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

Proceeding	91190899
Party	Plaintiff Sharp Kabushiki Kaisha, a/t/a Sharp Corporation
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SHARP KABUSHIKI KAISHA, a/t/a	)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91190899
	)	Mark: ONSHARP
ONSHARP, INC.,	)	Application No. 77/645,273
)	
Applicant.)	

**OPPOSER'S MOTION TO TEST THE SUFFICIENCY OF
APPLICANT'S RESPONSES TO ADMISSION REQUESTS**

Pursuant to 37 C.F.R. § 2.120(h) and in accordance with TBMP §524, Opposer, Sharp Kabushiki Kaisha, a/t/a Sharp Corporation, respectfully moves the Board for an order finding that Applicant's responses to Opposer's requests for admissions are inadequate in the ways identified below and that they are not in compliance with Fed.R.Civ.P. 36(a). Opposer requests that the Board require (1) Applicant to serve amended answers or, (2) if it does not do so or if it inadequately responds, then the admissions shall be deemed to be admitted.

I. INTRODUCTION

To date discovery was set to close on September 4, 2011. On August 26, 2011, Opposer filed a motion to extend the discovery period and the subsequent trial dates by 90 days. On September 27, 2011, the Board granted this motion as conceded. Thus, the current due date for the close of discovery is now December 3, 2011.

On June 15, 2011, Opposer served “Opposer’s First Set of Requests for Admissions to Applicant” upon Applicant Onsharp, Inc. (“Onsharp”). See Exhibit A. On July 13, 2011, Applicant requested a two week extension of time to respond, which Opposer granted. On August 3, 2011, Applicant served its written responses to these admission requests. See Exhibit B. Opposer has reviewed Applicant’s responses and found them to be deficient in the ways identified in this Motion.

Opposer made a good faith effort to resolve the issues identified in this motion by correspondence. On August 10, 2011, Opposer sent a letter to counsel for Applicant via email and first class mail detailing the deficiencies it perceived in Applicants responses to its requests for admission. See Exhibit C. Opposer’s August 10th letter requested a response from Applicant by August 17, 2011. Applicant never replied to Opposer’s August 10, 2011 letter. Thus, the parties have been unable to reach agreement about the issues in this motion.

II. APPLICANT SHOULD BE COMPELLED TO PROVIDE MORE SUFFICIENT RESPONSES AND TO DELETE ITS UNFOUNDED OBJECTIONS TO OPPOSER’S ADMISSION REQUESTS TO APPLICANT

Opposer has identified the following specific deficiencies in Applicant’s responses to Opposer’s requests for admission. Opposer requests that Applicant’s responses be found insufficient in these regards.

Admission Request Nos. 8-12:

Applicant objected in Admission Request Nos. 8-12 to the meaning of “SHARP Marks.” However, this objection is not well taken. The full term “Opposer’s SHARP Marks” as used in those admission requests is a term defined at definition No. 4 of

Opposer's First Set of Requests for Admission.¹ In view of the definition provided in the requests, Opposer requests that Applicant be required to delete its objection to the meaning of the mark and make substantive responses or that they be deemed admitted.

Admission Request No. 9:

In Applicant's response to Admission Request No. 9, it objected to the meaning of "educational institution" as vague and ambiguous. In Opposer's August 10, 2011 letter, Opposer clarified that "educational institution" has a common ordinary meaning, *i.e.*, an institution dedicated to or providing education. Opposer requests that Applicant be required to supplement its response in view of Opposer's clarification of the term "educational institution" or that it be deemed admitted.

Admission Request No. 11:

In Applicant's response to Admission Request No. 11, it objected to the meaning of "commercial market" as vague and ambiguous. In Opposer's August 10, 2011 letter, Opposer clarified that "commercial market" means its common ordinary meaning, *i.e.* sale of products and services to end users and public and private companies, rather than to governmental agencies. In view of Opposer's clarification of the term "commercial market," Opposer requests that Applicant be required to supplement its response or that it be deemed admitted.

Admission Request Nos. 20-22, 55-60, 86, 89, 90 and 92-94:

Applicant objected to these requests as to relevance because they pertain to certain registrations that were not expressly asserted in the Notice of Opposition.

¹ "Opposer's SHARP Marks" means "the term SHARP alone as well as in combination

However, those objections are not well taken because (1) the Notice of Opposition asserted Opposer's "'family' of related SHARP marks" (e.g., Notice of Opposition, ¶¶ 1 and 2); and (2) Opposer is permitted to take discovery not only as to matters specifically raised in the pleadings, but also as to any matter which might serve as the basis for an additional claim. See e.g., TBMP 402.01. Opposer requests that Applicant be required to provide substantive responses to these admission requests or that they be deemed admitted.

Admission Requests Nos. 43-54 and 61-84:

In Admission Requests Nos. 43-54 and 61-84, Opposer requested that Applicant state whether certain marks were similar in sound or appearance. Applicant objected to these requests as "seeking a legal conclusion." This objection is again unfounded. Similarity in sound or appearance is an underlying issue of fact for determining the ultimate issue of law. *In re Dixie Rest., Inc.*, 105 F.3d 1405, 1406 (Fed. Cir. 1997). Regardless, Opposer may ask about facts, the application of law to fact, or opinions about either. Fed.R.Civ.P. 36. Opposer asks that Applicant be required to provide complete responses to these requests or that they be deemed admitted.

Request for Admission No. 129:

In response to Request for Admission No. 129, Applicant has denied that "Opposer's mark SHARP has been included in the entirety in the mark ONSHARP." Opposer's letter of August 10th requests Applicant's reasoning for this denial. In view of

with other terms or symbols as used by Opposer."

the fact that the mark ONSHARP includes the letters SHARP in that order and
Opposer's lack of response, Opposer requests that this request be deemed admitted.

III. CONCLUSION

In view of the foregoing, Opposer respectfully requests that this motion be
granted.

Respectfully submitted,

**SHARP KABUSHIKI KAISHA,
a/t/a SHARP CORPORATION**

By: Sheryl De Luca

Robert W. Adams
Sheryl De Luca
NIXON & VANDERHYE P.C.
901 N. Glebe Road, 11th Floor
Arlington, Virginia 22203
Tel: (703) 816-4000

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "OPPOSER'S MOTION TO TEST THE SUFFICIENCY OF APPLICANT'S RESPONSES TO ADMISSION REQUESTS" was this 6th day of October 2011 transmitted by first class mail to counsel for Applicant:

Donika P. Pentcheva
Westman Champlin & Kelly PA
900 Second Avenue South, Suite 1400
Minneapolis, MN 55402



Sheryl De Luca

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

SHARP KABUSHIKI KAISHA, a/t/a)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
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Opposer,)	
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v.)	Opposition No. 91190899
)	Mark: ONSHARP
ONSHARP, INC.,)	Application No. 77/645,273
)	
Applicant.)	

EXHIBIT A

TO

**OPPOSER'S MOTION TO TEST THE SUFFICIENCY OF
APPLICANT'S RESPONSES TO ADMISSION REQUESTS**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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SHARP KABUSHIKI KAISHA, a/t/a)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
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)	Mark: ONSHARP
ONSHARP, INC.,)	Application No. 77/645,273
)	
Applicant.)	

**OPPOSER'S FIRST SET OF REQUESTS FOR
ADMISSIONS TO APPLICANT**

Opposer, Sharp Kabushiki Kaisha, a/t/a/ Sharp Corporation, in accordance with Fed. R. Civ. P. Rule 36 and 37 C.F.R. §§2.116 and 2.120, hereby requests that applicant, Onsharp, Inc. admit the following:

Definitions:

For purposes of these Request for Admissions,

1. "Applicant" means Onsharp, Inc. and any of its principals, officers, directors, employees, staff members, predecessors, successors, related companies and affiliates and any agent, representative or other person acting or purporting to act on its behalf.
2. "Communication" means all documents, inquiries, discussions, conversations, negotiations, agreements, understandings, meetings telephone conversations, letters, facsimiles, emails, notes, advertisements, or other forms of verbal exchange, whether oral or written.

