

ESTTA Tracking number: **ESTTA397859**

Filing date: **03/14/2011**

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.
Granted to Date of previous extension	03/23/2011
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, wbabcock@babco.com Phone:256-517-5142
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Applicant Information

Application No	85047498	Publication date	11/23/2010
Opposition Filing Date	03/14/2011	Opposition Period Ends	03/23/2011
Applicant	BBB Industries, LLC 5640 Commerce Blvd. East Mobile, AL 36619 UNITED STATES		

Goods/Services Affected by Opposition


<p>Class 007. All goods and services in the class are opposed, namely: Automobile, all-terrain vehicle and truck parts, namely, motor starters; alternators; engine parts, namely, electronic fuel injection modules; intake and exhaust air flow vane assembly device for use in an internal combustion engine; windshield wiper motors for land vehicles; window lift motors</p>
<p>Class 009. All goods and services in the class are opposed, namely: Automobile, all-terrain vehicle and truck parts, namely, sensors for the determination of mass air flow, electronic motor vehicle ignition tuning kits comprised of an electronic control unit that monitors engine performances and delivers re-calculated sensor values to the original engine control unit to increase engine performance</p>
<p>Class 012. All goods and services in the class are opposed, namely: Automobile, all-terrain vehicle and truck parts, namely, power steering pumps, steering gears and clutch master cylinders, brake calipers, CV axles, windshield wipers, steering rack and pinions</p>

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		
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 wheel rims for vehicles		

U.S. Registration No.	3238297	Application Date	07/26/2005
Registration Date	05/01/2007	Foreign Priority Date	NONE
Word Mark	VISION WHEEL		

Design Mark	VISION WHEEL
Description of Mark	NONE
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

Attachments	75372143#TMSN.gif (1 page)(bytes) 78678892#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (4 pages)(130366 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	03/14/2011

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

In the matter of Application Serial No. 85-047,498
Published in the Official Gazette of November 23, 2010

VISION WHEEL, INC.)	
)	
Opposer,)	
)	
v.)	Opposition No.:
)	
BBB INDUSTRIES, LLC,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

This Notice of Opposition is brought by Vision Wheel, Inc. (“Opposer”) in the pending service mark application Serial No. 85-047,498 filed by BBB Industries, LLC (“Applicant”) for the word mark VISION, for goods identified in the Application as:

Automobile, all-terrain vehicle and truck parts, namely, motor starters; alternators; engine parts, namely, electronic fuel injection modules; intake and exhaust air flow vane assembly device for use in an internal combustion engine; windshield wiper motors for land vehicles; window lift motors, in Class 7

Automobile, all-terrain vehicle and truck parts, namely, sensors for the determination of mass air flow, electronic motor vehicle ignition tuning kits comprised of an electronic control unit that monitors engine performances and delivers re-calculated sensor values to the original engine control unit to increase engine performance, in Class 9

Automobile, all-terrain vehicle and truck parts, namely, power steering pumps, steering gears and clutch master cylinders, brake calipers, CV axles, windshield wipers, steering rack and pinions, in Class 12

The Application was published in the Official Gazette on November 23, 2010.

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

1. Opposer is an Alabama corporation having its principal place of business at 3512 6th 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.”

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 goods 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. 85-047,498.

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. 85-047,498 for the mark VISION sought by Applicant be refused.

The Application is in three (3) International Classes, and a total fee of \$900.00 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 Boult Cummings LLP.

Respectfully submitted,



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

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CERTIFICATE OF SERVICE

I hereby certify that on March 14, 2011, I caused the foregoing **NOTICE OF OPPOSITION** to be served by United States mail, postage prepaid, in an envelope addressed to:

Kirk A. Damman
Lewis Rice Fingersh, L.C.
600 Washington Ave., Suite 2500
St. Louis, MO 63101-1311

Attorney of Record for BBB Industries, LLC

By: 