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

Proceeding	91206129
Party	Defendant Xamax Industries, Inc.
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Submission	Answer
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Date	08/16/2012
Attachments	xamax.pdf (4 pages)(263941 bytes)

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

ORCHARD YARD AND THREAD COMPANY, INC. d/b/a LION BRAND YARN COMPANY,	)	
Opposer.	)	Opposition No.: 91206129
v.	)	Serial No. 85/525,666
XAMAX INDUSTRIES, INC.	)	
Applicant.	)	

Trademark Trial and Appeal Board
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

ANSWER TO NOTICE OF OPPOSITION

Xamax Industries, Inc. ("Applicant"), by and through its undersigned counsel, hereby answers and asserts affirmative defenses to the Notice of Opposition of Opposer Orchard Yard and Thread Company, Inc. d/b/a Lion Brand Yarn Company ("Opposer").

Applicant answers and responds to the like-numbered paragraphs of Opposer's Notice of Opposition as follows:

1. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 1 of the Notice of Opposition and on that basis denies the same.

2. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 2 of the Notice of Opposition and on that basis denies the same.

3. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 3 of the Notice of Opposition and on that basis denies the same.

4. Applicant admits that Opposer is identified as the owner of U.S. Trademark Reg. No. 3,187,172 dated December 19, 2006; however, Applicant lacks

knowledge or information sufficient to form a belief as to the truth or falsity of the such information as proof of status and title of said registration and on that basis denies the same.

5. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 5 of the Notice of Opposition and on that basis denies the same.

6. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 6 of the Notice of Opposition and on that basis denies the same.

7. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 7 of the Notice of Opposition and on that basis denies the same.

8. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 8 of the Notice of Opposition and on that basis denies the same.

9. Applicant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth in paragraph 9 of the Notice of Opposition and on that basis denies the same.

10. Applicant denies the allegations of paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations of paragraph 11 of the Notice of Opposition.

12. Applicant denies the allegations of paragraph 12 of the Notice of Opposition.

13. Applicant denies the allegation of paragraph 13 of the Notice of Opposition.

14. Applicant denies the allegations of Paragraph 14 of the Notice of Opposition.

15. Applicant denies the allegations of paragraph 15 of the Notice of Opposition.

16. Applicant denies the allegations of paragraph 16 of the Notice of Opposition.

17. Applicant denies the allegations of paragraph 17 of the Notice of Opposition.

18. Applicant denies the allegations of paragraph 18 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

1. Opposer has failed to state any claim upon which relief can be granted.

2. There is no likelihood of confusion, mistake or deception because *inter alia* Applicant's and Opposer's marks are not confusingly similar in that (a) the goods are unrelated and non-competitive; (b) the channels of trade in which the goods travel are different; and (c) the strength of the Opposer's mark is weak.

3. Opposer will not be damaged by Applicant's mark.

WHEREFORE, having fully answered, Applicant prays for judgment against Opposer, dismissing the Notice of Opposition with prejudice, and awarding Applicant such other and further relief as the Board deems just and equitable.

DATED this 16th day of August, 2012.

Respectfully submitted,

Patrick J. Markey, Esq.
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Springfield, MA 01115
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Attorney for Applicant

CERTIFICATE OF SERVICE

I, Patrick J. Markey, hereby certify that the above **ANSWER TO NOTICE OF OPPOSITION** was served on Opposer's counsel by depositing same with the U.S. Postal Service, first class postage prepaid, on August 16, 2012, addressed as follows:

Robert B. Golden, Esq.
Lackenbach Siegel, LLP
Lackenbach Siegel Building
One Chase Road
Scarsdale, NY 10583

Patrick J. Markey