

ESTTA Tracking number: **ESTTA729200**

Filing date: **02/24/2016**

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	Great Lakes Fasteners, Inc.
Granted to Date of previous extension	02/24/2016
Address	2057 Case Parkway North Twinsburg, OH 44087 UNITED STATES

Correspondence information	George W. Moxon II Attorney of Record Moxon & Associates LLC 110 W. Streetsboro St. Suite 2B; Mailbox L9 Hudson, OH 44236 UNITED STATES gmxon@moxonlaw.com Phone:330-653-3113
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Applicant Information

Application No	86499844	Publication date	10/27/2015
Opposition Filing Date	02/24/2016	Opposition Period Ends	02/24/2016
Applicant	Grand Rapids Bolt and Nut Co., Inc 5075 Clay Ave. S.W. Grand Rapids, MI 495485653 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 1976/01/15 First Use In Commerce: 1976/01/15 All goods and services in the class are opposed, namely: Business management services, namely, managing logistics, reverse logistics, supply chain services, supply chain visibility and synchronization, supply and demand forecasting and product distribution processes for others; Independent sales-representatives in the field of fasteners; On-line wholesale store services featuring fasteners; Wholesale ordering services in the field of fasteners; Wholesale services by direct solicitation by sales agents in the field of fasteners; Wholesale services through direct solicitation by salespersons directed to end-users featuring fasteners; Wholesale store services featuring fasteners
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Grounds for Opposition

Applicant not rightful owner of mark for identified goods or services	Trademark Act section 1
Fraud on the USPTO	In re Bose Corp., 580 F.3d 1240, 91 USPQ2D 1938 (Fed. Cir. 2009)
Other	First user

Attachments	notice of opposition_Great Lakes Fasteners.pdf(121460 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	/George W. Moxon II/
Name	George W. Moxon II
Date	02/24/2016

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

In the Matter of Application)	
Serial No.: 86499844)	
)	
Great Lakes Fasteners, Inc.,)	
)	
Opposer,)	NOTICE OF OPPOSITION
v.)	
)	
Grand Rapids Bolt and Nut Co., Inc.,)	
)	
Applicant.)	

This Notice of Opposition is submitted in the matter of Application Serial No. 86/499,844 for registration by Grand Rapids Bolt and Nut Co., Inc. of the mark GREAT LAKES FASTENERS based upon its intent to use that term in connection with

business management services, namely, managing logistics, reverse logistics, supply chain services, supply chain visibility and synchronization, supply and demand forecasting and product distribution processes for others; Independent sales representatives in the field of fasteners; On-line wholesale store services featuring fasteners; Wholesale ordering services in the field of fasteners; Wholesale services by direct solicitation by sales agents in the field of fasteners; Wholesale services through direct solicitation by salespersons directed to end-users featuring fasteners; Wholesale store services featuring fasteners

in International Class 035.

Great Lakes Fasteners, Inc., an Ohio Corporation, having a place of business at 2057 Case Parkway, Twinsburg, Ohio 44087 believes that it would be damaged by the registration of the aforesaid mark, and therefore opposes the same.

The grounds for Opposition herein are as follows:

1. For many decades, and long before to the acts of Applicant alleged herein, Opposer Great Lakes Fasteners, Inc. ("Great Lakes Fasteners"), has been engaged, *inter alia*, in business management services featuring metal fasteners, product sourcing of fasteners, inventory management services, consigned inventory management of fasteners, business management services, supply chain services, and the like involving metal fasteners.

2. A predecessor company was incorporated in 1981 as Great Lakes Fasteners and has been engaged in retail services featuring metal fasteners, product sourcing of fasteners, inventory management services, consigned inventory management of fasteners, business management services, supply chain services, and the like involving metal fasteners, under the trademark GREAT LAKES FASTENERS. Since 1981, Great Lakes Fasteners has devoted substantial resources, time and effort to marketing, promoting and distributing its GREAT LAKES FASTENERS branded fasteners and services. As a result, Great Lakes Fasteners has developed considerable recognition and goodwill in the GREAT LAKES FASTENERS mark, which is now widely recognized as signifying Great Lakes Fasteners and its goods, and which is now considered to be among Great Lakes Fasteners' most valuable assets.

3. On January 9, 2015, long after Opposer Great Lakes Fasteners began using the GREAT LAKES FASTENERS mark, Applicant Grand Rapids Bolt & Nut Co., Inc. filed an application to register the term GREAT LAKES FASTENERS based upon its intent to use the term in connection with "Business management services, namely, managing logistics, reverse logistics, supply chain services, supply chain visibility and synchronization, supply and demand forecasting and product distribution processes for others; Independent sales representatives in the field of fasteners; On-line wholesale store services featuring

fasteners; Wholesale ordering services in the field of fasteners; Wholesale services by direct solicitation by sales agents in the field of fasteners; Wholesale services through direct solicitation by salespersons directed to end-users featuring fasteners; Wholesale store services featuring fasteners," in International Class 035, Serial No. 86/499,844.

