

FTAB



"EXPRESS MAIL" MAILING LABEL  
NUMBER EL702052340US

11-29-2002  
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #71

DATE OF DEPOSIT 11-29-2002  
I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING  
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE  
"EXPRESS MAIL POST OFFICE TO ADDRESSEE" SERVICE  
UNDER 37 CFR 1.10 ON THE DATE INDICATED ABOVE  
AND IS ADDRESSED TO THE ASSISTANT COMMISSIONER OF  
TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VA 22202-3513.

D. MacDONALD

(TYPED OR PRINTED NAME OF PERSON MAILING  
PAPER OR FEE)

D. Mac Donald

(SIGNATURE OF PERSON MAILING PAPER OR FEE)

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

|  |   |                          |
|--|---|--------------------------|
| In the matter of:                              | ) |                          |
|  | ) | Opposition No.:          |
| Application Serial No. 76/201,760              | ) |                          |
|  | ) |                          |
| Applicant: Sturgis Area Chamber<br>of Commerce | ) | Atty. Docket No. 6858-02 |
|  | ) |                          |
| Filed on: January 30, 2001                     | ) |                          |
|  | ) |                          |
| Mark: BLACK HILLS                              | ) |                          |
|  | ) |                          |
| Published: September 3, 2002                   | ) |                          |

RECEIVED  
NOV 29 2002

Assistant Commissioner for Trademarks  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, VA 22202-3513

**NOTICE OF OPPOSITION**

Sturgis Motorcycles, Inc., d/b/a Black Hills Harley-Davidson, d/b/a  
Sturgis Harley-Davidson, (collectively Sturgis Motorcycles), a corporation of  
the State of South Dakota having its principal place of business located at  
3030 Lange Road, Rapid City, SD 57702, believes that it will be damage  
registration of the mark in the following application:

12/12/2002 K6IBBONS 00000038 76201760

01 FC:6402

6300.00 DP

Application Serial No 76/201,760 (Application) filed January 30, 2001 by the Sturgis Area Chamber of Commerce (Applicant) published for opposition in the Official Gazette on September 3, 2002 on Page TM 118, seeking registration of the mark BLACK HILLS in non-stylized form for the goods and/or services listed in the following classifications:

International Class: 6

Metal key rings, metal license plates, metal boxes, non-luminous and non-mechanical metal signs, and die-cast metal piggy banks, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 8

Hand tools, namely, hunting knives, fishing knives, pocket knives, sidearm knives, folding knives, sport knives, knives made of precious metal, wrenches, socket sets, namely, socket wrenches and sockets, and pliers, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 9

Sunglasses, novelty telephones, pre-recorded videos featuring live music concerts, music videos, documentaries, and footage of vehicle rallies, exhibits and competitions, and footage of the Black Hills area of South Dakota and Wyoming, computer mouse pads, magnets, electronic video game software, protective helmets, toy helmets, computer screen savers, and neon signs, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 11

Lamps, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 12

License plate holders and handlebar grips for motorcycles, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 13

Firearms, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 14

Jewelry, watch bands, belt buckles of precious metal for clothing, non-monetary coins, medallions, non-monetary tokens of precious metal, cigarette lighters of precious metal, clocks, and watches, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 16

Pencils; pens and paper goods and printed matter, namely, posters; bumper stickers; trading cards; decals; iron-on and plastic transfers; window stickers; wall calendars; note pads; desk sets; lithographs; mounted photographs; unmounted photographs; prints, namely, art prints, cartoon prints, color prints, photographic prints, lithographic prints, and pictorial prints; brochures and books featuring information about motorcycles, automobiles and trucks; paper pennants; paper banners; temporary tattoos; paper and plastic bags for packaging; paper and plastic gift bags; postcards, and picture frame mat boards, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 18

Wallets, motorcycle bags, athletic bags, all purpose sport bags, beach bags, book bags, carry-on bags, duffel bags, gym bags, shoulder bags, tote bags, travel bags, overnight bags, dog collars, and leashes for animals, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 20

