

ESTTA Tracking number: **ESTTA1004642**

Filing date: **09/25/2019**

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	MDM Products LLC
Granted to Date of previous extension	09/25/2019
Address	105 WOODMONT ROAD MILFORD, CT 06460 UNITED STATES

Attorney information	GENE S. WINTER ST. ONGE STEWARD JOHNSTON & REENS LLC 986 BEDFORD STREET STAMFORD, CT 06905 UNITED STATES AProvino@ssjr.com, Litigation@ssjr.com 2033246155
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Applicant Information

Application No	87592517	Publication date	05/28/2019
Opposition Filing Date	09/25/2019	Opposition Period Ends	09/25/2019
Applicant	Rhino USA, Inc. #1001 38365 Innovation Court Murrieta, CA 92563 UNITED STATES		

Goods/Services Affected by Opposition

Class 022. First Use: 2016/12/00 First Use In Commerce: 2016/12/00 All goods and services in the class are opposed, namely: Cargo and carrier equipment for vehicles comprised of synthetic textile materials, excluding artificial leather, namely, tow ropes, tow straps, ratchet tie-down straps, quick release tie down straps, lashing straps, and tarp straps
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3518363	Application Date	04/05/2006
Registration Date	10/14/2008	Foreign Priority	NONE

		Date	
Word Mark	RHINO SHELTER		
Design Mark	<p style="text-align: center;">RHINO SHELTER</p>		
Description of Mark	NONE		
Goods/Services	Class 022. First use: First Use: 2008/08/13 First Use In Commerce: 2008/08/13 PROTECTIVE FABRIC CANOPIES AND TENTS FOR STORAGE OF VEHICLES, INDUSTRIAL EQUIPMENT AND MACHINERY; PROTECTIVE FABRIC CANOPIES AND TENTS FOR RECREATIONAL USE; UNFITTED VEHICLE COVERS		

Attachments	78854161#TMSN.png(bytes) Notice of Opposition.pdf(129518 bytes)
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Signature	/Gene S. Winter/
Name	GENE S. WINTER
Date	09/25/2019

copy of the registration no. 3,518,363 is attached hereto as Exhibit A and incorporated herein by reference.

2. The above identified registration is valid and subsisting and is evidence of Opposer's exclusive right to use the Opposer's Mark in commerce on the goods specified in said registration, namely, protective fabric canopies and tents for storage of vehicles, industrial equipment and machinery; protective fabric canopies and tents for recreational use; unfitted vehicle covers electronic imaging equipment.

3. Opposer's rights in Opposer's Mark RHINO SHELTER commenced April 5, 2006, which is prior in time to any alleged first use by Applicant for RHINO USA, specifically December 2016.

4. Applicant's RHINO USA mark and Opposer's RHINO SHELTER marks are similar in sound, meaning, and appearance. The dominant portion of the marks, RHINO, is identical. The goods provided by the parties in connection with their respective marks are the same and are likely to be offered in the same or similar channels of trade to the same or similar customers.

5. Applicant's RHINO USA mark, when used in connection with the goods identified in Applicant's application, is likely to cause confusion, deception and mistake with Opposer's RHINO SHELTER mark because Applicant's RHINO USA mark would be used in connection with goods and services that are identical to those offered by Opposer under its RHINO SHELTER mark. The use and registration of RHINO USA by Applicant will therefore damage Opposer in the sale of their goods and services and cause confusion among purchasers.

6. In view of the similarities between Applicant's mark RHINO USA and Opposer's RHINO SHELTER mark and the parties' goods/services, consumers are likely to assume some degree of association, affiliation or sponsorship between the goods and services offered under the RHINO SHELTER and RHINO USA marks.

7. Applicant's mark RHINO USA is likely to cause confusion, mistake or to deceive with Opposer's RHINO SHELTER mark, within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

8. Pursuant to 15 U.S.C. § 1063(a), as amended, Opposer believes it will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the infringing use of its RHINO USA mark and will give colorable exclusive statutory rights to Applicant in violation and derogation of prior and superior statutory and common law rights of Opposer.

For the reasons set forth herein, registration by Applicant of the mark RHINO USA would seriously damage Opposer and should be refused because use and/or registration of Applicant's RHINO USA mark infringes upon Opposer's RHINO SHELTER mark, is likely to cause customer confusion as to the source, origin, affiliation, or sponsorship between Applicant and Opposer and/or their respective goods and services.

WHEREFORE, Opposer prays that said application Serial No. 87-592517 for RHINO USA be denied, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

September 25, 2019

Respectfully submitted,



Gene S. Winter
ST.ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, CT 06905
Tel. (203) 324-6155
Facsimile (203) 327-1096
Email: litigation@ssjr.com; AProvino@ssjr.com

ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing **NOTICE OF OPPOSITION** is being served by electronic mail on the Correspondent for the Applicant as follows:

Via Email: Trademark@Shermanip.com

JOSHUA A. SCHAUL
SHERMAN IP LLP
1519 26TH STREET
SANTA MONICA 90404

September 25, 2019

AnneMarie Provino

Date

AnneMarie Provino

Int. Cl.: 22

Prior U.S. Cls.: 1, 2, 7, 19, 22, 42, and 50

Reg. No. 3,518,363

United States Patent and Trademark Office

Registered Oct. 14, 2008

**TRADEMARK
PRINCIPAL REGISTER**

RHINO SHELTER

MDM PRODUCTS LLC (CONNECTICUT LIMITED LIABILITY COMPANY)
105 WOODMONT ROAD
MILFORD, CT 06460

FOR: PROTECTIVE FABRIC CANOPIES AND TENTS FOR STORAGE OF VEHICLES, INDUSTRIAL EQUIPMENT AND MACHINERY; PROTECTIVE FABRIC CANOPIES AND TENTS FOR RECREATIONAL USE; UNFITTED VEHICLE COVERS, IN CLASS 22 (U.S. CLS. 1, 2, 7, 19, 22, 42 AND 50).

FIRST USE 8-13-2008; IN COMMERCE 8-13-2008.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SHELTER", APART FROM THE MARK AS SHOWN.

SN 78-854,161, FILED 4-5-2006.

COLLEEN KEARNEY, EXAMINING ATTORNEY