ESTTA Tracking number: **ESTTA611833**
Filing date: **06/24/2014**

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

Proceeding	91215912
Party	Defendant Ishihara Sangyo Kaisha, Ltd.
Correspondence Address	ROBERT W ADAMS NIXON & VANDERHYE PC 901 NORTH GLEBE ROAD , 11TH FLOOF ARLINGTONVA, VA 22203-1808 UNITED STATES nixonptomail@nixonvan.com, rwa@nixonvan.com, fbe@nixonvan.com
Submission	Answer
Filer's Name	Robert W. Adams
Filer's e-mail	nixonptomail@nixonvan.com, rwa@nixonvan.com, fbe@nixonvan.com
Signature	/Robert W. Adams/
Date	06/24/2014
Attachments	STEPAN ANSWER.pdf(1750550 bytes)

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

Stepan Company,	)	Atty. Ref.: 1035-1126
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91215912
	)	
Ishihara Sangyo Kaisha, LTD.,	)	
	)	
Applicant.	)	

ANSWER TO NOTICE OF OPPOSITION AND
STATEMENT OF AFFIRMATIVE DEFENSES

Applicant, Ishihara Sangyo Kaisha, LTD. (hereafter "Ishihara"), hereby answers and provides its affirmative defenses with respect to the Notice of Opposition filed by Stepan Company (hereafter "Stepan"). Any allegations in the Notice of Opposition (hereafter "Notice") that are not specifically admitted by Ishihara are deemed to be expressly denied.

In answer to the allegations set forth in the Notice, Ishihara states as follows with respect to each paragraph therein:

(First unnumbered paragraph) Ishihara denies the first sentence of this paragraph. Ishihara admits the second sentence only to the extent that Stepan filed the Notice against Ishihara's TEPPAN. Ishihara denies the implications of "Accordingly," because it denies all of the allegations of the first sentence.

1. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Notice and, therefore,

Ishihara denies same. Ishihara reserves the right to amend this response after it has conducted a sufficient factual review to respond with anything other than a denial.

2. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Notice and, therefore, Ishihara denies same. Ishihara reserves the right to amend this response after it has conducted a sufficient factual review to respond with anything other than a denial.

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

4. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Notice and, therefore, Ishihara denies same.

5. With respect to the allegations of Paragraph 5, Ishihara admits that the records of the United States Patent and Trademark Office appear to indicate that Stepan owns the cited registration. Otherwise, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Notice and, therefore, Ishihara denies same. For example, Ishihara is without knowledge or information sufficient (i) as to the validity of the registration, (ii) as to Stepan's alleged exclusive right to use STEPAN with the goods/services listed in the registration and/or (ii) as to Stepan's past and present actual use of the mark with respect to the goods/services listed in the registration and, therefore, Ishihara denies same.

6. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Notice and, therefore, Ishihara denies same.

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

8. With respect to the allegations of Paragraph 8, Ishihara admits that the records of the United States Patent and Trademark Office appear to indicate that Stepan owns the cited registration. Otherwise, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Notice and, therefore, Ishihara denies same. For example, Ishihara is without knowledge or information sufficient (i) as to the validity of the registration, (ii) as to Stepan's alleged exclusive right to use STEPAN & Design with the goods/services listed in the registration and/or (ii) as to Stepan's past and present actual use of the mark with respect to the goods/services listed in the registration and, therefore, Ishihara denies same.

9. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Notice and, therefore, Ishihara denies same.

10. With respect to the allegations of Paragraph 10, Ishihara admits that the records of the United States Patent and Trademark Office appear to indicate that Stepan owns the cited registration. Otherwise, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Notice and, therefore, Ishihara denies same. For example, Ishihara is without

knowledge or information sufficient (i) as to the validity of the registration, (ii) as to Stepan's alleged exclusive right to use STEPANATE with the goods/services listed in the registration and/or (ii) as to Stepan's past and present actual use of the mark with respect to the goods/services listed in the registration and, therefore, Ishihara denies same.

11. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Notice and, therefore, Ishihara denies same.

12. With respect to the allegations of Paragraph 12, Ishihara admits that the records of the United States Patent and Trademark Office appear to indicate that Stepan owns the cited registration. Otherwise, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Notice and, therefore, Ishihara denies same. For example, Ishihara is without knowledge or information sufficient (i) as to the validity of the registration, (ii) as to Stepan's alleged exclusive right to use STEPANFOAM with the goods/services listed in the registration and/or (ii) as to Stepan's past and present actual use of the mark with respect to the goods/services listed in the registration and, therefore, Ishihara denies same.

13. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Notice and, therefore, Ishihara denies same.

14. With respect to the allegations of Paragraph 14, Ishihara admits that the records of the United States Patent and Trademark Office appear to indicate that Stepan owns the cited registration. Otherwise, Ishihara is without knowledge or information

sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Notice and, therefore, Ishihara denies same. For example, Ishihara is without knowledge or information sufficient (i) as to the validity of the registration, (ii) as to Stepan's alleged exclusive right to use STEPANFORM with the goods/services listed in the registration and/or (ii) as to Stepan's past and present actual use of the mark with respect to the goods/services listed in the registration and, therefore, Ishihara denies same.

15. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Notice and, therefore, Ishihara denies same.

16. With respect to the allegations of Paragraph 16, Ishihara admits that the records of the United States Patent and Trademark Office appear to indicate that Stepan owns the cited registration. Otherwise, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the Notice and, therefore, Ishihara denies same. For example, Ishihara is without knowledge or information sufficient (i) as to the validity of the registration, (ii) as to Stepan's alleged exclusive right to use STEPAN-MILD with the goods/services listed in the registration and/or (ii) as to Stepan's past and present actual use of the mark with respect to the goods/services listed in the registration and, therefore, Ishihara denies same.

17. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of the Notice and, therefore, Ishihara denies same.

18. With respect to the allegations of Paragraph 18, Ishihara admits that the records of the United States Patent and Trademark Office appear to indicate that Stepan owns the cited registration. Otherwise, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of the Notice and, therefore, Ishihara denies same. For example, Ishihara is without knowledge or information sufficient (i) as to the validity of the registration, (ii) as to Stepan's alleged exclusive right to use STEPANOL with the goods/services listed in the registration and/or (ii) as to Stepan's past and present actual use of the mark with respect to the goods/services listed in the registration and, therefore, Ishihara denies same.

19. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Notice and, therefore, Ishihara denies same.

20. With respect to the allegations of Paragraph 20, Ishihara admits that the records of the United States Patent and Trademark Office appear to indicate that Stepan owns the cited registration. Otherwise, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the Notice and, therefore, Ishihara denies same. For example, Ishihara is without knowledge or information sufficient (i) as to the validity of the registration, (ii) as to Stepan's alleged exclusive right to use STEPANPOL with the goods/services listed in the registration and/or (ii) as to Stepan's past and present actual use of the mark with respect to the goods/services listed in the registration and, therefore, Ishihara denies same.

21. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Notice and, therefore, Ishihara denies same.

22. With respect to the allegations of Paragraph 22, Ishihara admits that the records of the United States Patent and Trademark Office appear to indicate that Stepan owns the cited registration. Otherwise, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22 of the Notice and, therefore, Ishihara denies same. For example, Ishihara is without knowledge or information sufficient (i) as to the validity of the registration, (ii) as to Stepan's alleged exclusive right to use STEPANQUAT with the goods/services listed in the registration and/or (ii) as to Stepan's past and present actual use of the mark with respect to the goods/services listed in the registration and, therefore, Ishihara denies same.

23. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of the Notice and, therefore, Ishihara denies same.

