

ESTTA Tracking number: **ESTTA850404**

Filing date: **10/05/2017**

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

| | | | |
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| Name | Deere & Company, Inc. | | |
| Entity | Corporation | Citizenship | Delaware |
| Address | One John Deere Place Moline, IL 61265 UNITED STATES | | |

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| Attorney information | Philip Matthews One John Deere Place Moline, IL 61265 UNITED STATES Email: tmmolineenforcement@johndeere.com Phone: 1-309-765-8000 | | |
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Applicant Information

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|------------------------|---|------------------------|------------|
| Application No | 87418080 | Publication date | 09/05/2017 |
| Opposition Filing Date | 10/05/2017 | Opposition Period Ends | 10/05/2017 |
| Applicant | Sun Binbin Rm.4-401, Xixinhuayuan, NO.8, Xixin Rd., Xiangqiao Dist., Chaozhou, Guangdong, CHINA | | |

Goods/Services Affected by Opposition

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| Class 021. First Use: 2017/04/01 First Use In Commerce: 2017/04/01 All goods and services in the class are opposed, namely: Camping grills; Drying racks for laundry; Furniture dusters; Glove stretchers; Holders for flowers and plants; Indoor aquaria; Napkin holders; Tea services in the nature of tableware; Tea strainers; Water apparatus for cleaning teeth and gums for home use |
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Grounds for Opposition


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| Priority and likelihood of confusion | Trademark Act Section 2(d) |
| No use of mark in commerce before application or amendment to allege use was filed | Trademark Act Sections 1(a) and (c) |

Marks Cited by Opposer as Basis for Opposition

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3467268 | Application Date | 11/26/2007 |
| Registration Date | 07/15/2008 | Foreign Priority Date | NONE |

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|---------------------|--|
| Word Mark | JOHN DEERE |
| Design Mark |  |
| Description of Mark | NONE |
| Goods/Services | Class 021. First use: First Use: 2000/12/01 First Use In Commerce: 2000/12/01 Buckets, glass beverageware, cups, mugs, thermal insulated sleeve holders for beverage cans, [pepper grinders,] salt and pepper shakers, vacuum bottles, thermal insulated containers for food or beverage, and barbecue grill accessories, namely, spatulas, tongs, cooking forks; bath accessories, namely, tumblers in thenature of drinking vessels, toothbrush holders, soap dishes, [wastepaper baskets,] lotion dispensers with pumps |

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| U.S. Registration No. | 3467265 | Application Date | 11/26/2007 |
| Registration Date | 07/15/2008 | Foreign Priority Date | NONE |

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| Word Mark | JOHN DEERE |
| Design Mark |  |
| Description of Mark | NONE |
| Goods/Services | Class 020. First use: First Use: 2000/12/01 First Use In Commerce: 2000/12/01 merchandising items, namely, vinyl appliquÃ©s for attachment to windows, mirrorsand other solid surfaces, plastic flags, plastic key chain tags, pillows, furniture, outdoor furniture, wind chimes |

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| U.S. Registration No. | 3467264 | Application Date | 11/26/2007 |
| Registration Date | 07/15/2008 | Foreign Priority Date | NONE |
| Word Mark | JOHN DEERE | | |

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| Design Mark | <h1>JOHN DEERE</h1> | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 014. First use: First Use: 2000/12/01 First Use In Commerce: 2000/12/01 Personal accessories, namely, lapel pins, clocks, watches | | |

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 3467262 | Application Date | 11/26/2007 |
| Registration Date | 07/15/2008 | Foreign Priority Date | NONE |
| Word Mark | JOHN DEERE | | |
| Design Mark | <h1>JOHN DEERE</h1> | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 024. First use: First Use: 2000/12/01 First Use In Commerce: 2000/12/01 Bed blankets, blanket throws, towels, pillow cases, comforters, bed skirts, curtains and shower curtains | | |


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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3467247 | Application Date | 11/26/2007 |
| Registration Date | 07/15/2008 | Foreign Priority Date | NONE |
| Word Mark | JOHN DEERE | | |

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| Design Mark | <h1>JOHN DEERE</h1> | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 018. First use: First Use: 2000/12/01 First Use In Commerce: 2000/12/01 Personal accessories, namely, backpacks, briefcases, briefcase-type portfolios, duffel bags, tote bags, wallets and umbrellas | | |

