

ESTTA Tracking number: **ESTTA764067**

Filing date: **08/12/2016**

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

| | |
|------------------------|---|
| Proceeding | 91222920 |
| Party | Defendant Dropship LLC DBA Tool USA |
| Correspondence Address | J CURTIS EDMONDSON LAW OFFICES OF J CURTIS EDMONDSON 3699 NW DONALDSON PL HILLSBORO, OR 97124 UNITED STATES jcedmondson@edmolaw.com, curtis@slindenelson.com |
| Submission | Opposition/Response to Motion |
| Filer's Name | J. Curtis Edmondson |
| Filer's e-mail | jcedmondson@edmolaw.com |
| Signature | /J Curtis Edmondson/ |
| Date | 08/12/2016 |
| Attachments | DRP 1.002 - MSJ - BAHETI DECLARATION.pdf(2421929 bytes) |

EXHIBIT 2

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

In the matter of trademark application Serial No.: 86/377,838

For the mark: **TOOL USA.COM**

Published in the *Official Gazette* on: **July 7, 2015**

Standard Tools and Equipment, Co.

Opposer,

v.

Dropship, LLC

Applicant.

Opposition No. 91222920

**DECLARATION OF RAM BAHETI IN SUPPORT OF APPLICANT DROPSHIP, LLC'S
OPPOSITION TO OPPOSER'S MOTION FOR SUMMARY JUDGMENT**

I, Ram Baheti, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am over eighteen (18) years of age, of sound mind and I have firsthand knowledge of the matters contained in this Declaration.
2. I am the Manager of Applicant Dropship, LLC d/b/a TOOL USA, LLC ("Applicant").
3. I am familiar with all aspects of Applicant's business operations.
4. Applicant's d/b/a domain name (www.toolusa.com) has a creation date of September 23, 1999. Attached as **Exhibit A** is a true and correct copy of the domain name registry search.
5. Since as early as 2002, Applicant has utilized the domain name in connection with its business. In the early stages of its business, Applicant's website was used in the retail services

of a limited set of hardware goods to its customers. Over the next several years, Applicant's inventory expanded and diversified while the core of the business sales centered around the retail of hand tools. Attached as **Exhibit B** is a true and correct copy of the printout from California Secretary of State printout of Dropship, LLC business registry website.

6. Beginning in 2008 and from that date forward, Applicant has consistently labelled its hand tools inventory with TOOL USA.COM. Attached as **Exhibit C** is a true and correct copy of the printout of Applicant's specimen from its federal trademark application, serial number 86/377,838.

7. Applicant and its employees have never received an inquiry or contact from any person or entity seeking the goods or services of Opposer or requesting any goods from Applicant of the type and nature provided by Opposer in its business operations.

8. Since Applicant does not, and will not, sell directly to auto body shops, it is unlikely for automotive industry professionals to accidentally or mistakenly purchase Applicant's product instead of Opposer's services for the retail of third-party, nationally branded products.

Dated: August 11, 2016


/s/ Ram Baheti
Ram Baheti

EXHIBIT A



Your Domain Starting Place...

Type here for whois, domain and keyword results



WHOIS LOOKUP

toolusa.com is already registered*

Whois Server Version 2.0

Domain names in the .com and .net domains can now be registered with many different competing registrars. Go to <http://www.internic.net> for detailed information.

Domain Name: TOOLUSA.COM
 Registrar: WILD WEST DOMAINS, LLC
 Sponsoring Registrar IANA ID: 440
 Whois Server: whois.wildwestdomains.com
 Referral URL: <http://www.wildwestdomains.com>
 Name Server: NSS7.DOMAINCONTROL.COM
 Status: clientDeleteProhibited <http://www.icann.org/epp#clientDeleteProhibited>
 Status: clientRenewProhibited <http://www.icann.org/epp#clientRenewProhibited>
 Status: clientTransferProhibited <http://www.icann.org/epp#clientTransferProhibited>
 Status: clientUpdateProhibited <http://www.icann.org/epp#clientUpdateProhibited>
 Updated Date: 18-apr-2015
 Creation Date: 23-sep-1999
 Expiration Date: 23-sep-2018

>>> Last update of whois database: Wed, 28 Oct 2015 19:38:48 GMT <<<

NOTICE: The expiration date displayed in this record is the date the registrar's sponsorship of the domain name registration in the registry is currently set to expire. This date does not necessarily reflect the expiration date of the domain name registrant's agreement with the sponsoring registrar. Users may consult the sponsoring registrar's Whois database to view the registrar's reported date of expiration for this registration.

