

ESTTA Tracking number: **ESTTA183058**

Filing date: **12/26/2007**

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	BIG O TIRES, INC.
Granted to Date of previous extension	12/26/2007
Address	12650 EAST BRIARWOOD AVENUE CENTENNIAL, CO 80112 UNITED STATES

Attorney information	Marsha G. Gentner Jacobson Holman PLLC 400 - 7th Street, N.W. Washington, DC 20004 UNITED STATES trademark@jhip.com, mgentner@jhip.com Phone:202-638-6666
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Applicant Information

Application No	78904984	Publication date	08/28/2007
Opposition Filing Date	12/26/2007	Opposition Period Ends	12/26/2007
Applicant	Global Power Tech Inc. 744 Woods Lane Grosse Pointe, MI 48236 UNITED STATES		

Goods/Services Affected by Opposition

Class 012. All goods and services in the class are opposed, namely: Engines namely Internal Combustion Engines for land vehicles

Grounds for Opposition

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

U.S. Registration No.	2902045	Application Date	10/18/2002
Registration Date	11/09/2004	Foreign Priority Date	NONE
Word Mark	VENGEANCE		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 012. First use: First Use: 2004/06/01 First Use In Commerce: 2004/06/01 TIRES

U.S. Registration No.	3024162	Application Date	11/10/2003
Registration Date	12/06/2005	Foreign Priority Date	NONE
Word Mark	VENGEANCE SPORT SLX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2004/05/13 First Use In Commerce: 2004/05/13 TIRES		

Attachments	76460700#TMSN.gif (1 page)(bytes) 76558467#TMSN.gif (1 page)(bytes) i5738.opp.pdf (10 pages)(728932 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	/Marsha G. Gentner/
Name	Marsha G. Gentner
Date	12/26/2007

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

BIG O TIRES, INC.)

Opposer,)

v.)

Opposition No.)

GLOBAL POWER TECH INC.)

Applicant.)

NOTICE OF OPPOSITION

In the matter of an application to register a trademark under the Trademark Act of 1946, Serial No. 78/904,984, filed June 9, 2006, in the name of Global Power Tech Inc., published for opposition in the Trademark Official Gazette of August 28, 2007, Vol. 1321, No. 4, at page TM 749, for the mark VENGEANCE, the Opposer, Big O Tires, Inc., believes it may be damaged by registration of said alleged trademark and hereby opposes same. The grounds for opposition are as follows:

1. The Opposer, Big O Tires, Inc. [hereinafter "Big O"], is a corporation duly organized and existing under the laws of the State of Nevada and having its place of business at 12650 East Briarwood Avenue, Centennial, Colorado 80112. Opposer markets, distributes and sells a variety of land vehicle products and maintenance and repair services, and provides retail store and franchise services which feature land vehicle products and services.

2. Commencing prior to the filing date of the application opposed herein, Opposer has, and is now, engaged in the distribution and sale of land vehicle products in commerce in the United States, under and in connection with the trademark VENGEANCE. Opposer Big O continuously has used its VENGEANCE mark alone, and with other words, designs and symbols, in commerce in connection with Opposer's distribution and sale of land vehicle products.

3. Opposer Big O is the owner of, and will rely on herein, the following U.S. trademark registrations for its VENGEANCE name and mark:

REGISTRATION NO.

ISSUE DATE

2,902,045

November 9, 2004

3,024,162

December 6, 2005

Said registrations are valid and subsisting, and constitute *prima facie* and/or conclusive evidence of Opposer Big O's ownership of Opposer's **VENGEANCE** mark, and exclusive right to use same in commerce in connection with the goods and services set forth in said registrations. Attached hereto are printouts of information from the electronic database records of the U.S. Patent and Trademark Office showing the current status and title of these registrations.

4. On June 9, 2006, Applicant filed an application to register the mark **VENGEANCE**. Said application was accorded serial no. 78/904,984, and was published for opposition in the Official Gazette of August 28, 2007, at page TM 749, identifying the goods as "engines namely internal combustion engines for land vehicles."

5. The **VENGEANCE** mark sought to be registered by Applicant is identical to, and is a colorable imitation of, and/or is confusingly similar to, Opposer's prior and aforesaid **VENGEANCE** name and mark.

6. The registration and/or use of the **VENGEANCE** mark, as set forth in the opposed application, is likely to cause confusion, mistake, and/or to deceive as to origin, sponsorship, and/or association of Applicant's goods to be sold under the **VENGEANCE** mark sought to be registered by Applicant vis-a-vis Opposer and/or its **VENGEANCE** mark, and/or to mislead purchasers of Applicant's and/or Opposer's goods and/or services, and/or the public in general, into believing that Applicant's goods are sold by, emanate from, and/or in some way, directly or indirectly, are associated with Big O, and/or Opposer's **VENGEANCE** mark and/or products, or vice versa, to the damage and detriment of Big O.

7. By virtue of the foregoing, Big O believes it may be damaged by the registration by Applicant of the VENGEANCE mark, as set forth in the application therefor, serial no. 78/904,984.

