

TTAB

I, Steven E. Smith hereby certify that the attached correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Arlington, VA 22202-3515 on July 10, 2001

By: Steven E. Smith

Date July 10, 2002

TRADEMARK TRIAL AND APPEAL BOARD
02 JUL 19 PM 12:23

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

In Re Application Serial No. 76/086,290;
Filed - July 11, 2000;
Applicant - Custom Golf Sales, Inc.;
Published in the Official Gazette - February 26, 2002.



07-15-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #61

RANDY N. GRAHAM,
Opposer,

V.

CUSTOM GOLF SALES, INC.,
Applicant.

Opposition No.: 91151470

(Opposer's File Number: 91151470)
(Applicant's File Number: 2150-1/020342)

Commissioner of Patents and Trademarks
Arlington, VA 22202-3513
Attn: No Fee

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant, Custom Golf Sales, Inc., answering the Notice of Opposition filed by Randy N. Graham against Application for Registration of Custom Golf Sales, Inc.'s Trademark: "ACCUFLEX", serial number 76/086,290 filed July 11, 2000 and published in the Official Gazette on February 26, 2002, pleads and avers as follows:

FIRST DEFENSE

Without waiving Applicant's Affirmative Defenses as set forth below, Applicant answer the factual allegations of the Opposition as follows:

1. Answering paragraph 1 of the Notice of Opposition, Applicant denies the allegations contained therein.

2. Answering paragraph 2 of the Notice of Opposition, Applicant admits the allegations thereof.

3. Answering paragraph 3 of the Notice of Opposition, Applicant admits the allegations thereof.

4. Answering paragraph 4 of the Notice of Opposition, Applicant admits the allegations contained therein to the extent that there is no written Partnership Agreement, however, Applicant avers that other writings and documents exist which evidence a partnership between Applicant and Opposer. Except as expressly admitted, each and every remaining allegations contained in paragraph 4 of the Notice of Opposition are hereby denied.

5. Answering paragraph 5 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

6. Answering paragraph 6 of the Notice of Opposition, Applicant admits the allegations contained therein to the extent that there is not a written Operating or Partnership Agreement, however, Applicant denies that Opposer and Applicant operated jointly beginning in June, 2000. Except as expressly admitted, each and every remaining allegation contained in paragraph 6 of the Notice of Opposition are hereby denied.

7. Answering paragraph 7 of the Notice of Opposition, Applicant admits the allegations thereof.

8. Answering paragraph 8 of the Notice of Opposition, Applicant denies the allegations contained therein.

9. Answering paragraph 9 of the Notice of Opposition, Applicant admits the allegations thereof.

10. Answering paragraph 10 of the Notice of Opposition, Applicant admits the allegations thereof.

11. Answering paragraph 11 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

12. Answering paragraph 12 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

13. Answering paragraph 13 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

14. Answering paragraph 14 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

15. Answering paragraph 15 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

16. Answering paragraph 16 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

17. Answering paragraph 17 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

18. Unless specifically admitted herein, Applicant denies each and every other allegation contained in the Notice of Opposition.

SECOND DEFENSE

19. Applicant incorporates herein paragraphs 1 through 18 as if they were fully written herein.

20. Applicant is the rightful owner of the Mark "ACCUFLEX".

WHEREFORE, Applicant respectfully prays that:

- a. the Notice of Opposition be dismissed in its entirety;
- b. that a Registration issue to Applicant for its Mark;
- c. Applicant be awarded Attorney Fees; and
- d. any further equitable relief that this Honorable Board find just and proper.

This the 10th day of July, 2002.

Respectfully submitted,



Gregory R. Everman
Registration No. 47,553
Dougherty, Clements & Hofer
6230 Fairview Road
Suite 400
Charlotte, North Carolina 28210
Telephone: (704) 366-6642
Attorney for Applicant

CERTIFICATE OF SERVICE

This is to certify that I have this day served the opposing party in the foregoing matter with a true and correct copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

James M. Harrington
Clifford R. Jarrett
KENNEDY COVINGTON LOBDELL & HICKMAN, LLP
4200 Bank of America Corporate Center
100 North Tryon Street
Charlotte, North Carolina 28202-4006

This the 10th day of July, 2002.



Gregory R. Everman
Registration No. 47,553
Dougherty, Clements & Hofer
6230 Fairview Road
Suite 400
Charlotte, North Carolina 28210
Telephone: (704) 366-6642
Attorney for Applicant