4. On September 12, 2015, the USPTO accepted an amendment to allege use filed by Applicant for the above-mentioned goods and services that stated that its date of first use anywhere and its date of first use in commerce were January 15, 1976 for services that include "On-line wholesale store services featuring fasteners".

5. On January 9, 1976, articles of incorporation for GUSGO corporation at 1236 – 50 South Division Avenue, Grand Rapids, MI 49507 were signed by Gordon D. Vandermeulen, and filed with the Michigan Department of Commerce on January 15, 1976. On January 23, 1976, the GUSGO Corporation's articles of incorporation were amended to change the name of the corporation to "Grand Rapids Bolt and Nut Co., Inc." and filed with the Michigan Department of Commerce on February 4, 1976.

6. On March 1, 1989, Applicant Grand Rapids Bolt and Nut Co., Inc. filed a Certificate of Assumed Name dated February 23, 1989 listing the assumed name under which business was to be transacted as "Great Lakes Fastener & Supply."

7. On information and belief, at the time Applicant filed the Amendment to Allege Use, Applicant did not have actual use of Applicant's mark as a trademark with each of Applicant's services on the date alleged to have been the first use in commerce; specifically, that Applicant did not have actual use of the mark for "on-line wholesale store services" in 1976.

8. On information and belief, at the time Applicant filed its Application, Opposer had prior actual use, specifically use in commerce in 1981, whereas Applicant is believed to have not used the mark in commerce until 1989, when it filed its assumed name, and that the statement that it had used the mark in 1976 is a fraudulent attempt to obtain registration. Because the Trademark Act registers marks based on first use, not first to file, Applicant is not entitled registration.

9. On October 27, 2015 Applicant's application was published for opposition. On November 24, 2015, Opposer timely filed a request for extension of time to oppose, which was granted until February 24, 2016.

11. As a result of the similarity of the parties' marks, the similarity of the goods associated with the marks, and the strength of Great Lakes Fasteners' GREAT LAKES FASTENERS mark, Applicant's use and registration of the GREAT LAKES FASTENERS mark is likely to cause confusion or mistake, or to deceive purchasers, in that purchasers would be likely to believe Applicant's goods are Great Lakes Fasteners' goods, or are in some way legitimately connected with, sponsored by, or approved by Great Lakes Fasteners, in violation of 15 U.S.C. § 1052(d) and § 1125.

12. Opposer's goods and Applicant's services travel in the same channels of trade and are viewed by the same customers including those who buy and use fasteners. Applicant's services are therefore substantially similar to the Opposer's goods with which the Opposer's mark is used.

13. On information and belief, at the time Applicant filed the Application, Applicant did not have actual use of Applicant's mark as a trademark with each of Applicant's services and is attempting to fraudulently obtain registration.

14. On information and belief, at the time Applicant filed the Amendment to Allege Use, Applicant did not have actual use of Applicant's mark as a trademark with each of Applicant's services on the date alleged to have been the first use in commerce; specifically, that Applicant did not have actual use of the mark for "on-line wholesale store services" in 1976.

15. Applicant's Application should not be granted because it was not filed based on Applicant's actual use of Applicant's mark as a trademark with each and every one of Applicant's services, and on information and belief, Applicant failed to satisfy the requirements of Trademark Act Section 1(a) and related Trademark Rules and Regulations.

15. For the foregoing reasons, the registration sought by Applicant is contrary to the provisions of Section 2 of the Lanham Act, and Opposer believes that it would be damaged thereby.

WHEREFORE, Great Lakes Fasteners requests that the registration sought by Applicant be refused and that this Notice of Opposition be sustained.

Date: February 24, 2016

Respectfully submitted,

By: /George W. Moxon II/
George W. Moxon II
Brian P. Harrod
Moxon & Associates LLC
110 W. Streetsboro St.
Suites L9 & L11-L14
Hudson, Ohio 44236
Tel: 330.653.3113
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CERTIFICATE OF SERVICE

I, Brian P. Harrod, state that I served a copy of the foregoing Notice of Opposition upon:

Barry C. Kane
Kane & Co. PLC
29 Pearl St. NW
410 Federal Square Building
Grand Rapids, MI 49503

via First Class U.S. Mail on February 24, 2016.

/Brian P. Harrod/

Brian P. Harrod