

**1ST SOURCE BANK V. BEST-ONE TIRE OF CROSSVILLE, INC.**  
**70 UCC Rep. Serv. 2d 227 (E.D. Tenn. 2009)**

CURTIS L. COLLIER, Chief Judge.

Before the Court is Plaintiff 1st Source Bank's motion for partial summary judgment.... [B]ecause the evidence shows Plaintiff is entitled to judgment in its favor and Defendants effectively concede liability, the Court will grant Plaintiff's motion for partial summary judgment.

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## II. DISCUSSION

According to Plaintiff's Verified Complaint, Plaintiff made a series of loans to Volunteer Trucking, Inc. ("VTI"), which were secured by VTI's grant of a lien and security interest to Plaintiff in certain semi-trucks and trailers VTI owned. VTI later defaulted on those loans. Plaintiff alleged that on or about January 24, 2009, in an attempt to collect an unsecured debt VTI owed them, Defendants took 186 tires, rims, and a related amount of lug nuts (collectively the "Collateral") from trucks on VTI's property, despite knowing that Plaintiff had a perfected priority security interest in the Collateral. As part of the Verified Complaint, Plaintiff requested a temporary restraining order to prevent Defendants from alienating the Collateral and to require Defendants to safely store the Collateral.... At the filing of the instant motion, Defendants had not returned the Collateral.

Plaintiff now moves for partial summary judgment .... [T]he Court construes the motion as requesting a declaration that Plaintiff holds first priority rights in the Collateral....

A security interest attaches, becoming enforceable against the debtor, when (1) value has been given, (2) the debtor has rights in the collateral, and (3) the debtor has authenticated a security agreement providing a description of the collateral. TENN. CODE ANN. § 47-9-203. Here, VTI executed a series of Installment Notes and Security Agreements granting Plaintiff a security interest in VTI's trucks and all "present and future attachments, accessories, parts, repairs, additions, accessions, substitutions, exchanges, replacements and all returned and repossessed goods." Plaintiff gave value for the collateral in the loans it extended to VTI; VTI had ownership rights in the trucks (to which the Collateral was affixed) because it held their certificates of title, and [VTI] authenticated the security agreements that provided the description of collateral. The description of the collateral is sufficient under Tennessee law. TENN. CODE ANN. § 47-9-103. Hence, Plaintiff's security interest in the Collateral attached.

Security interests in motor vehicles in Tennessee, such as semi-truck tractors and trailers, are perfected by a notation of lien on the vehicle's certificate of title, without the need to file a separate financing statement. TENN. CODE ANN. §§ 47-9-311, 55-3-123. Here, the vehicles' certificates of title bore the proper notation, such that Plaintiff perfected its lien vis-à-vis other potential claimants.

When there is competition for collateral between perfected security interests, the principle of priority determines which party has first rights in the collateral. “A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under § 47-9-311(b).” TENN. CODE ANN. § 47-9-335(d). Here, the elements of the Collateral constitute accessions because they are “goods that are physically united with other goods in such a manner that the identity of the original good is not lost.” *Id.* § 47-9-102(a)(1); *see also id.* § 47-9-335 cmt. n.2. When Plaintiff perfected its interest in the trucks and their affixed Collateral via the certificate of title notations, it gained a priority interest in the Collateral over any party (including, for the sake of argument, Defendants) who may have had a perfected interest in the accessions alone. As Plaintiff points out, its situation is almost exactly identical to [Example 4] provided in the official comments to § 47-9-335.... Since, as established above, Plaintiff held an attached security interest in the tires, wheels, and lug nuts, the notation on the vehicles’ certificates of title established Plaintiff’s first priority in the collateral over any claims to the Collateral Defendants might assert (assuming they held a perfected interest).

Therefore, Plaintiff held an attached, perfected security interest in the Collateral at issue, and had priority in that Collateral against all potential claimants.

### **III. CONCLUSION**

For the foregoing reasons, the Court will **GRANT** Plaintiff’s motion for partial summary judgment and will **DECLARE** Plaintiff to have first priority in the Collateral at issue....