

ESTTA Tracking number: **ESTTA299233**

Filing date: **08/05/2009**

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	Vision Wheel, Inc.		
Entity	Corporation	Citizenship	Alabama
Address	3512 6th Avenue SE Decatur, AL 35603 UNITED STATES		

Attorney information	Frank M. Caprio Bradley Arant Boult Cummings LLP 200 Clinton Avenue West Suite 900 Huntsville, AL 35801 UNITED STATES fcaprio@babco.com, mswanson@babco.com, wbabcock@babco.com Phone:256-517-5100
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**Applicant Information**

Application No	77634924	Publication date	07/21/2009
Opposition Filing Date	08/05/2009	Opposition Period Ends	08/20/2009
Applicant	Baiz, Enrique 10019 NW 128th Terr. Hialeah, FL 33018 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 035. First Use: 2004/09/01 First Use In Commerce: 2005/01/01 All goods and services in the class are opposed, namely: On-line retail store services featuring auto and truck accessories, namely, wheel lug nuts, spark plug wires, fuel pressure regulators, fuel pressure gauges, fuel filters, exhaust mufflers, exhaust tips, engine cam gears, car antennas, head light bulbs, shift knobs, shift boots, engine oil caps, engine radiator caps, suspension camber correction kits, carbon fiber interior parts, carbon fiber exterior parts, engine dress up accessories
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**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.	2022022	Application Date	12/08/1995
Registration Date	12/10/1996	Foreign Priority Date	NONE
Word Mark	VISION		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 012. First use: First Use: 1996/01/30 First Use In Commerce: 1996/01/30 custom wheels rims for vehicles

U.S. Registration No.	2260476	Application Date	10/14/1997
Registration Date	07/13/1999	Foreign Priority Date	NONE

Word Mark	VISION
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 012. First use: First Use: 1996/01/30 First Use In Commerce: 1996/01/30 Custom wheel rims for vehicles
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U.S. Registration No.	3238297	Application Date	07/26/2005
Registration Date	05/01/2007	Foreign Priority Date	NONE

Word Mark	VISION WHEEL
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 035. First use: First Use: 2005/07/22 First Use In Commerce: 2005/07/22 Retail store services available on-line and by telephone, and wholesale distributorships featuring after-market automotive components, parts, and accessories therefor
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Attachments	75372143#TMSN.gif ( 1 page )( bytes ) 78678892#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition.pdf ( 4 pages )(123911 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	/Frank M. Caprio/
Name	Frank M. Caprio
Date	08/05/2009

**UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 77/634924  
Published in the Official Gazette of July 21, 2009

<b>VISION WHEEL, INC.,</b>	)	
	)	
<b>Opposer,</b>	)	
	)	
<b>v.</b>	)	<b>Opposition No.:</b>
	)	
<b>ENRIQUE BAIZ,</b>	)	
	)	
<b>Applicant.</b>	)	

**NOTICE OF OPPOSITION**

This Notice of Opposition is brought by Vision Wheel, Inc. (“Opposer”) in the pending service mark application Serial No. 77/634924 filed by Enrique Baiz (“Applicant”) for the stylized mark VISION MOTORWORKS, for services identified in the Application as:

On-line retail store services featuring auto and truck accessories, namely, wheel lug nuts, spark plug wires, fuel pressure regulators, fuel pressure gauges, fuel filters, exhaust mufflers, exhaust tips, engine cam gears, car antennas, head light bulbs, shift knobs, shift boots, engine oil caps, engine radiator caps, suspension camber correction kits, carbon fiber interior parts, carbon fiber exterior parts, engine dress up accessories, in International Class 035.

The Application was published in the Official Gazette on July 21, 2009.

Opposer believes it will be damaged by the registration or extension of protection of this service mark and hereby opposes registration of the same, alleging as follows:

1. Opposer is an Alabama corporation having its principal place of business at 3512 6<sup>th</sup> Avenue SE, Decatur, Alabama 35603.

2. Opposer currently is and has been in the business of manufacturing and selling custom wheels and rims, in interstate commerce in the United States.

3. Opposer is the owner of Registration No. 2022022 for the mark VISION for “custom wheel rims for vehicles.”

4. Opposer is the owner of Registration No. 2260476 for the mark VISION (& Design) for “custom wheel rims for vehicles.”

5. Opposer is the owner of Registration No. 3238297 for the mark VISION WHEEL for “retail store services available on-line and by telephone, and wholesale distributorships featuring after-market automotive components, parts, and accessories therefor.” Opposer’s components, parts, and accessories include wheel lug nuts.

6. Opposer has used the marks VISION and VISION (& Design) in connection with its goods since at least as early as January 30, 1996.

7. Opposer has used the mark VISION WHEEL in connection with its retail store services since at least as early as July 22, 2005.

8. Opposer’s and Applicant’s marks are likely to be confused. The sight and sound of the marks are very similar, with the word VISION being identical. Additionally, the marks are used in connection with similar good and services and thus have overlapping channels of trade.

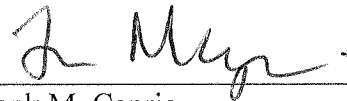
9. Opposer has expended significant resources in efforts to promote and advertise its marks, and Opposer’s goodwill in the marks will be harmed by Applicant’s registration of the mark identified in Serial No. 77/634924.

10. Based on the likelihood of confusion and the prior use of Opposer’s marks, Applicant’s mark should be refused registration.

Therefore, Opposer respectfully requests that this opposition be sustained, and the registration of application Serial No. 77/634924 for the mark VISION MOTORWORKS sought by Applicant be refused.

The Application is in one (1) International Class, and a total fee of \$300.00 under 37 CFR § 2.6(a)(17) is enclosed. The Commissioner is authorized to charge any further fees required to Deposit Account Number 50-4293, in the name of Bradley Arant Boulton Cummings LLP.

Respectfully submitted,



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Frank M. Caprio  
Mark Swanson  
*Counsel for Opposer,  
Vision Wheel, Inc.*

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 5, 2009, I caused the foregoing **NOTICE OF OPPOSITION** to be served by United States mail, postage prepaid, in an envelope addressed to:

Thomas D. Foster  
TDFoster – Intellectual Property Law  
12760 High bluff Drive, Suite 300  
San Diego, CA 92130

*Attorney of Record for Enrique Baiz*

By: 