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Filing date: **08/29/2013**

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

Proceeding	91208750
Party	Defendant Merchant Customer Exchange LLC
Correspondence Address	MARK A NIEDS IPHORGAN LTD 1130 LAKE COOD RD., SUITE 240 BUFFALO GROVE, IL 60089 UNITED STATES mail@iphorgan.net, mnieds@iphorgan.net
Submission	Answer
Filer's Name	Mark A. Niede
Filer's e-mail	mail@iphorgan.net, mnieds@iphorgan.net
Signature	/Mark A. Niede/
Date	08/29/2013
Attachments	Answer.pdf(159481 bytes)

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

UNITED STATES MARINE CORPS)	
)	
Opposer,)	
)	
v.)	Opposition No. 91208750
)	Application Serial. No. 85977181
MERCHANT CUSTOMER)	
EXCHANGE LLC)	Mark: MCX
)	
)	
Applicant)	

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Applicant MERCHANT CUSTOMER EXCHANGE, LLC, a Delaware Limited Liability Company (“Applicant”), by its attorneys IpHorgan Ltd., for its Answer to the Notice of Opposition filed by UNITED STATES MARINE CORPS, (“Opposer”), alleges and states as follows:

Applicant lacks sufficient information with which to form a belief as to the truth or falsity of the corporate allegations relating to Opposer as contained in the un-numbered introductory Paragraph of the Amended Notice of Opposition and, therefore, denies each and every allegation therein. Answering further, Applicant denies that Opposer will be damaged by registration of Applicant’s mark as alleged in the un-numbered introductory Paragraph of the Amended Notice of Opposition. Applicant admits that it has sought to register Application Serial No. 85333600 for the mark “SPEXTRA,” which application was filed on or about May 31, 2011 for the items identified in Classes 9 and 42 as alleged in the un-numbered opening Paragraph of the

Amended Notice of Opposition and that Opposer has initiated this Opposition proceeding.

Answering the second un-numbered paragraph of the Amended Notice of Opposition, Applicant admits that a document purporting to be Exhibit A was attached to the Amended Notice of Opposition as alleged in same. Answering further, Applicant admits that said document appears to be a printout from the USTPO TARR web servers.

- 1) Applicant denies the allegations contained in the first sentence of Paragraph 1 of the Notice of Opposition. Applicant admits the allegations contained in the second sentence of Paragraph 1 and, answering further, admits that the Class 36 description of services identified in Paragraph 1 are those in its Application. Answering further, Applicant lacks sufficient information with which to form a belief as to the truth or falsity of the allegations contained in sentences four through seven of Paragraph 1 of the Notice of Opposition and therefore denies those allegations. Applicant admits a trademark application bearing Serial Number 85722042 exists as alleged in sentence eight of Paragraph 1 of the Amended Notice of Opposition. Answering further, Applicant lacks sufficient information with which to form a belief as to the truth or falsity of the remaining allegations contained in sentence eight of Paragraph 1 of the Notice of Opposition and therefore denies those allegations. Applicant lacks sufficient information with which to form a belief as to the truth or falsity of the allegations contained in sentence nine of Paragraph 1 of the Notice of Opposition relating to what, if any, rights

Opposer asserts in the allegedly registered marks listed and thus denies those allegations. The allegations contained in sentence ten of the Notice of Opposition are not averments of fact to which an answer is required.

Answering further, Applicant denies the allegations contained in the eleventh and final sentence of Paragraph 1 of the Notice of Opposition.

- 2) The allegations contained in the first sentence of Paragraph 2 of the Notice of Opposition are legal conclusions to which no answer is required. To the extent an answer is required, Applicant denies those allegations. Applicant admits the allegations contained in sentence two of Paragraph 2 of the Notice of Opposition. Answering further, Applicant denies all remaining allegations contained in Paragraph 2 of the Notice of Opposition.
- 3) The allegations contained in the first sentence of Paragraph 3 of the Notice of Opposition are legal conclusions to which no answer is required. To the extent an answer is required, Applicant denies those allegations. Applicant denies the allegations contained in sentence two of Paragraph 3, including subparts 1 through 4 thereof. Answering further, Applicant denies all remaining allegations contained in Paragraph 3 of the Notice of Opposition.
- 4) The allegations contained in the first sentence of Paragraph 4 of the Notice of Opposition are legal conclusions to which no answer is required. To the extent an answer is required, Applicant denies those allegations. Applicant denies all remaining allegations contained in Paragraph 3 of the Notice of Opposition.

