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

Proceeding	91211009
Party	Defendant ELCO HOLLAND B.V.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 77946976  
For the Trademark: EMERSON QUIET KOOL  
Published in the *Official Gazette* on May 22, 2013

QC MANUFACTURING, INC.	)	
	)	
Opposer,	)	
	)	Opposition No. 91211009
v.	)	
	)	
Elco Holland B.V.	)	
	)	
Applicant.	)	
	)	

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**ELCO HOLLAND B.V.’S ANSWER AND AFFIRMATIVE DEFENSES  
TO QC MANUFACTURING, INC.’S NOTICE OF OPPOSITION**

Applicant Elco Holland B.V. (“Elco” or “Applicant”), by its undersigned counsel, K&L Gates LLP, hereby files its Answer and Affirmative Defenses to the Notice of Opposition filed by QC Manufacturing, Inc. (“Opposer”), as follows:

**ANSWER:** With respect to Opposer’s unnumbered paragraphs, Applicant denies that Opposer would be damaged by the registration of Applicant’s EMERSON QUIET KOOL mark.

Applicant denies that the applicant for the EMERSON QUIET KOOL trademark is Airwell Hong Kong Technologies, Ltd., Inc., with an address of Room 805 Houston Centre, 63 Mody Road, Tsim Sha Tsui East, Kowloon Hong Kong.

1. For many years, QC Manufacturing, Inc. (referred to as “Opposer”) has been, and now is engaged in the production and distribution of electric fans under the trademark known as



**ANSWER:** Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 1, and therefore denies the same.

2. Opposer has used the mark  in connection with electric fans in commerce since as early as May of 2003.

**ANSWER:** Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 2, and therefore denies the same.

3. As a result of Opposer’s longstanding use of Opposer’s Mark and the high quality of goods, Opposer has established an excellent quality in identifying and distinguishing Opposer’s goods.

**ANSWER:** Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 3, and therefore denies the same.

4. On March 1, 2010, Applicant filed an application to register the trademark EMERSON QUIET KOOL (hereinafter “Applicant’s Mark”) used in connection with “Portable compact residential window and wall room air conditioning units” in International Class 11. (hereinafter “Applicant’s goods”). This application was assigned Application No. 77/946,976.

**ANSWER:** Applicant admits the allegations contained in Paragraph 4.

5. Upon information and belief, the Applicant's application was filed on an Intent-to-Use basis, and has yet to be used in commerce.

**ANSWER:** Applicant admits that Applicant's application was filed on an Intent-to-Use basis. Applicant denies the remaining allegations contained in Paragraph 5.

6. There is no issue of priority. Upon information and belief, Applicant acquired no rights in Applicant's Mark before Opposer acquired rights in Opposer's Mark.

**ANSWER:** Applicant denies the allegations contained in Paragraph 6.

7. Upon information and belief, Applicant's goods will be offered to the same of consumers and at least through some of the same channels of trade as Opposer's goods. As applied to Applicant's goods, Applicant's Mark so resembles Opposer's Mark that it is likely to cause confusion, or cause to mistake, or to deceive as to the source of the services.

**ANSWER:** Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 7, and therefore denies the same.

8. Opposer has spent time and money and effort in in promoting his goods under his Mark, which are associated exclusively with Opposer and his goods. The goodwill of the business connected with the use of, and symbolized by, Opposer's Mark is an asset of incalculable value.

**ANSWER:** Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 8, and therefore denies the same.

9. Upon information and belief, registration of Applicant's Mark will diminish and dilute the distinctive quality of Opposer's Mark. One viewing Applicant's Mark will associate the mark with Opposer's services, resulting in damage to Opposer.

**ANSWER:** Applicant denies the allegations contained in Paragraph 9.

10. Opposer will be damaged by Applicant's registration of Applicant's Mark for the services identified in US Serial No. 77/946,976 as a result of the aforementioned confusion, mistake, and deception.

**ANSWER:** Applicant denies the allegations contained in Paragraph 10.

11. By reason of the foregoing, Applicant is not entitled to registration of Applicant's Mark, Serial No. 77/946,976 in International Class 11.

**ANSWER:** Applicant denies the allegations contained in Paragraph 11.

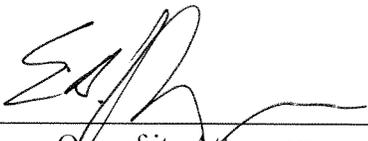
#### **AFFIRMATIVE DEFENSES**

1. Opposer fails to state a claim in relation to dilution.
2. Opposer's claims are barred by laches.
3. Opposer's claims are barred by estoppel.
4. Opposer's claims are barred by unclean hands.
5. Applicant hereby gives notice that it may rely on any additional affirmative defenses that become apparent or available during discovery, and Applicant therefore reserves the right to amend to assert such affirmative defenses.

WHEREFORE, Elco respectfully requests that the Opposition be dismissed with prejudice.

Elco Holland B.V.  
Applicant

Date: July 22, 2013

By:   
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One of its Attorneys

Eric A. Prager, Esq.  
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**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that she caused a copy of **Elco Holland B.V.'s Answer and Affirmative Defenses to QC Manufacturing Inc.'s Notice of Opposition** to be served upon:

Matthew H. Swyers, Esq.  
The Trademark Company  
344 Maple Avenue West  
Vienna, VA 22180

by first class mail, proper postage prepaid, this 22nd day of July, 2013.

  
\_\_\_\_\_  
Alexis Crawford Douglas, Esq.