

TTAB

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

In the Matter of Trademark Application Serial No. 76/243,550
Filed April 19, 2001
For the Mark "RAMPAGE"
Published for opposition in the *Official Gazette* on September 18, 2001

Rampage Licensing, LLC,
Opposer,

v.

Buckeye International, Inc.,
Applicant.

Commissioner for Trademarks
BOX TTAB - FEE
2900 Crystal Drive
Arlington, Virginia 22202-3513

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Julie Tipton

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Julie Tipton

NOTICE OF OPPOSITION
(in duplicate)

Madam/Sir:

Rampage Licensing, LLC, a California Limited Liability Company, having its principal
place of business at 2300 Eastern Ave, Commerce, California 90040 ("Opposer"), believes that it

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will be damaged by registration of the mark shown in the above-identified application of Buckeye International, Inc. ("Applicant"), and hereby opposes the same. As grounds of opposition, it is alleged that:

1. On April 19, 2001, Applicant filed an intent-to-use trademark application (Application Serial No. 76/243,550) for the mark " RAMPAGE" (hereinafter "Applicant's Proposed Mark"). Applicant seeks to register "RAMPAGE" as a trademark in International Class 003 for use in connection with "hard surface cleaner degreaser". Applicant's Mark was published for opposition in the *Official Gazette* on October 18, 2001.

2. On October 17, 2001, Opposer timely filed a Request For First Extension Of Time To File a Notice Of Opposition Under 1503.04(2) with the United States Patent and Trademark Office.

3. Opposer also filed a timely Request for Second Extension of Time to File a Notice of Opposition Under 1503.04(2) on November 14, 2001 with the United States Patent and Trademark Office.

4. Opposer owns U.S. Trademark Application Serial No. 76/099,686 for use of the mark "RAMPAGE" in connection with "perfume, eye shadow, lipstick, lip gloss, eye pencils, blush, nail polish, nail polish remover, wet and dry makeup foundation, mascara, skin, facial and body concealer, face and body powder, lip liner, eye makeup remover, skin cleanser, skin toner, skin moisturizer, makeup cases containing makeup and non-medicated Vitamin E balm in the form of a stick for application to the face, hands and body" in International Class 003; contour brush, larger powder brush, eye brown brush, lip brush, blush brush, eye shadow brush; makeup sponges

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and cosmetic brush cases containing cosmetic brushes in International Class 021 and filed on July 31, 2001 and was published on September 25, 2001.

5. Opposer owns U.S. Trademark Registration No. 936,136 for use of the mark "RAMPAGE" in connection with "dress and casual shirts" in International Class 025, asserting a first use date of October 1970. Registration No. 936,136 issued June 20, 1972 and was renewed June 20, 1992.

6. Opposer owns U.S. Trademark Registration No. 1,762,936 for use of the mark "RAMPAGE" in connection with "clothing, namely, tops, shirts, jackets, pants, shorts, dresses and skorts" in International Class 25, asserting a first use date of June 1985. Registration No. 1,762,936 issued on April 6, 1993. Opposer's rights to use the mark "RAMPAGE" under Registration No. 1,762,936 are incontestible under § 15 of the Lanham Trademark Act.

7. Opposer owns U.S. Trademark Registration No. 2,062,351 for use of the mark "RAMPAGE" in connection with "jewelry in International Class 014; clothing, namely women's and girls' tops, shirts, T-shirts, sweatshirts, shorts, leggings, jeans, blazers, vests, rompers, jumpsuits, jumpers, dresses, skirt suits, pant suits, sweaters, shoes, headbands and belts, in International Class 025 and hair accessories, namely hair clips, hair scrunchies, hair bands and banana twist clips for hair in International Class 026," asserting a first use date of August 1994, June 1985 and August 1994, respectively. Registration No. 2,062,351 issued on May 13, 1997.

8. Opposer also owns U.S. Trademark Registration No. 2,084,725 for use of the service mark "RAMPAGE" in connection with "retail store services featuring clothing, cosmetics,

jewelry and accessories" in International Class 42, asserting a first use date of August 1994. Registration No. 2,084,725 issued on July 29, 1997.

9. Opposer also owns U.S. Trademark Registration No. 2,236,979 for use of the trademark "RAMPAGE" in connection with "eyewear, namely, eyeglass and sunglass frames and sunglass cases, in International Class 009; and umbrellas and leather goods, namely, wallets, change purses, passport chases, cosmetic cases sold empty, hand bags, backpacks, duffle bags, gym bags, luggage, briefcases, business card cases, fanny packs and toiletry bags sold empty, in International Class 018.

10. Opposer also owns U.S. Trademark Registration No. 2,366,977 for use of the trademark "RAMPAGE" in connection with "footwear, namely, shoes, slippers, sandals and thongs in International Class 025. United States Trademark Registration No. 2,366,977 issued on July 11, 2000.

11. Opposer has superior rights to the "RAMPAGE" mark (referred to herein as "Opposer's Mark") due to its prior-filed trademark application Serial No. 76/099,686 and its continuous prior use of the mark in connection with the above-identified goods and services, which use long pre-dates the April 19, 2001 filing date of Applicant's **intent-to-use** application for Applicant's Proposed Mark.

12. Opposer has created substantial and valuable goodwill in Opposer's Mark, which has come to signify Opposer as the source and originator of the goods and services that Opposer offers under the Mark.

13. In view of the identity of Applicant's Proposed Mark and Opposer's Mark, and in view of the overlapping and substantially related nature of the goods identified by Applicant in its intent-to-use application and the goods and services actually offered by Opposer under Opposer's Mark and those goods identified in Opposer's pending application Serial No. 76/099,686, Applicant's Proposed Mark so resembles Opposer's Mark as to be likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, association, origin, sponsorship, or approval of Applicant's goods by Opposer, all to the irreparable damage of Opposer.

14. Opposer would be injured if Applicant is permitted to register and use Applicant's Proposed Mark for the goods specified in Application Serial No. 76/243,500 because such registration and use would cause confusion in trade resulting in damage and injury to Opposer. Persons familiar with Opposer's Marks would be likely to assume that Applicant's goods originated from Opposer or were offered in association or affiliation with, or under authorization by, Opposer. Moreover, any defect, objection or fault found with Applicant's goods marketed under Applicant's Proposed Mark would necessarily reflect upon and seriously injure the reputation that Opposer has established through use of Opposer's Mark.

15. Additionally, if Applicant is granted registration for Applicant's Proposed Mark, Applicant would obtain thereby at least *prima facie* evidence of a purported exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer.

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