

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

In the Matter of Application Serial No. 78/336,820
Published on September 7, 2004

KNAACK MANUFACTURING COMPANY,

Opposer,

v.

RALLY MANUFACTURING INC.,

Applicant.

Commissioner for Trademarks
PO Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Opposer, Knaack Manufacturing Company, a Delaware corporation located and doing business at 420 East Terra Cotta Avenue, Crystal Lake, Illinois 60014 ("Opposer"), believes that it will be damaged by the attempt of Applicant, Rally Manufacturing Inc., to register the mark WEATHERGUARD, as published in the Official Gazette on September 7, 2004, for use in connection with "windshield wipers" (attached hereto as Exhibit A). Thus, Knaack hereby opposes same. As grounds for the opposition, it is alleged that:

1. Opposer is the owner of the incontestable United States Trademark Registration 2,228,051, registered on March 2, 1999, for the mark WEATHER

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GUARD for use in connection with "prepackaged van and minivan interior modules for storage and shelving; van shelves, cabinets and shelf accessories, namely, work tops, bin boxes and bin dividers, shelf work covers, hard hat racks, fire extinguisher racks, retainer lips, stacking brackets, shelf mats, doors and back panels; freon tank racks and tank rings, wire spool racks; file boxes; window screens; vehicle bulkhead panels and bulkhead custom accessories, namely, binder files, spare tire chocks, literature holders, hard hat racks, fire extinguisher holders, extension cord brackets, spare tire brackets, first aid kit trays, window covers and safety reflectors; stabilizers; floor mats for vans and minivans; cab screens and cab protectors for attachment to rear windows of trucks; vehicle service body racks; ladder guides; sliding platforms and rails for all land vehicles" in International Class 12 (attached hereto as Exhibit B.) This registration is valid, subsisting, unrevoked, and uncanceled, and Opposer is the owner of the registration and the mark shown thereby and all of the business and goodwill represented thereby.

2. Opposer is now and has been engaged in the distribution and sale in interstate commerce of the above-identified goods. (See Exhibit C).

3. Since at least as early as August 1, 1975, over 28 years prior to Applicant's filing of an "Intent to Use" application, Opposer has used and is using the mark WEATHER GUARD alone and in conjunction with other words and designs

(hereinafter collectively referred to as the "WEATHER GUARD Trademarks") in interstate commerce throughout the United States in connection with the sale of the above-identified goods.

4. Ever since the adoption and use of the WEATHER GUARD Trademarks as aforesaid, Opposer has widely and extensively advertised and sold goods bearing the WEATHER GUARD Trademarks. As a consequence of such advertising and sales, the consuming public and trade have come to recognize and do recognize the WEATHER GUARD Trademarks as being used by Opposer or a single source, and to associate and identify said mark and name with Opposer, or with a single source, and Opposer derives substantial goodwill and value from such identification by the consuming public and trade.

5. Opposer has spent substantial sums of money and made extensive efforts in marketing, advertising and promoting the sale of the above-identified goods, under the WEATHER GUARD Trademarks, and has sold such products as marketed.

GROUND I – LIKELIHOOD OF CONFUSION

6. Opposer incorporates by reference the allegations of Paragraphs 1 through 5 as if fully set forth herein.

7. By the application herein opposed, Applicant seeks to register

WEATHERGUARD for “windshield wipers.” The goods identified in Applicant’s application and Opposer’s products are both directed to automobile accessories, specifically window accessories.

8. Applicant’s mark WEATHERGUARD is identical and thus is confusingly similar to Opposer’s WEATHER GUARD Trademarks.

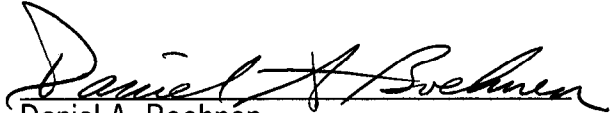
9. Applicant’s mark opposed herein is likely to cause confusion and mistake, and to deceive, with consequent injury to Opposer, the consuming public and the trade.

10. Opposer believes it will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of Applicant’s mark sought to be registered, and will give color of title and exclusive right to Applicant in violation and derogation of prior and superior rights of Opposer.

WHEREFORE, Opposer believes it will be damaged by registration of Applicant's mark and prays that it will not be allowed.

Respectfully submitted,

Dated: March 7, 2005



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