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

In the Matter of Application Serial No. 76/014,204  
Published in the *Official Gazette* on December 18, 2001 TM 88  
For the Mark: SCORPION COMMERCE

READING THERMAL SYSTEMS, INC.

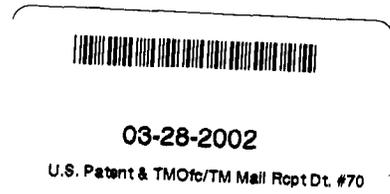
Opposition No. 125,138

Opposer,

v

SCORPION COMMERCE, INC.,

Applicant.



**ANSWER TO NOTICE OF OPPOSITION**

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

Applicant, Scorpion Commerce, Inc., by and through its attorneys of record, Young & Basile, hereby submit its answer to Opposer's Notice of Opposition as follows:

1. Applicant admits the averments contained in paragraph 1.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 2.
3. Applicant admits that Opposer is the owner of U.S. Trademark Registration No. 2, 509, 072 for "SCORPION," issued November 20, 2001, for "multi-channel data logger with engineering analysis and/or quality assurance software for analyzing operation conditions inside baking or other process ovens or cooling tunnels in the food, metal finishing and electronic

industries." Applicant is without knowledge or information sufficient to form a belief as to the remaining averments contained in paragraph 3.

4. Applicant admits the averments contained in paragraph 4.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 5.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 6.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 7.

8. Applicant admits the averments contained in paragraph 8.

9. Applicant admits that it did not begin using the "SCORPION COMMERCE" mark prior to the March 31, 2000 filing date of its Intent to Use trademark application. Applicant is without knowledge or information sufficient to form a belief as to the remaining averments contained in paragraph 9.

10. Applicant denies the averments in paragraph 10 for the reason that they are untrue.

11. Applicant denies the averments in paragraph 11 for the reason that they are untrue.

12. Applicant denies that, if it is permitted to register its mark for the goods and services set forth in the application herein opposed, confusion of the trade in public is likely to result, resulting in damage and injury to Opposer. Applicant is without knowledge or information sufficient to form a belief as to the remaining averments of paragraph 12.

13. Applicant denies the averments of paragraph 13 for the reason that they are untrue.

14. Applicant admits that if it is granted a registration for the mark herein opposed in

connection with the goods and services identified in the application herein opposed that it would obtain at least a prima facie exclusive right to use such mark. Applicant denies that such a registration would be a source of damage and injury to Opposer.

**WHEREFORE**, Applicant prays that Notice of Opposition be dismissed and that its application Serial No. 76/014,204 be passed to registration.

**Affirmative Defenses**

1. The trademark as shown in the application opposed herein is not likely to be confused with the alleged trademark of Opposer.
2. Applicant filed the application for the mark shown and intends to adopt the mark shown in good faith.
3. The goods of the parties hereto are not traded in the same channels of trade.
4. The goods of the respective parties are sufficiently different and distinct as to avoid any likelihood of confusion.
5. Applicant reserves the right to bring such other affirmative defenses as may become known during discovery in this proceeding.

Respectfully submitted,

YOUNG & BASILE, P.C.



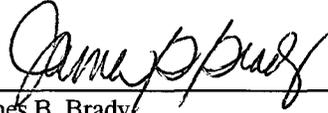
James B. Brady (P30534)  
Attorney for Applicant

Dated: March 26, 2002

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the Response to Notice of Opposition was served via First Class Mail on the 26 day of March, 2002 by depositing same in the United States Mail, first class postage prepaid, in an envelope addressed as follows:

Jordan A. LaVine  
Akin, Gump, Strauss, Hauer & Feld  
One Commerce Square  
2005 Market St., 22<sup>nd</sup> Floor  
Philadelphia, PA 19103-7086  
Attorneys for Opposer



James B. Brady

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SCORPION COMMERCE, INC.,

Applicant.



03-28-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #70

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**CERTIFICATE OF MAILING AND TRANSMITTAL LETTER**

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Va. 22202-3513  
BOX: TTAB

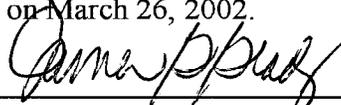
Sir:

Transmitted herewith is a postcard and Answer to Notice of Opposition in the above-identified trademark application.

No additional fee is required.

Please charge any additional fees or credit overpayment to Deposit Account Number 25-0115.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Va. 22202-3513, on March 26, 2002.

  
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