Non-metal key rings, plastic novelty license plates, and jewelry boxes not of metal, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 21

Glassware, namely, shot glasses, drinking glasses, drinking cups, and drinking mugs; insulating sleeve

holders made of rubber, plastic or foam for beverage cans; insulating sleeve holders made of rubber, plastic or foam for beverage bottles; paper cups; grease and polish rags; portable coolers; coasters not of paper and not being table linen; bottle openers; water bottles sold empty; sports bottles sold empty; beer steins; and kitchen utensils, namely, spatulas, turners, tongs, pan scrappers, grill scrappers, and grill baskets, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 024

Afghans, towels, cloth flags, cloth pennants, cloth banners, and quilts, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 25

Clothing, namely, shirts, T-shirts, long sleeve T-shirts, sleeveless T-shirts, denim shirts, henley shirts, knit shirts, golf shirts, sport shirts, sweaters, jackets, anoraks, coats, tank tops, polo shirts, sweatershirts, pullovers, boxer shorts, sleepwear, women's tops, chemises, cloth wraps, bikinis, beachwear, bathing suits, swim wear, head wear, bandannas, caps, cloth headwraps, berets, hats, scarves, head bands, belts, chaps, jeans, dungarees, boots, footwear, gloves, and sun visors, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 026

Cloth and embroidered patches for clothing, ornamental cloth patches, hat pins for securing hats, belt buckles not of precious metal, and novelty pins, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 27

Floor mats for vehicles, textile floor mats for use in the home, rubber floor mats for use as door mats, textile floor mats for use as door mats, and rugs, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 28

Miniature toy vehicles, electric miniature toy vehicles, radio controlled toy vehicles, model vehicles, miniature banks in the shape of vehicles, Christmas tree ornaments, fishing lures, balloons, gaming chips, sports balls, and decorative wind socks; die-cast toy banks; and handlebar grips for sporting equipment, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 32

Bottled water and beer, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 33

Distilled liquor, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 34

Ashtrays not of precious metal, cigars, cigar cutters, cigarette lighters not of precious metal, and matches, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 35

Promoting sports competitions and conducting events of others, namely, motorcycle and vehicle rallies, exhibits, and competitions; promoting economic development in the city of Sturgis and the Black Hills area of South Dakota and Wyoming; and mail order, catalog, retail store, wholesale store, on-line retail store, and retail television store services featuring a variety of general merchandise and products.

International Class: 41

Entertainment services in the nature of organizing, sponsoring, and conducting a motorcycle and vehicle exhibitions and rallies; and entertainment services in the nature of organizing, sponsoring and conducting civic productions and live music concerts.

Accordingly, Sturgis Motorcycles opposes the Application in all classes identified in the Application, namely, the following twenty-one

international classes (IC):

- 1) IC: 6, Metal Goods;
- 2) IC: 8, Hand Tools;
- 3) IC: 9, Electrical and scientific apparatus;
- 4) IC: 11, Environmental control apparatus;
- 5) IC: 12, Vehicles;
- 6) IC: 13, Firearms;
- 7) IC: 14, Jewelry;
- 8) IC: 16, Paper goods and printed matter;
- 9) IC: 18, Leather goods;
- 10) IC: 20, Furniture and articles not otherwise classified;
- 11) IC: 21, Housewares and glass;
- 12) IC: 24, Fabrics;
- 13) IC: 25, Clothing
- 14) IC: 26, Fancy goods;
- 15) IC: 27, Floor coverings;
- 16) IC: 28, Toys and sporting goods;
- 17) IC: 32, Light beverages;
- 18) IC: 33, Wines and spirits;
- 19) IC: 34, Smokers' articles;
- 20) IC: 35, Advertising and business; and
- 21) IC: 41, Education and entertainment.

