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

Proceeding	91212694
Party	Defendant Xiamen Hwaart Composite Material Co.,Ltd
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Date	11/05/2013
Attachments	answer to notice of opposition.110513.pdf(191300 bytes)

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

Bond Manufacturing Co.,

Opposer,

Xiamen Hwaart Composite Material
Co., LTD

Applicant.

Opposition No. 91212694
Serial No. 85/834200

ANSWER TO NOTICE OF OPPOSITION

Xiamen Hwaart Composite Material Co., Ltd. (“Applicant”) hereby replies to Opposer’s Notice of Opposition, with the following numbered paragraphs corresponding to the numbers of the paragraphs of the Notice of Opposition.

1. The allegations of paragraph 1 are admitted.
2. The allegations of paragraph 2 are admitted.
3. The allegations of paragraph 3 are admitted.
4. Opposer cites to U.S. trademark registrations the records of which are the best evidence of their content; therefore, reference is hereby made to the same. Further, Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 and therefore denies those allegations.
5. Applicant lacks knowledge or information sufficient to form a belief as to the truth of

the allegations contained in paragraph 5 and therefore denies those allegations.

6. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 and therefore denies those allegations.

7. Applicant admits that it filed the Application to register “Hwaart” mark with USPTO. The remaining allegations of paragraph 7 are denied.

8. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 and therefore denies those allegations.

9. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 and therefore denies those allegations.

10. Applicant cites to the Complaint and court proceedings in Bond Manufacturing Co. v. Xiamen Hwaart Composite Material, et al; Case No. 2:13:cv-00812-APG-NJK, pending in US District Court, District of Nevada, the court records of which are the best evidence of their content; therefore, reference is hereby made to the same. Except as admitted, denied.

11. The allegations of paragraph 11 are admitted.

12. Applicant admits that Xiamen Hwaart Composite Material Co., Ltd. is organized under the laws of China with a foreign address of 108 Tian An Rd, Ji Mei N. Industrial District, Xiamen, Fujian, China, and having local contact information as 17018 Evergreen Place, City of Industry, California, William_hsieh@duro-global.com. Except as admitted, denied.

13. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 and therefore denies those allegations.

14. Applicant admits that the Applicant submitted its Response to Office Action on May 30, 2013 with date of first use of “Hwaart” mark in International Class 11 “at least as early as

09/1/2008.” Except as admitted, denied.

15. The allegations of paragraph 15 are admitted.

16. The allegations of paragraph 16 are denied.

17. The allegations of paragraph 17 are denied.

18. Applicant makes no answer to the allegations in paragraph 18 to the extent those allegations state legal conclusions rather than facts. Further, Applicant lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 and therefore denies those allegations.

19. Applicant makes no answer to the allegations in paragraph 19 to the extent those allegations state legal conclusions rather than facts. Further, Applicant denies that Opposer would be damaged by registration of U.S. Serial No. 85/834200.

20. The allegations of paragraph 20 are denied.

21. Applicant makes no answer to the allegations in Paragraph 21 to the extent those allegations state legal conclusions rather than facts. Except as admitted, denied.

22. The allegations of paragraph 22 are repetitive of paragraph 19. Applicant refers its response to paragraph 19.

23. The allegations of paragraph 23 are denied.

AFFIRMATIVE DEFENSES

Applicant asserts that the following affirmative defenses bar Opposer’s request relief in its Notice of Opposition.

FIRST AFFIRMATIVE DEFENSE

One or more of Opposer’s claims fail to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

One or more of Opposer's claims are barred by the equitable defenses of laches, acquiescence, waiver, or estoppel.

THIRD AFFIRMATIVE DEFENSE

Applicant hereby gives notice that it may rely on any other defenses that may become available or appear proper during discovery, and hereby reserves its right to amend this Answer to assert any such defenses.

WHEREFORE, Applicant requests that the Trademark Trial and Appeal Board dismiss the Notice of Opposition and grant all other appropriate relief to Applicant as it deems just.

Respectfully submitted, this 5th day of November, 2013.

/Jeanette G. Yang/

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Attorney for

Xiamen Hwaart Composite Material Co., LTD

CERTIFICATE OF SERVICE

I, Jeanette G. Yang, certify that a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served upon:

Steven H. Bovarnick, Esq.
LELAND, PARACHINI, STEINBERG,
MATZGER & MELNICK, LLP
199 Fremont Street, 21st Floor
San Francisco, CA 94105

By placing same with the U.S. Postal Service, via first class mail, postage pre-paid, this 5th day of November, 2013.

 /Jeanette G. Yang/
Jeanette G. Yang
Attorney for Applicant