3. "Concerning" or "relating" means referring to, describing, relevant to, evidencing or constituting.
4. "Opposer's SHARP Marks" means the term "SHARP" alone as well as in combination with other terms or symbols as used by Opposer.
5. "Opposer" means Sharp Kabushiki Kaisha, a/t/a/ Sharp Corporation and each of its predecessors, successors, subsidiaries and affiliates.
6. "Person" means an individual, corporation, proprietorship, partnership, association or any other entity.
7. The use of the singular form of any work includes the plural and vice versa.
8. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside its scope.
9. The term "use in commerce" is defined to be synonymous in meaning and equal in scope to the usage of this term in 15 U.S.C. § 1127.
10. These Requests shall be deemed continuing so that with respect to any request herein, or part hereof, as to which Applicant, after answering, acquires additional knowledge or information, Opposer requests that Applicant serve supplemental answers as required by Rule 26(e) of the Federal Rules of Civil Procedure.
11. The term "ONSHARP Mark" means the mark applied for in trademark application serial number 77/645,273 by Applicant Onsharp Inc.
12. In the event that the response to the request is not within Applicant's knowledge, or a complete response to a particular request is not possible, Applicant should respond to the request to the extent possible and indicate why only a partial

response is given.

13. If any responsive information is withheld on the basis of a claim of privilege or immunity, such information is to be identified in accordance with Rule 26(b)(5) of the Federal Rules of Civil Procedure.

REQUESTS

REQUEST NO. 1

Applicant was aware of Opposer prior to its selection of the ONSHARP Mark.

REQUEST NO. 2

Prior to the selection of the ONSHARP Mark, applicant was aware of Opposer's use of Opposer's SHARP Marks.

REQUEST NO. 3

Prior to the selection of the ONSHARP Mark, Applicant was aware of Opposer's registration of Opposer's SHARP Marks.

REQUEST NO. 4

Prior to the selection of the ONSHARP Mark, Applicant conducted a search relating to that mark.

REQUEST NO. 5

Applicant's search for the ONSHARP Mark located one or more marks containing the term "SHARP" owned by Opposer.

REQUEST NO. 6

Prior to the selection of the mark ONSHARP, Applicant was aware that Opposer's goods and services bearing the mark SHARP have been sold throughout the United States.

REQUEST NO. 7

Prior to the selection of the mark ONSHARP, Applicant was aware that Opposer's SHARP Marks were extensively advertised in the United States.

REQUEST NO. 8

Prior to the selection of the mark ONSHARP, Applicant was aware that goods and services bearing Opposer's SHARP Marks were marketed to businesses in the United States.

REQUEST NO. 9

Prior to the selection of the mark ONSHARP, Applicant was aware that goods and services bearing Opposer's SHARP Marks were marketed to educational institutions in the United States.

REQUEST NO. 10

Prior to the selection of the mark ONSHARP, Applicant was aware that goods and services bearing Opposer's SHARP Marks were marketed to the government in the United States.

REQUEST NO. 11

Prior to the selection of the mark ONSHARP, Applicant was aware that goods and services bearing Opposer's SHARP Marks were marketed in the commercial market in the United States.

REQUEST NO. 12

Prior to the selection of the mark ONSHARP, Applicant was aware that goods and services bearing Opposer's SHARP Marks were marketed in the home use market in the United States.

REQUEST NO. 13

Prior to the selection of the mark ONSHARP, Applicant was aware that goods bearing Opposer's SHARP Marks are sold or offered for sale to a wide variety of potential or actual customers in the United States.

REQUEST NO. 14

Applicant admits that U.S. Trademark Registration No. 1,093,113 is valid.

REQUEST NO. 15

Applicant admits that U.S. Trademark Registration No. 1,405,542 is valid.

REQUEST NO. 16

Applicant admits that U.S. Trademark Registration No. 1,985,630 is valid.

REQUEST NO. 17

Applicant admits that U.S. Trademark Registration No. 1,859,359 is valid.

REQUEST NO. 18

Applicant admits that U.S. Trademark Registration No. 1,725,154 is valid.

REQUEST NO. 19

Applicant admits that U.S. Trademark Registration No. 1,526,673 is valid.

REQUEST NO. 20

Applicant admits that U.S. Trademark Registration No. 2,765,106 is valid.

REQUEST NO. 21

Applicant admits that U.S. Trademark Registration No. 3,192,891 is valid.

REQUEST NO. 22

Applicant admits that U.S. Trademark Registration No. 3,684,574 is valid.

REQUEST NO. 23

Applicant admits that U.S. Trademark Registration No. 1,470,546 is valid.

REQUEST NO. 24

Applicant admits that U.S. Trademark Registration No. 1,120,410 is valid.

REQUEST NO. 25

Applicant admits that U.S. Trademark Registration No. 1,059,852 is valid.

REQUEST NO. 26

Applicant admits that U.S. Trademark Registration No. 877,692 is valid.

REQUEST NO. 27

Applicant admits that U.S. Trademark Registration No. 842,768 is valid.

REQUEST NO. 28

Applicant admits that U.S. Trademark Registration No. 2,887,128 is valid.

REQUEST NO. 29

Applicant admits that U.S. Trademark Registration No. 2,350,486 is valid.

REQUEST NO. 30

Applicant admits that U.S. Trademark Registration No. 2,207,058 is valid.

REQUEST NO. 31

Applicant admits that U.S. Trademark Registration No. 2,297,620 is valid.

REQUEST NO. 32

Applicant admits that U.S. Trademark Registration No. 3,114,549 is valid.

REQUEST NO. 33

Applicant admits that U.S. Trademark Registration No. 1,606,267 is valid.

REQUEST NO. 34

Applicant admits that U.S. Trademark Registration No. 3,564,815 is valid.

REQUEST NO. 35

Applicant admits that U.S. Trademark Registration No. 3,490,701 is valid.

REQUEST NO. 36

Applicant admits that Opposer is a well known company in the United States.

REQUEST NO. 37

Applicant admits that Opposer is a well known company in the United States to small businesses.

REQUEST NO. 38

Applicant admits that Opposer is a well known company in the United States to mid-size businesses.

REQUEST NO. 39

Applicant admits that Opposer is a well known company in the United States to large businesses.

REQUEST NO. 40

Applicant admits that Opposer is a well known company in the United States to individual consumers.

REQUEST NO. 41

Applicant admits that Opposer is a well known company in the United States to educational institutions.

REQUEST NO. 42

Applicant admits that Opposer's SHARP marks are famous in the United States

REQUEST NO. 43

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,093,113 in sound.

REQUEST NO. 44

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,093,113 in appearance.

REQUEST NO. 45

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,405,542 in sound.

REQUEST NO. 46

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,405,542 in appearance.

REQUEST NO. 47

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,985,630 in sound.

REQUEST NO. 48

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,985,630 in appearance.

REQUEST NO. 49

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,859,359 in sound.

REQUEST NO. 50

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,859,359 in appearance.

REQUEST NO. 51

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,725,154 in sound.

REQUEST NO. 52

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,725,154 in appearance.

REQUEST NO. 53

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,526,673 in sound.

REQUEST NO. 54

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,526,673 in appearance.

REQUEST NO. 55

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,765,106 in sound.

REQUEST NO. 56

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,765,106 in appearance.

REQUEST NO. 57

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 3,192,891 in sound.

REQUEST NO. 58

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 3,192,891 in appearance.

REQUEST NO. 59

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 3,684,574 in sound.

