

ESTTA Tracking number: **ESTTA1144349**

Filing date: **07/02/2021**

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	Smith & Wesson Inc.
Granted to Date of previous extension	07/04/2021
Address	2100 ROOSEVELT AVENUE SPRINGFIELD, MA 01104 UNITED STATES
Attorney information	HARA K. JACOBS BALLARD SPAHR LLP 1735 MARKET STREET, 51ST FLOOR PHILADELPHIA, PA 19103-7599 UNITED STATES Primary Email: jacobsh@ballardspahr.com Secondary Email(s): lkahihifoBenderN@ballardspahr.com, robbin-sn@ballardspahr.com, phx_tmcketing@ballardspahr.com, bowmana@ballardspahr.com 2158648209
Docket Number	00137963

Applicant Information

Application No.	90090335	Publication date	01/05/2021
Opposition Filing Date	07/02/2021	Opposition Period Ends	07/04/2021
Applicant	Pelican Products, Inc. 23215 EARLY AVENUE TORRANCE, CA 90505 UNITED STATES		


Goods/Services Affected by Opposition

Class 013. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Modular organization system consisting primarily of removable and interchangeable panels specially adapted for use with cases, namely, weapons cases for firearms, firearms cartridges, and mounting hardware therefore

Grounds for Opposition

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

U.S. Registration No.	5466405	Application Date	09/11/2017
Registration Date	05/08/2018	Foreign Priority Date	NONE
Word Mark	EZ		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 013. First use: First Use: 2018/02/14 First Use In Commerce: 2018/02/14 Firearms		

U.S. Registration No.	4721611	Application Date	06/03/2014
Registration Date	04/14/2015	Foreign Priority Date	NONE
Word Mark	EZ RACK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 013. First use: First Use: 2014/09/19 First Use In Commerce: 2014/09/19 Adhesive grips for attachment to a handgun slide to assist the user in racking the handgun		

Attachments	87603496#TMSN.png(bytes) 86298974#TMSN.png(bytes) NOO.pdf(22155 bytes) Exhibit A.pdf(114757 bytes)
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Signature	/HARA K. JACOBS/
Name	HARA K. JACOBS
Date	07/02/2021

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

Smith & Wesson Inc.,

Opposer,

v.

Pelican Products Inc.,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

In the matter of the application of Pelican Products Inc. (“Applicant”) for registration of the mark EZ-CLICK, Application Serial No. 90/090,335, filed August 3, 2020 and published for opposition in the *Official Gazette* on January 5, 2021:

Smith & Wesson Inc., a Delaware corporation having its principal place of business at 2100 Roosevelt Avenue, Springfield, MA 01104 (“Smith & Wesson” or “Opposer”), believes that it will be damaged by the registration of the mark shown in the Application and hereby opposes the same. The grounds for the opposition are as follows:

1. Opposer and its predecessors have used the mark EZ® in connection with firearms and the mark EZ RACK® in connection with firearm accessories (together, the “EZ® Marks”) since at least as early as February 14, 2018 and September 19, 2014, respectively.

2. Opposer is the owner of trademark registrations for the EZ® Marks, including Reg. No. 5,466,405 for EZ® for firearms and Reg. No. 4,721,611 for EZ RACK® for an adhesive grip firearm accessory. Attached hereto as Exhibit A are printouts from the electronic database records of the USPTO showing the current status and title of these registrations.

3. Applicant seeks to register the mark EZ-CLICK for, in relevant part, a “*modular organization system consisting primarily of removable and interchangeable panels specially adapted for use with cases, namely, weapons cases for firearms, firearms cartridges, and mounting hardware therefore*” in International Class 13, as evidenced by the publication of said mark in the *Official Gazette* on January 5, 2021.

4. On February 3, 2021, Opposer filed a 90-day extension of time to file a Notice of Opposition, which was granted by the Board the same day.

5. On May 5, 2021, Opposer filed a consented 60-day extension of time to file a Notice of Opposition, which was granted by the Board the same day.

6. The Application for the goods herein opposed was filed on August 3, 2020, based on Section 1(b) of the Trademark Act.

7. Applicant has not alleged a date of first use or a date of first use in commerce for the applied-for mark in the Application.

8. Opposer’s dates of first use and registration for the EZ® Marks precede the filing date of the Application.

9. Opposer’s registrations for the EZ® Marks are valid and subsisting.

10. Opposer’s use of the EZ® Marks have been continuous, exclusive, and commercially significant for several years in connection with firearms and firearm accessories.

