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

Proceeding	91213359
Party	Defendant Beijing Choice Electronic Technology Co., Ltd., Ltd.
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Date	12/12/2013
Attachments	Applicant's Answer.pdf(181135 bytes)

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

OWENS & MINOR, INC.
Opposer

v.

BEIJING CHOICE ELECTRONIC
TECHNOLOGY CO., LTD.
Applicant

Opposition No.: 91213359

Mark: ICHOICE

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant Beijing Choice Electronic Technology Co., Ltd. ("Applicant"), by its attorneys, pursuant to 37 C.F.R. § 2.106, and in response to the Notice of Opposition filed by Owens & Minor, Inc. ("Opposer"), answers the Notice of Opposition issued by the Board on November 6, 2013, as follows:

The opening paragraph of the Notice of Opposition is merely an introductory statement describing the nature of the action and, therefore, no response is required. To the extent that Opposer seeks to allege in the opening paragraph that it would be damaged by Applicant's registration of the mark at issue or to the extent that a response is otherwise required to this opening paragraph, Applicant denies this paragraph and refers to its answers to the specific, numbered allegations of the Notice of Opposition.

Applicant answers the correspondingly numbered paragraphs of the Notice of Opposition, as follows:

1. Applicant is without sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 1 and therefore denies the allegations.

2. Applicant is without sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 2 and therefore denies the allegations.

3. Applicant is without sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 3 and therefore denies the allegations.

4. Applicant is without sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 4 and therefore denies the allegations.

5. Applicant admits that the referenced marks were issued under the registration numbers specified for the listed goods on the specified registration dates, but Applicant is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of Paragraph 5, and, therefore, denies the same.

6. Applicant is without sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 6 and therefore denies the allegations.

7. Applicant admits that it is the owner of Serial No. 85/699,218 for ICHOICE in Classes 9, 28, 38, and 44. Applicant further admits that this application was filed on August 9, 2012 on an intent-to-use basis. Applicant denies that application was originally filed for the goods and services listed in paragraphs a, b, c, and d of paragraph 7.

8. Applicant denies the allegation in paragraph 8.

9. Applicant denies the allegation in paragraph 9.

10. Applicant is without sufficient knowledge and information to form a belief as to the truth of the allegations in paragraph 10 and therefore denies the allegations.

11. Applicant denies the allegations in paragraph 11.

12. Applicant denies the allegations in paragraph 12.

13. Applicant denies the allegations in paragraph 13.

14. Applicant denies the allegations in paragraph 14.

15. Applicant denies the allegations in paragraph 15.

16. Applicant denies the allegations in paragraph 16.

FIRST AFFIRMATIVE DEFENSE

Opposer's claims are barred under the doctrine of unclean hands. In support of this affirmative defense, Applicant alleges as follows:

1. Applicant owns two registrations for MEDCHOICE in Class 10 in China (Reg. Nos. 6792299 and 7673206), which were registered in November 2010.

2. On April 21, 2010, Opposer filed two applications for MEDICHOICE in Class 10 in China, which were refused registration on the basis of Applicant's prior registrations.

3. Applicant's ICHOICE mark was published for opposition in the U.S. on July 9, 2013. Opposer sought and was granted an extension of time to oppose ICHOICE on August 8, 2013.

4. During October and November 2013, the parties discussed this matter, but there was no resolution.

5. Consequently, Opposer filed the subject opposition proceeding against ICHOICE on November 6, 2013.

SECOND AFFIRMATIVE DEFENSE

Opposer fails to properly allege a claim for trademark dilution in contravention of Fed. R. Civ. P. 12(b)(6).

THIRD AFFIRMATIVE DEFENSE

Applicant's mark ICHOICE, when applied to the goods identified in Application Serial No. 85/699,218, is not likely to cause confusion, to cause mistake or deception with MEDICHOICE.

Applicant hereby gives notice that it intends to rely upon any other defense that may become available during the discovery proceedings in this case and hereby reserves the right to amend this answer to assert any such defense.

WHEREFORE, Applicant prays for judgment dismissing this Notice of Opposition with prejudice and granting registration to Trademark Application Serial No. 85/699,218.

Respectfully submitted,

BEIJING CHOICE ELECTRONIC TECHNOLOGY CO., LTD.

By Its Attorneys,

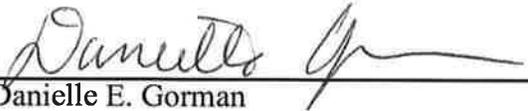
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Dated: December 12, 2013

CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2013, a true and correct copy of the foregoing Answer to Notice of Opposition was mailed by first class mail, postage prepaid, in an envelope addressed to attorney for Opposer at the address below:

Virginia R. Richard
Winston & Strawn LLP
200 Park Avenue
New York, NY 10166



Danielle E. Gorman