REQUEST NO. 60

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 3,684,574 in appearance.

REQUEST NO. 61

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,470,546 in sound.

REQUEST NO. 62

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,470,546 in appearance.

REQUEST NO. 63

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,120,410 in sound.

REQUEST NO. 64

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,120,410 in appearance.

REQUEST NO. 65

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,059,852 in sound.

REQUEST NO. 66

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,059,852 in appearance.

REQUEST NO. 67

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 877,692 in sound.

REQUEST NO. 68

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 877,692 in appearance.

REQUEST NO. 69

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 842,768 in sound.

REQUEST NO. 70

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 842,768 in appearance.

REQUEST NO. 71

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,887,128 in sound.

REQUEST NO. 72

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,887,128 in appearance.

REQUEST NO. 73

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,350,486 in sound.

REQUEST NO. 74

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,350,486 in appearance.

REQUEST NO. 75

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,207,058 in sound.

REQUEST NO. 76

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,207,058 in appearance.

REQUEST NO. 77

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,297,620 in sound.

REQUEST NO. 78

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,297,620 in appearance.

REQUEST NO. 79

Applicant admits that the mark ONSHARP is similar to opposer's mark BE SHARP of Registration No. 3,114,549 in sound.

REQUEST NO. 80

Applicant admits that the mark ONSHARP is similar to Opposer's mark BE SHARP of Registration No. 3,114,549 in appearance.

REQUEST NO. 81

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARPVISION of Registration No. 1,606,267 in sound.

REQUEST NO. 82

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARPVISION of Registration No. 1,606,267 in appearance.

REQUEST NO. 83

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP & design of Registration No. 3,564,815 in sound.

REQUEST NO. 84

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP & design of Registration No. 3,564,815 in appearance.

REQUEST NO. 85

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the services (Computer programming and computer software design, maintenance and up dating for others; consultancy and providing information in the field of computer software) in Registration No. 3490701.

REQUEST NO. 86

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the goods (Computer software for use in programming photo-copying machines, printers, facsimile machines and scanners) in Registration No. 3490700.

REQUEST NO. 87

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the following goods (computer monitors; liquid crystal display monitors; liquid crystal displays; liquid crystal display panels; computer servers; personal computer servers; projectors, namely, rear projection televisions; liquid crystal display projectors; rear photographic projectors; personal digital assistants, hand-held electronic dictionaries; electronic dictionaries recorded on magnetic media; computer software for controlling photocopying machines; computer software for controlling

facsimile machines; computer software for controlling scanning machines; computer software for controlling electronic copying machines in which a printer function, a scanner function, and a facsimile function are entirely or partially provided; computer software for translation; computer software for creating animation; computer software for browsing or editing video, images and sound; computer software for editing sound recorded in mini disks; computer software for saving documents in the electronic filing system; computer group ware for scheduling, managing documents, recording address and electronic mailing; laser pointers; printers for use with computers; bar-code printers; point-of-sales terminals; programmable controllers, namely, programmable logic controllers, electrical controllers; flash memory chips and flash memory devices in the nature of storage devices, namely, flash drives; electronic copying machines; electronic copying machines in which a printer function, a scanner function, and facsimile function are entirely or partially provided; ink-jet copying machine in which a printer function, a scanner function, and a facsimile function are entirely or partially provided; facsimile machines in which a copying function, a printer function, and a scanner function are entirely or partially provided) in Registration No. 3564815.

REQUEST NO. 88

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the services (Maintenance and updating of computer hardware through computer networks for copying machines, printers, facsimile machines, scanners, and the combination of the aforementioned products; Monitoring computer networks for copying machines, printers, facsimile machines, scanners and the combination of the aforementioned products, namely, computer monitoring service which tracks hardware

performance and processes and sends out historical reports and alerts; providing computer programming through computer networks for copying machines, printers, facsimile machines, scanners and the combination of the aforementioned products) in Registration No. 3957964.

REQUEST NO. 89

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the goods (Liquid crystal displays; integrated circuits; large scale integration semiconductor integrated circuits (LSI's); computer memories; flash memories; laser diodes, RF communication components in the nature of emitters, receivers, transceivers) in Registration No. 3870739.

REQUEST NO. 90

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the goods (Software for copying machines, printers, facsimile machines and scanners; software for combination machines of copying machines, printers, facsimile machines and scanners; computer software for use in tracking and allocating the cost of operating copying machines, printers, facsimile machines, scanners and combination machines of copying machines, printers, facsimile machines and scanners) in Registration No. 3305190.

REQUEST NO. 91

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the services (Maintenance and repair services for electrical and electronic goods, namely, vacuum cleaners and accessories therefor, copiers, printers, computers and computer peripheral devices, cash registers, calculators, television sets, video

cassette recorders, video cassette players, television sets combined with video cassette recorders; video cameras, projectors, compact disc players, MD (Mini Disc) players, electronic organizers, computer software, projectors, DVD players, LCD monitors; Point of Sales products, home theater audio systems, camcorders and accessories therefor, facsimile machines, microwave ovens, and air conditioners and accessories therefore) in Registration No. 3114549.

REQUEST NO. 92

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the goods (computer software for managing documents) in Registration No. 2765106.

REQUEST NO. 93

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the goods (computer software for managing documents) in Registration No. 2756747.

REQUEST NO. 94

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the goods (personal, portable electronic organizers for organizing information, including dates, addresses, appointments, telephone numbers and memos, and having time keeping and calculator functions and being capable of performing additional functions upon insertion of integrated circuit cards having data stored therein; integrated circuit cards, sold separately or together with the organizers, to enhance and expand the functions of the personal electronic organizers to include and accomplish additional features; namely, foreign language translations, time and expense record

keeping, telephone director listings, fax communications, modem communication, and personal computer linkage; and various peripheral devices for such organizers; namely, printers, audio and/or video cassette recorders, data transfer cables and personal computer interfaces) in Registration No. 1725154.

REQUEST NO. 95

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with on-line advertising services in 2000.

REQUEST NO. 96

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with on-line advertising services in 2001.

REQUEST NO. 97

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with on-line marketing services in 2000.

REQUEST NO. 98

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with on-line marketing services in 2001

REQUEST NO. 99

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with pay per click advertising management services in 2000.

REQUEST NO. 100

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with pay per click advertising management services in 2001

REQUEST NO. 101

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with pay per click advertising management services in 2002.

REQUEST NO. 102

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with pay per click advertising management services in 2003.

REQUEST NO. 103

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with pay per click advertising management services in 2004.

REQUEST NO. 104

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design and development of on-line computer software systems in 2000.

REQUEST NO. 105

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design and development of on-line computer software systems in 2001

REQUEST NO. 106

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design and development of on-line computer software systems in 2002.

REQUEST NO. 107

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design and development of on-line computer software systems in 2003.

REQUEST NO. 108

Applicant admits that it made no use in commerce of the mark ONSHARP in

connection with design and development of on-line computer software systems in 2004.

REQUEST NO. 109

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design and development of on-line computer software systems in 2005.

REQUEST NO. 110

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design and development of on-line computer software systems in 2006.

REQUEST NO. 111

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design of software, other than the design of web pages, in 2000.

REQUEST NO. 112

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design of software, other than the design of web pages, in 2001.

REQUEST NO. 113

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design of software, other than the design of web pages, in 2002.

REQUEST NO. 114

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design of software, other than the design of web pages, in 2003.

REQUEST NO. 115

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design of software, other than the design of web pages, in 2004.

REQUEST NO. 116

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design of software, other than the design of web pages, in 2005.

REQUEST NO. 117

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design of software, other than the design of web pages, in 2006.

REQUEST NO. 118

Applicant admits that the goods and services it intends to sell in connection with the mark ONSHARP will be sold to the same types of persons who have purchased at least some of Opposer's goods and services sold under Opposer's SHARP Marks.

