

ESTTA Tracking number: **ESTTA250994**

Filing date: **11/24/2008**

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	SOLIDEAL HOLDING S.A.
Granted to Date of previous extension	11/23/2008
Address	23, avenue Monterey Luxembourg, L-2086 LUXEMBOURG

Domestic Representative	Evan Anderson, Esq. Attorney of record 16830 Ventura Blvd. Suite 360 Encino, CA 91436 UNITED STATES evan@patelalumit.com, john@patelalumit.com Phone:(818) 380-1900
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Applicant Information

Application No	77369556	Publication date	05/27/2008
Opposition Filing Date	11/24/2008	Opposition Period Ends	11/23/2008
Applicant	GPX International Tire Corporation 730 Eastern Avenue Malden, MA 02148 UNITED STATES		

Goods/Services Affected by Opposition

Class 012. First Use: 1974/12/31 First Use In Commerce: 1974/12/31 All goods and services in the class are opposed, namely: Tires
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Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3079943	Application Date	04/12/2005
Registration Date	04/11/2006	Foreign Priority Date	NONE
Word Mark	ECOMATIC		

Design Mark	ECOMATIC		
Description of Mark	NONE		
Goods/Services	Class 012. First use: Pneumatic tyres made of rubber for vehicles		

U.S. Registration No.	3440896	Application Date	08/25/2006
Registration Date	06/03/2008	Foreign Priority Date	NONE
Word Mark	SOLIDEAL		
Design Mark	SOLIDEAL		
Description of Mark	NONE		
Goods/Services	Class 012. First use: Land vehicles and their structural parts; apparatus for locomotion by land, air or water, namely, automobiles, airplanes, and boats; tires, wheel rims, wheels, axles, casings for pneumatic tires, tracks, driving chains, chain sprockets, load-carrying axles, load-carrying idlers, chassis and brake pads, all these goods for land vehicles; load-carrying idlers for tracked transport vehicles		

Attachments	79010765#TMSN.jpeg (1 page)(bytes) 79033011#TMSN.jpeg (1 page)(bytes) TTAB - Notice of Opposition - SOLIDMATIC.pdf (4 pages)(133255 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	/evananderson/
Name	Evan Anderson, Esq.
Date	11/24/2008

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

SOLIDEAL HOLDINGS S.A.,)	
)	
)	
Opposer)	
)	
v.)	Opposition No.
)	Application Serial No. 77369556
GPX INTERNATIONAL TIRE, INC.)	
)	
)	
Applicant)	
)	
)	

NOTICE OF OPPOSITION

Opposer, Solideal Holdings S.A., a société anonyme of Luxembourg, whose principal place of business is located at 23, avenue Monterey L-2086, Luxembourg, Luxembourg, hereby opposes registration of the mark SOLIDMATIC by GPX International Tire Corporation, a Massachusetts corporation with its principal place of business located at 30 Eastern Avenue, Malden, Massachusetts 02148, that is the subject of Application Serial No. 77369556, published in the Official Gazette on May 27, 2008, and requests that registration to Applicant be refused.

As grounds in support of its opposition, Opposer(s) asserts as follows:

COUNT 1

Likelihood of Confusion

1. Opposer is the registered trademark owner of U.S. Registration No. 3079943 for the trademark ECOMATIC used in connection with Pneumatic tyres made of rubber for vehicles. Opposer's effective priority filing date was April 12, 2005.
2. Opposer is the registered trademark owner of U.S. Registration No. 3440896 for the trademark SOLIDEAL used in connection with land vehicles and their structural parts; apparatus for locomotion by land, air or water, namely, automobiles, airplanes, and boats; tires, wheel rims, wheels, axles, casings for pneumatic tires, tracks, driving chains, chain sprockets, load-carrying axles, load-carrying idlers, chassis and brake

pads, all these goods for land vehicles; load-carrying idlers for tracked transport vehicles. Opposer's effective priority filing date was August 25, 2006.

3. Applicant filed a trademark application for the trademark SOLIDMATIC used in connection with tires. Applicant was assigned serial no. 77369556. Applicant's effective filing date was January 11, 2008. Applicant's stated first use in commerce date was December 31, 1974.
4. Applicant's mark, SOLIDMATIC, so resembles Opposer's registered trademarks, SOLIDEAL and ECOMATIC, when considered together, as to be likely, when applied to the goods set forth in Applicant's application, to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Trademark Act.
5. Applicant's mark contains the identical phonetic term SOLID, which is the primary and dominant feature of Opposer's trademark SOLIDEAL. Applicant's mark contains the identical phonetic term MATIC, which is the dominant feature of Opposer's mark ECOMATIC. In states in which Opposer uses both SOLIDEAL and ECOMATIC, consumers calling for or referring to Applicant's or Opposer's respective products are likely to believe that Applicant's mark is a combination of Opposer's two marks, SOLIDEAL and ECOMATIC, and thus originates with Opposer.
6. Applicant's goods are identical or closely related to the goods of Opposer, and flow in the same or related channels of trade.
7. There is a dispute as to priority. Opposer's effective filing dates of April 12, 2005 and August 25, 2006 precede Applicant's effective filing date of January 11, 2008 but not Applicant's alleged date of first use of December 31, 1974. Upon information and belief, Applicant does not have priority in states in which Opposer uses both SOLIDEAL and ECOMATIC, and therefore may not claim exclusive rights to the mark SOLIDMATIC on a nationwide basis. Instead, Applicant may seek only a concurrent use registration.
8. Through extensive use, advertising, marketing and promotion of Opposer's marks, Opposer has built up, at great expense and effort, a valuable reputation and goodwill symbolized by its strong and distinctive marks.

COUNT 2

False Suggestion of Connection

9. Applicant's trademark is a phonetically identical combination of the dominant features of Opposer's trademarks, SOLIDEAL and ECOMATIC. In states in which Opposer uses both marks, Applicant's mark SOLIDMATIC falsely suggests a connection with Opposer in violation of Section 2(a) of the Trademark Act, because

Applicant's mark points uniquely to Opposer, and purchasers will assume that goods sold under Applicant's trademark are connected with Opposer.

10. Opposer will be damaged by the use and registration of Applicant's trademark as it will deprive Opposer of the ability to protect its reputation, persona and goodwill.
11. Opposer will be damaged by the registration of Applicant's trademark as it will narrow the scope of trademark protection accorded to Opposer's registered trademarks, SOLIDEAL and ECOMATIC, such that others may use the words SOLID and MATIC in the tire industry without regard to whether phonetical spelling creates a similar commercial impression.

WHEREFORE, Opposer prays that the opposition be sustained and that registration to Applicant be refused.

Dated: November 24, 2008

Respectfully submitted,

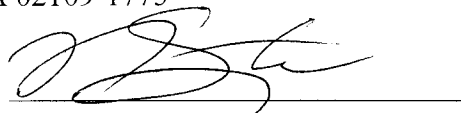
By:  _____

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Attorneys for Opposer,
Solideal Holdings S.A.

PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** has been served on Deborah L. Benson, counsel for Applicant, on November 24, 2008, via First Class U.S. Mail, postage prepaid to:

Deborah L. Benson, Esq.
Hinckley Allen Snyder LLP
28 State St.
Boston, MA 02109-1775

A handwritten signature in black ink, appearing to read 'Nikki Steen', is written over a horizontal line.

Nikki Steen