

ESTTA Tracking number: **ESTTA202766**

Filing date: **04/04/2008**

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

Proceeding	91182690
Party	Defendant Billings, Roger E.
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Submission	Answer
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Date	04/04/2008
Attachments	Answer.pdf (4 pages)(20082 bytes)

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

In the Matter of Trademark Application
No. 78/136,454; FIREANGEL
Published October 30, 2007

ATI TECHNOLOGIES ULC,)	
)	
Opposer,)	
)	
vs.)	Opposition No. 91182690
)	
BILLINGS, ROGER E.,)	
)	
Applicant.)	

ANSWER

Applicant, Roger Billings (“Applicant”), submits its Answer to the Opposition filed in this action by Opposer, ATI Technologies ULC (“Opposer”), and responds to the allegations contained in the referenced paragraphs of the Notice of Opposition as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Notice of Opposition, and therefore denies the same.

2. Applicant only admits that the TARR database of the United States Patent and Trademark Office (“USPTO”) shows that the Opposer has registered the mark FIRE, Reg. No. 2,357,902, registered on June 13, 2000, for “graphics boards for computers”, and that the TARR database of the USPTO shows that Section 8 & 15 affidavits have been accepted and acknowledged by the USPTO.

Applicant notes that a mark's incontestability is evaluated according to 15 U.S.C. § 1065, not 15 U.S.C. § 1064 as written in Opposer's brief.

3. Applicant denies the allegations of Paragraph 3 of the Notice of Opposition. The Opposition states, "Opposer's computer hardware and software sold under its FIRE mark is used for and promoted in connection with a wide variety of computer products and computing applications". The FIRE mark as used by Opposer has been limited to a single variety of computer products – video graphics boards. The mark has not been used in connection with the promotion of any application programs.

4. Applicant admits the allegations of Paragraph 4 of the Notice of Opposition to the extent that it claims to have "sold thousands of dollars worth of products...under its FIRE mark throughout the United States", but denies Paragraph 4 of the Notice of Opposition to the extent that it claims to have sold "services under its FIRE mark throughout the United States".

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Notice of Opposition, and therefore denies the same.

6. Applicant admits the allegations of Paragraph 6 of the Notice of Opposition.

7. Applicant denies the allegations of Paragraph 7 of the Notice of Opposition. The Opposition states "Upon information and belief, Applicant had no basis for claiming rights in FIREANGEL for use in connection with the

identified goods prior to November 13, 2000, the date of first use claimed in the application.” Applicant first used the FIREANGEL mark on December 12, 1999.

8. Applicant denies that Applicant’s use of and application to register the mark FIREANGEL requires consent of Opposer. Applicant admits such consent was not obtained.

9. Applicant denies the allegations of Paragraph 9 of the Notice of Opposition.

10. Unless otherwise expressly admitted above, Applicant denies the remainder of the allegations in the Notice of Opposition.

11. In the event of a finding in favor of Opposer, Applicant is at least entitled to a registration with a particular restriction to the listed Goods and Services.

WHEREFORE, Applicant respectfully requests that the Opposition be dismissed.

DATED: April 3, 2008.

/Roger E. Billings/
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer was served upon the Opposing counsel, by United States First Class Mail with postage pre-paid, contained in a sealed envelope addressed to said persons at their last known address indicated below:

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Of Attorneys for Opposer,
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DATE: April 4, 2008

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