REQUEST NO. 119

Applicant admits that the goods and services it intends to sell in connection with the mark ONSHARP will be sold to the same types of persons who are likely to purchase at least some of Opposer's goods and services sold under Opposer's SHARP Marks.

REQUEST NO. 120

Applicant admits that the goods and services it intends to sell in connection with the mark ONSHARP will be sold to the same types of persons who have used at least some of Opposer's goods and services sold under Opposer's SHARP Marks.

REQUEST NO. 121

Applicant admits that the goods and services it intends to sell in connection with the mark ONSHARP will be sold in some of the same general channels of trade as at least some of Opposer's goods and services sold under Opposer's SHARP Marks.

REQUEST NO. 122

Applicant admits that the goods and services it has sold in connection with the mark ONSHARP were or will be sold in some of the same general channels of trade as at least some of Opposer's goods and services sold under Opposer's SHARP Marks.

REQUEST NO. 123

Applicant admits that Applicant's goods and services sold, offered for sale or provided by Applicant under the mark ONSHARP will be considered by actual or potential purchasers as being sponsored by Opposer.

REQUEST NO. 124

Applicant admits that at least some of the channels of trade in which Opposer markets its goods and services in connection with Opposer's SHARP Marks and in which Applicant markets its goods and services in connection with the ONSHARP mark are overlapping.

REQUEST NO. 125

Applicant admits that at least some of the channels of trade in which Opposer markets its goods and services in connection with Opposer's SHARP Marks and in which Applicant intends to market its goods and services in connection with the ONSHARP mark are overlapping.

REQUEST NO. 126

Applicant has received one or more communications inquiring as to whether Applicant is related to or sponsored by Opposer.

REQUEST NO. 127

Applicant has received one or more misdirected communications intended for Opposer.

REQUEST NO. 128

Applicant has received one or more communications asking for products or services of Opposer.

REQUEST NO. 129

Opposer's mark SHARP has been included in its entirety in the mark ONSHARP.

REQUEST NO. 130

The term SHARP is the dominant word portion of the mark ONSHARP.

REQUEST NO. 131

Admit that all documents and things provided by Applicant in response to Opposer's First Set of Requests for Production of Documents and Things or identified by Applicant in response to Opposer's First Set of Interrogatories are true and accurate copies of what they purport to represent and may be relied upon as authentic.

Respectfully submitted,

**SHARP KABUSHIKI KAISHA,
a/t/a SHARP CORPORATION**

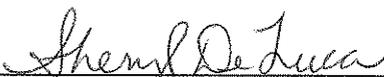
By: 

Robert W. Adams
Sheryl De Luca
NIXON & VANDERHUYE P.C.
901 N. Glebe Road, 11th Floor
Arlington, Virginia 22203
Tel: (703) 816-4000

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT" was this 15th day of June 2011 transmitted by first class mail to counsel for Applicant:

Donika P. Pentcheva
Westman Champlin & Kelly PA
900 Second Avenue South, Suite 1400
Minneapolis, MN 55402



Sheryl De Luca

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

SHARP KABUSHIKI KAISHA, a/t/a	)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91190899
	)	Mark: ONSHARP
ONSHARP, INC.,	)	Application No. 77/645,273
)	
Applicant.)	

EXHIBIT B

TO

**OPPOSER'S MOTION TO TEST THE SUFFICIENCY OF
APPLICANT'S RESPONSES TO ADMISSION REQUESTS**

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

In the matter of Trademark Application Serial No. 77/645,273 for the ONSHARP Mark
Application Date January 7, 2009

Sharp Kabushiki Kaisha,)	
a/t/a Sharp Corporation,)	
Opposer,	)	Opposition No. 91190899
v.)	
Onsharp, Inc.,)	
Applicant.)	

**APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF REQUESTS FOR
ADMISSION TO APPLICANT (NOS. 1-131)**

Onsharp, Inc., ("Onsharp"), pursuant to Rule 36 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, hereby responds to Sharp Kabushiki Kaisha, a/t/a Sharp Corporation's ("SKK") First Requests for Admission as set forth below.

Onsharp reserves the right to amend or supplement its responses if it finds that inadvertent omissions or errors have been made or if additional or more accurate information becomes available. Onsharp incorporates the Preliminary Statement and Continuing Objections from Onsharp's Response to SKK's First Set of Interrogatories.

REQUEST NO. 1:

Applicant was aware of Opposer prior to its selection of the ONSHARP Mark.

RESPONSE:

The request for admission is admitted to the extent that Applicant was aware that Opposer existed and sold consumer electronic goods. Otherwise, this request is denied.

REQUEST NO. 2:

Prior to the selection of the ONSHARP Mark, applicant was aware of Opposer's use of Opposer's SHARP Marks.

RESPONSE:

The request for admission is objected to as being vague and ambiguous. This request for admission is admitted to the extent that Applicant was aware that Opposer sold consumer electronic goods. Otherwise, the request is denied.

REQUEST NO. 3:

Prior to the selection of the ONSHARP Mark, Applicant was aware of Opposer's registration of Opposer's SHARP Marks.

RESPONSE:

This request is denied.

REQUEST NO. 4:

Prior to the selection of the ONSHARP Mark, Applicant conducted a search relating to that mark.

RESPONSE:

This request is denied.

REQUEST NO. 5:

Applicant's search for the ONSHARP Mark located one or more marks containing the term "SHARP" owned by Opposer.

RESPONSE:

The request for admission is objected to as being vague and ambiguous. Applicant does not understand what is meant by "Applicant's search." To the extent that Request No. 5 refers to Request No. 4, the request is denied.

REQUEST NO. 6:

Prior to the selection of the mark ONSHARP, Applicant was aware that Opposer's goods and services bearing the mark SHARP have been sold throughout the United States.

RESPONSE:

The request is admitted to the extent that Applicant was aware that Opposer existed and sold consumer electronic goods. Otherwise, the request is denied.

REQUEST NO. 7:

Prior to the selection of the mark ONSHARP, Applicant was aware that Opposer's SHARP Marks were extensively advertised in the United States.

RESPONSE:

The request for admission is objected to as being vague and ambiguous. Applicant does not understand what SKK means by "extensively advertised". Therefore, Applicant denies this request for admission.

REQUEST NO. 8:

Prior to the selection of the mark ONSHARP, Applicant was aware that goods and services bearing Opposer's SHARP Marks were marketed to businesses in the United States.

RESPONSE:

The request for admission is objected to as being vague and ambiguous. Applicant does not understand what SKK means by "SHARP Marks". Therefore, Applicant denies this request for admission.

REQUEST NO. 9:

Prior to the selection of the mark ONSHARP, Applicant was aware that goods and services bearing Opposer's SHARP Marks were marketed to educational institutions in the United States.

RESPONSE:

The request for admission is objected to as being vague and ambiguous. Applicant does not understand what SKK means by "SHARP Marks" or "educational institutions". Therefore, Applicant denies this request for admission.

REQUEST NO. 10:

Prior to the selection of the mark ONSHARP, Applicant was aware that goods and services bearing Opposer's SHARP Marks were marketed to the government in the United States.

RESPONSE:

The request for admission is objected to as being vague and ambiguous. Applicant does not understand what SKK means by "SHARP Marks". To the extent that Applicant understands this request for admission, Applicant denies this request.

REQUEST NO. 11:

Prior to the selection of the mark ONSHARP, Applicant was aware that goods and services bearing Opposer's SHARP Marks were marketed in the commercial market in the United States.

RESPONSE:

The request for admission is objected to as being vague and ambiguous. Applicant does not understand what SKK means by "SHARP Marks" and "commercial market". The request for admission is admitted to the extent Applicant was aware Opposer sold some consumer electronic goods. Otherwise, the request is denied with respect to any other goods or services.

