

ESTTA Tracking number: **ESTTA1038241**

Filing date: **02/25/2020**

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	Steve White Motors, Inc.
Granted to Date of previous extension	02/26/2020
Address	3470 HIGHWAY 70 SE NEWTON, NC 28658 UNITED STATES
Attorney information	MOLLY SIMPSON GROSS PATRICK, HARPER, & DIXON P.O. BOX 218 HICKORY, NC 28603 UNITED STATES mgross@phd-law.com 8283227741

Applicant Information

Application No	88519133	Publication date	10/29/2019
Opposition Filing Date	02/25/2020	Opposition Period Ends	02/26/2020
Applicant	Ford Motor Company One American Road Dearborn, MI 48126 UNITED STATES		

Goods/Services Affected by Opposition

Class 012. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Land motor vehicles, namely, passenger automobiles, pick-up trucks, sport utility vehicles

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.	5388338	Application Date	03/21/2017
Registration Date	01/23/2018	Foreign Priority Date	NONE
Word Mark	LIFTED ADRENALINE		

Design Mark	LIFTED ADRENALINE
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2017/08/01 First Use In Commerce: 2017/08/01 Clothing, namely, hats, t-shirts, sweatshirts, and jackets Class 035. First use: First Use: 2017/02/01 First Use In Commerce: 2017/02/01 Retail store services featuring automobiles Class 037. First use: First Use: 2017/02/01 First Use In Commerce: 2017/02/01 Automobile customization services, namely, the installation of suspension, lift, and leveling systems for vehicles; Automobile painting

Attachments	87378905#TMSN.png(bytes) Notice of Opposition 88519133 .PDF(282124 bytes)
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Signature	/msg/
Name	Molly Simpson Gross
Date	02/25/2020

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

STEVE WHITE MOTORS, INC. ,)	
)	OPPOSITION No. _____
Plaintiff,)	
)	Serial No. 88/519,133
v.)	
)	Mark: ADRENALINE
FORD MOTOR COMPANY,)	
)	Date Published: October 29, 2019
Defendant.)	
)	

NOTICE OF OPPOSITION

Steve White Motors, Inc. (“Steve White Motors” or “Opposer”), a North Carolina corporation, having its business address at 2053 US Hwy 70 SE, Hickory, North Carolina 28603 believes that it is or will be damaged by the registration of the mark shown in Application Serial No. 88/519133 (the “Application”) for the goods identified, and hereby opposes the same.

As the Grounds for the opposition, Opposer states:

1. On July 20, 2019, Applicant Ford Motor Company, a Delaware Limited Liability Company, with an address of One American Road, Dearborn, Michigan, 48126 (“Applicant”), filed the Application for the mark ADRENALINE (“Applicant’s Mark”) for “Land motor vehicles, namely, passenger automobiles, pick-up trucks, sport utility vehicles,” in Class 012 (“Applicant’s Goods”) on an intent to use basis.
2. Steve White Motors is a North Carolina based corporation which operates a business in automobile sales and servicing, and has used the LIFTED ADRENALINE mark in connection with its services customizing trucks and sport utility vehicles, including installation of after-factory suspension, lift, and leveling systems, as well as retail services selling vehicles with these customizations, and goods in the form of clothing. Opposer has been using the LIFTED ADRENALINE brand since at least as early as February 1, 2017, which it advertises extensively online, and uses in commerce throughout the United States.
3. Steve White Motors owns rights in and to the trademark LIFTED ADRENALINE (“Opposer’s Registered Mark”), and owns the U.S. Trademark Registration on the Principal Register for

goods and services, as set forth in the chart below (“Opposer’s Registered Goods and Services”) –

Mark: LIFTED ADRENALINE – Reg: 5388338 – Serial: 87378905 – Registered 01/23/2018		
<i>Class</i>	<i>First Use as Early As</i>	<i>Goods/Services</i>
025	08/01/2017	Clothing, namely, hats, t-shirts, sweatshirts, and jackets
035	02/01/2017	Retail store services featuring automobiles
037	02/01/2017	Automobile customization services, namely, the installation of suspension, lift, and leveling systems for vehicles; Automobile painting LIFTED is disclaimed as to this class.

The above-listed registration is valid and subsisting. Attached as Exhibit A is a true and correct printout of the PTO’s information about the above-listed registration.

