

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

In the Matter of Ser. No. 76/245,902 - OG 12/11/01

SAVATAR, INC.,

Opposer,

-v-

SAVITAR CORPORATION,

Applicant.

Opposition No. 124,976

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ANSWER TO OPPOSITION

The Applicant, Savitar Corporation, for its Answer to Opposer's Notice of Opposition states:

1. It is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 of Opposer's Notice of Opposition.
2. It is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 of Opposer's Notice of Opposition.
3. It is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 of Opposer's Notice of Opposition.
4. It is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 of Opposer's Notice of Opposition.
5. It is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5 of Opposer's Notice of Opposition.

6. It denies the allegations of Paragraph 6 of Opposer's Notice of Opposition in respect to class 9 and is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 of Opposer's Notice of Opposition in connection with class 42.

7. It admits the allegations of Paragraph 7 of Opposer's Notice of Opposition.

8. It denies the allegations of Paragraph 8 of Opposer's Notice of Opposition.

9. It denies the allegations of Paragraph 9 of Opposer's Notice of Opposition.

WHEREFORE, the Applicant prays that Savatar, Inc.'s Opposition be denied and that Savitar Corporation's Application, Serial No. 761245, be registered.

DEFENSES

1. In its opposition, Savatar, Inc. cites to pending applications. These applications were filed after Savitar Corporation's. Furthermore, they are merely applications and, therefore, do not establish prima facie rights in the mark. *Sanyo Watch Co., Inc. v. Sanyo Electric Co., Ltd.*, 691 F.2d 1019, 1021 (Fed. Cir. 1982).

2. Upon information and belief, there will be no likelihood of confusion between the parties' marks. Upon information and belief, Savatar, Inc. concentrates on consulting services; Savitar Corporation concentrates on data base management software. The claimed likelihood of confusion is even less likely because the customers are sophisticated experienced businessmen and businesswomen.

3. Even if a likelihood of confusion is assumed, Savitar Corporation should at least be entitled to registration under class 9, a class in which Opposer has made no application for registration.

4. Savatar, Inc.'s dilution claim fails because there is no plea that its mark is allegedly renowned or has a high degree of recognition.

5. Savatar, Inc. has insufficient usage of its mark to support its claims.

WHEREFORE, the Applicant prays that Savatar, Inc.'s Opposition be denied and that Savitar Corporation's Application, Serial No. 761245, be registered.

Respectfully submitted,



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CERTIFICATE OF EXPRESS MAIL

Date of Deposit: March 5, 2002

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I hereby certify that this correspondence 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 Box TTAB No Fee, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

I further certify that a copy was mailed to counsel for Opposer on this same date.



Elizabeth B. Searle

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03-05-2002

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March 5, 2002

VIA EXPRESS MAIL

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2900 Crystal Drive
Washington, DC 22202-3513

Re: Savatar, Inc. v. Savitar Corporation
Ser. No. 76/245,902 - OG 12/11/01
Opposition No. 124,976

Dear Sir:

Enclosed for filing is Savitar Corporation's Answer to Opposition. Please return a file-marked copy in the enclosed self-addressed, stamped envelope.

Thank you for your assistance in this matter.

Very truly yours,

Elizabeth B. Searle

EBS:sjc

Enclosures

cc: Mary M. Luria (w/ encl.)

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Reply to Lafayette Office

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