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

|                        |   |
|------------------------|---|
| Proceeding             | 91193858  |
| Party                  | Defendant<br>McGuire Bearing Company  |
| Correspondence Address | Ernest G. Bootsma<br>Ater Wynne LLP<br>1331 NW Lovejoy St., Suite 900<br>Portland, OR 97209<br>UNITED STATES<br>egb@aterwynne.com |
| Submission             | Answer  |
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| Signature              | /Ernest G. Bootsma/   |
| Date                   | 04/19/2010  |
| Attachments            | McGuire Bearing Answer to Notice of Amended Opposition.pdf ( 6 pages )<br>(172172 bytes )   |

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McGuire Bearing Company

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

**EMERSON POWER TRANSMISSION  
CORPORATION,**

Opposer,

v.

**MCGUIRE BEARING COMPANY,**

Applicant.

**ANSWER TO NOTICE OF  
AMENDED OPPOSITION**

Opposition No. 91193858

Application Serial No. 77/107,787

In response to the Notice of Amended Opposition of Opposer Emerson Power Transmission Corporation (“Emerson” or Opposer), Applicant, McGuire Bearing Company, (“McGuire” or Applicant), admits, denies, and alleges as follows:

1. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the factual allegations, if any, contained in paragraph 1, and therefore denies those allegations.

2. In answering paragraph 2, Applicant admits that it is a corporation organized and existing under the laws of the State of Oregon and has a principal place of business on Market Street in Portland, Oregon.

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3. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the factual allegations, if any, contained in paragraph 3, and therefore denies those allegations.

4. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the factual allegations, if any, contained in paragraph 4, and therefore denies those allegations. wit

5. In answering paragraph 5, Applicant admits it is a distributor of bearings and power transmission products.

6. In answering paragraph 6, Applicant admits that it was an authorized distributor of Opposer's products for approximately thirty (30) years. Except as otherwise admitted herein, Applicant denies the remaining allegations in paragraph 6.

7. Applicant denies the allegations in paragraph 7.

8. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the factual allegations, if any, contained in paragraph 8, and therefore denies those allegations.

9. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the factual allegations, if any, contained in paragraph 9, and therefore denies those allegations.

10. Applicant admits the allegations in paragraph 10.

11. In answering paragraph 11 Applicant admits that its application was filed on February 14, 2007 citing a first use date of August 2006. Except as otherwise admitted herein, Applicant denies the remaining allegations in paragraph 11.

12. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the factual allegations, if any, contained in paragraph 12, and therefore denies those allegations.

13. Applicant admits that McGuire's Mark is visually, aurally, and conceptually indistinguishable from Opposer's Mark. Except as otherwise admitted herein, Applicant denies the remaining allegations in paragraph 13.

14. Applicant denies the allegations in paragraph 14.

15. Applicant denies the allegations in paragraph 15.

16. Applicant denies the allegations in paragraph 16.

17. Applicant denies the allegations in paragraph 17.

18. Applicant denies the allegations in paragraph 18.

19. Applicant denies the allegations in paragraph 19.

20. Applicant denies the allegations in paragraph 20.

21. Applicant denies the allegations in paragraph 21.

22. Applicant denies the allegations in paragraph 22.

23. Applicant denies the allegations in paragraph 23.

24. Applicant denies the allegations in paragraph 24.

25. Applicant denies the allegations in paragraph 25.

26. Applicant denies the allegations in paragraph 26.

27. Applicant denies the allegations in paragraph 27.

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**FIRST AFFIRMATIVE DEFENSE**

(Laches)

28. Opposer's Notice of Amended Opposition is barred in whole or in part by the doctrine of laches.

**SECOND AFFIRMATIVE DEFENSE**

(Estoppel)

29. Opposer's Notice of Amended Opposition is barred in whole or in part by the doctrine of estoppel.

**THIRD AFFIRMATIVE DEFENSE**

(Waiver)

30. Opposer's Notice of Amended Opposition is barred in whole or in part by the doctrine of waiver.

**FOURTH AFFIRMATIVE DEFENSE**

(Unclean Hands)

31. Opposer's Notice of Amended Opposition is barred in whole or in part by the doctrine of unclean hands.

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**WHEREFORE**, McGuire prays that (1) the Opposer's Notice of Amended Opposition be dismissed; and (2) that McGuire's Application, Serial No. 77/107,787, be allowed for registration.

DATED this 19<sup>th</sup> day of April, 2010.

Respectfully submitted,

ATER WYNNE LLP

By: Ernest G. Bootsma  
Ernest G. Bootsma, OSB #902143  
Attorneys for Applicant,  
McGuire Bearing Company

## CERTIFICATE OF SERVICE

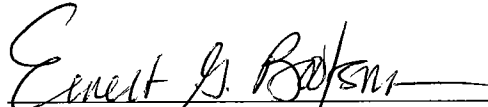
I hereby certify that I served the foregoing **ANSWER TO NOTICE OF AMDNEDED  
OPPOSITION** on the following:

Lisa M. DuRoss/Jessica S. Sachs  
Harness, Dickey & Pierce, P.L.C.  
5445 Corporate Drive Suite 200  
Troy, MI 48098

Attorneys for Emerson Power Transmission Corporation

by ☒ mailing; ☐ hand delivery; ☐ facsimile a true and correct copy thereof to said parties on  
the date stated below.

DATED this 19<sup>th</sup> day of April, 2010.



Ernest G. Bootsma, OSB No. 902143  
Attorneys for Applicant McGuire Bearing Company