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

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|---------------------------|--|
| Proceeding | 91194675 |
| Party | Defendant FireID International S.a.r.l |
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| Submission | Answer |
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| Date | 11/30/2010 |
| Attachments | FireID Answer [4675 Proceeding].pdf (5 pages)(345772 bytes) |

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

In the Matter of Trademark Application Serial No. 77/710511
for the mark **FIREID (and Design)**

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|--------------------------------|---|---------------------------------------|
| FIREEYE, INC., | : | |
| | : | Opposition Nos. 91193572 (parent) |
| Opposer, | : | 91194675 |
| - against - | : | <u>ANSWER TO NOTICE OF</u> |
| | : | <u>OPPOSITION IN</u> |
| FIREID INTERNATIONAL S.A.R.L., | : | <u>OPPOSITION NO. 91194675</u> |
| | : | |
| Applicant, | : | |

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Applicant FireID International S.A.R.L. (“Applicant”), as and for its Answer to the claims asserted in the Notice of Opposition (“Opposition”) filed on behalf of Opposer FireEye, Inc. (“Opposer”), denies that Opposer will be damaged by the registration of Applicant’s mark FIREID (plus Design) (Ser. No. 77/710511). With respect to the specific assertions in the Opposition, Applicant respectfully responds as follows:

1. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 of the Opposition.
2. Applicant denies each and every allegation set forth in paragraph 2 of the Opposition, and respectfully refers the Board to U.S. Registration No. 3,386,418, filed with the U.S. Patent and Trademark Office on September 9, 2005, for the contents thereof.
3. Applicant denies each and every allegation set forth in paragraph 3 of the Opposition, and respectfully refers the Board to U.S. Registration No. 3,386,626, filed with the U.S. Patent and Trademark Office on February 2, 2006, for the contents thereof.

4. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 4 of the Opposition.

5. The allegations set forth in paragraph 5 of the Opposition call for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies each and every allegation set forth in paragraph 5 of the Opposition.

6. Applicant admits that it filed its Trademark Application Serial No. 77/710511 on April 9, 2009 and respectfully refers the Board to that document for the contents thereof.

7. Applicant denies each and every allegation set forth in paragraph 7 of the Opposition.

8. Applicant denies each and every allegation set forth in paragraph 8 of the Opposition.

9. Applicant denies each and every allegation set forth in paragraph 9 of the Opposition.

10. Applicant denies each and every allegation set forth in paragraph 10 of the Opposition.

11. Applicant denies each and every allegation set forth in paragraph 11 of the Opposition.

12. Applicant denies each and every allegation set forth in paragraph 12 of the Opposition.

13. The allegations set forth in paragraph 13 of the Opposition call for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies each and every allegation set forth in paragraph 13 of the Opposition.

14. The allegations set forth in paragraph 14 of the Opposition call for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies each and every allegation set forth in paragraph 14 of the Opposition.

15. The allegations set forth in paragraph 15 of the Opposition call for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies each and every allegation set forth in paragraph 15 of the Opposition.

16. The allegations set forth in paragraph 16 of the Opposition call for a legal conclusion to which no response is necessary. To the extent a response is necessary, Applicant denies each and every allegation set forth in paragraph 16 of the Opposition.

17. Applicant denies each and every allegation set forth in paragraph 17 of the Opposition.

18. Applicant denies each and every allegation set forth in paragraph 18 of the Opposition.

19. Applicant admits that Opposer has filed Opposition No. 91193572 and has separately filed a Motion to Consolidate these proceedings, and respectfully refers the Board to the documents referenced within paragraph 19 of the Opposition for the contents thereof.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

20. The Opposition fails to state any claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

21. Opposer's allegations are barred by the equitable doctrines of waiver, estoppel, laches, acquiescence and/or unclean hands.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

22. Opposer lacks standing to assert the claims in the Opposition.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

23. Applicant's mark FIREID (plus Design) is substantially dissimilar in sound, appearance, meaning and commercial impression from Opposer's marks such that consumers are not likely to be confused, deceived or mistaken as to the source of Applicant's goods.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

24. Upon information and belief, the goods and/or services sold by Opposer and Applicant are substantially dissimilar and therefore no likelihood of confusion exists.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

25. Upon information and belief, Opposer and Applicant sell their goods and/or services in different channels of trade and therefore no likelihood of confusion exists.

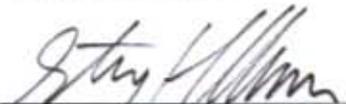
AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

26. Opposer does not own the exclusive rights in and to any mark containing the term FIRE.

WHEREFORE, Applicant respectfully requests that Opposition No. 91194675 be dismissed in its entirety and that Application Serial No. 77/710511 be allowed to proceed to registration.

Dated: New York, New York
November 30, 2010

Respectfully submitted,

By: 

Stacey Hallerman, Esq.
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CERTIFICATE OF SERVICE BY FIRST CLASS MAIL

I hereby certify that a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION IN OPPOSITION NO. 91194675 has been served on Julia Spoor Gard, Esq., attorney for Opposer FireEye, Inc., by mailing said copy on November 30, 2010, via First Class Mail, postage prepaid to:

Julia Spoor Gard, Esq.
Barnes & Thornburg
11 South Meridian Street
Indianapolis, IN 46204

Dated: New York, New York
November 30, 2010



JOSHUA LIPMAN