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Filing date: **03/18/2013**

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

Proceeding	91209206
Party	Defendant Premium Sales Network, LLC
Correspondence Address	ANTON J. HOPEN SMITH & HOPEN, P.A. 180 PINE AVE N OLDSMAR, FL 34677-4629 trademarks@smithhopen.com
Submission	Answer
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Date	03/18/2013
Attachments	2072-17- Answer.pdf (4 pages)(119391 bytes)

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

Spiraledge, Inc.,

A Delaware Corporation

v.

Premium Sales Network, LLC

A Florida Corporation.

In the matter of Appl. Serial No. **85/616,734**

For the mark **AQUATICA**

Date of Appl Filing **05/14/2012**

Date published for opposition **10/09/2012**

Opposition No. **91/209,206**

Trademark Trial and Appeal Board

U.S. Patent and Trademark Office

P.O. Box 1451

Alexandria, VA 22313-1451

ANSWER TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES

Premium Sales Network, LLC (herein "Applicant") by its attorneys, hereby Answer the Notice of Opposition (herein "the Opposition") of Spiraledge, Inc. (herein "Opposer") and admits, denies and alleges as follows:

1. In regard to paragraph 1 of the Opposition, Applicant admits the U.S. Patent and Trademark Office database lists Opposer as registrant of Reg. No. 4,077,618, issued on December 27, 2011 for AQUATICA. Applicant is without sufficient knowledge to admit or deny the allegations of ownership of the Registration, its use in the states of the U.S., or the level of goodwill or whether it is known throughout the U.S. for swimming related goods. Applicant therefore denies same and puts Opposer to its proof.
2. In regard to paragraph 2 of the Opposition, Applicant admits Reg. No. 4,077,618 was based on an application filed on February 8, 2005. Applicant is without sufficient knowledge to form a belief as to whether Reg. No. 4,077,618 is valid, subsisting, or in full force and effect, and therefore denies the same and puts Opposer to its proof.
3. In regard to paragraph 3 of the Opposition, Applicant admits Applicant filed an intent-to-

use application or AQUATICA for “[c]ounter-current swimming machines for use in swimming pools to enable swimming in place against an adjustable counter-current, featuring pumps, motor, and adjustable current director outlets”. Applicant submits the date of the Application speaks for itself.

4. Applicant admits it had not used the AQUATICA mark before February 8, 2005. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations as to whether Opposer has priority over Applicant and therefore denies same and puts Opposer to its proof.
5. Applicant submits the mark speaks for itself with respect to the sound, appearance and commercial impression. Applicant denies that the nature of the marks is likely to cause confusion or mistake or deceive the public and puts Opposer to its proof.
6. Applicant denies Opposer will be damaged by registration of Appl. Serial No. 85/616,734 and puts Opposer to its proof.

AFFIRMATIVE DEFENSES

7. Opposer’s claims are barred by Petitioner’s unclean hands.

WHEREFORE, Petitioner asks that its Petition for Opposition be dismissed with prejudice and U.S. Trademark Appl. Serial No. 85/616,734 be placed on the registry. Please direct all correspondence to the attention of:

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Very respectfully,
SMITH & HOPEN, P.A.

By: 
Robert Varkonyi

March 18, 2013

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Attorneys for Petitioner

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Cancellation No. **91/209,206**

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES, duly signed by attorneys for Applicant, has been served upon Opposer this 18th day of March, 2013 by mailing a copy by U.S. Express Mail Postage Label Number **EG 902892795 US** on March 18, 2013, addressed to:

Spiraledge, Inc., c/o
Kathleen A. Skinner
Beeson Skinner Beverly, LLP
One Kaiser Plaza, Ste. 750
Oakland, CA 94612

Date: March 18, 2013

By: 