REQUEST NO. 12:

Prior to the selection of the mark ONSHARP, Applicant was aware that goods and services bearing Opposer's SHARP Marks were marketed in the home use market in the United States.

RESPONSE:

The request for admission is objected to as being vague and ambiguous. Applicant does not understand what SKK means by "SHARP Marks". The request is admitted to extent Applicant was aware Opposer sold some consumer electronic goods. Otherwise, the request is denied with respect to any other goods or services.

REQUEST NO. 13:

Prior to the selection of the mark ONSHARP, Applicant was aware that goods bearing Opposer's SHARP Marks are sold or offered for sale to a wide variety of potential or actual customers in the United States.

RESPONSE:

The request for admission is objected to as being vague and ambiguous. The request is admitted to extent Applicant was aware Opposer sold some consumer electronic goods. The request is denied with respect to any other goods or services.

REQUEST NO. 14:

Applicant admits that U.S. Trademark Registration No. 1,093,113 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 15:

Applicant admits that U.S. Trademark Registration No. 1,405,542 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 16:

Applicant admits that U.S. Trademark Registration No. 1,985,630 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 17:

Applicant admits that U.S. Trademark Registration No. 1,859,359 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 18:

Applicant admits that U.S. Trademark Registration No. 1,725,154 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 19:

Applicant admits that U.S. Trademark Registration No. 1,526,673 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 20:

Applicant admits that U.S. Trademark Registration No. 2,765,106 is valid.

RESPONSE:

This request for admission is objected as irrelevant as this registration was not asserted in the Notice of Opposition. Therefore, Applicant denies this request for admission.

REQUEST NO. 21:

Applicant admits that U.S. Trademark Registration No. 3,192,891 is valid.

RESPONSE:

This request for admission is objected as irrelevant as this registration was not asserted in the Notice of Opposition. Therefore, Applicant denies this request for admission.

REQUEST NO. 22:

Applicant admits that U.S. Trademark Registration No. 3,684,574 is valid.

RESPONSE:

This request for admission is objected as irrelevant as this registration was not asserted in the Notice of Opposition. Therefore, Applicant denies this request for admission.

REQUEST NO. 23:

Applicant admits that U.S. Trademark Registration No. 1,470,546 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 24:

Applicant admits that U.S. Trademark Registration No. 1,120,410 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 25:

Applicant admits that U.S. Trademark Registration No. 1,059,852 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 26:

Applicant admits that U.S. Trademark Registration No. 877,692 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 27:

Applicant admits that U.S. Trademark Registration No. 842,768 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 28:

Applicant admits that U.S. Trademark Registration No. 2,887,128 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 29:

Applicant admits that U.S. Trademark Registration No. 2,350,486 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 30:

Applicant admits that U.S. Trademark Registration No. 2,207,058 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 31:

Applicant admits that U.S. Trademark Registration No. 2,297,620 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 32:

Applicant admits that U.S. Trademark Registration No. 3,114,549 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 33:

Applicant admits that U.S. Trademark Registration No. 1,606,267 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 34:

Applicant admits that U.S. Trademark Registration No. 3,564,815 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 35:

Applicant admits that U.S. Trademark Registration No. 3,490,701 is valid.

RESPONSE:

This request is objected to as requiring a legal conclusion. This request is objected to because Opposer is believed to have possession, custody and control of the information and evidence required to prove or disprove whether the registration is valid and has not produced this information. Therefore, Applicant denies this request for admission.

REQUEST NO. 36:

Applicant admits that Opposer is a well known company in the United States.

RESPONSE:

This request is objected to as being vague and ambiguous. To extent Applicant understands this request for admission, the request for admission is denied.

REQUEST NO. 37:

Applicant admits that Opposer is a well known company in the United States to small businesses.

RESPONSE:

This request is objected to as being vague and ambiguous. To extent Applicant understands this request for admission, the request for admission is denied.

REQUEST NO. 38:

Applicant admits that Opposer is a well known company in the United States to mid-size businesses.

RESPONSE:

This request is objected to as being vague and ambiguous. To extent Applicant understands this request for admission, the request for admission is denied.

REQUEST NO. 39:

Applicant admits that Opposer is a well known company in the United States to large businesses.

RESPONSE:

The request is objected to as being vague and ambiguous. To extent Applicant understands this request for admission, the request for admission is denied.

REQUEST NO. 40:

Applicant admits that Opposer is a well known company in the United States to individual consumers.

RESPONSE:

The request is objected to as being vague and ambiguous. To extent Applicant understands this request for admission, the request for admission is denied.

REQUEST NO. 41:

Applicant admits that Opposer is a well known company in the United States to educational institutions.

RESPONSE:

The request is objected to as being vague and ambiguous. To extent Applicant understands this request for admission, the request for admission is denied.

REQUEST NO. 42:

Applicant admits that Opposer's SHARP marks are famous in the United States.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 43:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,093,113 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 44:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,093,113 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 45:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,405,542 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 46:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,405,542 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 47:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,985,630 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 48:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,985,630 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 49:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,859,359 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 50:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,859,359 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 51:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,725,154 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 52:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,725,154 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 53:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,526,673 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 54:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,526,673 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 55:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,765,106 in sound.

RESPONSE:

This request is objected to as irrelevant because this registration has not been asserted. Therefore, Applicant denies the request for admission.

REQUEST NO. 56:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,765,106 in appearance.

RESPONSE:

This request is objected to as irrelevant because this registration has not been asserted. Therefore, Applicant denies the request for admission.

REQUEST NO. 57:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 3,192,891 in sound.

RESPONSE:

This request is objected to as irrelevant because this registration has not been asserted. Therefore, Applicant denies the request for admission.

REQUEST NO. 58:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 3,192,891 in appearance.

RESPONSE:

This request is objected to as irrelevant because this registration has not been asserted. Therefore, Applicant denies the request for admission.

REQUEST NO. 59:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 3,684,574 in sound.

RESPONSE:

This request is objected to as irrelevant because this registration has not been asserted. Therefore, Applicant denies the request for admission.

REQUEST NO. 60:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 3,684,574 in appearance.

RESPONSE:

This request is objected to as irrelevant because this registration has not been asserted. Therefore, Applicant denies the request for admission.

REQUEST NO. 61:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,470,546 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 62:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,470,546 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 63:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,120,410 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 64:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,120,410 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 65:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,059,852 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 66:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 1,059,852 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 67:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 877,692 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 68:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 877,692 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 69:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 842,768 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 70:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 842,768 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 71:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,887,128 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 72:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,887,128 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 73:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,350,486 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 74:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,350,486 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 75:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,207,058 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 76:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,207,058 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 77:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,297,620 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 78:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP of Registration No. 2,297,620 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 79:

Applicant admits that the mark ONSHARP is similar to Opposer's mark BE SHARP of Registration No. 3,114,549 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 80:

Applicant admits that the mark ONSHARP is similar to Opposer's mark BE SHARP of Registration No. 3,114,549 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 81:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARPVISION of Registration No. 1,606,267 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 82:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARPVISION of Registration No. 1,606,267 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 83:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP & design of Registration No. 3,564,815 in sound.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 84:

Applicant admits that the mark ONSHARP is similar to Opposer's mark SHARP & design of Registration No. 3,564,815 in appearance.

RESPONSE:

This request is objected to as requiring a legal conclusion. Therefore, Applicant denies the request for admission.

REQUEST NO. 85:

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the services (Computer programming and computer software design, maintenance and up dating for others; consultancy and providing information in the field of computer software) in Registration No. 3490701.

RESPONSE:

This request is objected to as being vague and ambiguous. To extent Applicant understands the request for admission, the request for admission is denied.