TERMS OF USE: You are not authorized to access or query our Whois database through the use of electronic processes that are high-volume and automated except as reasonably necessary to register domain names or modify existing registrations; the Data in VeriSign Global Registry Services' ("VeriSign") Whois database is provided by VeriSign for information purposes only, and to assist persons in obtaining information about or related to a domain name registration record. VeriSign does not guarantee its accuracy. By submitting a Whois query, you agree to abide by the following terms of use: You agree that you may use this Data only for lawful purposes and that under no circumstances will you use this Data to: (1) allow, enable, or otherwise support the transmission of mass unsolicited, commercial advertising or solicitations via e-mail, telephone, or facsimile; or (2) enable high volume, automated, electronic processes that apply to VeriSign (or its computer systems). The compilation, repackaging, dissemination or other use of this Data is expressly prohibited without the prior written consent of VeriSign. You agree not to use electronic processes that are automated and high-volume to access or query the Whois database except as reasonably necessary to register domain names or modify existing registrations. VeriSign reserves the right to restrict your access to the Whois database in its sole discretion to ensure operational stability. VeriSign may restrict or terminate your access to the Whois database for failure to abide by these terms of use. VeriSign reserves the right to modify these terms at any time.

The Registry database contains ONLY .COM, .NET, .EDU domains and Registrars.

For more information on Whois status codes, please visit <https://www.icann.org/resources/pages/epp-status-codes-2014-06-16-en>.

Premium Domains

| | |
|------------------|-----------|
| toolkingusa.com | \$2299.00 |
| watchtoolusa.com | \$1477.00 |
| alphatoolusa.com | \$799.00 |
| toolsus.com | \$2064.00 |
| deviceusa.com | \$3214.00 |

BUY SELECTED

Filters

- ☒ Popular
- ☐ Arts and Culture
- ☐ Audio and Video
- ☐ Businesses
- ☐ Colors
- ☐ Computers and Internet
- ☐ Descriptive
- ☐ Educational and Academic
- ☐ Financial and Banking
- ☐ Food and Drink
- ☐ Fun and Unique
- ☐ Geographic
- ☐ Health and Fitness
- ☐ Lifestyles and Relationships
- ☐ Marketing and Sales
- ☐ Media and Music
- ☐ Organizations
- ☐ Personal
- ☐ Products
- ☐ Professional
- ☐ Real Estate
- ☐ Services
- ☐ Shopping
- ☐ Sports and Hobbies
- ☐ Trades and Construction
- ☐ Travel and Tourism



hover

EXTENSIVE CLOUD SUPPORT

SITEMAP | PRIVACY POLICY | TERMS AND CONDITIONS

* NTT America endeavors to make the domain name availability search process reliable; however, NTT America does not guarantee availability of domain names or the accuracy or security of the WHOIS system. There are several factors that could cause a WHOIS.NET query to incorrectly display that a currently registered domain is available. Regardless, if a domain name is already registered, WHOIS.NET will not be able to register the domain or gain possession of the registration from the current registrar without the permission of the current owner. The registration process is not complete until the domain name requested by you has been registered in your name with the appropriate registry. Because there are delays in the actual registration of a domain name with the appropriate registry, NTT America is not responsible if domain names requested by you are actually registered to third parties. Registration of the domain name through NTT America is not complete until you receive the final confirmation e-mail from NTT America. All registrations through NTT America are subject to NTT America's Global Terms and Conditions.

EXHIBIT B

[Secretary of State Main Website](#)[Business Programs](#)[Notary & Authentications](#)[Elections](#)[Campaign & Lobbying](#)**Business Entities (BE)****Online Services**

- **E-File Statements of Information for Corporations**
- **Business Search**
- **Processing Times**
- **Disclosure Search**

Main Page**Service Options****Name Availability****Forms, Samples & Fees****Statements of Information**
(annual/biennial reports)**Filing Tips****Information Requests**
(certificates, copies & status reports)**Service of Process****FAQs****Contact Information****Resources**

- **Business Resources**
- **Tax Information**
- **Starting A Business**

Customer Alerts

- **Business Identity Theft**
- **Misleading Business Solicitations**

Business Entity Detail

Data is updated to the California Business Search on Wednesday and Saturday mornings. Results reflect work processed through Friday, July 29, 2016. Please refer to **Processing Times** for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

| | |
|-------------------------------|-----------------------------|
| Entity Name: | DROPSHIP LLC |
| Entity Number: | 200919810048 |
| Date Filed: | 07/15/2009 |
| Status: | ACTIVE |
| Jurisdiction: | NEVADA |
| Entity Address: | 5155 W TROPICANA BLVD #1144 |
| Entity City, State, Zip: | LAS VEGAS NV 89103 |
| Agent for Service of Process: | VANDANA BAHETI |
| Agent Address: | 12334 ABANA ST |
| Agent City, State, Zip: | CERRITOS CA 90703 |

* Indicates the information is not contained in the California Secretary of State's database.

* **Note:** If the agent for service of process is a corporation, the address of the agent may be requested by ordering a status report.

- For information on checking or reserving a name, refer to **Name Availability**.
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to **Information Requests**.
- For help with searching an entity name, refer to **Search Tips**.
- For descriptions of the various fields and status types, refer to **Field Descriptions and Status Definitions**.

[Modify Search](#) [New Search](#) [Printer Friendly](#) [Back to Search Results](#)

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EXHIBIT C