8. If Applicant is granted the registration opposed herein, and Applicant obtains such rights as conferred under the Principal Register of the Trademark Act of 1946, Applicant may obtain unlawful gain and advantage to which it are not entitled under the Trademark Act of 1946, to the detriment and harm of Opposer.

WHEREFORE, this Opposer, Big O Tires, Inc., believes and alleges that it may be damaged by registration of the VENGEANCE mark of application serial no. 78/904,984, as aforesaid, and prays that:

- a. judgment in the present opposition be entered in favor of Opposer;
- b. the present opposition be sustained; and
- c. registration of application serial no. 78/904,984 be rejected and refused.

Respectfully submitted,

BIG O TIRES, INC.

By:



Marsha G. Gentner
JACOBSON HOLMAN PLLC
400 Seventh Street, N.W.
Washington, D.C. 20004
(202) 638-6666

Date: December 26, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of December, 2007, the foregoing Notice of Opposition was served, by mailing same first class and postage prepaid, on the following correspondent as set forth in the records of the U.S. Patent and Trademark Office:

Philip R. Warn, Esquire
Warn-Hoffman-Miller & Lalone, PC
691 N. Squirrel Road, Suite 140
Auburn Hills, Michigan 48326-2873

Teresa L. Brooks

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-12-19 11:01:29 ET

Serial Number: 76460700 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2902045

Mark (words only): VENGEANCE

Standard Character claim: No

Current Status: Registered.

Date of Status: 2004-11-09

Filing Date: 2002-10-18

Transformed into a National Application: No

Registration Date: 2004-11-09

Register: Principal

Law Office Assigned: LAW OFFICE 115

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: 650 -Publication And Issue Section

Date In Location: 2004-09-28

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Big O Tires, Inc.

Address:

Big O Tires, Inc.
12650 East Briarwood Avenue Suite 2-D
Englewood, CO 80112
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Nevada

GOODS AND/OR SERVICES

International Class: 012

Class Status: Active

TIRES

Basis: 1(a)

First Use Date: 2004-06-01

First Use in Commerce Date: 2004-06-01

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2004-11-09 - Registered - Principal Register

2004-09-14 - Law Office Registration Review Completed

2004-08-26 - Assigned To LIE

2004-08-09 - Allowed for Registration - Principal Register (SOU accepted)

2004-08-02 - Assigned To Examiner

2004-07-30 - Statement of use processing complete

2004-07-20 - Amendment to Use filed

2004-07-20 - PAPER RECEIVED

2004-05-14 - Extension 1 granted

2004-05-04 - Extension 1 filed

2004-05-04 - PAPER RECEIVED

2004-04-26 - Assigned To Examiner

2003-11-04 - Notice of allowance - mailed

2003-08-12 - Published for opposition

2003-07-23 - Notice of publication

2003-05-30 - Approved for Pub - Principal Register (Initial exam)

2003-05-23 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

MARSHA G. GENTNER

Correspondent

MARSHA G. GENTNER
JACOBSON HOLMAN PLLC
THE JENIFER BUILDING
400 SEVENTH STREET, N.W.
WASHINGTON, D.C. 20004-2201
Phone Number: (202) 638-6666
Fax Number: (202) 393-5350

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-12-19 11:01:54 ET

Serial Number: 76558467 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3024162

Mark

VENGEANCE SPORT SLX

(words only): VENGEANCE SPORT SLX

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2005-12-06

Filing Date: 2003-11-10

Transformed into a National Application: No

Registration Date: 2005-12-06

Register: Principal

Law Office Assigned: LAW OFFICE 103

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: 650 -Publication And Issue Section

Date In Location: 2005-10-28

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Big O Tires, Inc.

Address:

Big O Tires, Inc.
12650 East Briarwood Avenue, Suite 2-D

Centennial, CO 80112

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Nevada

GOODS AND/OR SERVICES

International Class: 012

Class Status: Active

TIRES

Basis: 1(a)

First Use Date: 2004-05-13

First Use in Commerce Date: 2004-05-13

ADDITIONAL INFORMATION

Disclaimer: "sport"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2005-12-06 - Registered - Principal Register

2005-10-25 - Law Office Registration Review Completed

2005-10-21 - Assigned To LIE

2005-10-19 - Allowed for Registration - Principal Register (SOU accepted)

2005-08-05 - Statement of use processing complete

2005-07-22 - Amendment to Use filed

2005-07-22 - PAPER RECEIVED

2005-04-19 - Notice of allowance - mailed

2005-01-25 - Published for opposition

2005-01-05 - Notice of publication

2004-11-26 - Law Office Publication Review Completed

2004-11-19 - Assigned To LIE

2004-11-12 - Approved for Pub - Principal Register (Initial exam)

2004-11-10 - Teas/Email Correspondence Entered

2004-11-05 - Communication received from applicant

2004-11-05 - TEAS Response to Office Action Received

2004-06-23 - Non-final action mailed

2004-06-21 - Assigned To Examiner

2003-12-01 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

MARSHA G. GENTNER

Correspondent

MARSHA G. GENTNER
JACOBSON HOLMAN PLLC
THE JENIFER BUILDING
400 SEVENTH STREET, N.W.
WASHINGTON, D.C. 20004-2201
Phone Number: (202) 638-6666
Fax Number: (202) 393-5350/51/52
