

07-29-2003

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #73

App. Atty. Doc. CTR-220B

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

Kenda Rubber Industrial Co., Ltd.,

Petitioner

v.

Carlisle Management Company,

Registrant.

Cancellation No. 92042088

**REGISTRANT'S ANSWER TO THE PETITION TO CANCEL**

In response to the Petition to Cancel issued by the Board on June 16, 2003, Carlisle Management Company, Registrant, answers the above-identified Cancellation as follows:

The current owner of the registration is Carlisle Intangible Company, by a change of name of Registrant.

1. Registrant is without sufficient information and belief as to the truthfulness of the allegations asserted in Paragraph 1 and therefore denies same.
2. Registrant is without sufficient information and belief as to the truthfulness of the allegations asserted in Paragraph 2 and therefore denies same.
3. Registrant is without sufficient information and belief as to the truthfulness of the allegations asserted in Paragraph 3 and therefore denies the same.

4. With respect to the allegations in Paragraph 4 of the Petition, Registrant admits that it filed an application for registration of the mark TURF PRO for vehicle tires on July 17, 1996, that the application was given Serial No. 75/135,321 and that the mark was registered on May 26, 1998, as Registration No. 2,160,888. However, Registrant is without sufficient information or belief as to the truthfulness that Petitioner had prior rights to the trademark TURF PRO and denies that it filed an application for registration of the trademark TURF PRO with any information or belief of Petitioner and Petitioner's claimed prior rights.

5. With respect to the allegations in Paragraph 5 of the Petition, Registrant admits that its mark and the Petitioner's claimed mark are identical. However, Registrant is without sufficient information or belief as to the truthfulness that its goods are similar enough to Petitioner's goods as likely to cause confusion, deception, and mistake between its mark and Petitioner's mark.

#### **AFFIRMATIVE DEFENSES**

In further answer to the Petition to Cancel, Registrant asserts that:

6. Petitioner's Petition to Cancel fails to state a claim upon which relief can be granted.

7. Registrant's mark, when used on Registrant's goods, is not likely to cause confusion, mistake, or to deceive, with Petitioner's mark as used on Petitioner's goods.

8. Petitioner will not be damaged or injured if Registrant's registration is maintained for Registrant's mark.

9. Petitioner's Petition to Cancel should be dismissed based on the grounds of laches, waiver and estoppel due to Petitioner's failure to act to protect its purported rights in and to the subject mark.

**RELIEF REQUESTED**

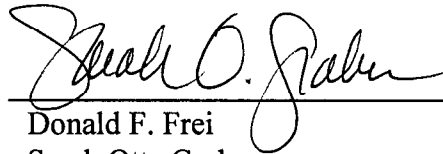
WHEREFORE, Registrant respectfully requests that this cancellation proceeding be dismissed, with prejudice.

Dated this 28<sup>th</sup> day of July, 2003.

Carlisle Management Company

WOOD, HERRON & EVANS, L.L.P.  
2700 Carew Tower  
441 Vine Street  
Cincinnati, Ohio 45202  
(513) 241-2324  
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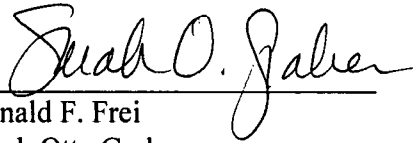
By:

  
\_\_\_\_\_  
Donald F. Frei  
Sarah Otte Graber  
Attorneys for Registrant

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07/28/2003 10:07:00

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **REGISTRANT'S ANSWER TO THE PETITION TO CANCEL**, has been served upon Susan D. Rector, Esq. Schottenstein Zox & Dunn, 41 South High Street, Suite 2600, Columbus, Ohio, 43215, by First Class Mail this 28<sup>th</sup> day of July, 2003.



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07-29-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #73

App. Atty. Doc. C1K-2205

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

Kenda Rubber Industrial Co., Ltd., )  
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 Petitioner )  
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 v. )  
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 Carlisle Management Company, )  
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 Registrant. )  
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Cancellation No. 92042088

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514

July 28, 2003

CERTIFICATE OF MAILING

Date of Deposit: July 28, 2003

I HEREBY CERTIFY THAT THIS APPLICANT'S ANSWER TO THE PETITION TO CANCEL IS BEING DEPOSITED WITH UNITED STATES POSTAL SERVICE, EXPRESS MAIL NO. 355036348 US, ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514

Jeremy Friedman  
Name of Person Mailing Paper or Fee

Jeremy Friedman  
Signature of Person Mailing Paper or Fee

Enclosures:  
Registrant's Answer to the Petition to Cancel, Certificate of Service, Certificate of Mailing, Postcard