The grounds for the Opposition are as follows:

1. Sturgis Motorcycles and its predecessors have continuously used the name BLACK HILLS in commerce on or in connection with the sale of "Rally Products" as defined in the Application, including, motorcycles, motorcycle parts and accessories, clothing, t-shirts, bandanas, jewelry, pins patches, knives, money clips, videos, music, key chains, tools, lighters, leather goods, toys, train sets, signs, license plates, grease and polish rags, calendars, posters, decals, bumper stickers, post cards, paper bags, plastic bags, drinking glasses, shot glasses, mugs, insulated cup holders, portable coolers, bottled water and beer at the Sturgis Motorcycle Rally (Rally), also as defined in the Application, held in and around Sturgis, including Rapid City, SD, in the Black Hills area of South Dakota each year since at least 1981.

2. Sturgis Motorcycles and its predecessors have continuously used the name BLACK HILLS in commerce in connection with the promotion of the Rally including organizing and sponsoring events at the Rally since at least 1991.

3. Sturgis Motorcycles's use of the name BLACK HILLS in its sales of Rally Products at the Rally has been through the same channels of trade and to the same class of customers as the Rally Products allegedly offered by the Applicant at the Rally and bearing the mark BLACK HILLS MOTOR CLASSIC STURGIS RALLY & RACES BLACK HILLS S.D. and Design of Applicant's Trademark Registration No. 1,948,097.

4. Sturgis Motorcycles operates a retail store under the name "STURGIS HARLEY-DAVIDSON" located at 1040 Junction Avenue, Sturgis, SD 57785 where n Rally Products are sold to the public during the Rally and throughout the year, many of which Rally Products bear the name BLACK HILLS.

5. Sturgis Motorcycles operates a motorcycle dealership and retail store under the name "BLACK HILLS HARLEY-DAVIDSON" currently located at 3030 Lange Road, Rapid City, SD 57702 wherein Rally Products are sold to the public during the Rally and throughout the year.

6. Sturgis Motorcycles has owned and operated an on-line retail store for the sale of Rally Products and promoting the Rally available on the Internet through the web site [www.blackhillsHD.com](http://www.blackhillsHD.com) since 1997.

7. Sturgis Motorcycles has owned and operated an on-line retail store for the sale of Rally Products and promoting the Rally available on the Internet through the web site [www.sturgisHD.com](http://www.sturgisHD.com) since 1997.

8. Sturgis Motorcycles has gross sales of Rally Products totaling approximately \$40 million sold in connection with the name BLACK HILLS since the year 2000.

9. Sturgis Motorcycles has had gross sales of Rally Products bearing the name BLACK HILLS totaling approximately \$2.2 million since 2000.

10. Sturgis Motorcycles has had gross sales of Rally Products bearing the name BLACK HILLS totaling approximately \$728,000 each year at the Rally since at least the year 2000.

11. Many of over 700 vendors use the name BLACK HILLS in connection with the sale of Rally Products each year at the Rally.

12. Many of over 700 vendors use the name BLACK HILLS in connection with the promotion of the Rally.

13. The City of Sturgis, South Dakota uses the name BLACK HILLS in connection with the promotion of the Rally.

### **First Ground of Opposition**

#### **The name BLACK HILLS is Primarily Geographically Descriptive**

14. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

15. Black Hills is the name of a mountainous region in western South Dakota and northeastern Wyoming in the United States.

16. The name BLACK HILLS is primarily recognized in the State of South Dakota and elsewhere as the identifier of the geographic region known as the Black Hills.



17. The Rally in and around the City of Sturgis, S.D. is held each year in the Black Hills region of South Dakota since at least 1938.

18. The name BLACK HILLS is primarily geographically descriptive when used on or in connection with Rally Products and related services.

19. Other rallies and events are held each year in the Black Hills region of South Dakota using the name BLACK HILLS including the BLACK HILLS Corvette Rally, the BLACK HILLS Round-Up, the BLACK HILLS Re-Union Ride, and the Dakota Challenge which is sponsored by the BLACK HILLS 4-Wheeler Club.

