

ESTTA Tracking number: **ESTTA371865**

Filing date: **10/06/2010**

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	TBC TRADEMARKS, LLC
Granted to Date of previous extension	10/06/2010
Address	2215 B RENAISSANCE DRIVE LAS VEGAS, NV 89119 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

### Applicant Information

Application No	77760216	Publication date	06/08/2010
Opposition Filing Date	10/06/2010	Opposition Period Ends	10/06/2010
Applicant	Sotto LLC 250 Robin Meadow Lane Watsonville, CA 95076 UNITED STATES		

### Goods/Services Affected by Opposition

Class 012. All goods and services in the class are opposed, namely: Bicycles; bicycle parts, namely, frames and frame parts, stems, handlebars, derailleurs, shifters, cranks, pedals, hubs, wheel rims and tires
--

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3743740	Application Date	10/14/2008
Registration Date	02/02/2010	Foreign Priority Date	NONE
Word Mark	SOLAR HP430		

Design Mark	<b>SOLAR HP430</b>
Description of Mark	NONE
Goods/Services	Class 012. First use: First Use: 2008/02/01 First Use In Commerce: 2008/02/01 Tires

Attachments	77592535#TMSN.jpeg ( 1 page )( bytes ) i6302.nop_20101006081309.pdf ( 4 pages )(161842 bytes ) i6302.att_20101006081335.pdf ( 3 pages )(106036 bytes )
-------------	--

### **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	10/06/2010

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

TBC TRADEMARKS, LLC, )  
 )  
 Opposer, )  
 )  
 v. ) Opposition No.  
 )  
 SOTTO LLC )  
 )  
 Applicant. )

**NOTICE OF OPPOSITION**

In the matter of an application to register a trademark under the Trademark Act of 1946, Serial No. 77/760,216, filed June 15, 2009, in the name of Sotto LLC, published for opposition in the Trademark Official Gazette of June 8, 2010, Vol. 1355, No. 2, at page TM 523, for the mark SOLAR, the Opposer, TBC Trademarks, LLC, believes it will be damaged by registration of said alleged trademark and hereby opposes same. The grounds for opposition are as follows:

1. The Opposer, TBC Trademarks LLC [hereinafter "TBC"], is a limited liability company duly organized and existing under the laws of the State of Delaware and having its place of business at 2215 B Renaissance Drive, Las Vegas, Nevada 89119. Opposer, through its related company, TBC Corporation of Palm Beach Gardens, Florida, and other affiliated companies, markets, distributes and sells, throughout the world and in commerce, a variety of vehicle products. (Opposer and its related company, TBC Corporation, and affiliated companies, hereafter collectively are referred to as "TBC").

**COUNT I - LIKELIHOOD OF CONFUSION**

2. Since prior to the filing date of the application opposed herein, TBC has, and is now, engaged in the distribution and sale of tires, in commerce in the United States, under and in

connection with the trademark **SOLAR HP430**. TBC continuously has used said **SOLAR HP430** name and mark in commerce in connection with tires, produced, advertised, distributed, marketed, offered for sale, and sold by TBC, and to identify and designate same, and to distinguish those goods and TBC's business, from those of others.

3. Opposer is the owner of, and will rely on herein, U.S. trademark registration no. 3,743,740. Said registration is valid and subsisting, and constitutes *prima facie* evidence of Opposer's ownership of the **SOLAR HP430** mark, and exclusive right to use same in commerce in connection with the goods set forth in said registration. Attached hereto is a printout of information from the electronic database records of the U.S. Patent and Trademark Office showing the current status and title of this registration.

4. On June 15, 2009, Applicant filed an application to register the mark SOLAR. Said application was accorded serial no. 77/760,216, and was published for opposition in the Official Gazette of June 8, 2010, at page TM 523, identifying the goods as "bicycles; bicycle parts, namely, frames and frame parts, stems, handlebars, derailleurs, shifters, cranks, pedals, hubs, wheel rims and tires."

5. The Opposed mark sought to be registered by Applicant is a colorable imitation of, and so resembles, Opposer's prior and aforesaid **SOLAR HP430** mark as to be likely, when used in connection with the goods of Applicant, to cause confusion or mistake or to deceive.

6. On information and belief, the goods set forth in the application opposed herein include, and/or are the same, similar and/or related to, the goods in connection with which TBC uses Opposer's **SOLAR HP430** mark, and on information and belief, the goods set forth in the opposed

application are and/or will be sold through the same and/or similar channels of trade, and/or to the same general class of purchasers, in and to which TBC's products are marketed and/or sold.

