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Filing date: **06/24/2008**

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

Proceeding	91184213
Party	Defendant Direct Access Technology Inc
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Submission	Answer
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Signature	/MCO/
Date	06/24/2008
Attachments	answer.final.pdf ( 4 pages )(109110 bytes )

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

**In the matter of Trademark Application Serial No. 78914975**  
**For the mark, METAL GEAR**

<b>Galaxy Metal Gear, Inc.</b>	)	
	)	<b>Opposition No. 91184213</b>
<b>Opposer</b>	)	
	)	
	)	
<b>v.</b>	)	
	)	<b>ANSWER</b>
	)	
<b>Direct Access Technology, Inc.</b>	)	
	)	
<b>Applicant</b>	)	

**ANSWER TO OPPOSITION**

In answer to the Notice of Opposition filed by Galaxy Metal Gear, Inc. in this matter, Direct Access Technology, Inc. (“Applicant” or “DAT”) states a follows:

1. Admitted
2. In answer to the allegations contend in Paragraph 2, Applicant denies same for the reason that the same is not true. By way of further answer, Applicant asserts that the records of the USPTO speaks for itself as to the contents of Applicant’s application.
3. The allegations of Paragraph 3 are denied for the reason that the same are not true.

~~4. Admitted~~

5. Applicant denies the allegations contained in Paragraph 5 for the reason that the same are not true.

6. The allegations of Paragraph 6 are denied for the reason that the same are not true.

7. The allegations of Paragraph 7 are denied for the reason that the same are not true.

8. The allegations of Paragraph 8 are denied for the reason that the same are not true.

9. The allegations of Paragraph 9 are denied for the reason that the same are not true.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

1. The opposition proceedings should be dismissed because Opposer lacks standing to bring these proceedings.

#### **SECOND AFFIRMATIVE DEFENSE**

2. The opposition proceedings should be dismissed because Opposer, as part of the settlement of proceedings in TTAB case number 91174214, agreed to abandon its claim to the Galaxy Metal Gear mark.

#### **THIRD AFFIRMATIVE DEFENSE**

3. The opposition proceedings should be dismissed because Opposer raised or could have raised the issues set forth in these proceedings in TTAB case number 91174214 and, accordingly, the claims raised herein are barred by the doctrine of Res Judicata.

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**FOURTH AFFIRMATIVE DEFENSE**

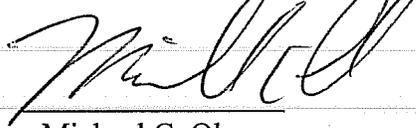
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4. Applicant reserves the right to rely on such other defenses as may become apparent during the course of these proceedings.

WHEREFORE Applicant Direct Access Technology, Inc. respectfully prays that the Board dismiss the Opposition to registration of Applicant's mark with prejudice.

LAW OFFICE OF MICHAEL C. OLSON, P.C.



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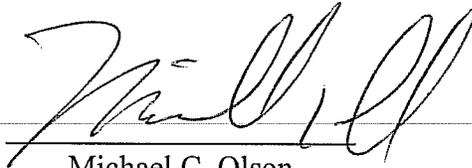
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**CERTIFICATE OF SERVICE**

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The undersigned hereby certifies that a true copy of the foregoing Answer was served on Jen-Feng Lee, counsel for applicant on this 24 day of June, 2008 by depositing a copy of the same in the United States mail, first class postage prepaid, addressed to:

Jen-Feng Lee, Esq.  
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Michael C. Olson

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