### **Second Ground of Opposition**

#### **The name BLACK HILLS is Merely Descriptive**

20. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

21. The name BLACK HILLS is merely descriptive when used in connection with Rally Products and related services.

### **Third Ground of Opposition**

#### **The name BLACK HILLS has not become distinctive of Applicant's goods or services**

**a) Applicant and its licensees have not been the substantially exclusive user of the name BLACK HILLS in connection with the sale of Rally Products or the Promotion of the Rally for at least five years preceding November 21, 2001**

22. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

23. Sturgis Motorcycles and its predecessors, as well as others, have used the name BLACK HILLS continuously since at least as early as 1981 in connection with the sale of Rally Products at the Rally and elsewhere.

24. Sturgis Motorcycles and its predecessors, as well as others, have used the name BLACK HILLS continuously since at least as early as 1991 in connection with promoting the Rally.

25. Sturgis Motorcycles, as well as others, continue to use the name BLACK HILLS in commerce in connection with the sale of Rally Products at the Rally and year-round.

26. Sturgis Motorcycles, as well as others, continue to use the name BLACK HILLS in connection with promoting the Rally.

**b) The name BLACK HILLS is not the same as or similar to the mark in the '097 Registration**

27. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

28. Applicant's claim of acquired distinctiveness under § 2(f) of the Lanham Act is based on Applicant's use of the mark BLACK HILLS MOTOR CLASSIC STURGIS RALLY & RACES BLACK HILLS S.D. and Design currently registered on the Principal Register under Registration No. 1,948,097 (the '097 Registration).

29. The mark in the '097 Registration is a combined word and design mark.

30. The name BLACK HILLS is not the legal equivalent of the mark of the '097 Registration.

31. The name BLACK HILLS does not create the same continuing commercial impression as the BLACK HILLS MOTOR CLASSIC STURGIS RALLY & RACES BLACK HILLS S.D. and Design mark registered in the '097 Registration such that a consumer would consider them the same mark.

32. The name BLACK HILLS is not a dominant part of the mark of the '097 Registration.

33. The name BLACK HILLS is not a separable element of the mark of the '097 Registration.

**c) Rally Products are not same as or similar or related to the services identified in the '097 Registration**

34. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

35. Rally Products are unrelated to the services in International Class 35 for "promoting sports competitions and/or events of others, namely motorcycle rallies, exhibits and competitions and promoting economic development in the city of Sturgis and the Black Hills area of South Dakota and Wyoming."

36. The source of Rally Products sold at or in connection with the Rally is not likely to be perceived to be the same as the source of the promotional services identified in the '097 Registration.

**d) Applicant's reliance on its prior trademark registration, the '097 Registration is improper and unavailing**

37. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

38. Applicant, voluntarily and without a demand from the Examiner, disclaimed any right to the exclusive use of the term BLACK HILLS, S.D. in conjunction with the services identified in Applicant's '097 Registration.

39. Applicant admitted in the '097 Registration that the name BLACK HILLS is descriptive and not capable of becoming distinctive.

40. Due to Applicant's disclaimer of the name BLACK HILLS, Applicant's '097 Registration cannot be deemed prima facie evidence of distinctiveness or of any evidentiary value with respect to Applicant's claim of acquired distinctiveness for the name BLACK HILLS.

**e) Applicant's claim for distinctiveness is based on a defective Declaration**

41. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

42. Applicant's Declaration of November 2, 2001, claims substantially exclusive and continuous use of BLACK HILLS in connection with the marketing and promotion of the Rally.

43. Applicant's Declaration of November 2, 2001 claims distinctiveness of BLACK HILLS on Rally Products by association with Applicant's marketing and promotional services.

44. Applicant's Declaration of November 2, 2001 fails to claim substantially exclusive and continuous use of BLACK HILLS on Rally Products.

