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

Proceeding	91197754
Party	Defendant Lavatec, Inc.
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Submission	Answer
Filer's Name	John C. Linderman
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Date	09/26/2012
Attachments	AnswerAmddNotice.pdf (5 pages)(57629 bytes)

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

In the matter of Trademark Application No. 76701998
for the mark: LAVATEC
Published on November 2, 2010

Wolf-Peter Graeser,)	
)	
Opposer)	
)	Opposition No. 91197754
v.)	
)	
Lavatec, Inc.)	
)	
Applicant)	

**APPLICANT’S ANSWER TO OPPOSER’S FIRST AMENDED NOTICE OF
OPPOSITION**

Applicant, Lavatec, Inc., sets forth below its Answer to the First Amended Notice of Opposition filed by Opposer, Wolf-Peter Graeser, and states, for the respective paragraphs of the Amended Notice, as follows:

1. Denied as to the United States, and as to elsewhere Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
2. Denied as to the United States, and as to elsewhere Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
3. Denied as to the United States, and as to elsewhere Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.

4. Denied as to the United States, and as to elsewhere Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
5. Denied as to the United States, and as to elsewhere Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
6. Denied that Opposer is the owner of common law rights in the Mark in the United States, and as to remainder of the allegations, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
7. Denied as to the United States, and as to remainder of the allegations, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
8. Admitted.
9. Denied as to the United States, and as to elsewhere Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
10. Admitted.
11. Admitted.
12. Admitted.
13. Denied that Opposer acquired any intellectual property rights of Lavatec Germany in the United States, and as to the remainder of the allegations, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
14. Applicant admits that it was formed by Lavatec Germany, and was under the control of Lavatec Germany, but otherwise, denies the allegations.
15. Applicant admits that it was never granted a written license or assigned the Mark, nor did Applicant attempt to register the Mark before March 2010, but otherwise denies the allegations.

16. Applicant admits that it has manufactured folders and washer extractors, and that it has not manufactured or sold dry cleaning machines, or electric clothing pressing machines. Applicant also admits that some machines sold by Applicant to US customers were manufactured by Lavatec Germany and others, and were shipped from the manufacturer directly to the customers, but otherwise denies the allegations.
17. Denied.
18. Admitted that Lavatec Germany incorporated Applicant, its wholly owned subsidiary, and Applicant acted as a sales office, but otherwise denies the allegations.
19. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
20. Denied that Opposer purchased the assets of Lavatec Germany including its worldwide intellectual property, and as to the remaining allegations, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
21. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
22. Denied as to the United States, and otherwise Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
23. Admitted that Opposer is not selling Products to Applicant, and as to the remaining allegations, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
24. Denied that Original Applicant's filing was without the knowledge or consent of Lavatec Germany or its trustee, but otherwise the allegations are admitted.
25. Denied.
26. Denied

27. Admitted that some of the photographs in the specimens show Products manufactured by Lavatec Germany in facilities of clients of Lavatec Germany, but otherwise the allegations are denied.
28. Admitted that Applicant's Mark LAVATEC and Opposer's Mark LAVATEC are identical and confusingly similar, but otherwise the allegations are denied.
29. Denied.
30. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegation that Opposer has received inquiries requesting clarification, and denies the remainder of the allegations.
31. Denied.
32. Denied as to the allegation that registration of Applicant's mark is barred under Section 2(d), and as to the remaining speculations, Applicant has insufficient knowledge or beliefs and therefore denies the same.
33. Denied.
34. Admitted that Applicant's Mark LAVATEC and Opposer's Mark LAVATEC are identical, but otherwise the allegations are denied.
35. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
36. Denied.
37. Denied.
38. Denied.
39. Denied.
40. Denied.
41. Admitted.

WHEREFORE, Applicant, Lavatec, Inc., for its prayer for relief, requests that the Board dismiss the Notice of Opposition and that its application for registration be granted.

Respectfully requested

LAVATEC, INC.

By s/ John C. Linderman
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CERTIFICATE SERVICE

The undersigned hereby certifies that a copy of the foregoing

**APPLICANT'S ANSWER TO OPPOSER'S FIRST AMENDED NOTICE OF
OPPOSITION**

was sent by email and served by First Class U.S. Mail, postage prepaid this 26th day of September 2012, to the following counsel of record:

Andrea Fiocchi, Esq.
Sarah E. Tallent, Esq.
44 Wall Street, 10th Fl
New York, NY 10005

By s/John C. Linderman
John C. Linderman