

5. Applicant lacks sufficient knowledge to form a belief concerning any of the allegations in Paragraph 5 of the Opposition and, therefore, denies all of the allegations in Paragraph 5 and leaves Opposer to its proof.

6. Applicant lacks sufficient knowledge to form a belief concerning any of the allegations in Paragraph 6 of the Opposition and, therefore, denies all of the allegations in Paragraph 6 and leaves Opposer to its proof, with the exception that Applicant admits it has a pending application U.S. Serial No. 76/151380 covering "medical devices, namely, cannulae, medical, hypodermic, aspiration and injection needles, medical, hypodermic, aspiration and injection syringes, connectors, ports, catheters and injection sites."

7. Applicant lacks sufficient knowledge to form a belief concerning any of the allegations in Paragraph 7 of the Opposition and, therefore, denies all of the allegations in Paragraph 7 and leaves Opposer to its proof, with the exception that Applicant admits its application covers "medical devices, namely, cannulae, medical, hypodermic, aspiration and injection needles, medical, hypodermic, aspiration and injection syringes, connectors, ports, catheters and injection sites."

8. Applicant lacks sufficient knowledge to form a belief concerning any of the allegations in Paragraph 8 of the Opposition and, therefore, denies all of the allegations in Paragraph 8 and leaves Opposer to its proof.

9. Applicant lacks sufficient knowledge to form a belief concerning any of the allegations in Paragraph 9 of the Opposition and, therefore, denies all of the allegations in Paragraph 9 and leaves Opposer to its proof.

10. Applicant denies the allegation in the second sentence of Paragraph 10 of the Opposition that reads: "[such customers] would likely believe that Applicant's goods were somehow related to, complementary to, or otherwise authorized by Opposer," and leaves Opposer to its proof. Applicant lacks sufficient knowledge to form a belief concerning any other allegations in Paragraph 10 of the Opposition and, therefore, denies all of the allegations in Paragraph 10 and leaves Opposer to its proof.

11. Applicant denies that its mark is very similar in sight, sound and commercial impression to Opposer's marks, and is identical in product and nature of use, and leaves Opposer to its proof. In this regard, Applicant notes that there are a plethora of third party "LINK" trademark applications and registrations in the United States Trademark Office in Class 10 -- which severely limits the scope of any alleged "LINK" rights that Opposer claims. See, e.g., Exhibit 1. In fact, Opposer was not the first party to use or register a "LINK" trademark for Class 10 medical goods in the United States. Moreover, no party can claim any exclusive rights in the generic/descriptive term "LINK" as used with Class 10 medical goods in the United States. Furthermore, Applicant's distinctive Class 10 term ULTRA as used in its trademark is completely different than Opposer's Class 10 term INTER in appearance, pronunciation, connotation and commercial impression. These factors and others preclude any likelihood of confusion, mistake or deception under 15 U.S.C. § 1052(d). Finally, Applicant lacks sufficient knowledge to form a belief concerning any of the other allegations in Paragraph 11 of the Opposition and, therefore, denies all of the allegations in Paragraph 11 and leaves Opposer to its proof.

AFFIRMATIVE DEFENSES

12. The differences between Opposer's INTERLINK marks and Applicant's mark and/or the goods with which these marks are used or intended to be used precludes any likelihood of confusion, mistake or deception.

13. Because of the generic/descriptive nature of the word "LINK," Opposer's rights in its cited LINK registrations, if any, are limited in scope.

14. In view of third party usage, applications for and registration of marks including the word "LINK" for various types of medical goods in Class 10, and the lack of Opposer's policing efforts, Opposer is entitled only to a narrow scope of protection for its alleged "LINK" trademarks. See, for example, the plethora of third party "LINK" U.S. trademark applications and registrations identified in the computer printouts attached as Exhibit 1 hereto.

WHEREFORE, Applicant prays that the Amended Notice of Opposition be dismissed and that it be adjudged entitled to the registration of its mark in Application Serial No. 76/151,380.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



Duane M. Byers

Attorney for Applicant

1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing ANSWER TO AMENDED NOTICE OF OPPOSITION was served on counsel for Opposer by depositing same in the United States mail, first class, postage pre-paid, this 30 day of September 2002, addressed to:

Lynn A. Sullivan
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza
Suite 4900
Chicago, Illinois 60601



Duane M. Byers