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Filing date: **01/03/2011**

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

Proceeding	91197243
Party	Defendant Ontel Products Corporation
Correspondence Address	JASON M DRANGEL EPSTEIN DRANGEL BAZERMAN & JAMES, LLP 60 E 42ND ST , STE 820 NEW YORK, NY 10165-0808 UNITED STATES mail@ipcounselors.com
Submission	Other Motions/Papers
Filer's Name	William C. Wright
Filer's e-mail	mail@ipcounselors.com
Signature	/William C. Wright/
Date	01/03/2011
Attachments	motion to set aside.pdf (8 pages)(113715 bytes) answer ontel.pdf (3 pages)(43527 bytes)

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

----- X

IOIP HOLDINGS, LLC

Opposer,

v.

Opposition No. 91197243

ONTEL PRODUCTS CORPORATION

Applicant.

----- X

APPLICANT'S MOTION TO SET ASIDE DEFAULT

Today, the TTAB entered an order of default in the above-referenced action due to Applicant's failure to answer or otherwise respond to the opposition. Applicant did, in fact, answer the Opposition on November 24, 2010. *See, accompanying Declaration of Jason M. Drangel.* The Answer was served on counsel for Opposer that day. *Drangel Dec.*, ¶ 4, *Ex. 1.* However, Applicant appears to have failed to file a copy of the Answer with the TTAB. This mistake was unintentional. Accordingly, Applicant asks that the properly served Answer be accepted (filed today) and the action be re-opened. *Drangel Dec.*, ¶ 5. There is no prejudice to Opposer since there is no delay in the action itself since the discovery conference deadline does not even expire until January 12, 2011. *Drangel Dec.*, ¶ 6. Further, Opposer was mailed a copy of the Answer and is aware of Applicant's position in the matter. *Drangel Dec.*, ¶ 7. Opposer has not communicated with Applicant since November 24, 2010.

Respectfully submitted,

EPSTEIN DRANGEL LLP
Attorneys for Applicant

Dated: January 3, 2011

By: _____

Jason M. Drangel
William C. Wright
One Grand Central Plaza
60 East 42nd Street, Suite 2410
New York, New York 10165
Tel.: (212) 292-5390
Fax: (212) 292-5391

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing APPLICANT'S MOTION TO SET ASIDE DEFAULT was served by First Class Mail, with sufficient postage prepaid, on this 3rd day of January, 2011, upon Opposer's attorney:

Gerard T. Gallagher
BARNES & THORNBURG
600 1st Source Bank Center
100 North Michigan Street
South Bend, IN 46601

BY: _____

Mimi Claudio-Abad

CERTIFICATE OF MAILING

I hereby certify that a true and complete copy of the foregoing APPLICANT'S MOTION TO SET ASIDE DEFAULT was filed with the TTAB electronically on this 3rd day of January, 2011.

BY: _____

Mimi Claudio-Abad

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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DECLARATION OF JASON M. DRANGEL

I, Jason M. Drangel, hereby declare as follows:

1. I am familiar with the facts set forth below and make this declaration in support of Applicant's Motion to Set Aside Default.

2. I am an attorney with the law firm of Epstein Drangel LLP, located at 60 East 42nd Street, Suite 2410, New York, New York 10165.

3. I am admitted to practice in the State of New York as well as the United States District Court for the Southern and Eastern Districts of New York.

4. On November 24, 2010, we served an Answer to the Notice of Opposition upon counsel for Opposer but failed to file the Answer in the above-referenced action. A copy is enclosed here as Exhibit 1.

5. This mistake was unintentional.

6. There is no prejudice to Opposer since there is no delay in the action itself since the discovery conference deadline does not expire until January 12, 2011.

7. Opposer was served with a copy of the Answer and is therefore aware of Applicant's position in the matter.

8. Opposer has not communicated with Applicant since November 24, 2010.

I declare under the penalty of perjury under the laws of the United States that to the best of my knowledge the foregoing is true and correct.

Dated: 1/3/2011

By:

Jason M. Drangel

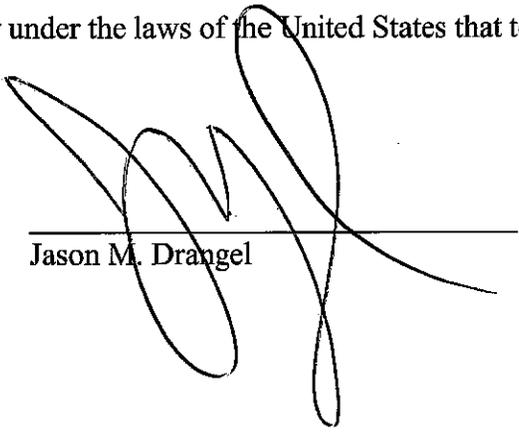
A large, stylized handwritten signature in black ink, appearing to read 'Jason M. Drangel', is written over a horizontal line. The signature is highly cursive and loops around the line.

EXHIBIT 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Opposer, IOIP Holdings, LLC, by its undersigned attorneys, hereby answers the Notice of Opposition directed to the numbered paragraphs as follows:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 of the Notice of Opposition and therefore denies same.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 of the Notice of Opposition and therefore denies same.
3. Admitted.
4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 of the Notice of Opposition and therefore denies same.
5. Denied.
6. Denied.
7. Denied.

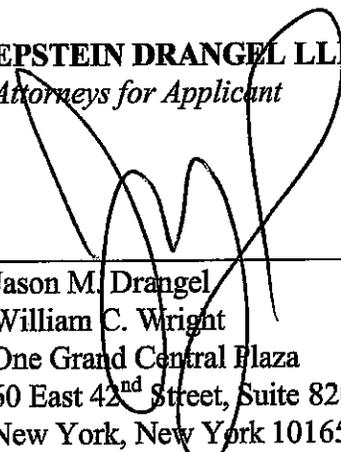
8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 8 of the Notice of Opposition and therefore denies same.
9. Denied.
10. Admitted.
11. Admitted.
12. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 12 of the Notice of Opposition and therefore denies same.
13. Denied.

Respectfully submitted,

EPSTEIN DRANGEL LLP
Attorneys for Applicant

Dated: November 24, 2010

By:



Jason M. Drangel
William C. Wright
One Grand Central Plaza
60 East 42nd Street, Suite 820
New York, New York 10165
Tel.: (212) 292-5390
Fax: (212) 292-5391

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing ANSWER TO NOTICE FOR OPPOSITION was served by First Class Mail, with sufficient postage prepaid, on this 24th day of November, 2010, upon Opposer's attorney:

Gerard T. Gallagher
BARNES & THORNBURG
600 1st Source Bank Center
100 North Michigan Street
South Bend, IN 46601

BY: 
Mimi Claudio-Abad

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2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 2 of the Notice of Opposition and therefore denies same.
3. Admitted.
4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 of the Notice of Opposition and therefore denies same.
5. Denied.
6. Denied.
7. Denied.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 8 of the Notice of Opposition and therefore denies same.

9. Denied.

10. Admitted.

11. Admitted.

12. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 12 of the Notice of Opposition and therefore denies same.

13. Denied.

Respectfully submitted,

EPSTEIN DRANGEL LLP
Attorneys for Applicant

Dated: November 24, 2010

By:

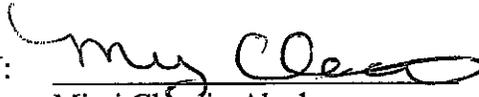
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