TTAB

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

LEO STOLLER d/b/a
CENTRAL MFG.
P.O. Box 35189
Chicago, IL 60707

Opposition No: 91160234

Opposer/Respondent,

vs.

Trademark: AIRFRAME BUSINESS SOFTWARE, INC.

AIRFRAME BUSINESS SOFTWARE, INC.
800 Southwood Blvd, Suite 105
Incline Village, NV 89451

Applicant/Petitioner.

TTAB/NO FEE

AMENDED ANSWER TO COUNTERCLAIM
AND AFFIRMATIVE DEFENSES

NOW COMES the Opposer/Respondent in answer to Applicant's counterclaim, and states as follows:

The Opposer/Respondent admits holding rights to the mark AIR FRAME and denies each and other allegation in Applicant's counterclaim in paragraphs 1, 2, 3, 4, 5, 6, 7, and 8, and the Opposer demands strict proof thereof.

AFFIRMATIVE DEFENSE ONE:
NO LEGAL INTEREST

Opposer/Respondent denies and continues to deny that it is liable for the claims made by the Petitioner. Without waiving the denial, Petitioner does not a legal interest in the applications for the marks AIRFRAME BUSINESS SOFTWARE, INC. and AIRFRAME.

AFFIRMATIVE DEFENSE TWO:
ABANDONMENT

Opposer/Respondent denies and continues to deny that it is liable for the claims made by the Petitioner. Petitioner abandoned the said marks by not using them in connection with an established, presently existing and on-going business. Petitioner is not the owner of the said application.

01-11-2005
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #66

AFFIRMATIVE DEFENSE THREE:
NO VALID FIRST USE

Opposer/Respondent denies and continues to deny that it is liable for the claims by Petitioner. Petitioner cannot establish likelihood of confusion between the Opposer/Respondent's mark, AIRFRAME, because Petitioner cannot establish a valid first use date.

AFFIRMATIVE DEFENSE FOUR:
NO VALID FIRST USE DATE IN COMMERCE

Opposer/Respondent denies and continues to deny that it is liable for the claims by Petitioner. The Petitioner has no standing and no valid, enforceable trademark rights in the said application because the Petitioner cannot establish a valid first use date in commerce.

WHEREFORE, the Opposer/Respondent prays that the Board enter judgment in favor of the Opposer/Respondent and against the Applicant/Petitioner, denying Applicant registration of the mark sought to be registered, and dismissing Applicant/Petitioner's counterclaim with prejudice.

By: _____

Leo Stoller
CENTRAL MFG., Opposer
Trademark & Licensing Dept.
P.O. Box 35189
Chicago, Illinois 60707-0189
773-283-3880 FAX 708 453-0083

Date: January 7, 2005

Certificate of Mailing

I hereby certify that the foregoing *Motion* is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to:

TTAB / NO FEE
Commissioner of Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Leo Stoller
Date: January 7, 2005

Certificate of Service

I hereby certify that this *Motion* is being sent by U.S. Mail and deposited with the U.S. Postal Service by First Class Mail, in an envelope addressed to:

Ann Rosevear
WALSH, BAKER & ROSEVEAR, P.C.
9468 Double R. Blvd.
Suite A
Reno, Nevada 89521

Leo Stoller
Date: January 7, 2005

D:\MARKS35\AIRFRAM.MOT