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

Proceeding	91180025
Party	Defendant Nextar (Hong Kong) Limited
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Date	11/28/2007
Attachments	Nextar Ans.pdf (6 pages)(50652 bytes)

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

In the matter of trademark application Serial No. 77/001,790

MARK: NEXTAR
FILED: September 18, 2006
PUBLISHED: August 14, 2007

CELESTRON ACQUISITION, LLC,
a Delaware limited liability company,

Opposer,

Opposition No. 91180025

NEXTAR (HONG KONG) LIMITED,
a Hong Kong corporation,

Applicant.

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

ANSWER OF NEXTAR (HONG KONG) LIMITED

Nextar (Hong Kong) Limited, (“Applicant”), a corporation duly organized and existing under the laws of Hong Kong, answers the above-identified opposition filed by Celestron Corporation (“Opposer”), as follows:

1. Applicant is without knowledge or sufficient information to form a belief as to the truth of the allegations in Paragraph 1 and on that basis denies them.

2. Applicant admits that Opposer appears to be the owner of the U.S. Trademark Registrations listed in Paragraph 2.

3. Applicant is without knowledge or sufficient information to form a belief as to the truth of the allegations in Paragraph 3 and on that basis denies them.

4. Applicant is without knowledge or sufficient information to form a belief as to the truth of the allegations in Paragraph 4 and on that basis denies them.

5. Applicant is without knowledge or sufficient information to form a belief as to the truth of the allegations in Paragraph 5 and on that basis denies them

6. Applicant admits that Applicant filed application serial number 77001790 with the United States Patent and Trademark Office (“USPTO”) on September 18, 2006 to register its company name “NEXTAR” mark for “Navigation devices, Audio, Video, Audio-Video, DVD and Multimedia Players” in International class and that the application states that the first use of the mark in commerce or anywhere was “At least as early as 10/25/05.” In all other respects, Applicant denies the allegations in Paragraph 6.

7. Applicant denies the allegations in Paragraph 7 in their entirety.

8. Applicant denies the allegations in Paragraph 8 in their entirety.

9. Applicant denies the allegations in Paragraph 9 in their entirety.

10. Applicant denies the allegations in Paragraph 10 in their entirety.

11. Applicant admits the allegations in Paragraph 11.

12. Applicant admits the allegations in Paragraph 12.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(Lack of Standing)

The Opposer lacks standing to maintain this proceeding.

SECOND AFFIRMATIVE DEFENSE

(No Confusion, Mistake, or Deception)

Applicant's NEXTAR mark does not, will not, and is not likely to cause confusion, mistake, or deception.

THIRD AFFIRMATIVE DEFENSE

(Reasonable Registration Restriction)

To the extent that the Opposition is deemed valid, Applicant believes that it is at least entitled to registration of its NEXTAR mark restricted so that it is not to be used in connection with the sale or marketing of telescopes or telescope accessories.

FOURTH AFFIRMATIVE DEFENSE

(Fair Use)

Applicant's use of the NEXTAR mark constitutes a fair use under the Lanham Act.

FIFTH AFFIRMATIVE DEFENSE

(Estoppel)

The Opposition is barred, in whole or in part, by the equitable doctrine of estoppel.

SIXTH AFFIRMATIVE DEFENSE

(Waiver)

The Opposition is barred, in whole or in part, by the equitable doctrine of waiver.

SEVENTH AFFIRMATIVE DEFENSE

(Unclean Hands)

The Opposition is barred, in whole or in part, by the equitable doctrine of unclean hands.

EIGHTH AFFIRMATIVE DEFENSE

(Estoppel)

The Opposition is barred, in whole or in part, by the equitable doctrine of estoppel.

NINTH AFFIRMATIVE DEFENSE

(Waiver)

The Opposition is barred, in whole or in part, by the equitable doctrine of waiver.

TENTH AFFIRMATIVE DEFENSE

(Prior Use)

The Opposition is barred, in whole or in part, because Applicant used its company name in connection with the advertisement and sale of its products prior to the Opposer's use of any marks that Opposer alleges to be similar.

ELEVENTH AFFIRMATIVE DEFENSE

(Lack of Distinctive Mark)

Opposer's purported marks at issue in its Opposition are not distinctive.

TWELFTH AFFIRMATIVE DEFENSE

(Non-Famous Mark)

Opposer's allegations of dilution of its purported marks are barred, in whole or in part, because Opposer's marks are not famous.

THIRTEENTH AFFIRMATIVE DEFENSE

(Blurring)

Opposer's allegations of dilution of its purported marks are barred, in whole or in part, because Opposer's selling power and trademark value has not been diluted by blurring.

FOURTEENTH AFFIRMATIVE DEFENSE

(Tarnishment)

Opposer's allegations of dilution of its purported marks are barred, in whole or in part, because Opposer's purported marks have not been tarnished.

FIFTEENTH AFFIRMATIVE DEFENSE

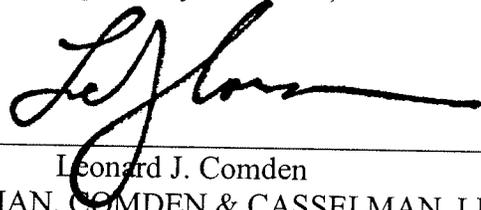
(Availability of Additional Affirmative Defenses)

Applicant currently has insufficient knowledge or information upon which to form a belief as to the availability of additional, as yet unstated, affirmative defenses. Therefore,

Applicant reserves the right to assert additional affirmative defenses in the event that discovery reveals that facts exist to support such additional, and currently unknown affirmative defenses.

WHEREFORE, Applicant prays that the Opposition be denied in its entirety, that its NEXTAR mark (Application Serial No. 77001790 in International Class) be issued, and for such other and further relief as may be deemed just and proper.

Respectfully submitted,



Dated: November 28, 2007

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Attorney for Applicant,
NEXTAR (HONG KONG), INC.

I hereby certify that a true and complete copy of the foregoing Answer of Nextar (Hong Kong) Limited has been served on Michael K. Grace, Esq./Jill M. Abasto, Esq. by mailing said copy on November 28, 2007, via First Class Mail, postage prepaid to:

Michael K. Grace, Esq.
Jill M. Abasto, Esq.
444 S. Flower Street, Suite 3875
Los Angeles, California 90071



Geri Schultz