REQUEST NO. 86:

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the goods (Computer software for use in programming photo-copying machines, printers, facsimile machines and scanners) in Registration No. 3490700.

RESPONSE:

This request is objected to as irrelevant as this registration has not been asserted.

Therefore, the request for admission is denied.

REQUEST NO. 87:

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the following goods (computer monitors; liquid crystal display monitors; liquid crystal displays; liquid crystal display panels; computer servers; personal computer servers; projectors, namely, rear projection televisions; liquid crystal display projectors; rear photographic projectors; personal digital assistants, hand-held electronic dictionaries; electronic dictionaries recorded on magnetic media; computer software for controlling photocopying machines; computer software for controlling facsimile machines; computer software for controlling scanning machines; computer software for controlling electronic copying machines in which a printer function, a scanner function, and a facsimile function are entirely or partially provided; computer software for translation; computer software for creating animation; computer software for browsing or editing video, images and sound; computer software for editing sound recorded in mini disks; computer software for saving documents in the electronic filing system; computer group ware for scheduling, managing documents, recording address and electronic mailing; laser pointers; printers for use with computers; bar-code printers; point-of-sales terminals; programmable controllers, namely, programmable logic controllers, electrical controllers; flash memory chips and flash memory devices in the nature of storage devices, namely, flash drives; electronic copying machines; electronic copying machines in which a printer function, a scanner function, and facsimile function are entirely or partially provided; ink-jet copying machine in which a printer function, a scanner function, and a facsimile function are entirely or partially provided; facsimile machines in which a copying function, a printer function, and a scanner function are entirely or partially provided) in Registration No. 3564815.

RESPONSE:

This request is objected to as being vague and ambiguous. To extent Applicant understands the request for admission, the request for admission is denied.

REQUEST NO. 88:

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the services (Maintenance and updating of computer hardware through computer networks for copying machines, printers, facsimile machines, scanners, and the combination of the aforementioned products; Monitoring computer networks for copying machines, printers, facsimile machines, scanners and the combination of the aforementioned products, namely, computer monitoring service which tracks hardware performance and processes and sends out historical reports and alerts; providing computer programming through computer networks for copying machines, printers, facsimile machines, scanners and the combination of the aforementioned products) in Registration No. 3957964.

RESPONSE:

This request is objected to as irrelevant as this registration has not been asserted. To extent Applicant understands the request for admission, the request for admission is denied.

REQUEST NO. 89:

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the goods (Liquid crystal displays; integrated circuits; large scale integration semiconductor integrated circuits (LSPs); computer memories; flash memories; laser diodes, RF communication components in the nature of emitters, receivers, transceivers) in Registration No. 3870739.

RESPONSE:

This request is objected to as irrelevant as this registration has not been asserted. To extent Applicant understands the request for admission, the request for admission is denied.

REQUEST NO. 90:

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the goods (Software for copying machines, printers, facsimile machines and scanners; software for combination machines of copying machines, printers, facsimile machines and scanners; computer software for use in tracking and allocating the cost of operating copying machines, printers, facsimile machines, scanners and combination machines of copying machines, printers, facsimile machines and scanners) in Registration No. 3305190.

RESPONSE:

This request is objected to as irrelevant as this registration has not been asserted. To extent Applicant understands the request for admission, the request for admission is denied.

REQUEST NO. 91:

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the services (Maintenance and repair services for electrical and electronic goods, namely, vacuum cleaners and accessories therefor, copiers, printers, computers and computer peripheral devices, cash registers, calculators, television sets, video cassette recorders, video cassette players, television sets combined with video cassette recorders; video cameras, projectors, compact disc players, MD (Mini Disc) players, electronic organizers, computer software, projectors, DVD players, LCD monitors; Point of Sales products, home theater audio systems, camcorders and accessories therefor, facsimile machines, microwave ovens, and air conditioners and accessories therefore) in Registration No. 3114549.

RESPONSE:

The request is objected to as being vague and ambiguous. To extent Applicant understands the request for admission, the request for admission is denied.

REQUEST NO. 92:

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the goods (computer software for managing documents) in Registration No. 2765106.

RESPONSE:

This request is objected to as irrelevant as this registration has not been asserted. To extent Applicant understands the request for admission, the request for admission is denied.

REQUEST NO. 93:

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the goods (computer software for managing documents) in Registration No. 2756747.

RESPONSE:

This request is objected to as irrelevant as this registration has not been asserted. To extent Applicant understands the request for admission, the request for admission is denied.

REQUEST NO. 94:

Applicant admits that at least some of the services in Application No. 77/645,273 are related to the goods (personal, portable electronic organizers for organizing information, including dates, addresses, appointments, telephone numbers and memos, and having time keeping and calculator functions and being capable of performing additional functions upon insertion of integrated circuit cards having data stored therein; integrated circuit cards, sold separately or together with the organizers, to enhance and expand the functions of the personal electronic organizers to include and accomplish additional features; namely, foreign language translations, time and expense record keeping, telephone director listings, fax communications, modem communication, and personal computer linkage; and various peripheral devices for such organizers; namely, printers, audio and/or video cassette recorders, data transfer cables and personal computer interfaces) in Registration No. 1725154.

RESPONSE:

This request is objected to as irrelevant as this registration has not been asserted. To extent Applicant understands the request for admission, the request for admission is denied.

REQUEST NO. 95:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with on-line advertising services in 2000.

RESPONSE:

The request for admission is denied.

REQUEST NO. 96:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with on-line advertising services in 2001.

RESPONSE:

The request for admission is denied.

REQUEST NO. 97:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with on-line marketing services in 2000.

RESPONSE:

The request for admission is denied.

REQUEST NO. 98:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with on-line marketing services in 2001.

RESPONSE:

The request for admission is denied.

REQUEST NO. 99:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with pay per click advertising management services in 2000.

RESPONSE:

The request for admission is denied.

REQUEST NO. 100:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with pay per click advertising management services in 2001.

RESPONSE:

The request for admission is denied.

REQUEST NO. 101:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with pay per click advertising management services in 2002.

RESPONSE:

The request for admission is denied.

REQUEST NO. 102:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with pay per click advertising management services in 2003.

RESPONSE:

The request for admission is denied.

REQUEST NO. 103:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with pay per click advertising management services in 2004.

RESPONSE:

The request for admission is denied.

REQUEST NO. 104:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design and development of on-line computer software systems in 2000.

RESPONSE:

The request for admission is denied.

REQUEST NO. 105:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design and development of on-line computer software systems in 2001.

RESPONSE:

The request for admission is denied.

REQUEST NO. 106:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design and development of on-line computer software systems in 2002.

RESPONSE:

The request for admission is denied.

REQUEST NO. 107:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design and development of on-line computer software systems in 2003.

RESPONSE:

The request for admission is denied.

REQUEST NO. 108:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design and development of on-line computer software systems in 2004.

RESPONSE:

The request for admission is denied.

REQUEST NO. 109:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design and development of on-line computer software systems in 2005.

RESPONSE:

The request for admission is denied.

REQUEST NO. 110:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design and development of on-line computer software systems in 2006.

RESPONSE:

The request for admission is denied.

REQUEST NO. 111:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design of software, other than the design of web pages, in 2000.

RESPONSE:

The request for admission is denied.

REQUEST NO. 112:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design of software, other than the design of web pages, in 2001.

RESPONSE:

The request for admission is denied.

REQUEST NO. 113:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design of software, other than the design of web pages, in 2002.

RESPONSE:

The request for admission is denied.

REQUEST NO. 114:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design of software, other than the design of web pages, in 2003.

RESPONSE:

The request for admission is denied.

REQUEST NO. 115:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design of software, other than the design of web pages, in 2004.

RESPONSE:

The request for admission is denied.

REQUEST NO. 116:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design of software, other than the design of web pages, in 2005.

