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Filing date: **06/09/2010**

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

Proceeding	91193562
Party	Plaintiff Deere & Company
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Submission	Motion for Summary Judgment
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Date	06/09/2010
Attachments	motion for summary judgment.pdf (3 pages)(69681 bytes)

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

DEERE & COMPANY,)	
)	Opposition No. 91193562
)	
Opposer,)	
)	Serial No.: 77/715,080
v.)	
)	Mark: GEAR GATOR
)	
UNIPAT PRODUCTS, VIRGINIA, LLC,)	
)	Published: December 1, 2009
)	
Applicant.)	

OPPOSER’S MOTION FOR SUMMARY JUDGMENT

Pursuant to 37 C.F.R. 2.127 and Federal Rule of Civil Procedure 56, Opposer Deere & Company hereby moves for summary judgment and in support thereof states as follows:

1. This proceeding involves Application Serial No. 77/715,080 for the mark GEAR GATOR, which is an intent-to-use application.
2. Applicant Unipat Products, Virginia, LLC (“Unipat”) purports to have obtained ownership of the GEAR GATOR Application through an assignment from Sayre Enterprises, Inc.
3. As a matter of law, the assignment of the intent-to-use application violates Section 10 of the Trademark Act.
4. As a matter of law, the GEAR GATOR Application is void.

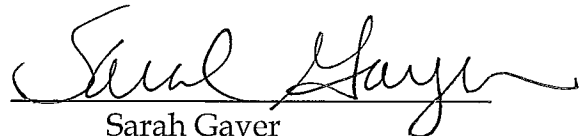
5. There are no genuine issues of material fact, and Opposer is entitled to judgment in its favor as a matter of law. *See* Fed. R. Civ. P. 56.

6. Opposer is simultaneously filing a Brief in Support of this Motion (containing a statement of undisputed facts and exhibits), incorporated herein.

7. Opposer is also simultaneously filing a Motion to Suspend Discovery.

WHEREFORE, Opposer respectfully requests that judgment be entered in its favor as a matter of law.

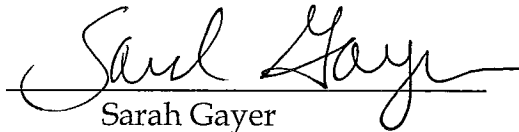
DEERE & COMPANY



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ELECTRONIC MAILING CERTIFICATE

I hereby certify that the OPPOSER'S MOTION FOR SUMMARY JUDGMENT is being submitted electronically through the Electronic System for the Trademark Trial and Appeal Board (ESTTA) on this 9th day of June, 2010.


Sarah Gayer

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing OPPOSER'S MOTION FOR SUMMARY JUDGMENT has been forwarded, this June 9, 2010 by first class mail and email to:

Angela Holt
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Sarah Gayer