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|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 892760 | Application Date | 07/02/1969 |
| Registration Date | 06/16/1970 | Foreign Priority Date | NONE |
| Word Mark | JOHN DEERE | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 012. First use: First Use: 1847/00/00 First Use In Commerce: 1847/00/00 TRAILERS AND WAGONS Class U023 (International Class 007, 012). First use: First Use: 1847/00/00 First Use In Commerce: 1847/00/00 FARM MACHINERY AND PARTS THEREFOR; WHEEL AND CRAWLER TRACTORS AND ENGINES AND PARTS THEREFOR; [CRANES AND HOISTING MACHINERY;] EARTH-MOVING, LOGGING, LANDSHAPING AND LAND-CLEARING MACHINERY; LAWN AND GARDEN TRACTORS AND ATTACHMENTS AND LAWN MOWERS; AND FORK LIFT TRUCKS | | |

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 30580 | Application Date | 08/19/1897 |
| Registration Date | 09/21/1897 | Foreign Priority Date | NONE |
| Word Mark | JOHN DEERE | | |
| Design Mark | <h1>JOHN DEERE</h1> | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 012. First use: First Use: 1847/00/00 First Use In Commerce: 1847/00/00 WAGONS | | |

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|-----------------------|-------|------------------|------------|
| U.S. Registration No. | 91860 | Application Date | 04/08/1911 |
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|---------------------|--|-----------------------|------|
| Registration Date | 06/03/1913 | Foreign Priority Date | NONE |
| Word Mark | JOHN DEERE | | |
| Design Mark |  | | |
| Description of Mark | NONE | | |
| Goods/Services | <p>Class U023 (International Class 006, 007, 008, 009, 011, 012, 016, 021, 028). First use: First Use: 1870/00/00 First Use In Commerce: 1870/00/00</p> <p>PLOWS, CULTIVATORS, HARROWS, MOWERS, [REAPERS,] GRAIN HARVESTERS [AND BINDERS], [HAY-RAKES,] HAY-PRESSES, [HAY-TEDDERS, HAY-LOADERS, HAY-STACKERS, HAY-UNLOADERS, HAY-FORKS, HAND AND POWER] CORN, COTTON [, POTATO, AND GARDEN-SEED] PLANTERS, [HAND AND POWER BROADCAST SEEDERS,] GRAIN-DRILLS, [POTATO-DIGGERS, POTATO-SORTERS, MANURE-SPREADERS,] FERTILIZER-DISTRIBUTORS, SPRAYING-MACHINES, [WINDMILLS,] STALK-CUTTERS, SURFACE-GRADERS, CORN HARVESTERS [AND HUSKERS, CORN-SHELLERS, FEED-GRINDERS,] ENSILAGE-CUTTERS, [FEED-CUTTERS, HORSE-POWERS, SPEED-JACKS FOR HORSE-POWERS,] LAWN-MOWERS,[CLOD-CRUSHERS, SOIL-PULVERIZERS, LAND-ROLLERS, SPRAYING AND FARM PUMPS, CIDER-MILLS, CANE-MILLS, GRAIN-ELEVATORS, ELEVATORS AND CONVEYORS FOR CORN-SHELLERS AND ENSILAGE-CUTTERS, EVAPORATORS, WOOD-SAWING MACHINES, AND GASOLENE-ENGINES]</p> | | |

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| Attachments | 77336780#TMSN.png(bytes) 77336735#TMSN.png(bytes) 77336701#TMSN.png(bytes) 77336673#TMSN.png(bytes) 77336446#TMSN.png(bytes) 70030580#TMSN.png(bytes) 71055629#TMSN.png(bytes) Complaint.pdf(228210 bytes) |
|-------------|--|

| | |
|-----------|-------------------|
| Signature | /Philip Matthews/ |
| Name | Philip Matthews |
| Date | 10/05/2017 |

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

| | | |
|------------------------|---|----------------------|
| Deere & Company, Inc., |) | |
| |) | |
| Opposer, |) | |
| |) | Opposition No. _____ |
| v. |) | |
| |) | |
| Sun Binbin, |) | |
| |) | |
| Applicant |) | |