#### **Fourth Ground of Opposition**

**The mark in U.S. Trademark Registration No. 1,948,097 is not distinctive because Applicant has failed to control the nature of the quality of goods and services of its licensee**

45. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

46. Applicant has failed to control the use of the name BLACK HILLS by its licensees.

47. Because Applicant has failed to control the use of the mark of the '097 Registration, the mark is not distinctive and cannot serve as prima facie evidence of distinctiveness of BLACK HILLS.

#### **Fifth Ground of Opposition**

**Applicant has attempted to procure registration of the name BLACK HILLS by fraud**

48. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

49. Applicant knows it has not used the name BLACK HILLS substantially exclusively in conjunction with the sale of Rally Products in the five years preceding November 2, 2001.

50. Applicant has knowledge of the substantial use of the name BLACK HILLS by Sturgis Motorcycles and others in conjunction with the promotion of the Rally.

51. Applicant knows that many of over 700 vendors use the name BLACK HILLS in connection with selling Rally Products at the Rally.

52. Sturgis Motorcycles spends more than \$50,000 annually for advertising space on approximately 15 -20 large billboards in the Black Hills Region of South Dakota for displaying signs for marketing Rally Products during the Rally and throughout the remainder of the year, including signs featuring the name BLACK HILLS.

53. Sturgis Motorcycles owns and operates a retail store under the name Sturgis Harley-Davidson located at 1040 Junction Avenue, Sturgis, S.D. 57785 wherein it sells Rally Products to the public at the Rally and throughout the year, including Rally Products bearing the name BLACK HILLS.

54. Sturgis Motorcycles owns and operates a motorcycle dealership and retail store under the name Black Hills Harley-Davidson currently located at 3030 Lange Road, Rapid City, SD 57702 wherein it sells Rally Products to the public at the Rally and throughout the year.

55. At least one large sign on the Black Hills Harley-Davidson building, including a prior location at 516 Fourth Street, Rapid City, SD 57701 has displayed the name of the store, as "BLACK HILLS HARLEY-DAVIDSON" since at least the year 1981.

56. In early 2000, David Allen, of Champion Motor Sports, Inc., a marketing agency under contract with the Applicant at the time, approached Jim Doyle, Al Rieman and Jim Burgess, owners of Sturgis Motorcycles, and solicited a royalty bearing license for Sturgis Motorcycles for the use of the name BLACK HILLS in connection with Sturgis Motorcycles' sale of Rally Products.

57. In Spring 2000, Dean Kenny, then President of the Board of Directors of the Sturgis Area Chamber of Commerce, (Applicant) and David Allen, visited the Black Hills Harley-Davidson dealership in Rapid City, SD, spoke with Jim Doyle, and again solicited a royalty bearing license for the use of the name BLACK HILLS wherein Sturgis Motorcycles would pay a royalty to Applicant for the use of the name BLACK HILLS in connection with Sturgis Motorcycles' sale of Rally Products at the Rally and throughout the year.

58. In Spring 2000, Dean Kenny and Marlin Martin, then President and Vice President respectively, of the Board of Directors of the Sturgis Area Chamber of Commerce, (Applicant) met with Jim Doyle, Jim Burgess, Al Rieman and Clay Truson, all co-owners of Sturgis Motorcycles, at Lynn's Inc., headquarters in Rapid City, SD wherein Kenny and Martin spoke with the above-identified co-owners of Sturgis Motorcycles and again solicited a royalty bearing license for the use of the name BLACK HILLS in connection with Sturgis Motorcycles' sale of Rally Products at the Rally and throughout the year.

59. In August 2000, Marlin Martin, then incoming President of the Board of Directors of the Sturgis Area Chamber of Commerce, (Applicant) and Declarant in the Application, invited Jim Burgess of Sturgis Motorcycles to dinner at his house, and, during the visit, Marlin Martin again suggested that Sturgis Motorcycles enter into a royalty bearing license agreement with the Applicant wherein Sturgis Motorcycles would pay a royalty to Applicant for the use of the name BLACK HILLS in connection with Sturgis Motorcycles' sale of Rally Products at the Rally and otherwise.