24. With respect to the allegations of Paragraph 24, Ishihara admits that the records of the United States Patent and Trademark Office appear to indicate that Stepan owns the cited registration. Otherwise, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24 of the Notice and, therefore, Ishihara denies same. For example, Ishihara is without knowledge or information sufficient (i) as to the validity of the registration, (ii) as to Stepan's alleged exclusive right to use STEPANTAN with the goods/services listed in the

registration and/or (ii) as to Stepan's past and present actual use of the mark with respect to the goods/services listed in the registration and, therefore, Ishihara denies same.

25. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25 of the Notice and, therefore, Ishihara denies same.

26. With respect to the allegations of Paragraph 26, Ishihara admits that the records of the United States Patent and Trademark Office appear to indicate that Stepan owns the cited registration. Otherwise, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26 of the Notice and, therefore, Ishihara denies same. For example, Ishihara is without knowledge or information sufficient (i) as to the validity of the registration, (ii) as to Stepan's alleged exclusive right to use STEPANTEX with the goods/services listed in the registration and/or (ii) as to Stepan's past and present actual use of the mark with respect to the goods/services listed in the registration and, therefore, Ishihara denies same.

27. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27 of the Notice and, therefore, Ishihara denies same.

28. Ishihara admits the allegations of Paragraph 28 of the Notice.

29. Ishihara admits the allegations of Paragraph 29 of the Notice.

30. Ishihara admits the allegations of Paragraph 30 of the Notice with respect to its use of TEPPAN. As for the other allegations, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, the respective dates of first use are irrelevant and immaterial

in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

31. Ishihara admits the allegations of Paragraph 31 of the Notice with respect to its use of TEPPAN. As for the other allegations, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, the respective dates of first use are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

32. Ishihara admits the allegations of Paragraph 32 of the Notice with respect to its use of TEPPAN. As for the other allegations, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, the respective dates of first use are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

33. Ishihara admits the allegations of Paragraph 33 of the Notice with respect to its use of TEPPAN. As for the other allegations, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, the respective dates of first use are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and

the customers, as well as the sophistication of the customers, the care of the customers, *et cetera.*

34. Ishihara admits the allegations of Paragraph 34 of the Notice with respect to its use of TEPPAN. As for the other allegations, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, the respective dates of first use are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera.*

35. Ishihara admits the allegations of Paragraph 35 of the Notice with respect to its use of TEPPAN. As for the other allegations, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, the respective dates of first use are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera.*

36. Ishihara admits the allegations of Paragraph 36 of the Notice with respect to its use of TEPPAN. As for the other allegations, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, the respective dates of first use are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade and customers, as well as the sophistication of the customers, the care of the customers, *et cetera.*

37. Ishihara admits the allegations of Paragraph 37 of the Notice with respect to its use of TEPPAN. As for the other allegations, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, the respective dates of first use are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

38. Ishihara admits the allegations of Paragraph 38 of the Notice with respect to its use of TEPPAN. As for the other allegations, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, the respective dates of first use are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

39. Ishihara admits the allegations of Paragraph 39 of the Notice with respect to its use of TEPPAN. As for the other allegations, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, the respective dates of first use are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

40. Ishihara admits the allegations of Paragraph 40 of the Notice with respect to its use of TEPPAN. As for the other allegations, Ishihara is without knowledge or

information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, the respective dates of first use are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

41. Ishihara admits the allegations of Paragraph 41 of the Notice with respect to its use of TEPPAN. As for the other allegations, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, the respective dates of first use are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

42. Ishihara admits the allegations of Paragraph 42 of the Notice with respect to its use of TEPPAN. As for the other allegations concerning Stepan's filing date, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, these dates are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

43. Ishihara admits the allegations of Paragraph 43 of the Notice with respect to its use of TEPPAN. As for the other allegations concerning Stepan's filing date, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, these dates are irrelevant and

immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

44. Ishihara admits the allegations of Paragraph 44 of the Notice with respect to its use of TEPPAN. As for the other allegations concerning Stepan's filing date, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, these dates are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

45. Ishihara admits the allegations of Paragraph 45 of the Notice with respect to its use of TEPPAN. As for the other allegations concerning Stepan's filing date, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, these dates are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