TRADEMARK OPPOSITION COMPLAINT

Opposer Deere & Company, a Delaware corporation with a place of business at One John Deere Place, Moline, IL 61265, believes it would be damaged by the issuance of a registration for the trademark JANE DEER as applied for by Sun Binbin, an individual, (“Applicant”) in Application Serial No. 87418080 (“Application”) filed on April 20, 2017 for “Camping grills; Drying racks for laundry; Furniture dusters; Glove stretchers; Holders for flowers and plants; Indoor aquaria; Napkin holders; Tea services in the nature of tableware; Tea strainers; Water apparatus for cleaning teeth and gums for home use” in International Class 21, and therefore opposes same. Opposer requests refusal of the Application on the following grounds:

- A. Likelihood of confusion with Opposer’s John Deere trademarks; and
- B. No bona fide use of Applicant’s applied for mark in commerce in the United States prior to filing of the Application.

THE PARTIES AND PLEADING HISTORY

1. Opposer is a Delaware corporation with a place of business at One John Deere Place, Moline, IL 61265.

2. On information and belief, Applicant is an individual located at Rm.4-401, Xixinhuan, NO.8, Xixin Rd., Xiangqiao Dist., Chaozhou, Guangdong, CHINA.

OPPOSER AND ITS TRADEMARKS

3. Opposer is owner of common law rights for the John Deere trademark.

4. Opposer is the owner of numerous registered trademarks in the United States for John Deere (“Exhibit A”).

5. Opposer holds trademark rights to the John Deere trademark since at least as early as 1847.

6. Among the registrations listed in Exhibit A the John Deere trademark is registered in international class 21 for “Buckets, glass beverageware, cups, mugs, thermal insulated sleeve holders for beverage cans, [pepper grinders,] salt and pepper shakers, vacuum bottles, thermal insulated containers for food or beverage, and barbecue grill accessories, namely, spatulas, tongs, cooking forks; bath accessories, namely, tumblers in the nature of drinking vessels, toothbrush holders, soap dishes, [wastepaper baskets,] lotion dispensers with pumps.”

7. Opposer’s John Deere trademarks are famous and well known.

8. Opposer’s John Deere trademarks enjoy broad trademark protection in the United States.

9. Opposer enjoys substantial and exclusive goodwill throughout the United States in connection with its John Deere trademarks.

APPLICANT AND ITS USPTO APPLICATION

10. Applicant’s trademark application is for the word mark Jane Deer.

11. Applicant claims international class 21 in its trademark application for Jane Deer.

12. Applicant claims the following goods in its trademark application for Jane Deere: “Camping grills; Drying racks for laundry; Furniture dusters; Glove stretchers; Holders for

flowers and plants; Indoor aquaria; Napkin holders; Tea services in the nature of tableware; Tea strainers; Water apparatus for cleaning teeth and gums for home use”

13. Applicant’s claimed date of first use of Jane Deere is April 1, 2017.

CLAIM 1 – LIKELIHOOD OF CONFUSION

14. Opposer’s rights to the John Deere trademark were acquired prior to, and have priority over, the Application.

15. Opposer’s John Deere trademarks and the Application are similar in sight, sound, and meaning.

16. Opposer’s John Deere trademarks are similar in sight to the Application.

17. Opposer’s John Deere trademarks and the Application both share John and Jane which are similar in appearance.

18. Opposer’s John Deere trademarks and the Application both share the words Deere and Deere which are similar in appearance.

19. Opposer’s John Deere trademarks and the Application sound similar when pronounced.

20. Opposer’s John Deere trademarks and the Application are similar in meaning.

21. Jane is the female version of John in the United States.

22. Deere in Opposer’s John Deere trademarks is the surname of Opposer’s founder, John Deere.

23. Upon information and belief, Deer in the Application Jane Deer is intended as a surname of a non-living or fictitious person.

24. The goods and services associated with Opposer’s John Deere trademarks are related to the goods claimed by the Application.

25. Opposer owns John Deere trademarks registered with the USPTO which claim international class 21.

26. Applicant’s USPTO trademark application claims international class 21.

27. Upon information and belief, the goods and services associated with Opposer's John Deere trademarks are sold through the same channels of trade as those claimed in the Application.

28. Upon information and belief, the classes of purchasers of goods and services associated with John Deere trademarks is the same as those which would purchase the goods claimed in the Application.