60. In the Spring 2000, Conrad Clemens, CEO of Featherlite Trailer Co. of Sanford, Florida, an associate of David Allen, and on behalf of David Allen, contacted Jim Burgess of Sturgis Motorcycles for the purpose of further discussing a license agreement wherein Sturgis Motorcycles would obtain a license to use the name BLACK HILLS in connection with Sturgis Motorcycles' sale of Rally Products in exchange for a royalty paid to the Applicant.

61. At each instance described in Paragraphs 56 - 60 above, the solicitation to take a license for the use of the name BLACK HILLS was refused by Opposer Sturgis Motorcycles.

62. Applicant's claim of acquired distinctiveness of the name BLACK HILL is fraudulent and contains false information because on November 2, 2001, Applicant knew of the substantial use of the name BLACK HILLS by Sturgis Motorcycles and others, in commerce, in connection with the sale of Rally Products and the promotion of the Rally.

63. Applicant's claim of acquired distinctiveness of the name BLACK HILL is fraudulent and contains false information because on November 2, 2001, Marlin Martin, Declarant in the Application, knew of the substantial use of the name BLACK HILLS by Sturgis Motorcycles and others, in commerce, in connection with the sale of Rally Products and the promotion of the Rally.



**WHEREFORE** Opposer requests that Trademark Application Serial No. 76/201,760 be denied and rejected on the following grounds:

1. BLACK HILLS used on Rally Products is primarily geographically descriptive, 15 U.S.C. § 1052(e)(2);
2. BLACK HILLS used on Rally Products is merely descriptive, 15 U.S.C. § 1052(e)(1);
3. BLACK HILLS used on Rally Products has not become distinctive of Applicant's goods or services, 15 U.S.C. § 1052(f), because:
  - a) Applicant never claimed or established substantially exclusive use of the name BLACK HILLS on Rally Products;
  - b) BLACK HILLS is not the same as or similar to the mark in Trademark Registration No. 1,948,097, as alleged by Applicant;
  - c) Rally Products are not the same as or related to goods or services in Trademark Registration No. 1,948,097, as alleged by Applicant
  - d) Use of BLACK HILLS name on Rally Products by Applicant or its licensees has not been substantially exclusive for the five years prior to November 2001, or at any time since 1981.
  - e) Applicant's disclaimer of the name BLACK HILLS in Trademark Registration No. 1,948,097 precludes Applicant's ownership of the '097 Registration from being deemed prima facie evidence of distinctiveness or of any evidentiary value with respect to Applicant's claim of acquired distinctiveness for the name BLACK HILLS.
4. Rally Products have been sold under mark in Trademark Registration 1,948,097 without proper supervision or control of the products by Applicant since 1981.

5. Applicant has attempted to procure a registration for the name BLACK HILLS by fraud by submitting a declaration in support of its claim of acquired distinctiveness containing statements known to be false as to Applicant's substantially exclusive use.

#### POWER OF ATTORNEY

The undersigned hereby appoints John C. Linderman, Donald K. Huber, John C. Hilton, Frederick J. Haesche, J. Kevin Grogan, Arthur F. Dionne, Richard R. Michaud, Daniel G. Mackas, Marina F. Cunningham, Nicholas J. Tuccillo, Wm. Tucker Griffith, Susan C. Oygard, Stephen P. Scuderi, Richard D. Getz, William Gowanlock, Donald J. MacDonald, all of the firm of McCORMICK, PAULDING & HUBER LLP, CityPlace II, 18th Floor, 185 Asylum Street, Hartford, CT 06103-4102, (860) 549-5290, its attorneys with full power of substitution and revocation to prosecute this Opposition, to make alterations and amendments therein and to transact all business in the U.S. Patent and Trademark Office and elsewhere in connection therewith.