46. Ishihara admits the allegations of Paragraph 46 of the Notice with respect to its use of TEPPAN. As for the other allegations concerning Stepan's filing date, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, these dates are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of

trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera.*

47. Ishihara admits the allegations of Paragraph 47 of the Notice with respect to its use of TEPPAN. As for the other allegations concerning Stepan's filing date, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, these dates are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera.*

48. Ishihara admits the allegations of Paragraph 48 of the Notice with respect to its use of TEPPAN. As for the other allegations concerning Stepan's filing date, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, these dates are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera.*

49. Ishihara admits the allegations of Paragraph 49 of the Notice with respect to its use of TEPPAN. As for the other allegations concerning Stepan's filing date, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, these dates are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera.*

50. Ishihara admits the allegations of Paragraph 50 of the Notice with respect to its use of TEPPAN. As for the other allegations concerning Stepan's filing date, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, these dates are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

51. Ishihara admits the allegations of Paragraph 51 of the Notice with respect to its use of TEPPAN. As for the other allegations concerning Stepan's filing date, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, these dates are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

52. Ishihara admits the allegations of Paragraph 52 of the Notice with respect to its use of TEPPAN. As for the other allegations concerning Stepan's filing date, Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, these dates are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

53. Ishihara admits the allegations of Paragraph 53 of the Notice with respect to its use of TEPPAN. As for the other allegations concerning Stepan's filing date,

Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies same. In any event, these dates are irrelevant and immaterial in view of, *inter alia*, the differences in the marks, the goods, the channels of trade, and the customers, as well as the sophistication of the customers, the care of the customers, *et cetera*.

54. Ishihara admits the allegations of Paragraph 54 of the Notice.

55. Ishihara denies the allegations of Paragraph 55 of the Notice because the issue of priority is determined on a product-by-product (or service-by-service) basis. Here, Stepan has no trademark rights with respect to products in International Class 5. On the basis of its US and International applications, Ishihara has priority with respect to the goods identified in those applications

56. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 56 of the Notice and, therefore, Ishihara denies same.

57. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 57 of the Notice and, therefore, Ishihara denies same.

58. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 58 of the Notice and, therefore, Ishihara denies same.

59. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 59 of the Notice and, therefore, Ishihara denies same.

60. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 60 of the Notice and, therefore, Ishihara denies same.

61. Ishihara is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 61 of the Notice and, therefore, Ishihara denies same.

62. Ishihara denies the allegations of Paragraph 62 of the Notice. For example, the TEPPAN mark is so significantly different visually, phonetically and connotatively (*e.g.*, commercial impression) from the STEPAN marks that there is no likelihood of confusion. In that regard, TEPPAN has an English meaning with respect to, *inter alia*, a type of Japanese cuisine and the metal plate/griddle used to cook that cuisine. Also, TEPPAN has a Japanese meaning. In contrast, STEPAN has no meaning. However, it does have an implied connotation or association with the first name STEPHAN or STEVEN. Further, the pronunciation of STEPAN is similar to "steppin'" (a slang abbreviation for "stepping").

63. Ishihara denies the allegations of Paragraph 63 of the Notice. See, *e.g.*, also the response to Paragraph 62.

64. Ishihara denies the allegations of Paragraph 64 of the Notice. For example, the parties' goods are not highly related because they are classified in different Classes. In addition, the parties' goods (i) are sold in different channels of trade, (ii) are sold to different customers, (iii) are sold to highly sophisticated customers, (iv) are sold under conditions of purchase where great care in exercised by the customers prior to purchase, (v) are of a relatively high price so as to enhance greater care when purchasing,

(vi) are toxic and/or otherwise dangerous so that they are handled and used under conditions of great care, *et cetera.*

65. Ishihara denies the allegations of Paragraph 65 of the Notice. For example, the parties' goods are not highly related because they are classified in different Classes. In addition, the parties' goods (i) are sold in different channels of trade, (ii) are sold to different customers, (iii) are sold to highly sophisticated customers, (iv) are sold under conditions of purchase where great care in exercised by the customers prior to purchase, (v) are of a relatively high price so as to enhance greater care when purchasing, (vi) are toxic and/or otherwise dangerous so that they are handled and used under conditions of great care, *et cetera.*

