

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

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In the Matter of:
Application Serial No. 77932628 ECOSEWAGE
Application Serial No. 77932658 ECOSWEET

ECOWATER SYSTEMS, LLC,)	Opposition Number 91197022
)	
)	
Opposer,)	
)	
v.)	
)	
RYLAND TANIGUCHI,)	
)	
)	
Applicant.)	

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant, Ryland Taniguchi, principal in the Ecotilities family of eco-friendly water and wastewater companies, for its/his answer to the Notice of Opposition filed on October 20, 2010 by ECOWATER SYSTEMS, LLC against application for registration of ECOSWEET, Serial No. 77932658 filed and ECOSEWAGE, Serial No. 77932628 filed on *Trademark Official Gazette* (OG) on Jun 22, 2010, pleads and avers as follows:

1. Answering paragraph 1 of the Notice of Opposition, Applicant admits the allegations thereof.
2. Answering paragraph 2 of the Notice of Opposition, Applicant admits the allegations thereof.



12-02-2010

3. Answering paragraph 3 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief to the allegations contained therein and accordingly denies the allegation.

4. Answering paragraph 4 of the Notice of Opposition, Applicant admits the allegations thereof.

5. Answering paragraph 5 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief to the allegations contained therein and accordingly denies the allegation.

6. Answering paragraph 6 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief to the allegations contained therein and accordingly denies the allegation.

7. Answering paragraph 7 of the Notice of Opposition, Opposer does not appear to make any allegation here. Applicant uses ECOSEWAGE in reference to a specific product that converts animal and human waste into NPK fertilizer available in pellet form. Applicant uses ECOSEWAGE for soil remediation, dewatering, and oil spill clean-up. Applicant also uses ECOSEWAGE for large scale septic systems, wastewater treatment, and water purification. The brand name ECOSEWAGE has been used in connection “with environmental control apparatus, namely particle activators in soil remediation, drinking water treatment, municipal and industrial wastewater treatment, septic tanks; sewage disposal plants; sustainable onsite water recycling and wastewater treatment systems; thickening and

dewatering machines for use in the treatment of liquids including water, industrial effluent and sewage; waste water purification units; water conditioning units; water coolers; water cooling towers; water desalination plants; water filtering devices, namely, water purification installations for waste water and sewage consisting of curtains and textile fabrics; water purification and filtration apparatus; water purification machines; water purifications tanks; water purifications tanks; water purification units; water purification, sedimentation and filtration apparatus for clarification, thickening and filtration of water, waste water and industrial water; water purifiers; water purifying apparatus; water treatment apparatus, namely, clarification and thickening machine for use in treatment of liquids in the nature of water, waste water and industrial water; water treatment equipment, namely ultraviolet sterilization units” in International Class 11 in commerce since January 2009, and can also be found on www.ecotilities.com. Applicant further affirmatively alleges that Applicant has been using its mark and developing consumer recognition and goodwill since January 2009 and Opposer has done nothing (even admittedly in correspondence) and is consequently barred by laches, acquiescence and estoppel from opposing Applicant’s application.

8. Answering paragraph 8 of the Notice of Opposition, Opposer does not appear to make any allegation here. Applicant uses ECOSWEET in reference to a specific product sold that treats water using cavitation and turbulence mechanics physics. The ECOSWEET product does not use chemicals, filters, or reverse osmosis.

Applicant uses the product ECOSWEET to assist in bioremediation projects, oil spill clean-up, soil remediation, catch basin clean-up, water reprocessing, water filtration, and other environmental remediation services. The brand name ECOSWEET has been used in connection with “bacterial treatment of bioremediation; batch biological treatment services; biological petroleum treatment services; biological waste water treatment services; continuous biological water treatment services; conversion of targeted substrates into targeted chemical preparation by treatment with enzyme systems; environmental remediation services, namely, soil treatment services; environmental remediation services, namely, soil, waste and/or water treatment services; fuel treatment services; material treatment services in connection with recycling; metal treatment; nuclear waste treatment; oil and gas well treatment; oil well prospecting, namely perforation and spill treatment; providing material treatment information; sustainable on-site water recycling and wastewater treatment services; treatment of crystalline materials using a quantum field accelerator/generator; treatment of materials by laser beam; treatment of materials, namely, the addition of polymer additives, radio opacifiers, and antimicrobial agents to materials to render them ecogenic, radiopaque, or bacteriostatic; treatment of wastewater; treatment of water used in nuclear reactors; waste treatment; waste water reprocessing, wastewater treatment services; waste water treatment services for industrial purposes; water demineralization; water filtration and conditioning services; water recycling and desalination services; water treating; water treatment and purification; water treatment services” in International Class 40 since January 2009; an example includes the website www.ecotilities.com which has links from International Engineering firms.

9. Answering paragraph 9 of the Notice of Opposition, Applicant denies the allegation. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark and the pleaded marks of Opposer are not confusingly similar.

10. Answering paragraph 10 of the Notice of Opposition, Applicant denies the allegation. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception as referenced under Section 2(d) of the Lanham Act, because, *inter alia*, Applicant's mark and the pleaded marks of Opposer are not confusingly similar. As similarity, if at all, between Applicant's mark and the pleaded marks of the Opposer is in the portion "Eco" which, upon information and belief, has been used and registered by numerous clean tech, environmental conscious companies, and "green technology" companies. As a result, Opposer cannot base any similarity between its pleaded marks and the mark of Applicant of the "Eco." Any trademark or service mark rights that Opposer may have are narrowly circumscribed to the goods or services indicated and any other use would not lead to a likelihood of confusion.

11. Answering paragraph 11 of the Notice of Opposition, Applicant denies the allegation.

12. Applicant further affirmatively alleges that as a result of its continuous substantial usage of its mark ECOSWEET and ECOSEWAGE since adoption, this mark is a valuable asset of Applicant and carries considerable goodwill and consumer acceptance of its products sold under the mark. Such goodwill and widespread usage has made the mark distinctive to the Applicant.

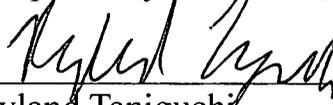
13. Applicant further affirmatively alleges that Opposer's "Eco" mark is or has become generic for inexpensive, convenient or easy but low quality or commercialized versions of items and therefore cannot have meaning as a trademark.

14. Applicant further affirmatively alleges that Applicant has been using its mark and developing consumer recognition and goodwill since January 2009 and Opposer has done nothing (even admittedly in correspondence) and is consequently barred by laches, acquiescence and estoppel from opposing Applicant's application.

15. Applicant further affirmatively alleges that there is no likelihood of dilution interest intended any association with Opposer's marks or any of them; and upon information and belief, ordinary prospective purchaser's of Applicant's products do not associate Applicant's and Opposer's marks.

WHEREFORE, Applicant requests that the Notice of Opposition be dismissed with prejudice and prays that the aforesaid application of Ryland Taniguchi be accepted and registrations issues thereon to Applicant.

Respectfully Submitted,



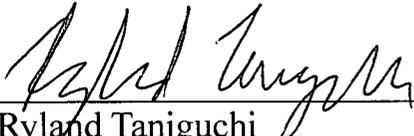
Ryland Taniguchi
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Pro Se

Date: November 20, 2010

CERTIFICATE OF SERVICE

I Hereby certify that a true and complete copy of the foregoing Applicant's Answer to Notice of Opposition has been served on opposing counsel by mailing said copy on November 20, 2010, via First Class Mail, postage prepaid to:

DLA Piper LLP (US)
P.O. Box 64807
Chicago, IL 60664-0807
UNITED STATES



Ryland Taniguchi

Date: November 20, 2010