4. Steve White Motor’s has continuously used “LIFTED ADRENALINE” as a mark for Opposer’s Registered Goods and Services, prior to July 20, 2019, the filing date of the intent to use Application opposed herein.
5. The LIFTED ADRENALINE mark is distinctive, and uniquely associated with Steve White Motors in connection with Opposer’s Registered Goods and Services, by reason of Steve White Motors continuous and extensive use, advertising, promotion and sales. Such use, advertising, promotion, and sales occurred prior to the date of the Application and any possible date Applicant can claim.
6. On information and belief, Applicant’s Goods are related to Opposer’s Registered Goods and Services, and would be directed to related classes of customers as those for Opposer’s Registered Goods and Services, and would be sold/offered in the same channels of trade.
7. Applicant’s Mark is identical to part of Opposer’s Registered Mark, and consumers will understand the common word “ADRENALINE” as identical when they encounter the marks in commerce.
8. A fact relevant to this opposition is that Applicant is a Fortune 100 company with an overarching brand – FORD – that is a household name in the United States. If the public would associate the Applicant’s Mark with Applicant, the association would exacerbate the likelihood of confusion between Applicant’s Mark and Opposer’s Registered Mark. That is, consumers who are aware of Applicant’s Mark are likely to believe, upon seeing

the Registrant's mark LIFTED ADRENALINE for vehicle-related goods and services that the goods and services emanate from, or are related to, Applicant's Goods.

9. Opposer is not a franchise dealer of new motor vehicles manufactured by Applicant, but does utilize Opposer's Registered Mark in providing "after-market" services to vehicles from all manufacturers.
10. The Trademark Act protects against "'reverse confusion' where a significantly larger or prominent junior user, such as Applicant, is perceived as the source of a smaller, senior user's goods such that the senior user may experience diminution or even loss of its mark's identity and goodwill due to extensive use of a confusingly similar mark by the junior user for related goods." *In re i.am.symbolic, llc*, 866 F.3d 1315, 123 USPQ2d 1744, 1752 (Fed. Cir. 2017) (quoting *In re Shell Oil Co.*, 992 F.2d 1204, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993)).
11. Similarly, here, Applicant is a much larger, more prominent user, and if Applicant's Mark is allowed to register, there is a strong likelihood that Opposer's Registered Mark will experience diminution and loss of its mark's identity and goodwill because of Applicant's use a confusingly similar mark for related goods.
12. Applicant's Mark so resembles Opposer's Registered Mark as to be likely, when used in conjunction with Applicant's Goods, to cause confusion, mistake, or deception by causing the public to believe that the goods or services offered in connection with Opposer's Registered Mark originate from, or are otherwise sponsored or endorsed by Applicant through an association with Applicant's Mark, in violation of the Lanham Act § 2(d) (15 U.S.C. 1052(d)).
13. For at least the reasons stated above, Opposer will be damaged by Applicant's registration of Application No. 88/519,133.

WHEREFORE, Opposer prays that Application No. 88/519,133 be refused registration.

Respectfully submitted,

PATRICK, HARPER & DIXON, LLP

By: /msg/

Attorneys for Opposer

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LIFTED ADRENALINE

Word Mark LIFTED ADRENALINE

Goods and Services IC 025. US 022 039. G & S: Clothing, namely, hats, t-shirts, sweatshirts, and jackets. FIRST USE: 20170801. FIRST USE IN COMMERCE: 20170801

IC 035. US 100 101 102. G & S: Retail store services featuring automobiles. FIRST USE: 20170201. FIRST USE IN COMMERCE: 20170201

IC 037. US 100 103 106. G & S: Automobile customization services, namely, the installation of suspension, lift, and leveling systems for vehicles; Automobile painting. FIRST USE: 20170201. FIRST USE IN COMMERCE: 20170201

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 87378905

Filing Date March 21, 2017

Current Basis 1A

Original Filing Basis 1A;1B

Published for Opposition September 12, 2017

Registration Number 5388338

Registration Date January 23, 2018

Owner (REGISTRANT) Steve White Motors, Inc. CORPORATION NORTH CAROLINA 2053 US Hwy 70 SE Hickory NORTH CAROLINA 28603

Attorney of Record Molly Simpson Gross

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "LIFTED" FOR INTERNATIONAL CLASS 37 APART

FROM THE MARK AS SHOWN

Type of Mark TRADEMARK, SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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