

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

AS HOLDINGS, INC.,	)	
	)	
Opposer,	)	
	)	Opposition No. 91182064
-vs-	)	
	)	Serial No. 76/461,157
H&C MILCOR, INC., f/k/a/	)	Mark: Miscellaneous Design
AQUATICO OF TEXAS, INC.,	)	(Pipe Boot Product Design)
	)	
Applicant.	)	

NOTICE OF FILING

TO: Terence J. Linn, Esq.  
Van Dyke, Gardner, Linn & Burkhardt, LLP  
2851 Charlevoix Drive SE, Suite 207  
Grand Rapids, MI 49588-8695

PLEASE TAKE NOTICE that on the 7th day of February, 2011, we filed with the United States Trademark Trial and Appeal Board, APPLICANT, H&C MILCOR, INC.'S REPLY TO OPPOSER'S BRIEF IN OPPOSITION TO APPLICANT'S MOTION FOR RECONSIDERATION OF THE BOARD'S DECEMBER 20, 2010 DECISION UNDER 37 CFR 2.127(b) AND REQUEST TO THE BOARD UNDER 37 CFR 2.127(c), a copy of which is attached hereto.

  
\_\_\_\_\_  
Drillis V. Allen  
Attorney for Applicant  
Reg. No. 22,460



02-07-2011

**CERTIFICATE OF SERVICE**

This is to certify that on February 4, 2011, the foregoing Notice of Filing and APPLICANT, H&C MILCOR, INC.'S REPLY TO OPPOSER'S BRIEF IN OPPOSITION TO APPLICANT'S MOTION FOR RECONSIDERATION OF THE BOARD'S DECEMBER 20, 2010 DECISION UNDER 37 CFR 2.127(b) AND REQUEST TO THE BOARD UNDER 37 CFR 2.127(c), was sent via Federal Express to the Trademark Trial and Appeal Board, 600 Dulany Street, Room 37A, Alexandria, VA 22314, and a true and correct copy of same was sent via first-class mail, postage prepaid, on February 4, 2011, to Opposer's counsel as follows:

Terence J. Linn, Esq.  
Van Dyke, Gardner, Linn & Burkhardt, LLP  
2851 Charlevoix Drive SE, Suite 207  
Grand Rapids, MI 49588-8695

A handwritten signature in cursive script, appearing to read "D Allen", is written over a horizontal line.

Dillis V. Allen, Esq.  
105 S. Roselle Road  
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*APPLICANT, H&C MILCOR, INC.'S REPLY TO OPPOSER'S BRIEF IN  
OPPOSITION TO APPLICANT'S MOTION FOR RECONSIDERATION OF THE  
BOARD'S DECEMBER 20, 2010 DECISION UNDER 37 C.F.R. 2.127(b)  
AND REQUEST TO THE BOARD UNDER 37 C.F.R. 2.127(c)*

The Opposer appears to cornerstone its brief in opposition on the Trademark Trial and Appeal Board Manual of Procedure, such as TBMP, Sec. 518.

But as the Board knows its procedure manual does not have the force of law and is not binding on the Board, the Director, or the United States Patent and Trademark Office.(Introduction to the 2003 TBMP). See *In re Wine Society of America Inc.*, 12 USPQ2d 1139(TTAB 1989).

The interest of justice in this case begs that the Interlocutory Attorney's decision of December 20, 2010 be reviewed by at least one(1) Board member.

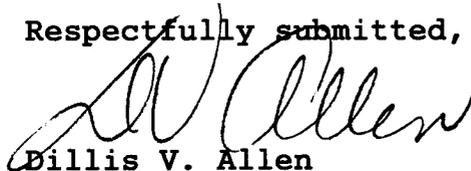
The Opposer's counsel argues that the Interlocutory Attorney reviewed the Applicant's objection to Opposer's Request No. 21 of its First Request for Production of Documents and Things served on May 5, 2008, because it was hidden in filed Exhibit E. But that doesn't prove consideration. The fact is that in granting part of the Motion during the telephone conference on December 20, 2010, the Interlocutory Attorney referred only to Opposer's Request No. 21 and never to Applicant's objection to Request No. 21. Further, when the Interlocutory Attorney requested documents from the parties, he never requested Applicant's responses to those documents --- and Opposer argues that the Interlocutory Attorney already had, on April 29, 2010, the date of the Interlocutory Attorney's request for Opposer's discovery documents, the exact same Opposer's discovery documents --- so if he already had those documents, why did the Interlocutory Attorney ask for those again? And why didn't the Opposer, when he filed those documents a second time --- tell the Interlocutory Attorney he already had the relevant ones.

Opposer argues on both sides that Applicant is rehashing old issues and then says Applicant is raising new issues. Opposer can't have it both ways.

And Opposer tells the Board some issues are not supported by the record. It is telling on this point that nowhere does the Opposer deny that the Interlocutory Attorney based his exclusion of Exhibit 16 and parts of Exhibits 20 and 21 on his belief that Applicant should have produced those documents in response to Opposer's Request No. 21.

For these reasons, one or more Board members should review the Decision of December 20, 2010, and hopefully reconsider and reverse.

Respectfully submitted,



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Attorney for Applicant  
Reg. No. 22,460

Dated: February 4, 2011

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