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

Proceeding	91210144
Party	Defendant Thermo Fisher Scientific Inc.
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Submission	Answer
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Date	05/20/2013
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

WESTCO SCIENTIFIC INSTRUMENTS, INC.)	
)	
Opposer,)	
)	
v.)	Opposition No. 91210144
)	Application No. 85/464,914
THERMO FISHER SCIENTIFIC INC.,)	Mark: UNITY
)	
Applicant.)	
_____	/	

ANSWER TO NOTICE OF OPPOSITION

Applicant, Thermo Fisher Scientific, Inc., by and through its attorneys identified below, for its Answer to the Notice of Opposition, states as follows:

With respect to the first unnumbered paragraph of the Notice of Opposition, Applicant denies that Application No. 85/464,914 was filed on November 8, 2011. Applicant admits that Application No. 85/464,914 was published for opposition in the Official Gazette on December 11, 2012. Applicant also denies that Opposer, Westco Scientific Instruments, Inc., will be damaged by registration of the mark of Application No. 85/464,914. With regard to the remaining allegations of the first unnumbered paragraph, Applicant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies such allegations.

1. Applicant admits the allegations of numbered paragraph 1.
2. With regard to the allegations of numbered paragraph 2, Applicant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies the same.
3. With regard to the allegations of numbered paragraph 3, Applicant has insufficient knowledge to be able to admit or deny such allegations and therefore denies the same.
4. With regard to the allegations of numbered paragraph 4, Applicant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies the same.

5. With regard to the allegations of numbered paragraph 5, Applicant has insufficient knowledge to be able to admit or deny such allegations, and therefore denies the same.

6. Applicant denies the allegations of numbered paragraph 6.

7. Applicant denies the allegations of numbered paragraph 7.

8. Applicant denies the allegations of numbered paragraph 8.

9. Applicant denies the allegations of numbered paragraph 9.

10. With respect to the allegations in numbered paragraph 10, Applicant has insufficient knowledge to be able to admit or deny that “Applicant is much larger than Opposer and spends much more time and money promoting, marketing, and advertising its goods and services, potential customers not already familiar with Opposer and its goods and services are likely to be exposed to Applicant’s use of its UNITY service mark without knowledge of Opposer’s longstanding prior use of its UNITY and UNITY SCIENTIFIC trade names and Opposer’s UNITY Marks.” Therefore, Applicant denies such allegations. With respect to the remaining allegations in numbered paragraph 10, Applicant denies such allegations.

11. Applicant denies the allegations of numbered paragraph 11.

12. With regard to the allegations in numbered paragraph 12, Applicant denies that registration of Application No. 85/464,914 “would be a source of damage and injury to Opposer, including, inter alia, interfering with Opposer's right of natural expansion/extension, directly or through licensing.”

AFFIRMATIVE DEFENSES

1. The Notice of Opposition is barred by waiver.

2. The Notice of Opposition is barred by estoppel.

3. Opposer has failed to state a basis upon which the relief sought can be granted.

4. Opposer will not be damaged or injured if registration is granted to Application No. 85/464,914.

5. Applicant reserves the right to assert other affirmative defenses as this action proceeds

and which may be revealed through discovery.

Accordingly, Applicant respectfully requests that the Notice of Opposition be dismissed with prejudice.

Respectfully submitted,

Date: May 20, 2013

By: /s/Linda Monge Callaghan
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Linda D. Mettes
Linda Monge Callaghan
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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing *Answer to Notice of Opposition* upon Opposer by causing a true and correct copy thereof to be sent via first class mail, postage prepaid to:

N. Andrew Crain
Charles S. Murray, Jr.
THOMAS | HORSTEMEYER, LLP
400 Interstate North Parkway SE
Suite 1500
Atlanta, GA 30339

Date: May 20, 2013

/s/Linda Monge Callaghan
Linda Monge Callaghan