7. The registration and/or use of the SOLAR 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 SOLAR mark sought to be registered by Applicant vis-a-vis TBC and/or Opposer's **SOLAR HP430** mark, and/or to mislead purchasers of Applicant's goods and/or TBC's goods, 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 TBC, and/or Opposer's **SOLAR HP430** mark, or goods, or vice versa, to the damage and detriment of TBC.

#### **COUNT II - OPPOSED MARK IS MERELY DESCRIPTIVE**

8. Opposer restates and realleges ¶¶1 through 7, above, of this Notice of Opposition, and hereby incorporates same as if fully set forth herein.

9. On information and belief, the SOLAR mark set forth in the application opposed herein merely describes one or more of the goods set forth in said opposed application, and/or a feature, function and/or characteristic of such goods, and said SOLAR mark has not acquired distinctiveness with respect to any such goods.

10. By virtue of the foregoing, Opposer believes it will be damaged by the registration by Applicant of the SOLAR mark, as set forth in the application therefor, serial no. 77/760,216.

11. 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 will obtain

unlawful gain and advantage to which it is not entitled under the Trademark Act of 1946, to the detriment and harm of Opposer.

WHEREFORE, this Opposer, TBC Trademarks, LLC, believes and alleges that it will be damaged by registration of the SOLAR mark of application serial no. 77/760,216, as aforesaid, and prays that:

- A. judgment in the present opposition, Counts I and II, be entered in favor of Opposer;
- A. the present opposition be sustained; and
- B. registration of application serial no. 77/760,216 be rejected and refused.

Respectfully submitted,

TBC TRADEMARKS, LLC

By: 

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

Date: October 6, 2010

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of October, 2010, 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:

Luther Beale  
Sotto LLC  
6406 North Vancouver Avenue  
Portland, Oregon 97217-2039



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

**This page was generated by the TARR system on 2010-10-06 06:54:10 ET**

**Serial Number:** 77592535 [Assignment Information](#)      [Trademark Document Retrieval](#)

**Registration Number:** 3743740

**Mark**

# SOLAR HP430

**(words only):** SOLAR HP430

**Standard Character claim:** Yes

**Current Status:** Registered.

**Date of Status:** 2010-02-02

**Filing Date:** 2008-10-14

**Transformed into a National Application:** No

**Registration Date:** 2010-02-02

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 104

**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](mailto:TrademarkAssistanceCenter@uspto.gov)**

**Current Location:** 650 -Publication And Issue Section

**Date In Location:** 2010-02-02

---

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

---

1. TBC Brands, LLC

**Address:**

TBC Brands, LLC  
Suite 5 2215-B Renaissance Drive

Las Vegas, NV 89119

United States

**Legal Entity Type:** Limited Liability Company

**State or Country Where Organized:** Delaware

---

**GOODS AND/OR SERVICES**

---

**International Class:** 012

**Class Status:** Active

Tires

**Basis:** 1(a)

**First Use Date:** 2008-02-01

**First Use in Commerce Date:** 2008-02-01

---

**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.**

2010-02-02 - Registered - Principal Register

2009-11-18 - Assignment Of Ownership Not Updated Automatically

2009-11-17 - Notice Of Publication E-Mailed

2009-11-17 - Published for opposition

2009-11-11 - Assignment Of Ownership Not Updated Automatically

2009-10-13 - Law Office Publication Review Completed

2009-10-08 - Approved for Pub - Principal Register (Initial exam)

2009-10-05 - Teas/Email Correspondence Entered

2009-10-05 - Communication received from applicant

2009-09-24 - TEAS Response To Suspension Inquiry Received

2009-07-16 - Notification Of Letter Of Suspension E-Mailed



2009-07-16 - LETTER OF SUSPENSION E-MAILED  
2009-07-16 - Suspension Letter Written  
2009-07-16 - Teas/Email Correspondence Entered  
2009-07-16 - Communication received from applicant  
2009-07-13 - TEAS Response to Office Action Received  
2009-01-13 - Notification Of Non-Final Action E-Mailed  
2009-01-13 - Non-final action e-mailed  
2009-01-13 - Non-Final Action Written  
2009-01-12 - Assigned To Examiner  
2009-01-07 - Applicant amendment prior to exam entered  
2009-01-07 - Assigned To LIE  
2008-12-22 - TEAS Voluntary Amendment Received  
2008-10-17 - New Application Entered In Tram

---

**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Attorney of Record**

MARSHA G. GENTNER

**Correspondent**

MARSHA G. GENTNER  
JACOBSON HOLMAN PLLC  
400 7TH ST NW STE 600  
WASHINGTON, DC 20004-2218  
Phone Number: 202-638-6666  
Fax Number: 202-393-5350

---