

ESTTA Tracking number: **ESTTA1026651**

Filing date: **01/03/2020**

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

Proceeding	91242454
Party	Defendant Mavis Tire Supply LLC
Correspondence Address	NEIL K ROMAN COVINGTON & BURLING LLP THE NEW YORK TIMES BUILDING, 620 EIGHTH AVENUE NEW YORK, NY 10018-1405 UNITED STATES nroman@cov.com, rhunziker@cov.com, mlavalle@cov.com, rdalton@cov.com 212-841-1221
Submission	Other Motions/Papers
Filer's Name	Neil K. Roman
Filer's email	trademarks@cov.com
Signature	/Neil K. Roman/
Date	01/03/2020
Attachments	2019.01.03 Consent Motion to Amend Application.pdf(28049 bytes) Signed_Sorbaro Declaration_4.15.2019.pdf(67335 bytes)

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

In the Matter of Application Serial Nos. 87/570,980 and 87/585,780
For the Marks: MAVIS DISCOUNT TIRE & Stacked Tire Design
MAVIS DISCOUNT TIRE (Stylized)
Published in the *Official Gazette* on March 20, 2018
Opposition Filed on July 17, 2018

The Reinalt-Thomas Corporation,

Opposer,

v.

Mavis Tire Supply LLC,

Applicant.

Opposition No. 91242454

CONSENT MOTION TO AMEND APPLICATION

Pursuant to 37 C.F.R. § 2.133 and the Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) § 514, applicant Mavis Tire Supply LLC (“Mavis”) hereby moves, with Reinalt-Thomas Corporation’s consent, to amend the dates of first use in the application for MAVIS DISCOUNT TIRE (Stylized) (Ser. No. 87/570,780).

As described in the attached Declaration of David Sorbaro, Mavis inadvertently used incorrect dates of first use in the application for Ser. Nos. 87/570,780. The application for MAVIS DISCOUNT TIRE (Stylized) (Ser. No. 87/570,780) lists a first use date, and first use in commerce date, of June 15, 1973.

The correct information is as follows: Mavis started using the mark MAVIS DISCOUNT TIRE (Stylized) (Ser. No. 87/570,780) with respect to “*Retail tire, automobile parts and*

accessory stores; On-line retail store services featuring tire, automobile parts and accessories”
in 2009.

Mavis realized this unintentional error as a result of the instant opposition and now wishes to amend the dates of first use in the application accordingly.

Mavis was using the MAVIS DISCOUNT TIRE (Stylized) (Ser. No. 87/570,780) mark at the time the use-based application was filed, namely August 28, 2017.

Mavis thus respectfully requests that the date of first use anywhere and the date of first use in commerce for the mark MAVIS DISCOUNT TIRE (Stylized) (Ser. No. 87/570,780) be amended to 2009.

With respect to the application for the mark MAVIS DISCOUNT TIRE & Stacked Tire Design (Ser. No. 87/570,980), as described in the Joint Motion for Concurrent Use Registrations Pursuant to Court Order and for Conditioned Withdrawal, Applicant requests that this application be expressly abandoned and hereby withdraws its motion to amend the first use dates in this application.

Respectfully submitted,

Mavis Tire Supply LLC

By: /Neil K. Roman/
Neil K. Roman
COVINGTON & BURLING LLP
The New York Times Building
620 Eighth Avenue
New York, New York 10018-1405
Telephone: (212) 841-1221

Marie Lavalleye
Robert N. Hunziker, Jr.
Rebecca Dalton
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
Telephone: (202) 662-5439

Counsel for Mavis Tire Supply LLC

January 3, 2020

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

In the Matter of Application Serial Nos. 87/570,980 and 87/585,780
For the Marks: MAVIS DISCOUNT TIRE & Stacked Tire Design
MAVIS DISCOUNT TIRE (Stylized)
Published in the *Official Gazette* on March 20, 2018
Opposition Filed on July 17, 2018

The Reinalt-Thomas Corporation,

Opposer,

v.

Mavis Tire Supply LLC,

Applicant.

Opposition No. 91242454

CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2020, the foregoing Consent Motion to Amend

Application was served on counsel for the Opposer, via email, at the following addresses:

Lawrence K. Nodine (Georgia Bar No. 545250)
nodinel@ballardspahr.com
Chittam U. Thakore (Georgia Bar No. 890965)
thakorec@ballardspahr.com
BALLARD SPAHR LLP
999 Peachtree St. NE, Suite 1000
Atlanta, GA 30309
Telephone: 678.420.9300
Fax: 678.420.9301

R. Charles Henn Jr. (Georgia Bar No. 347098)
chenn@kilpatricktownsend.com
KILPATRICK TOWNSEND & STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309
Telephone: 404.815.6500
Fax: 404.795.8970
Attorneys for Plaintiff The Reinalt-Thomas Corp.

Brian W. LaCorte (admitted pro hac vice)
lacorteb@ballardspahr.com
BALLARD SPAHR LLP
1 East Washington Street, Suite 2300
Phoenix, AZ 85004-2555
Telephone: 602.798.5400
Fax: 602.798.5595
Of counsel for Plaintiff The Reinalt-Thomas Corp.

/Rebecca Dalton/
Rebecca Dalton
Counsel for Mavis Tire Supply LLC

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

In the Matter of Application Serial Nos. 87/570,980 and 87/585,780

For the Marks: MAVIS DISCOUNT TIRE & Stacked Tire Design

MAVIS DISCOUNT TIRE (Stylized)

Published in the *Official Gazette* on March 20, 2018

Opposition Filed on July 17, 2018

The Reinalt-Thomas Corporation,

Opposer,

v.

Mavis Tire Supply LLC,

Applicant.

Opposition No. 91242454

DECLARATION OF DAVID SORBARO

I, David Sorbaro, submit this declaration pursuant to 28 U.S.C. § 1746.

1. I am Co-Chief Executive Officer of Mavis Tire Supply LLC (“Mavis”).

2. In June 2017, I instructed Mavis’s outside trademark attorney, Charles Baxley, to file use-based applications for the marks MAVIS DISCOUNT TIRE & Stacked Tire Design (Ser. No. 87/570,980) for “*On-line retail store services featuring tires, automobile parts and accessories; Retail tire, automobile parts and accessory stores*” and MAVIS DISCOUNT TIRE (Stylized) (Ser. No. 87/570,780) for “*Retail tire, automobile parts and accessory stores; On-line retail store services featuring tire, automobile parts and accessories.*”

3. It is my understanding that Mr. Baxley filed the application for MAVIS DISCOUNT TIRE & Stacked Tire Design (Ser. No. 87/570,980) on August 16, 2017 and the application for MAVIS DISCOUNT TIRE (Stylized) (Ser. No. 87/570,780) on August 28, 2017.

4. I have since realized that these applications included incorrect dates of first use. This mistake was inadvertent and unintentional.

5. Although both applications identified dates of first use in 1973, Mavis started using the mark MAVIS DISCOUNT TIRE & Stacked Tire Design (Ser. No. 87/570,980) on its retail stores in 1993, and Mavis started using the MAVIS DISCOUNT TIRE (Stylized) (Ser. No. 87/570,780) on its retail stores in 2009.

6. Mavis started using each mark long before the application for such mark was filed and Mavis was using each mark at the time the application for such mark was filed in August

2017. Accordingly, Mavis wishes to amend the dates of first use and first use in commerce in the applications to reflect the actual first use dates for each mark as described above.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed on April 15, 2019 in Millwood, New York.



David Sorbaro