29. There is a likelihood of confusion between Opposer's John Deere trademarks and the Application.

**CLAIM 2 - NO BONA FIDE USE OF APPLICANT'S APPLIED FOR MARK IN
COMMERCE IN THE UNITED STATES PRIOR TO FILING OF THE USE-BASED
JANE DEER APPLICATION**

30. The Application was filed under 1A with the USPTO and is a use based trademark application.

31. Applicant claims a date of first use of April 1, 2017.

32. Applicant claims the goods "Camping grills; Drying racks for laundry; Furniture dusters; Glove stretchers; Holders for flowers and plants; Indoor aquaria; Napkin holders; Tea services in the nature of tableware; Tea strainers; Water apparatus for cleaning teeth and gums for home use."

33. Applicant's specimen submitted with the Application is a photograph of a wall mounted towel rack.

34. Applicant does not claim a wall mounted towel rack in the description of claimed goods in the Application.

35. Applicant submitted no other specimens of use.

36. Applicant did not submit specimens to the USPTO which prove use of Jane Deer prior to filing the use based trademark application.

37. Upon information and belief, Applicant did not engage in bona fide use of Jane Deer in commerce in the United States prior to filing of the Application with the USPTO.

WHEREFORE, for any of and all of the claims above, Opposer respectfully prays that its opposition against registration of the Jane Deer trademark application be sustained. This opposition is filed according to the rules governing electronic submissions to the Trademark Trial and Appeal Board, including payment of the required fee.

Respectfully submitted,

Date: October 5, 2017

Signature: s/Philip A. Matthews/
Intellectual Property Counsel
Deere & Company, Inc.
One John Deere Place
Moline, IL 61265

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing TRADEMARK OPPOSITION COMPLAINT has this 5th day of October, 2017, been mailed to the Applicant's physical address below and emailed to Applicant's email address: lirpa401@outlook.com

Physical Address:

Rm. 4-401, Xixinhuayuan
No. 8, Xixin Rd., Xiangqiao Dist.
Chaozhou, Guangdong
China

Date: October 5, 2017

Signature: s/Philip A. Matthews/
Intellectual Property Counsel
Deere & Company, Inc.
One John Deere Place
Moline, IL 61265

EXHIBIT A

| Trademark | Registration No. | International Class | Registration Date |
|------------|------------------|-----------------------------------|-------------------|
| JOHN DEERE | 5122614 | 9, 35, 42 | 1/17/2017 |
| JOHN DEERE | 5118389 | 7 | 1/10/2017 |
| JOHN DEERE | 4495009 | 26 | 3/11/2014 |
| JOHN DEERE | 4153164 | 36 | 6/5/2012 |
| JOHN DEERE | 2969969 | 12 | 7/19/2005 |
| JOHN DEERE | 3833850 | 9, 11, 17 | 8/17/2010 |
| JOHN DEERE | 3467268 | 21 | 7/15/2008 |
| JOHN DEERE | 3467265 | 20 | 7/15/2008 |
| JOHN DEERE | 3467264 | 14 | 7/15/2007 |
| JOHN DEERE | 3467262 | 24 | 7/15/2008 |
| JOHN DEERE | 3467247 | 18 | 7/15/2008 |
| JOHN DEERE | 3467246 | 16 | 7/15/2008 |
| JOHN DEERE | 3467242 | 11 | 7/15/2008 |
| JOHN DEERE | 3467240 | 9 | 7/15/2008 |
| JOHN DEERE | 3467182 | 8 | 7/15/2008 |
| JOHN DEERE | 3507800 | 9 | 9/30/2008 |
| JOHN DEERE | 3552909 | 12 | 12/30/2008 |
| JOHN DEERE | 2413482 | 9 | 12/19/2000 |
| JOHN DEERE | 2290080 | 25 | 11/2/1999 |
| JOHN DEERE | 1402363 | 28 | 7/22/1986 |
| JOHN DEERE | 0892760 | 7, 12 | 6/16/1970 |
| JOHN DEERE | 0030580 | 12 | 9/21/1897 |
| JOHN DEERE | 0965171 | 25 | 7/31/1973 |
| JOHN DEERE | 0961274 | 4 | 6/19/1973 |
| JOHN DEERE | 0091860 | 6, 7, 8, 9, 11, 12, 16, 21, 28 | 6/3/1913 |