66. Ishihara denies the allegations of Paragraph 66 of the Notice. For example, the parties' goods do not overlap because they are classified in different Classes. In addition, the parties' goods (i) are sold in different channels of trade, (ii) are sold to different customers, (iii) are sold to highly sophisticated customers, (iv) are sold under conditions of purchase where great care in exercised by the customers prior to purchase, (v) are of a relatively high price so as to enhance greater care when purchasing, (vi) are toxic and/or otherwise dangerous so that they are handled and used under conditions of great care, *et cetera.*

67. Ishihara denies the allegations of Paragraph 67 of the Notice. For example, the parties' goods do not overlap because they are classified in different Classes. In addition, the parties' goods (i) are sold in different channels of trade, (ii) are sold to different customers, (iii) are sold to highly sophisticated customers, (iv) are sold under conditions of purchase where great care in exercised by the customers prior to

purchase, (v) are of a relatively high price so as to enhance greater care when purchasing, (vi) are toxic and/or otherwise dangerous so that they are handled and used under conditions of great care, *et cetera*.

68. Ishihara denies the allegations of Paragraph 68 of the Notice. For example, the parties' goods are not complimentary because they are classified in different Classes. In addition, the parties' goods (i) are sold in different channels of trade, (ii) are sold to different customers, (iii) are sold to highly sophisticated customers, (iv) are sold under conditions of purchase where great care in exercised by the customers prior to purchase, (v) are of a relatively high price so as to enhance greater care when purchasing, (vi) are toxic and/or otherwise dangerous so that they are handled and used under conditions of great care, *et cetera*.

69. Ishihara denies the allegations of Paragraph 69 of the Notice. For example, the parties' goods are not complimentary because they are classified in different Classes. In addition, the parties' goods (i) are sold in different channels of trade, (ii) are sold to different customers, (iii) are sold to highly sophisticated customers, (iv) are sold under conditions of purchase where great care in exercised by the customers prior to purchase, (v) are of a relatively high price so as to enhance greater care when purchasing, (vi) are toxic and/or otherwise dangerous so that they are handled and used under conditions of great care, *et cetera*.

70. Ishihara denies the allegations of Paragraph 70 of the Notice. For example, the parties' goods are not likely to be sold in the same channels of trade because they are classified in different Classes. In addition, the parties' goods (i) are sold in different channels of trade, (ii) are sold to different customers, (iii) are sold to highly

sophisticated customers, (iv) are sold under conditions of purchase where great care in exercised by the customers prior to purchase, (v) are of a relatively high price so as to enhance greater care when purchasing, (vi) are toxic andor otherwise dangerous so that they are handled and used under conditions of great care, *et cetera.*

71. Ishihara denies the allegations of Paragraph 71 of the Notice. For example, the parties' goods are not likely to be sold through the same channels of trade because they are classified in different Classes. In addition, the parties' goods (i) are sold in different channels of trade, (ii) are sold to different customers, (iii) are sold to highly sophisticated customers, (iv) are sold under conditions of purchase where great care in exercised by the customers prior to purchase, (v) are of a relatively high price so as to enhance greater care when purchasing, (vi) are toxic and/or otherwise dangerous so that they are handled and used under conditions of great care, *et cetera.*

72. Ishihara denies the allegations of Paragraph 72 of the Notice. For example, the parties' goods are not sold through the same channels of trade because they are classified in different Classes. In addition, the parties' goods (i) are sold in different channels of trade, (ii) are sold to different customers, (iii) are sold to highly sophisticated customers, (iv) are sold under conditions of purchase where great care in exercised by the customers prior to purchase, (v) are of a relatively high price so as to enhance greater care when purchasing, (vi) are toxic and/or otherwise dangerous so that they are handled and used under conditions of great care, *et cetera.*