- 5) The allegations contained in the first sentence of Paragraph 5 of the Notice of Opposition are legal conclusions to which no answer is required. To the extent an answer is required, Applicant denies those allegations. Answering further, Applicant lacks sufficient information with which to form a belief as to the truth or falsity of the allegations contained sentences two, three and four in Paragraph 5 of the Notice of Opposition and, therefore, denies each and every allegation therein. Answering further, Applicant lacks sufficient information with which to form a belief as to the truth or falsity of the allegations contained sentence five of Paragraph 5 of the Notice of Opposition concerning what “consumers may come to believe” and, therefore, denies those allegations. Answering further, Applicant denies the remaining allegations contained in sentence five of Paragraph 5 of the Notice of Opposition.
- 6) Applicant denies all allegations contained in Paragraph 6 of the Notice of Opposition.
- 7) The allegations contained in the first sentence of Paragraph 7 of the Notice of Opposition are legal conclusions to which no answer is required. To the extent an answer is required, Applicant denies those allegations. Answering further, Applicant lacks sufficient information with which to form a belief as to the truth or falsity of the allegations contained sentence two of the Notice of Opposition concerning promulgation and implementation of 10 U.S.C. 7881 and 32 CFR 765.14 as alleged in sentence two of Paragraph 7 of the Notice of Opposition and thus denies those allegations. Answering further, Applicant

admits that what purports to be text of 32 CFR 765.14(c)(2) appears to be reprinted in Paragraph 7 of the Notice of Opposition but denies applicability of that to this matter. Answering further, the allegations contained in sentence three of Paragraph 7 as to Applicant's "use of the name MCX is contrary to the guidelines of 32 CFR 765.14(c)(2)," these are legal conclusions to which no answer is required. To the extent an answer is required, Applicant denies those allegations. Answering further, Applicant denies all remaining allegations in Paragraph 7 of the Notice of Opposition.

- 8) The allegations contained in the first sentence of Paragraph 8 of the Notice of Opposition are legal conclusions to which no answer is required. To the extent an answer is required, Applicant denies those allegations. Answering further, Applicant lacks sufficient information with which to form a belief as to the truth or falsity of the allegations contained sentence two of the Notice of Opposition pertaining to SECNAV Instruction 5030.7 and whether it is "virtually identical" to 32 CFR 765.14 and therefore denies those allegations. Answering further, the allegations contained in sentence three of Paragraph 8 of the Notice of Opposition that "use of the mark is contrary to SECNAV 5030.7" is a legal conclusion to which no answer is required. To the extent an answer is required, Applicant denies those allegations. Answering further, Applicant denies all remaining allegations in Paragraph 8 of the Notice of Opposition.

WHEREFORE, Applicant MERCHANT CUSTOMER EXCHANGE, LLC respectfully requests that the Opposition of UNITED STATES MARINE CORPS be denied and that Applicant's mark be allowed to register.

Respectfully Submitted,

Mark A. Niede



IpHorgan, Ltd.
1130 W. Lake Cook Rd., Suite 240
Buffalo Grove, Illinois 60089
Tel: (847) 808-5500
Fax: (847) 808-7238
Email: mail@iphorgan.net
Attorneys for Applicant

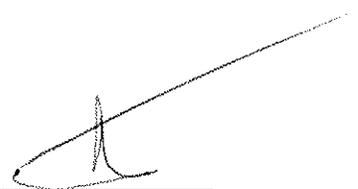
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served this August 29, 2013, by First Class Mail, postage prepaid to the following address, identified as Opposer's Counsel in this matter:

Philip Greene
Office of the Counsel for the Commandant
Room 4B548 Pentagon
Washington, DC 20350
UNITED STATES

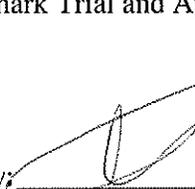
By: 
Mark A. Niede
Attorney for Applicant
Merchant Customer Exchange,
LLC

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CERTIFICATE OF SERVICE
CERTIFICATE OF ELECTRONIC FILING

The undersigned hereby certifies that the attached ANSWER TO NOTICE OF OPPOSITION was filed electronically with the Trademark Trial and Appeal Board on this August 29, 2013.

By: 

Mark A. Niede
Attorney for Applicant