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

Proceeding	91206026
Party	Defendant Shurjoint Piping Products, Inc.
Correspondence Address	CHARLES E. BAXLEY HART, BAXLEY, DANIELS & HOLTON 90 JOHN ST STE 403 NEW YORK, NY 10038-3242  ceb@hartbaxley.com
Submission	Answer
Filer's Name	Mark H. Tidman
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Signature	/Mark H. Tidman/
Date	08/20/2012
Attachments	Answer to SHURJOINT Opp Notice.pdf ( 3 pages )(595030 bytes )

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

Vitaulic Company of America,	)	
	)	
Opposer,	)	Opposition No. 91206026
	)	
v.	)	Serial No. 85/502,864
	)	
Shurjoint Piping Products, Inc.	)	Mark: SHURJOINT & Design
	)	
Applicant.	)	

Attorney Docket Number: 91832.200

Commissioner for Trademarks  
P.O. Box. 1451  
Alexandria, VA 22313-1451

**ANSWER TO NOTICE OF OPPOSITION**

Applicant, Shurjoint Piping Products, Inc., answers the Notice of Opposition filed by Vitaulic Company of America, and asserts the affirmative defenses as follows:

1. Applicant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 1 of the Notice of Opposition, and therefore denies same.
2. Applicant is without sufficient information to form a belief as to the truth of the allegations contained in Paragraph 2 of the Notice of Opposition, and therefore denies same.
3. The allegations contained in Paragraph 3 of the Notice of Opposition are denied. The parties have co-existed using their respective SHURJOINT and SNAP-JOINT marks for decades, a fact known to Victaulic and its counsel prior to the filing of the Notice of Opposition. In fact, Applicant owns an incontestable registration, No. 1996123, for the virtually identical mark with a slightly different design feature, and covering virtually identical goods as those set forth in the opposed application, a fact known to Victaulic and its counsel prior to filing the Notice of Opposition. The Notice of Opposition is defective, and indeed Victaulic lacks standing, because Victaulic has not, and cannot, plead damage, a

fact known to Victaulic and its counsel prior to filing the Notice of Opposition. The allegation of likelihood of confusion herein is wholly knowingly unsupportable.

**AFFIRMATIVE DEFENSES**

1. The Opposition is barred by laches, acquiescence and estoppel.
2. The Opposition is barred because Opposer has unclean hands.

Applicant hereby appoints Mark H. Tidman, of the law firm of Baker & Hostetler LLP and member of the Bar of the District of Columbia, to prosecute this cancellation proceeding and transaction all business in and before the U.S. Patent and Trademark Office in connection therewith.

Please address all correspondence to **Mark H. Tidman** at Baker & Hostetler LLP, Washington Square, Suite 1100, 1050 Connecticut Avenue, N.W., Washington, D.C. 20036-5304. The filing for this cancellation in the amount of \$300.00 should be charged to Deposit Account 50-20-36 under Attorney Docket Number 91832.200.

Respectfully Submitted,

**SHURJOINT PIPING PRODUCTS, INC.**

Date: August 20, 2012

By: \_\_\_\_\_

Mark H. Tidman  
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*Attorney for Applicant*

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served via first-class mail, postage prepaid on this 20th day of August, 2012 to the following:

BRYAN P. SUGAR  
UNGARETTI & HARRIS  
70 WEST MADISON ST.  
3500 THREE FIRST NATIONAL PLAZA  
CHICAGO, IL 60602-4224

By:



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Mark H. Tidman