11. Opposer’s EZ® Marks are inherently distinctive as applied to firearms and firearm accessories.

12. Opposer’s EZ® Marks are widely recognized by the general consuming public of the United States as a designation of source of the goods sold by Opposer.

13. Because of the substantial investment of time and resources nationally to market, promote, and advertise Opposer's EZ® Marks, consumers have come to associate Opposer's EZ® Marks exclusively with Opposer and its goods.

14. By virtue of Opposer's continuous use in commerce of the EZ® Marks in connection with Opposer's goods for an extensive period of time, such goods have become favorably known to the relevant trade and public under the EZ® Marks.

15. In the Application for the goods herein opposed, there are no restrictions on trade channels, so it must be presumed that the goods identified in the Application will travel through all trade channels appropriate for goods of that type.

16. Applicant's organization system for weapons cases for firearms, firearm cartridges, and mounting hardware for firearms, as recited in the Application herein opposed, is highly related to Opposer's firearms and firearm accessories and intended to be used in conjunction with the types of firearms Opposer offers under the EZ® Mark.

17. On information and belief, the goods recited in the Application and Opposer's firearms and firearm accessories are intended to be marketed through overlapping channels of trade and are intended to be sold to overlapping classes of purchasers.

18. Applicant's alleged EZ-CLICK mark is confusingly similar to Opposer's marks EZ® and EZ RACK® because Applicant's alleged EZ-CLICK mark features the dominant letters "E" and "Z" and has a similar appearance, connotation, and commercial impression to Opposer's marks EZ® and EZ RACK®.

19. Applicant's alleged mark EZ-CLICK as applied to the goods recited in the Application so resembles Opposer's EZ® and EZ RACK® marks as applied to Opposer's goods that it is likely to cause confusion, mistake, or deception.

20. If Applicant is permitted to register the alleged mark EZ-CLICK for the goods recited in the Application, confusion in the relevant trade and public is likely to result, which will damage and injure Opposer.

21. Any defect, objection to, or fault found with Applicant's goods provided under Applicant's alleged mark EZ-CLICK would necessarily reflect on and seriously injure the reputation that Opposer has established for its goods and business.

22. If Applicant is granted a registration for the mark herein opposed, it would obtain thereby at least a *prima facie* exclusive right to use the mark in connection with the goods recited in the Application. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Smith & Wesson Inc. prays that registration of the mark of Application Serial No. 90/090,335 be refused and that this Opposition be sustained.

Dated: July 2, 2021

Respectfully Submitted,

By: /s/ Hara K. Jacobs

Hara K. Jacobs

Niki Ikahihifo-Bender

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ATTORNEYS FOR OPPOSER

EXHIBIT A

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Word Mark	EZ
Goods and Services	IC 013. US 002 009. G & S: Firearms. FIRST USE: 20180214. FIRST USE IN COMMERCE: 20180214
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	87603496
Filing Date	September 11, 2017
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	December 19, 2017
Registration Number	5466405
International Registration Number	1493889
Registration Date	May 8, 2018
Owner	(REGISTRANT) Smith & Wesson Corp. CORPORATION DELAWARE 2100 Roosevelt Avenue Springfield MASSACHUSETTS 01104 (LAST LISTED OWNER) SMITH & WESSON INC. CORPORATION DELAWARE 2100 ROOSEVELT AVENUE SPRINGFIELD MASSACHUSETTS 01104
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Hara K. Jacobs
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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EZ RACK

Word Mark EZ RACK

Goods and Services IC 013. US 002 009. G & S: Adhesive grips for attachment to a handgun slide to assist the user in racking the handgun. FIRST USE: 20140919. FIRST USE IN COMMERCE: 20140919

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 86298974

Filing Date June 3, 2014

Current Basis 1A

Original Filing Basis 1B

Published for Opposition November 4, 2014

Registration Number 4721611

Registration Date April 14, 2015

Owner (REGISTRANT) Koenig, Richard INDIVIDUAL UNITED STATES STE 1010 c/o Bobbitt Pittenger & Co PA 1605 Main St. Sarasota FLORIDA 34236
(LAST LISTED OWNER) SMITH & WESSON INC. CORPORATION DELAWARE 2100 ROOSEVELT AVENUE SPRINGFIELD MASSACHUSETTS 01104

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Hara K. Jacobs

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "RACK" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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