", "EAGLE CLAW HOOKS" and "FLEXEAGLE" marks with Opposer, Applicant's use and registration of the mark in Application Serial No. 78/523961, because of the confusingly similar nature of the marks and highly related nature of the products, and the identical channels of trade, conditions under which and buyers to whom sales are made and other factors, is likely to cause confusion, mistake or deception as to the source, origin or affiliation of Applicant's products.

10. If U.S. Trademark Application Serial No. 78/523961 for "Design" is permitted to issue, despite this likelihood of confusion, Opposer's right to exclusive use of its "Wright & McGill Eagle Design with Raised Wings 1", "Wright & McGill Eagle Design with Raised Wings 2", "EAGLE CLAW", "EAGLE CLAW HOOKS" and "FLEXEAGLE" marks will be

impaired and

Opposer will be damaged.

11. Opposer's "Wright & McGill Eagle Design with Raised Wings 1", "Wright & McGill Eagle Design with Raised Wings 2", "EAGLE CLAW", "EAGLE CLAW HOOKS" and "FLEXEAGLE" marks are famous marks under 15 U.S.C. ? 1125(c) for fishing products.

12. Opposer's "Wright & McGill Eagle Design with Raised Wings 1", "Wright & McGill Eagle Design with Raised Wings 2", "EAGLE CLAW", "EAGLE CLAW HOOKS" and "FLEXEAGLE" marks became famous marks under 15 U.S.C. ? 1125(c) before Applicant's first use in commerce of the mark in U.S. Trademark Application Serial No. 78/523961.

13. Applicant's registration and use of the mark in Application Serial No. 78/523961 will cause dilution of the distinctive quality of Opposer's famous "Wright & McGill Eagle Design with Raised Wings 1", "Wright & McGill Eagle Design with Raised Wings 2", "EAGLE CLAW", "EAGLE CLAW HOOKS" and "FLEXEAGLE" marks under 15 U.S.C. ? 1125(c).

WHEREFORE, Opposer prays that this Opposition be sustained and that the application for registration of U.S. Trademark Application Serial No. 78/523961 for "Design" be denied and refused. The filing fee of \$300.00 is being submitted herewith. Please debit or credit any under or overpayment to our Deposit Account No. 19-1970.

Respectfully submitted,

SHERIDAN ROSS P.C.

Date: \_\_\_\_\_

Sabrina C. Stavish, Esq.  
Miriam D. Trudell, Esq.  
Attorneys for Opposer  
1560 Broadway, Suite 1200  
Denver, Colorado 80202-5141  
Phone: (303) 863-9700  
Fax: (303) 863-0223

C:\Documents and Settings\Sabrina\My Documents\Notice of Opposition.txt