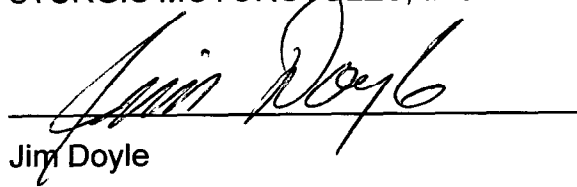
DECLARATION

The undersigned, declares that he is an officer of Sturgis Motorcycles, Inc. named in the foregoing NOTICE OF OPPOSITION and that he has been warned that willful false statements and the like so made herein are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code; he further declares that he is duly appointed and authorized to execute this instrument on behalf of said corporation; that he has read signed the foregoing NOTICE and knows the contents thereof; and that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

STURGIS MOTORCYCLES, INC.

11-26-02

Date

  
\_\_\_\_\_  
Jim Doyle

Vice President



McCormick, Paulding & Huber LLP  
*Intellectual Property Law*



11-29-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #7

Offices in  
Hartford, CT and  
Springfield, MA

From the desk of  
Donald J. MacDonald  
MacDonald@ip-lawyers.com  
Tel 860. 549.5290  
Fax 860. 527.0464

CityPlace II  
185 Asylum Street  
Hartford, CT  
06103-3402  
www.ip-lawyers.com

John C. Linderman\*\*  
J. Kevin Grogan\*\*  
Arthur F. Dionne\*\*  
Richard R. Michaud\*  
Marina F. Cunningham\*  
Daniel G. Mackas\*  
Susan C. Oygard\*  
Nicholas J. Tuccillo\*  
Wm. Tucker Griffith\*  
Stephen P. Scuderi\*\*  
Richard D. Getz\*  
William B. Gowanlock\*  
Donald J. MacDonald\*  
Timothy A. Johnson\*  
\*Admitted in CT  
\*\*Admitted in MA

Of Counsel  
Donald K. Huber\*  
John C. Hilton\*  
Frederick J. Haesche\*  
Charles E. Sohl\*  
John J. Dempsey\*

November 29, 2002

BOX TTAJ - FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

Re: Notice of Opposition for U.S. Trademark  
Application No. 76/201,760 for mark BLACK HILLS  
(Our File No. 6858-02)

Dear Sirs:

Attached hereto, in duplicate in accordance with Rule 2.104, is a Notice of Opposition to be filed against U.S. Trademark Application Serial No. 76/201,760 for the mark BLACK HILLS in the following International Classes (IC):

- 1) IC: 6, Metal Goods;
- 2) IC: 8, Hand Tools;
- 3) IC: 9, Electrical and scientific apparatus;
- 4) IC: 11, Environmental control apparatus;
- 5) IC: 12, Vehicles;
- 6) IC: 13, Firearms;
- 7) IC: 14, Jewelry;
- 8) IC: 16, Paper goods and printed matter;
- 9) IC: 18, Leather goods;
- 10) IC: 20, Furniture and articles not otherwise classified;
- 11) IC: 21, Housewares and glass;
- 12) IC: 24, Fabrics;
- 13) IC: 25, Clothing
- 14) IC: 26, Fancy goods;
- 15) IC: 27, Floor coverings;
- 16) IC: 28, Toys and sporting goods;
- 17) IC: 32, Light beverages;
- 18) IC: 33, Wines and spirits;
- 19) IC: 34, Smokers' articles;
- 20) IC: 35, Advertising and business; and
- 21) IC: 41, Education and entertainment.

BOX TTAB - FEE  
November 29, 2002  
Page 2

A check in the amount of \$6,300.00 is enclosed in payment of the Notice of Opposition filing fee. Please charge any deficiency in this fee, and any additional fees which may be due to our Deposit Account No. 13-0235.

Very truly yours,

**McCormick, Paulding & Huber LLP**

By

  
Donald J. MacDonald

DJM/can  
Enclosures