73. Ishihara denies the allegations of Paragraph 73 of the Notice. For example, the parties' goods are not sold through the same channels of trade because they are classified in different Classes. In addition, the parties' goods (i) are sold in different

channels of trade, (ii) are sold to different customers, (iii) are sold to highly sophisticated customers, (iv) are sold under conditions of purchase where great care in exercised by the customers prior to purchase, (v) are of a relatively high price so as to enhance greater care when purchasing, (vi) are toxic and/or otherwise dangerous so that they are handled and used under conditions of great care, *et cetera.*

74. Ishihara denies the allegations of Paragraph 74 of the Notice. For example, the parties' goods are not likely to be sold to the same class of customers because they are classified in different Classes. In addition, the parties' goods (i) are sold in different channels of trade, (ii) are sold to different customers, (iii) are sold to highly sophisticated customers, (iv) are sold under conditions of purchase where great care in exercised by the customers prior to purchase, (v) are of a relatively high price so as to enhance greater care when purchasing, (vi) are toxic and/or otherwise dangerous so that they are handled and used under conditions of great care, *et cetera.*

75. Ishihara denies the allegations of Paragraph 75 of the Notice. For example, the parties' goods are not likely to be sold to the same class of customers because they are classified in different Classes. In addition, the parties' goods (i) are sold in different channels of trade, (ii) are sold to different customers, (iii) are sold to highly sophisticated customers, (iv) are sold under conditions of purchase where great care in exercised by the customers prior to purchase, (v) are of a relatively high price so as to enhance greater care when purchasing, (vi) are toxic and/or otherwise dangerous so that they are handled and used under conditions of great care, *et cetera.*

76. Ishihara denies the allegations of Paragraph 76 of the Notice. For example, the parties' goods are not sold to the same class of customers because they are

classified in different Classes. In addition, the parties' goods (i) are sold in different channels of trade, (ii) are sold to different customers, (iii) are sold to highly sophisticated customers, (iv) are sold under conditions of purchase where great care in exercised by the customers prior to purchase, (v) are of a relatively high price so as to enhance greater care when purchasing, (vi) are toxic and/or otherwise dangerous so that they are handled and used under conditions of great care, *et cetera.*

77. Ishihara denies the allegations of Paragraph 77 of the Notice. For example, the parties' goods are not sold to the same class of customers because they are classified in different Classes. In addition, the parties' goods (i) are sold in different channels of trade, (ii) are sold to different customers, (iii) are sold to highly sophisticated customers, (iv) are sold under conditions of purchase where great care in exercised by the customers prior to purchase, (v) are of a relatively high price so as to enhance greater care when purchasing, (vi) are toxic and/or otherwise dangerous so that they are handled and used under conditions of great care, *et cetera.*

78. Ishihara denies the allegations of Paragraph 78 of the Notice.

(two unnumbered paragraphs) Ishihara denies that Stepan's Notice sets forth any valid basis for sustaining the opposition. Therefore, Ishihara's opposition should be denied in all respects and the TEPPAN application should be approved for registration. Ishihara does not know whether or not (i) Stepan submitted the requisite fee and/or (ii) whether any charges have been made the deposit account of Stepan's.

In addition, Ishihara sets forth the following affirmative defenses in response to the Notice:

FIRST AFFIRMATIVE DEFENSE

79. The Notice fails to state a claim upon which relief may be granted. Therefore, the Opposition must be decided in favor of Ishihara. In that regard, Ishihara has been in business for over 90 years and has an international business reach. See, http://www.iskweb.co.jp/eng/company/history.html. In that regard, Ishihara has been selling herbicide and insecticide products since the early 1950's.

SECOND AFFIRMATIVE DEFENSE

80. As indicated in Paragraph 62 above, the TEPPAN mark is so different in terms of appearance, sound and meaning that there is no reasonable likelihood of confusion among an appreciable number of relevant customers. On this basis, the Opposition must be decided in favor of Ishihara.