RESPONSE:

The request for admission is denied.

REQUEST NO. 117:

Applicant admits that it made no use in commerce of the mark ONSHARP in connection with design of software, other than the design of web pages, in 2006.

RESPONSE:

The request for admission is denied.

REQUEST NO. 118:

Applicant admits that the goods and services it intends to sell in connection with the mark ONSHARP will be sold to the same types of persons who have purchased at least some of Opposer's goods and services sold under Opposer's SHARP Marks.

RESPONSE:

The request for admission is denied.

REQUEST NO. 119:

Applicant admits that the goods and services it intends to sell in connection with the mark ONSHARP will be sold to the same types of persons who are likely to purchase at least some of Opposer's goods and services sold under Opposer's SHARP Marks.

RESPONSE:

The request for admission is denied.

REQUEST NO. 120:

Applicant admits that the goods and services it intends to sell in connection with the mark ONSHARP will be sold to the same types of persons who have used at least some of Opposer's goods and services sold under Opposer's SHARP Marks.

RESPONSE:

The request for admission is denied.

REQUEST NO. 121:

Applicant admits that the goods and services it intends to sell in connection with the mark ONSHARP will be sold in some of the same general channels of trade as at least some of Opposer's goods and services sold under Opposer's SHARP Marks.

RESPONSE:

The request for admission is denied.

REQUEST NO. 122:

Applicant admits that the goods and services it has sold in connection with the mark ONSHARP were or will be sold in some of the same general channels of trade as at least some of Opposer's goods and services sold under Opposer's SHARP Marks.

RESPONSE:

The request for admission is denied.

REQUEST NO. 123:

Applicant admits that Applicant's goods and services sold, offered for sale or provided by Applicant under the mark ONSHARP will be considered by actual or potential purchasers as being sponsored by Opposer.

RESPONSE:

The request for admission is denied.

REQUEST NO. 124:

Applicant admits that at least some of the channels of trade in which Opposer markets its goods and services in connection with Opposer's SHARP Marks and in which Applicant markets its goods and services in connection with the ONSHARP mark are overlapping.

RESPONSE:

The request for admission is denied.

REQUEST NO. 125:

Applicant admits that at least some of the channels of trade in which Opposer markets its goods and services in connection with Opposer's SHARP Marks and in which Applicant intends to market its goods and services in connection with the ONSHARP mark are overlapping.

RESPONSE:

The request for admission is denied.

REQUEST NO. 126:

Applicant has received one or more communications inquiring as to whether Applicant is related to or sponsored by Opposer.

RESPONSE:

The request for admission is denied.

REQUEST NO. 127:

Applicant has received one or more misdirected communications intended for Opposer.

RESPONSE:

The request for admission is denied.

REQUEST NO. 128:

Applicant has received one or more communications asking for products or services of Opposer.

RESPONSE:

The request for admission is denied.

REQUEST NO. 129:

Opposer's mark SHARP has been included in its entirety in the mark ONSHARP.

RESPONSE:

The request for admission is denied.

REQUEST NO. 130:

The term SHARP is the dominant word portion of the mark ONSHARP.

RESPONSE:

The request for admission is denied.

REQUEST NO. 131:

Admit that all documents and things provided by Applicant in response to Opposer's First Set of Requests for Production of Documents and Things or identified by Applicant in response to Opposer's First Set of Interrogatories are true and accurate copies of what they purport to represent and may be relied upon as authentic.

RESPONSE:

The request for admission is admitted.

Respectfully submitted,

Westman, Champlin & Kelly, P.A.



Z. Peter Sawicki

Peter J. Ims

Donika P. Pentcheva

900 Second Avenue South

Suite 1400

Minneapolis, Minnesota 55402-3319

Telephone: 612-334-3222

Facsimile: 612-334-3312

**ATTORNEYS FOR APPLICANT
ONSHARP, INC.**

Dated: August 3, 2011

CERTIFICATE OF SERVICE

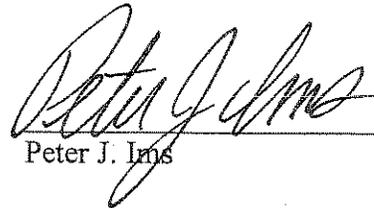
I hereby certify that I am over 18 years of age, am an employee of Westman, Champlin & Kelly, P.A., and am not a party to this action, and that on August 3, 2011, a copy of the following documents:

- I. APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS (NOS. 1-34);
- II. APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF INTERROGATORIES; and
- III. APPLICANT'S RESPONSE TO OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT (NOS. 1-131)

were sent via First Class Mail, postage prepaid to:

Robert W. Adams
Sheryl L. DeLuca
Nixon & Vanderhye, P.C.
901 North Glebe Rd., 11th Floor
Arlington, VA 22203-1808

I certify under penalty of perjury that the foregoing is true and correct. Executed on August 3, 2011.



Peter J. Ims

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

SHARP KABUSHIKI KAISHA, a/t/a	)	Attorney Ref.: 790-2052
SHARP CORPORATION,)	
)	
Opposer,)	
)	
v.	)	Opposition No. 91190899
	)	Mark: ONSHARP
ONSHARP, INC.,	)	Application No. 77/645,273
)	
Applicant.)	

EXHIBIT C

TO

**OPPOSER'S MOTION TO TEST THE SUFFICIENCY OF
APPLICANT'S RESPONSES TO ADMISSION REQUESTS**

Nixon & Vanderhye P.C.

ATTORNEYS AT LAW

11TH FLOOR
901 NORTH GLEBE ROAD
ARLINGTON, VIRGINIA 22203-1808
UNITED STATES OF AMERICA

August 10, 2011

TELEPHONE: (703) 816-4000
FACSIMILE: (703) 816-4100
WRITER'S DIRECT DIAL NUMBER:
(703) 816-4063
E-MAIL: sld@NIXONVAN.COM

VIA EMAIL/THEN FIRST CLASS MAIL

Donika P. Pentcheva, Esq.
Pete Ims, Esq.
Westman, Champlin & Kelly, P.A.
900 Second Avenue South, Suite 1400
Minneapolis, MN 55402

Subject: Trademark Opposition No. 91190899
Our Ref.: 790-2052

Dear Ms. Pentcheva and Mr. Ims,

We have reviewed your responses to “Opposer’s First Set of Interrogatories to Applicant,” “Opposer’s First Request for Production of Documents and Things” and “Opposer’s First Set of Requests for Admissions to Applicant” served on August 3, 2011. In accordance with Trademark Rule 2.120(e), we note the following deficiencies and request that applicant promptly cure its inadequate responses.

I. Document Requests

In particular, in your responses to Document Request Nos. 1-8 and 12-34 you have made objections that the document requests are burdensome, oppressive, unreasonably cumulative or duplicative, overbroad and/or seeking irrelevant information or information not reasonably calculated to lead to the discovery of admissible evidence. However, you have not explained these objections. Opposer does not need duplicative documents. Please provide the basis for these objections or delete them.

In your responses to Document Request Nos. 2-15, 21, 22, 29, 31 and 32, you state that “Applicant’s mark is ONSHARP which cannot be dissected.” To the extent that Document Requests Nos. 2-15, 21, 22, 29, 31 and 32 ask for documents pertaining to any mark that contains the term SHARP, your objection is not well taken, since the entire term SHARP is incorporated in the mark ONSHARP. As you must be aware, many cases find that a mark that contains the entirety of a prior mark can be a factor leading to a likelihood of confusion. *See e.g., Hunt Control Systems Inc. v. Koninklijke Philips Electronics N.V.*, 98 USPQ2d 1558 (TTAB 2011) (“When one incorporates the entire arbitrary mark of another into a composite mark, the inclusion of a significant, non-suggestive element will not necessarily preclude a likelihood of confusion.”). *See also, In re Pierre Fabre S.A.*, 188 USPQ 691 (TTAB 1987) (PEDI-RELAX for foot cream held likely to be confused with RELAX for antiperspirant).

