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Filing date: **08/28/2013**

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

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|---------------------------|---|
| Proceeding | 91211644 |
| Party | Defendant American Covers, Inc. |
| Correspondence Address | PETER M. DE JONGE THORPE NORTH AND WESTERN, LLP 8180 S 700 E STE 350 SANDY, UT 84070-0561 trademarkdocket@tnw.com |
| Submission | Answer |
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| Signature | /Eric E. Westerberg/ |
| Date | 08/28/2013 |
| Attachments | answer.PDF(87163 bytes) |

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Attorneys for American Covers, Inc.
Opposed Mark: REFRESH YOUR CAR
U.S. Trademark Application Serial Number 85/884,212

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

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| <p>The Armor All/STP Products Company, Opposer, v. American Covers, Inc. Applicant.</p> | <p>Opposition No. 91211644</p> |
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ANSWER TO NOTICE OF OPPOSITION

Applicant, American Covers, Inc. (hereinafter “American Covers” or Applicant), by and through its counsel, hereby answers Opposer’s, The Armor All/STP Products Company (“Armor All” or “Opposer”) Notice of Opposition.

1. American Covers lacks knowledge or information sufficient to form a belief about the allegations of Paragraph 1 of Armor All’s Notice of Opposition and therefore denies the same.
2. American Covers admits that it is a Utah corporation with a principal place of business at 102 West 22200 South, Draper, Utah 84020.

3. American Covers lacks knowledge or information sufficient to form a belief about the allegations of Paragraph 3 of Armor All's Notice of Opposition and therefore denies the same.

4. American Covers lacks knowledge or information sufficient to form a belief about the allegations of Paragraph 4 of Armor All's Notice of Opposition and therefore denies the same.

5. American Covers lacks knowledge or information sufficient to form a belief about the allegations of Paragraph 5 of Armor All's Notice of Opposition and therefore denies the same.

6. American Covers admits that it filed Application Serial No. 85/884,212 for REFRESH YOUR CAR and that the Application speaks for itself. American Covers denies all other allegations contained in Paragraph 6 of Armor All's Notice of Opposition.

7. American Covers reasserts the preceding answers to the averments incorporated by reference in Paragraph 7 of Armor All's Notice of Opposition.

8. American Covers denies the averments of Paragraph 8 of Armor All's Notice of Opposition.

9. American Covers denies the averments of Paragraph 9 of Armor All's Notice of Opposition.

10. American Covers denies the averments of Paragraph 10 of Armor All's Notice of Opposition.

11. American Covers denies the averments of Paragraph 11 of Armor All's Notice of Opposition.

12. American Covers denies the averments of Paragraph 12 of Armor All's Notice of Opposition.

13. American Covers denies the averments of Paragraph 13 of Armor All's Notice of Opposition.

14. American Covers denies the averments of Paragraph 14 of Armor All's Notice of Opposition.

AFFIRMATIVE DEFENSES

American Covers alleges the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

Armor All has not stated a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

American Covers' REFRESH YOUR CAR mark is not generic.

THIRD AFFIRMATIVE DEFENSE

American Covers' REFRESH YOUR CAR mark is inherently distinctive when used in connection with the goods listed in U.S. Trademark Application Serial No. 85/884,212.

FOURTH AFFIRMATIVE DEFENSE

To the extent that a finder of fact determines that the REFRESH YOUR CAR mark is not inherently distinctive with respect to the goods listed in U.S. Trademark Application Serial No. 85/884,212, American Covers submits that the REFRESH YOUR CAR mark has acquired distinctiveness and/or secondary meaning for the goods listed in U.S. Trademark Application Serial No. 85/884,212.

FIFTH AFFIRMATIVE DEFENSE

Upon information and belief, the registration of U.S. Trademark Application Serial No. 85/884,212 for REFRESH YOUR CAR will not damage Armor All.

SIXTH AFFIRMATIVE DEFENSE

American Covers owns U.S. Trademark Registration Nos. 3,368,769 for the mark REFRESH YOUR CAR and 3,540,303 for the mark REFRESH YOUR CAR!. Therefore, Armor All will not suffer added damage by registration of Application Serial No. 85/884,212.

SEVENTH AFFIRMATIVE DEFENSE

Armor All is barred from Opposing the registration of U.S. Trademark Application Serial No. 85/884,212 for REFRESH YOUR CAR by the doctrines of estoppel and/or unclean hands.

EIGHTH AFFIRMATIVE DEFENSE

Armor All is barred from Opposing the registration of U.S. Trademark Application Serial No. 85/884,212 for REFRESH YOUR CAR by the doctrines of laches, waiver and/or acquiescence.

There may be additional affirmative defenses to Armor All's Notice of Opposition that are currently unknown to American Covers. American Covers reserves the right to amend this Answer to allege additional affirmative defenses in the event discovery of other information indicates they are appropriate.

WHEREFORE, American Covers respectfully requests that Opposition No. 91211644 be dismissed with prejudice and that Application Serial No. 85/884,212 be permitted to register.

DATED this 28th day of August, 2013.

Respectfully submitted,

/Eric E. Westerberg/
Peter M. deJonge
Jed H. Hansen
Eric E. Westerberg
Attorneys for Applicant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **Answer to Notice of Opposition** was served upon the Defendant at the following by the methods indicated below:

Frank Judge
THE ARMOR ALL/STP PRODUCTS COMPANY
44 Old Ridgebury Road, Suite 300
Danbury, CT 06810

- Electronic Mail
- United States Mail
First Class, Postage Pre-Paid
- Overnight Delivery
- Fax Transmission

DATED this 28th day of August, 2013.

/Kelley Warner/
Kelley Warner