THIRD AFFIRMATIVE DEFENSE

81. As indicated in Paragraphs 64-77 above, the parties' products are so entirely different and unrelated that they are classified in different Classes. For example, Stepan's products involve industrial chemicals, personal care and cosmetic chemicals, paints and industrial cleaning detergents. By way of contrast, the Ishihara products involved in this Opposition are agricultural herbicides and pesticides. On this basis, the Opposition must be decided in favor of Ishihara because there is no reasonable likelihood of confusion among an appreciable number of relevant customers.

FOURTH AFFIRMATIVE DEFENSE

82. As indicated in Paragraphs 64-77 above, the parties' products travel through different channels of trade. In that connection, Stepan's products appear to be normally sold to industrial entities, whereas Ishihara's are typically sold to agricultural

entities. On this basis, the Opposition must be decided in favor of Ishihara because there is no reasonable likelihood of confusion among an appreciable number of relevant customers.

FIFTH AFFIRMATIVE DEFENSE

83. As indicated in Paragraphs 64-77 above, the parties' products are sold to and used by a different class of customers. On this basis, the Opposition must be decided in favor of Ishihara because there is no reasonable likelihood of confusion among an appreciable number of relevant customers.

SIXTH AFFIRMATIVE DEFENSE

84. As indicated in Paragraphs 64-77 above, the parties' products are sold under conditions of great care. See TMEP § 1207.01(d)(vii), indicating circumstances involving care in purchasing tend to minimize likelihood of confusion. On this basis, the Opposition must be decided in favor of Ishihara because there is no reasonable likelihood of confusion among an appreciable number of relevant customers.

SEVENTH AFFIRMATIVE DEFENSE

85. As indicated in Paragraphs 64-77 above, the parties' products are sold to and used by highly sophisticated customers. On this basis, the Opposition must be decided in favor of Ishihara because there is no reasonable likelihood of confusion among an appreciable number of relevant customers. See, *e.g.*, *Electronic Design & Sales, Inc. v. Electronic Data Systems, Corp.*, 21 USPQ2d 1388, 1391 (Fed. Cir. 1992).

EIGHTH AFFIRMATIVE DEFENSE

86. As indicated in Paragraphs 64-77 above, the parties' products have a relatively high price so as to enhance greater care when purchasing. On this basis, the

Opposition must be decided in favor of Ishihara because there is no reasonable likelihood of confusion among an appreciable number of relevant customers.

NINTH AFFIRMATIVE DEFENSE

87. As indicated in Paragraphs 64-77 above, the parties' products are toxic or otherwise dangerous so that they are handled and used under conditions of great care. Indeed, Ishihara's agricultural chemicals are highly regulated by, for example, the U.S. Environmental Protection Agency as stipulated by the Federal Insecticide, Fungicide and Rodenticide Act. On this basis, the Opposition must be decided in favor of Ishihara because there is no reasonable likelihood of confusion among an appreciable number of relevant customers.

TENH AFFIRMATIVE DEFENSE

88. As indicated in Paragraph 55 above, Ishihara has priority over Stepan with respect to the products identified in the application that is the subject of this Opposition. On this basis, the Opposition must be decided in favor of Ishihara because there is no reasonable likelihood of confusion among an appreciable number of relevant customers.

WHEREFORE, Ishihara respectfully submits that Stepan's request for relief in Opposition No. 91215912 should be denied in all respects and that the Opposition be decided in favor of Ishihara.

Respectfully submitted,

NIXON & VANDERHYE P.C.

Dated: June 24, 2014

By: _____
Robert W. Adams

RWA:fbe
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4022

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION AND STATEMENT OF AFFIRMATIVE DEFENSES** was served upon Applicant via e-mail and U.S. mail, first-class mail, postage prepaid, addressed to:

Ronald A. DiCerbo
McANDREWS, HELD & MALLOY, LTD.
34th Floor
500 West Madison Street
Chicago, Illinois 60661
rdicerbo@mcandrews-ip.com,

this 24th day of June 2014:

Robert W. Adams