

Exhibits

NO FEE

I, PURITA T. EUGENIO, hereby certify that this document is being deposited with the United States Postal Service as Express Mail, postage prepaid, in an envelope addressed to BOX TTAB, NO FEE, ASSISTANT COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VA 22202-3513

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Date of Deposit: APRIL 26, 2002

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

MARK D. TANNEN,

Opposer,

vs.

JAY MACK,

Applicant.

Opposition No.: 91151109
Serial No.: 75/845,350

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant, Jay Mack, answers the Notice of Opposition filed by Opposer, Mark D. Tannen, against application for registration of Applicant's trademark INTELLIWEAR, Serial No. 75/845,350, filed on December 1, 1999 and published in the Official Gazette on October 30, 2001, as follows:

1. Applicant does not have sufficient knowledge or information to form a belief as to the truth of the allegations contained therein and accordingly denies each and every allegation in paragraph 1 of the Notice of Opposition.

2. Applicant does not have sufficient knowledge or information to form a belief as to the truth of the allegations contained therein and accordingly denies each and every allegation in paragraph 2 of the Notice of Opposition.

3. Applicant does not have sufficient knowledge or information to form a belief as to the truth of the allegations contained therein and accordingly denies each and every allegation in paragraph 3 of the Notice of Opposition.

4. Applicant does not have sufficient knowledge or information to form a belief as to the truth of the allegations contained therein and accordingly denies each and every allegation contained in paragraph 4 of the Notice of Opposition.

5. Applicant admits that he has knowledge of U. S. registration No. 1,347,429 for the mark AI AMERICAN INTELLIWARE AND DESIGN as a result of a letter from Opposer's previous counsel, Gregg Reed of Proskauer Rose LLP, dated July 13, 2001. However, Applicant also has knowledge that Opposer, Mark D. Tannen, has no legal standing to oppose Applicant's mark on the basis of ownership of the registered mark AI AMERICAN INTELLIWARE AND DESIGN. Opposer's ownership claim of said mark through assignment with the U. S. Patent and Trademark Office is invalid. The California Secretary of State suspended the corporate powers, rights and privileges of original registrant, American Intelliware Corporation, a California corporation ("Assignor"), on June 1, 1994. The assignment document, submitted by Opposer, assigning the various

trademarks owned by Assignor to Opposer was executed on June 30, 1995, more than one year from the suspension of the Assignor's corporate powers, rights and privileges. Because the Assignor was then, and currently is not a legal entity with the corporate power to transfer its assets, it had no power to transfer its assets, its marks or registrations to Opposer.

6. Applicant admits each and every allegation in paragraph 6 of the Notice of Opposition.

7. Applicant states that the allegations contained in paragraph 7 of the Notice of Opposition constitute legal conclusions to which no response is required. To the extent a response is deemed to be required, Applicant lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 7 of the Notice of Opposition and therefore denies such allegations.

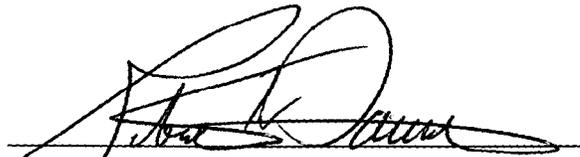
8. Applicant denies each and every allegation in paragraph 8 of the Notice of Opposition.

9. Applicant denies each and every allegation in paragraph 9 of the Notice of Opposition. Opposer's assumption that confusion could result and his speculation of possible defects, objections or faults with Applicant's products are purely theoretical and do not constitute valid grounds for denying registration of Applicant's mark.

classification of goods and services has no bearing on the question of likelihood of confusion. The classification system was created for the convenience of the PTO rather than to serve as evidence of the relatedness of the goods or services.

In view of the foregoing, Applicant maintains that Opposer has not shown wherein he will be, or is likely to be, damaged by the registration of Applicant's trademark; that Applicant's trademark is manifestly distinct from trademarks of the Opposer and Applicant requests that the Notice of Opposition be dismissed, and that a Notice of Allowance issue to Applicant for its mark

Respectfully submitted,



Date: April 26, 2002

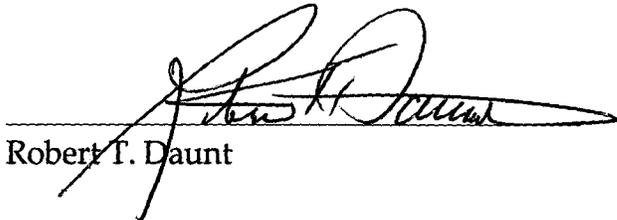
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Attorneys for Applicant,
JAY MACK

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION was mailed FIRST CLASS mail, postage prepaid, this 26th day of April, 2002 on Opposer's counsel:

Paul J. Reilly, Esq.
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Robert F. Daunt