Additionally, although the marks at issue must be considered in their entireties, it is well-settled that one feature of a mark may be found to be more significant than another in terms of the mark's function as a source indicator, and it is appropriate to give more weight to this dominant feature in determining the commercial impression created by the mark, and in comparing the marks at issue under the first *du Pont* factor. See *In re Chatam International Inc.*, 380 F.3d 1340, 71 USPQ2d 1944, 1946 (Fed. Cir. 2004). If you are going to withhold documents based on the above identified objection in your responses, please advise so we can take this up with the Board.

You objected in your responses to Documents Request Nos. 2-5, 12 and 13 to the meaning of "similar term." To clarify, "similar term" means any terms or symbols that include the term SHARP or a term that is visually or phonetically similar to SHARP (such as SCHARP, SHARC, SHARPA, etc.). This is a standard phrase in trademark law and its common meaning cannot be appropriately avoided. Again, if you do not promptly agree to this meaning we intend to go to the Board.

With regard to your objection in response to Document Request No. 25 as to the meaning of "SHARP Marks," please see the definition "D" provided for "Opposer's SHARP Marks" set forth in "Opposer's First Set of Interrogatories to Applicant." Obviously, your objection is bogus and if you do not promptly agree to this meaning we intend to go to the Board.

Your responses to Document Request Nos. 26, 27 and 30 include an objection about dissection of the mark ONSHARP, however, the mark set out in the requests is ONSHARP. Please explain this objection or remove it. See also, the comments above re requests Nos. 2-15, 21, 22, 29, 31 and 32. Obviously, your objection is bogus and if you do not cure it we intend to go to the Board.

With regard to your objection in response to Document Request Nos. 9, 11 and 30 as to the meaning of "Opposer's SHARP Marks," please see the definition "D" provided for "Opposer's SHARP Marks" set forth in "Opposer's First Set of Interrogatories to Applicant." Obviously, your objection is bogus and if you do not cure it we intend to go to the Board.

With regard to your objection in your response to Document Request No. 6 as to the meaning of "under such SHARP marks," please refer to part 6(2) of that Request.

With regard to your response to Document Request Nos. 12, 13, 14 and 15 please explain why you believe that our client or its attorneys have possession, custody and control of the information requested. The requests clearly encompass your client's information related to the ONSHARP mark and any variations of that mark. Sharp is entitled to Applicant's documents whether we have documents or not. If you do not cure these objections, we intend to go to the Board.

Also, with regard to your response to Document Request No. 14 and 15 you claim to not understand what is meant by "any mark containing the term SHARP." To clarify, "any mark containing the term SHARP" includes any mark containing the letters SHARP in that order, which clearly encompasses the mark ONSHARP. If you do not promptly agree to this meaning we intend to go to the Board.

With regard to all of the documents requests, we understand that you are withholding confidential documents until after the protective order is entered. We await your response to our protective order proposal.

Regarding the production or inspection of non-confidential documents, we suggest that the parties provide copies of the documents to each other in accordance with standard practice in Board proceedings instead of making them available for inspection at remote locations to counsel. Please let us know if you agree. Alternatively, would you please let us know the order of magnitude of Onsharp's responsive documents in terms of estimated number of pages or "banker's boxes" so that we can determine how to proceed.

II. Interrogatories

In Interrogatory No. 1 Applicant was asked to provide a description in detail of the channels of trade including the persons who sell and resell or are intended to sell and resell Applicants products and service. This information is missing. Applicant must provide the requested information or we intend to go to the Board.

In response to Interrogatory No 3, you merely refer to your answer to Interrogatory No. 2. However, this is nonresponsive. Interrogatory No. 3 raises a different question than Interrogatory no. 2. Interrogatory No. 3 asks about the manner in which the mark has been used on the identified services, rather than an identification of the products or services. Please supplement your response to Interrogatory No. 3 or we intend to go to the Board.

Your response to Interrogatory No. 4 includes a reference to Interrogatory No. 2 as to the date of first use ("The mark has been continuously used in commerce since at least as early as July 1, 2000"). Please supplement this response to indicate whether that statement applies to each of the services identified in response to Interrogatory No. 2, as requested in Interrogatory No. 4. Interrogatory No. 4 also asks for details of the circumstance of each first use. Applicant must provide this information or we intend to go to the Board.

With regard to your responses to Interrogatory Nos. 6, 9, 10 and 11 we await your comments to the protective order.

In Interrogatory No. 8, Opposer requested the dates during which Applicant's promotional materials were/are distributed. You did not respond. We request that you provide this information or we intend to go to the Board.

In Interrogatory Nos. 11, 12 and 14, this is to clarify that the requests cover any mark (or keyword in the case of No. 14) containing the term "SHARP," which would include the mark (or keyword in the case of No. 14) ONSHARP since ONSHARP includes SHARP in its entirety. Your objection to these requests that your client's mark is ONSHARP which cannot be dissected does not relieve your of the obligation to provide the information requested in these interrogatories. If you withhold information on this basis, we intend to go to the Board.

With regard to your response to Interrogatory No. 14, you indicate that "one of its keywords is ONSHARP." Please confirm that the only keyword purchased by Applicant or on Applicant's behalf that includes the term SHARP is ONSHARP.

III. Admissions

Your objection in Admission Request Nos. 8-12 to the meaning of “SHARP Marks” is not well taken, since the full term “Opposer’s SHARP Marks” is a term defined in our requests. See definition No. 4. Please cure this defective response or we intend to go to the Board.

In response to your objection to the meaning of “educational institution” in Admission Request No. 9, we note that “educational institution” has a common ordinary meaning, *i.e.*, an institution dedicated to education. Please cure this defective response or we intend to go to the Board.

In response to your objection to the meaning of “commercial market” in Admission Request No. 11, we also note the common ordinary meaning, *i.e.* sale of products and services to end users and public and private companies, rather than to governmental agencies. Please cure this defective response or we intend to go to the Board.

Regarding your objections in Admission Request Nos. 20-22, 55- 60, 86, 89, 90 and 92-94, as to relevance of certain registrations that were not expressly asserted, the objections are not well taken because (1) the Notice of Opposition asserted Opposer’s “family’ of related SHARP marks” (e.g., Notice of Opposition, ¶¶ 1 and 2); and (2) we are permitted to take discovery not only as to matters specifically raised in the pleadings, but also as to any matter which might serve as the basis for an additional claim. *See e.g.*, TBMP 402.01. Please cure these defective responses or we intend to go to the Board.

In Admission Requests Nos. 43-54 and 61-84, Opposer requested that Applicant state whether certain marks were similar in sound or appearance. Applicant objected to these requests as “seeking a legal conclusion.” This objection is again unfounded. Similarity in sound or appearance is an underlying issue of fact for determining the ultimate issue of law. *In re Dixie Rest., Inc.*, 105 F.3d 1405, 1406 (Fed. Cir. 1997). Regardless, we may ask about facts, the application of law to fact, or opinions about either. Fed.R.Civ.P. 36. Please cure these defective responses or we intend to go to the Board.

In response to Request for Admission No. 129, we request that you please explain the denial that “Opposer’s mark SHARP has been included in the entirety in the mark ONSHARP.” Please cure this defective response or we will go to the Board.

In view of the need to review each other’s documents and the upcoming close of discovery on September 4, we request an extension of the discovery period for 90 days. We also demand a complete response to this letter by August 17th. In the absence we intend to go to the Board.

Very truly yours,

NIXON & VANDERHYE P.C.

By: 
Sherri De Luca

Enclosure(s)
cc: Robert W. Adams, Esq.