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

Proceeding	91204986
Party	Defendant XYLEM IP HOLDINGS LLC
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Date	06/07/2012
Attachments	ANSWER NO 91204986.pdf (6 pages)(14875 bytes)

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

In the matter of Application Nos. 85/386,849

For the trademark XYLEM (Stylized) in International Classes 1, 6, 7, 9, 11, 35, 36, 37, 40 and 42

XYLEM GROUP, LLC.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91204986
)	
XYLEM IP HOLDINGS LLC.,)	
)	
Applicant.)	
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ANSWER TO NOTICE OF OPPOSITION

Applicant Xylem IP Holdings, LLC (“Applicant”), by counsel, submits this Answer to the Notice of Opposition filed by Xylem Group, LLC (“Opposer”). The paragraphs below are numbered to correspond to those of the Notice of Opposition. All allegations not expressly admitted are denied.

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of these allegations, and the allegations are therefore denied.
2. Applicant is without knowledge or information sufficient to form a belief as to the truth of these allegations, and the allegations are therefore denied.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of these allegations, and the allegations are therefore denied.
4. As to the first sentence, Applicant admits that Opposer is the owner of the cited registration; Applicant denies that Opposer uses the mark in connection with all of the

enumerated goods. The second sentence requires no response. The third sentence is admitted. The fourth sentence states a conclusion of law as to which no response is required.

5. Denied.

6. Denied.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of these allegations, and the allegations are therefore denied.

8. Admitted.

9. Denied.

10. Applicant admits that its mark is intended for use in connection with goods or services in International Classes 1, 6, 7, 9, 11, 35, 36, 37, 40, and 42, and that Applicant has not yet submitted a Statement of Use as to any International Class. The allegations are otherwise denied.

11. Denied.

12. Denied.

13. Admitted.

14. The first sentence is denied. As to the second sentence, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegation about when Opposer began using its mark, and the allegation is therefore denied. As to the remainder of the second sentence, Applicant denies that Opposer has priority over Applicant for any goods other than the specific bathroom goods recited in Opposer's registration, in particular: bathroom fixtures, namely, sinks and faucets; plumbing fittings, namely drains, bath drains, lavatory drains, vessel mounting rings, sink stops, and sink riser tubes; and bathroom furniture, namely, vanities, shelves, medicine cabinets, countertops, and pedestals.

15. Applicant incorporates by reference its responses to paragraphs 1 through 14.
16. Denied.
17. Denied.
18. Admitted.
19. Denied.
20. Denied.
21. Denied.
22. Denied.
23. Applicant admits that it does not need, and has not sought or received, Opposer's consent or permission to use the mark XYLEM.
24. Denied.
25. Applicant admits that registration of Applicant's mark would give Applicant *prima facie* evidence of the validity and ownership of Applicant's mark and of Applicant's exclusive right to use its XYLEM mark on the goods and services claimed. The allegations are otherwise denied.
26. Denied.
27. Applicant is without knowledge or information sufficient to form a belief as to the truth of these allegations, and the allegations are therefore denied.
28. Applicant admits that Opposer apparently filed a trademark application for its mark on December 5, 2005. The allegations are otherwise denied.
29. Applicant admits that Opposer has priority over Applicant for the specific bathroom goods recited in Opposer's registration, in particular: bathroom fixtures, namely, sinks and faucets; plumbing fittings, namely drains, bath drains, lavatory drains, vessel mounting

rings, sink stops, and sink riser tubes; and bathroom furniture, namely, vanities, shelves, medicine cabinets, countertops, and pedestals; the allegations are otherwise denied.

30. The first sentence is denied. The second sentence is admitted.

31. Denied.

32. Denied.

33. The first sentence is admitted. The second sentence is denied.

34. Applicant denies the first sentence because it is unintelligible. As to the second sentence, Applicant admits that it deleted the term “toilets for marine vessels”; the allegations are otherwise denied. The third sentence is denied.

35. Denied.

36. Applicant denies this allegation because it is unintelligible.

37. Denied.

38. Denied.

39. [Pertaining to the unnumbered paragraph headed “Unfair Competition.”] Denied.

With respect to Opposer’s prayer for relief, Applicant denies that Opposer is entitled to any relief.

Defenses

1. The Notice of Opposition fails to state a claim upon which relief may be granted.
2. Opposer fails to plead fraud with particularity.

Dated: June 7, 2012

/Jason K. Schmitz/

One of the Attorneys for Applicant,
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CERTIFICATE OF FILING AND SERVICE

The undersigned certifies that the **ANSWER TO NOTICE OF OPPOSITION** was filed online via ESTTA and was also served by U.S. Mail to:

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